

Transcript of World Wide Association of Specialty Programs and  
Schools v. Pure; Pure Foundation; Sue Scheff; et al.

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relevant to the case have been withheld.



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1 Salt Lake City, Utah, August 2, 2004

2 \* \* \* \* \*

3 (Whereupon, jury selection was held but  
4 was not transcribed.)

5 THE COURT: Is a half an hour going to work for  
6 opening statement, Mr. Silvester?

7 MR. SILVESTER: I'll make it work, Your Honor.

8 THE COURT: All right. Let's call the jury in.

9 THE CLERK: Do you have the exhibits changed now.  
10 Because I want the actual original exhibits up here? Do you  
11 have a witness list? It will take me a minute then, Judge.  
12 I haven't lined them up yet.

13 THE COURT: All right.

14 MR. HENRIKSEN: So the Court is aware, I'm going to be  
15 bringing that easel over in between. I don't know if you  
16 want to take a short break in between. There are all kinds  
17 of wires down here.

18 THE COURT: I'll let you -- it is just while you're  
19 talking that I'll be keeping track of the time. I'll let  
20 both sides get situated.

21 MR. SILVESTER: Political season anything worth saying  
22 is worth saying for an hour-and-a-half.

23 MR. HENRIKSEN: I'm hoping I don't trip across there.  
24 Do we want to take a break in between?

25 THE COURT: It should just take you a minute or two.

1           MR. HENRIKSEN: I'll look at the snake down here and  
2 we'll try to get through.

3           THE COURT: That is what associates are for at your  
4 firm.

5           MR. HENRIKSEN: Let them do it.

6           THE COURT: Disassociate yourself from any problems.

7           MR. HENRIKSEN: That is true.

8           THE COURT: Your summer extern is here so he'll want  
9 to make a good impression on you.

10          MR. HENRIKSEN: That is a good point.

11          MR. SIEBERS: He'll take a fall for the team.

12          MR. HENRIKSEN: Ready to do that, Clint?

13          THE COURT: When I was a prosecutor I had my FBI  
14 agents do all of that. If anything blew up I could stand  
15 back and say hey, it is them we have to worry about.

16          MR. HENRIKSEN: Yeah. While we're still waiting, will  
17 the court give me a 10 minute warning?

18          THE COURT: Sure.

19          MR. HENRIKSEN: I appreciate that thank you.

20          THE COURT: Yeah. All rise for the jury, please.

21          (Whereupon, the jury returned to the courtroom.)

22          THE COURT: Ladies and gentlemen, I hope that you have  
23 had a good bagel or doughnut or whatever it is we have for  
24 you back there. We do the best we can to keep you  
25 comfortable during the jury process here, and I just wanted

1 to give you a few preliminary instructions about how we're  
2 going to approach this case, and some instructions that  
3 should guide your conduct as jurors here.

4       Soon we're going to have opening statements from both  
5 sides as to what they anticipate the evidence will be in  
6 this case. Now remember, those opening statements are just  
7 the lawyers view of what they think is going to happen here.  
8 That is not actually evidence in the case. The evidence is  
9 going to be what the witnesses tell you and what the  
10 documents and other exhibits say.

11       Now after the opening statements, then the plaintiff  
12 will have a chance to call witnesses and there will be cross  
13 examination from the other side. The plaintiff will put on  
14 their case and then we'll have the same chance for the  
15 defendant. They get to call witnesses and then cross  
16 examination from the other side. Then we might have some  
17 brief rebuttal witnesses at the end from the plaintiff and  
18 that will be the case. And we should be able to wrap that  
19 up by Friday.

20       Now you need to keep an open mind during this case.  
21 Obviously one side has to go first so that is the plaintiff  
22 because the plaintiff has the burden of proof here. And so  
23 if you started speculating about how the case was going to  
24 come out before you heard from the defense, that wouldn't be  
25 fair to them. They wouldn't have had a chance to present

1       their evidence. So be sure to keep an open mind and  
2       don't -- don't deliberate back in the jury room until we get  
3       to that point in the process on Friday where we do that.  
4       Now I know that some of you might like to take notes. I see  
5       a few of you with note pads. I see others of you don't have  
6       note pads. I just wanted to say certainly, you know, some  
7       people work better by taking notes, other people work better  
8       by listening to things. So we try to make those options  
9       available to everyone.

10           Don't feel if you're not taking notes that somebody  
11       who is taking notes should get more attention than what  
12       you're saying, because as I say, people just work in  
13       different ways. And feel free to keep track of the notes.  
14       We have a court reporter that is taking down everything  
15       here. But unfortunately, it takes quite a while to put that  
16       transcript together. So you will not have that available to  
17       you when you deliberate. You're going to have to rely on  
18       your collective memory here. So try to listen very  
19       carefully to the witnesses that testify.

20           Now I mentioned not discussing the case with your  
21       fellow jurors. You should also not discuss the case with  
22       anybody you see around the courthouse. If you see me going  
23       back there and I just kind of nod but don't talk to you for  
24       a while, or if you see the lawyers in the hall just kind of  
25       nod and go on by because we're all operating under the rules

1 where we don't want to be discussing the case with you. And  
2 I think if you think about that for a minute, you can kind  
3 of see why that is. If you were involved in a case you  
4 wouldn't want to see the jury, you know, chatting with the  
5 judge or chatting with the lawyers on one side. That would  
6 just create the appearance that the jury is leaning one way  
7 or the other, even if it really wasn't anything at all. So  
8 we just have those rules in place to try to keep everything  
9 not only fair but to appear to be fair so that both sides  
10 are comfortable with the process.

11 Now part of that fact also -- or part of that approach  
12 also is that you should only listen to evidence in this case  
13 while you're in the courtroom. Don't try to go get  
14 information about this case. Please don't go home and get  
15 on the internet and try to collect evidence or something  
16 like that. If you think about that for a minute, you could  
17 see why that wouldn't be fair.

18 First of all it wouldn't be fair to the parties in  
19 this case because they're entitled to know what evidence  
20 you're looking at so they can tell you what they think that  
21 evidence shows. And it also wouldn't be fair to your fellow  
22 jurors if you're getting one set of information and they're  
23 trying to decide the case on others. So we'll get you all  
24 of the information we need to decide this case right here in  
25 the courtroom. Don't go on the internet. If you see

1 anything in the newspaper on this case, just, you know, move  
2 on to the next page. If there is -- I don't know if there  
3 will be anything on the television, if you see anything  
4 about it turn it off for a minute there.

5 Now, occasionally during the trial I may have to have  
6 a quick meeting with the lawyers over here to sort things  
7 out. I'll try to take care of those as quickly as we can.  
8 The lawyers may have to make objections at various points  
9 and I'll make a ruling on them. That is their job to make  
10 objections. You shouldn't hold that against them and we'll  
11 try to make the case go as smoothly as possible for both  
12 sides.

13 I think at this time we're ready for an opening  
14 statement from the plaintiff. Mr. Silvester, if you would  
15 present an opening remark.

16 MR. SILVESTER: Thank you, Your Honor.

17 If it please the Court, counsel, ladies and gentlemen  
18 of the jury. I'm Fred Silvester and I represent the World  
19 Wide Association of Specialty Programs along with my  
20 associate Mr. Siebers. I'll try to take about a half hour  
21 here to give you what I hope is a road map for the case we  
22 believe will be presented today and during this week.

23 World Wide Association of Specialty Programs is like a  
24 trade organization for a group of schools that are located  
25 throughout the United States and foreign countries that

1 provide assistance for parents who have children who have  
2 really run out of alternatives in the community.

3 Our programs are the Cross Creek programs which are  
4 located in LaVerkin, Utah; Majestic Ranch which is located  
5 in Rich County here in Utah; Spring Creek Lodge which is  
6 located in Thompson Falls, Montana; Carolina Springs Academy  
7 which is located in South Carolina; Tranquility Bay  
8 Caribbean Center for Change which is located in Jamaica. We  
9 have Ivy Ridge Academy located in Ogden, interestingly  
10 enough, New York; and we have Casa by the Sea, which is  
11 located in Ensenada, Mexico. Those are the members of our  
12 association.

13 World Wide Association provides an alternative for  
14 parents who are looking for assistance for children who are  
15 out of control.

16 Now, I want to go directly to why this case is here.  
17 As the Court indicated to you when we were picking the jury,  
18 this case is about false advertising and defamation. And as  
19 the Court has indicated, our claim, World Wide's claim, is  
20 that Ms. Scheff and her organization, PURE, provided false  
21 information about her services and about her abilities and  
22 also provided false information about our member schools and  
23 World Wide Association's ability to do business helping  
24 children.

25 I need to tell you a little bit about the history that

1 will come in in this case because it becomes very important.

2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED] Eventually what happened is

18 Ms. Scheff enrolled her in Carolina Springs Academy based on  
19 her contacts with the Teen Help organization. And when I  
20 say she enrolled her child in that program, [REDACTED] she  
21 actually signed a contract. You will get a chance to look  
22 at the contract. She signed it in about a dozen places.  
23 And the contract basically talks about the kind of service  
24 that would be -- that would be provided at the program  
25 Carolina Springs.

1 Now these programs are primarily based on behavior  
2 modification. That is, they try to teach kids  
3 responsibility and life skills by showing them that if you  
4 do things that are not acceptable in society, there are  
5 consequences for those things. And, in fact, if you work in  
6 your own behalf, you can get rewards for those kinds of  
7 things. All of the programs are based on essentially a six  
8 level system where the children move up through the levels.  
9 All of the programs are academically accredited through the  
10 Northwest Association of Schools and Colleges. And in the  
11 case of Carolina Springs, in the summer of 2000, it had  
12 teachers, it did not advertise itself as a school for  
13 therapy but as a school for behavior modification. And you  
14 will see in the contract that Ms. Scheff signed that that is  
15 exactly what it said.

16 In addition, the contract laid out some very specific  
17 information about what the program would cost. There is a  
18 tuition charge which is really tuition, room and board.  
19 There are also some incidental fees, some uniform costs, and  
20 other incidental fees that go along with being in a locked,  
21 residential facility. And all of those are laid out in the  
22 contract that Ms. Scheff signed.

23 So August 7, 2000, [REDACTED] goes into Carolina  
24 Springs Academy. Now the way that the program encourages  
25 parents to assist the program is partly through a referral

1 system. And the referral system says if you're a parent  
2 with a child in one of the World Wide programs, and you know  
3 people in your community who might benefit from the same  
4 service, you can refer those people, and you can get a free  
5 months worth of tuition. That is in the case of Carolina  
6 Springs, a value of approximately \$3,000 a month.

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 After [REDACTED] was in Carolina Springs Academy,  
13 Ms. Scheff became what she called the queen of referrals.  
14 She brought money to pay for the initial down payment for  
15 the program but from then until the time that she took her  
16 daughter out in December of that year, for that five months,  
17 six months, attorneys aren't good at math, somewhere in  
18 there during that period of time her fees for the program  
19 were paid for because of the number of parents she referred  
20 to the program.

21 During that period of time, during August through  
22 December period of time when [REDACTED] was at Carolina Springs,  
23 we also received letters from Ms. Scheff saying how  
24 wonderful she believed the program was, that she believed  
25 the program had saved her daughter's life. She in fact

1 wrote a commitment letter to her daughter setting forth the  
2 difficulties she thought her daughter was having and how she  
3 thought the program would help her daughter. [REDACTED]

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 Well, Carolina Springs didn't feel like it could do  
18 that and indicated they would work with the families as much  
19 as they could, but Ms. Scheff decided that she had no choice  
20 then but to take [REDACTED] out of the Carolina Springs Program.  
21 Which she did. And she wrote the letter on the 9th of  
22 November of 2000 saying I'm going to take her out, you know  
23 why, it is beyond my control, but I absolutely love the  
24 program, you have a wonderful staff, I believe you changed  
25 her life.

1           She took [REDACTED] out December 24, 2000, the day before  
2 Christmas. She took her home to Florida. And the contact  
3 that the World Wide Association and Carolina Springs had  
4 with Ms. Scheff for the next several months was something  
5 like this. We got an e-mail that was sent to World Wide  
6 Association President Ken Kay, as well as being sent to  
7 Carolina Springs Academy, sometime in early 2001 that said  
8 by the way even though [REDACTED] is home, she is doing  
9 extremely well. I credit you all for her success in the  
10 program. And by the way, I still have my group of referral  
11 parents, this whole network that I developed, and I'm still  
12 giving them ideas about where to leave literature on World  
13 Wide programs, who to contact, so that they can refer  
14 children into the program. This was after her child was out  
15 of the program.

16           And she had a motivation for doing that because after  
17 her child has either graduated or left the program, the  
18 program still provided an incentive if they refer parents.  
19 They will allow them to collect a thousand dollars for a  
20 parent who has a child that enrolls in the program. So  
21 Ms. Scheff kept doing that even though her child was out of  
22 the program.

23           Now sometime in March of 2001, she decided that there  
24 was maybe a way that she and a friend who had a child in the  
25 program could benefit by her referrals. And this friend,

1 Ms. Lucchetti, and Ms. Scheff, concocted this idea that  
2 Ms. Scheff's referrals should go to the programs in the name  
3 of Ms. Lucchetti, and Ms. Lucchetti should collect the  
4 credit for the referrals so that her child who is in the  
5 program would have a month's free tuition. A value of about  
6 \$3,000.

7 At the same time Ms. Scheff made a deal that  
8 Ms. Lucchetti would pay her \$1,000. So they both benefited  
9 from her referrals. A little different than the program had  
10 designed its referral system. And, of course, the programs  
11 didn't know anything about this set up. But we will show  
12 you in the records that she continued to refer kids and  
13 Ms. Lucchetti referred kids until sometime in the summer of  
14 2001.

15 Now remember [REDACTED] had been out of this program for  
16 three or four months, four or five months by the summer of  
17 2001. And in the summer of 2001, it turns out that  
18 Mrs. Lucchetti was low on money so she wasn't paying  
19 Ms. Scheff her thousand dollar share of the referral. So  
20 Ms. Scheff called Teen Help, the marketing organization that  
21 markets the World Wide Association of Schools. And she  
22 talked to Kevin Richie, who is someone that she had contact  
23 with there on a regular basis. And she said I want the  
24 existing referral in Diane Lucchetti's name transferred to  
25 my name because she is not paying me.

1           Mr. Richie said, hold it, that isn't the way this  
2 program works, that isn't what we do. I can't do that and I  
3 don't feel good about it.

4           Now, there is a little dispute as to exactly when that  
5 conversation took place. You'll see an e-mail that  
6 Mr. Richie wrote to Ken Kay, the president of World Wide  
7 Association, saying his last contact with Sue Scheff was on  
8 the 18th of August of 2001. It is not quite clear because  
9 the e-mail appears to be the 17th of August 2001. But at  
10 least we know sometime at the end of August, excuse me, the  
11 middle of August of 2001 the people at Teen Help essentially  
12 called a stop to this referral scam that was going on.

13           The next thing we know is that Ms. Scheff got angry  
14 because there is a website. I don't know how many of you  
15 peruse the net, but there are certain things you can find  
16 almost anything you want to find you can find on the  
17 internet. And there is a well-respected website called  
18 Woodbury Reports. And Dr. Lon Woodbury, out of Northern  
19 Idaho, runs this website, is an educational consultant. He  
20 gives parents information about the kind of programs that  
21 are members of our association.

22           On August 23rd, 2001, Ms. Scheff posts what she calls  
23 her parents true story and she posts it on the Woodbury site  
24 because by now she has done enough referrals she knows where  
25 a lot of parents go to get their information if they're

1 thinking of referring kids in the program.

2 You will see that post, you'll see her true story.

3 And what you will see about her true story is that suddenly  
4 it is a very different story than what you have seen in the  
5 other documents she has written. And it is the start of a  
6 very number of a series of these true stories that they she  
7 uses to market what she has established as the PURE  
8 Foundation or the PURE Association.

9 Now, it turns out, also when she was doing this deal  
10 with Ms. Lucchetti back in early 2001 in March she also  
11 established a website for PURE. We don't have any of those  
12 early website postings because we didn't start looking at  
13 her website until after suddenly people started contacting  
14 our association saying there is something on the Lon  
15 Woodbury site that you need to see. We did start looking at  
16 her website about that period of time, about the last of  
17 August, first of September of 2001. What we found is we  
18 found that in the true story there is a claim that Carolina  
19 Springs is one of the World Wide Programs. And you'll  
20 notice most of her claims are about World Wide Programs.  
21 That there were hidden costs when she got to the school.  
22 That nobody told her that there were incidental costs,  
23 nobody told her that there were uniform fees. Her true  
24 story also says, and they didn't tell me that there wouldn't  
25 be a therapist on board. That my child wouldn't get regular

1 therapy. She said that. She said that she was told that it  
2 would cost -- for the first time when she enrolled her  
3 child, excuse me, when she took her child there she was told  
4 it would cost extra to get a psychologist. Now what you  
5 will see in the documents before you, is that none of that  
6 is true. That we have -- we have a contract signed in a  
7 dozen places that say exactly the opposite. They give all  
8 of the costs she would have to pay, that say this is not a  
9 therapy-based program, it is a behavior program, and there  
10 are not therapists. But if you want one you can pay \$75 an  
11 hour extra. We don't think that is necessary.

12 The other thing you will see is there is a specific  
13 document that she signed and checked off that she didn't  
14 want a psychological done for her child even though she  
15 could have paid to have one done. The other thing she says  
16 in her true story, and it keeps getting better and better as  
17 time goes on, is that Carolina Springs, the program her  
18 daughter went in, was not an accredited program. You'll  
19 hear, you'll see in the record, that Carolina Springs has  
20 always had an academic accreditation through the Northwest  
21 Association of Schools and Colleges.

22 Well, that was just the start. And what we find when  
23 we started looking at the income coming into PURE,  
24 Ms. Scheff's organization, is that she had actually started  
25 developing some schools that she could refer to besides

1 World Wide Schools in the summer of 2001. One was Red Rock  
2 Academy out of St. George, the other was Oak Ridge Military  
3 School out of North Carolina.

4 And it was clear when you start looking at the  
5 evidence that will be presented that she was making some  
6 pretty good money. I think Red Rock paid her \$5,000 in June  
7 of 2001. Well, as soon as the posting of the true story  
8 goes on the website Woodbury Reports, you will see that that  
9 amount of income just skyrockets. She found a way to get  
10 people to her website by making claims about first of all  
11 what happened at Carolina Springs that were untrue, and  
12 secondly, by making claims about who PURE was that were  
13 untrue.

14 What you'll find out is when you look at the first  
15 website that you got a copy of, she claimed to have a degree  
16 in business and finance, years of experience in the medical  
17 field, a team of professionals including psychologists,  
18 psychiatrists and lawyers who were working with her at PURE,  
19 she claimed that they have a proven -- approved set of  
20 schools and programs that had all been visited, that their  
21 quality assurance director had gone to and evaluated. And  
22 what you'll hear is that the schools at least in Utah that  
23 we have been able to talk to, Red Rock Canyon School in St.  
24 George, Cedar Mountain Academy in Cedar City that she  
25 referred kids to, that she made money off of, she never

1 visited. You'll see in an affidavit that she filed in this  
2 court saying I have never been to Utah prior to the filing  
3 of this case except for once on vacation. And yet you'll  
4 find out on her website, and in the information that she was  
5 actually providing to parents, she was claiming to have  
6 expertise that she didn't have. And we will contend that  
7 that is false advertising.

8 What you will also see, because we have had a lot of  
9 discovery in this case, and we have been able to find a lot  
10 of documents, most of them Ms. Scheff hasn't provided to us.  
11 In fact, we had to go out and find one of her friends who  
12 was willing to sell us a computer for an expensive amount of  
13 money to find e-mails that she destroyed. You'll find out  
14 from stuff we were able to restore on her computer, stuff we  
15 were able to get from this friend of hers, is that she  
16 continued to sell her services to parents who were in such a  
17 vulnerable position, looking for help for their kids, by  
18 claiming that she had expertise she does not have. She does  
19 not have an education in social work, psychiatry, law,  
20 juvenile corrections, no education in any of those areas.  
21 She has never worked in a program treating kids. She has  
22 never worked around a program treating kids. She visited  
23 Carolina Springs twice. She was a strong supporter of the  
24 school up until six months after she took her child out.

25 But it worked. By the end of 2001, she had gross

1 receipts for referrals of \$61,000, starting in June and  
2 ending in September -- December, \$61,000. Because she found  
3 one more -- she actually found two more very interesting  
4 marketing efforts, after the hits that she started getting  
5 because she put this story on the Woodbury website. The  
6 next thing she decided is that was a great place to  
7 advertise. And so you will see postings that she did.

8 Now, I don't know if any of you have ever been in chat  
9 rooms. I never knew much about them until I got this case.  
10 But you can actually go on some of these websites and ask  
11 for information, ask for other people's experience and try  
12 to get information from other parents who might be looking  
13 at programs. But we find out is this Woodbury website is  
14 such a good thing for her. The only thing we have been able  
15 to trace information from. She actually admits she went on  
16 some other sites of educational consultants, but Woodbury  
17 she goes on with false identities and admits to about five  
18 or six false identities. That is one day she is -- one day  
19 in any given day she is Tracy, Britney Reese, she is Hilda,  
20 she is Lora, she is SusanneLisa, she is Mark D.W. And what  
21 she does is she starts making claims about an inadequacy on  
22 her member schools, and making claims about that if you  
23 really want proven schools go to Helpyourteen.com and the  
24 PURE website. And you'll see all of the postings. We'll be  
25 putting them -- they're in evidence in this case and you

1 will get to read those postings. Now there were two, at  
2 least two separate discussions forums that we were able to  
3 find. One was a general discussion forum and the other was  
4 a forum specifically discussing the World Wide programs.

5 You'll see the pattern and the pattern is very clear.  
6 On the World Wide part she goes on with all of these false  
7 identities to say bad things about World Wide. What are the  
8 bad things that are false statements that she made? Well at  
9 some point she decides in about November of -- late November  
10 of 2001 that she wants to say that a young woman by the name  
11 of Valerie Heron, a 17-year old girl who went to the  
12 Tranquility Bay Care program died at the hands of WWASP.  
13 Now, we have several patronyms that we go by, World Wide is  
14 one of them you'll hear me say, but a lot of people use the  
15 initials of the World Wide Association of Specialty Programs  
16 and call it WWASP. That is what you'll hear the defendant  
17 call them.

18 She says there is this 17-year old girl who died at  
19 the hands of WWASP. That is a false statement. She goes on  
20 to say in detail that that death occurred because the staff  
21 at the school was negligent. There was no supervision over  
22 the girl, and it is an accident that could have been  
23 prevented. That seems to work. That is why she is getting  
24 so many hits to her website. And then all of a sudden she  
25 hears something else from someone she is working with at

1 another school about a program in Mexico that is a boot  
2 camp.

3 Now World Wide members are not boot camp programs.  
4 They're residential programs with dormitories and with  
5 classrooms and with schools. They don't run a day camp  
6 program. But she decided, you know, this negative stuff is  
7 working really well so she posts on the Woodbury website  
8 that it is proven that World Wide, a WWASP program, she puts  
9 it, abused a child in a High Impact program in Mexico. The  
10 child's name we found out later was Josh Jennings. The  
11 child was actually at Cedar Mountain Academy in Cedar City,  
12 Utah, had come from a boot camp program in Mexico. A boot  
13 camp program that our programs refer to when they can't deal  
14 with the kids.

15 But it is not just that, it is what she said about  
16 Josh. She said that when he came into the Cedar Mountain  
17 Program, that he was near death, and she has verified that  
18 with a doctor in Cedar City who saw him, that he was -- he  
19 had been living in a dog cage at a World Wide Program in his  
20 own, these are her quotes, "urine and bowels." Why would  
21 you say that? Why would you even want to go on the internet  
22 and put those things on there?

23 You will hear from Jody Tuttle who is the owner and is  
24 the director of the Cedar Mountain Program that she knows  
25 Josh Jennings and that did not describe anything Josh

1 Jennings ever told her.

2 In addition you will hear from Arlene Farrow, the  
3 person Ms. Scheff had been talking to at Cedar Mountain who  
4 was the admissions director, that even though Arlene said  
5 yeah this kid came in from a boot camp program and he was  
6 dirty because he had been living in a tent and been cooking  
7 their own meals and been marching. When we asked her if she  
8 told Ms. Scheff that this kid had come in after having lived  
9 in a dog cage in his own urine and bowels she said  
10 absolutely not.

11 And by the way, by this time Ms. Scheff is claiming  
12 that Cedar Mountain Academy is part of her network of  
13 approved programs. Remember the ones that she went out and  
14 looked at and the quality control director looked at?  
15 You'll find her friend Ms. Farrow says no, we weren't, we  
16 were just paying her a referral fee.

17 THE COURT: You have about five minutes left.

18 MR. SILVESTER: And that is about what I need. Thank  
19 you, Your Honor.

20 This process went on until December 24th, as I can  
21 best figure it out, when Dr. Lon Woodbury, a person who runs  
22 this site, suddenly said, you know, there is something wrong  
23 here. I know the World Wide Programs and this just isn't  
24 right. I can't imagine why there are so many negative  
25 postings. And he had his web master look into it. And

1 you'll see his posting where he says guess what? I found  
2 out that all of these e-mails are coming from the same  
3 computer in Florida. Well, that upset us. And Ms. Scheff  
4 she writes back and says these are all true stories, all  
5 people in my office. Well now under oath she said it was  
6 really just her. She tried later on to see if she could get  
7 supporting evidence to say well these really are true  
8 stories, but you'll find out she doesn't know who Lora is or  
9 Tracy, or Britney Reese is. She doesn't have any support  
10 from any of these people. And Mark D.W. she admits I made  
11 that parent from New York up because I wanted people to read  
12 this site about this Josh Jennings who was living in his own  
13 urine. Now what does that do? That is false advertising.  
14 Not only that, that is defamation. When you say somebody  
15 can't do her business because they killed children, because  
16 they make children live in their own excrement, that is what  
17 this case is about.

18 Ladies and gentlemen, what you will find out is that  
19 once it became obvious to people in marketing, that is Ron  
20 Woodbury and Tom Croke, the people who are education  
21 consultants that this wasn't on the up and up, then Ms.  
22 Scheff went underground. And in early 2002 we filed this  
23 lawsuit. We didn't think this was right. And what happened  
24 is she went underground and she did the same thing when she  
25 was referring to us. She found a group of people, some like

1 Mr. Berryman who is nothing but a social recluse and sits in  
2 front of his computer every day, never worked in the  
3 program, some disillusioned parents who have been in custody  
4 fights over their children, some disillusioned grandparents,  
5 and she gets them altogether and they do the Trekkers  
6 ListServ. That is this private group of people. What she  
7 does is she gets information that she steals off the World  
8 Wide closed bulletin board service. She sends it to these  
9 people to go after them, go get their customers, make sure  
10 they don't do it.

11 What we will show you is in 2002 and 2003 she had  
12 gross receipts of about \$200,000 a year. She has no  
13 employees, just a little overhead. She had one scheme. Go  
14 after World Wide -- potential World Wide clients, clients  
15 who are going to legitimate schools that have been in  
16 existence for years, that have thousands of employees, and  
17 don't care whether there is any truth to this stuff, just  
18 make sure that they make it to my website because it is  
19 important. And we're going to ask you to have her give us  
20 that money back. Thank you, ladies and gentlemen.

21 THE COURT: All right. Thank you, Mr. Silvester. And  
22 Mr. Henriksen, it is time for an opening statement from you.  
23 If you want to take a second and get the courtroom set up so  
24 that will be the most effective that will be fine.

25 Ladies and gentlemen, if you want to stretch for a

1 second. I know sometimes going for an hour-and-a-half, hour  
2 and 45 minutes at a stretch is hard. So if you want to  
3 stretch for a second while Mr. Henriksen gets the courtroom  
4 ready for his statements this would be a good chance to do  
5 that.

6 All right, you may proceed, Mr. Henriksen.

7 MR. HENRIKSEN: Thank you, Your Honor. May it please  
8 the Court, counsel, ladies and gentlemen. It is my  
9 opportunity now to address you and to introduce you to Sue  
10 Scheff and tell you the rest of the story and try to set a  
11 stage for what you're really going to hear happened in this  
12 case. Not the claims of loss but WWASP or World Wide and  
13 we're going to talk about what evidence will be shown here.

14 And Mr. Silvester has walked through a lot of stuff  
15 that they say they're going to prove to you. And some of  
16 the key issues are who is it that they're going to call as  
17 witnesses? Who will they bring forth as witnesses? Will  
18 they call parents of children? Will they call a mother of a  
19 child? Will they call the people that wrote stories and  
20 talked to Sue Scheff about the abuse of these programs? No.

21 What the evidence will show is they're going to call  
22 their president, they are going to call a director, call the  
23 people connected, all inter-connected in this business, that  
24 all support one another. And the evidence will show from  
25 our side of this case, from mothers, from newspaper

1 articles, from TV shows, what it is that changed Sue  
2 Scheff's mind about these programs.

3 Sue Scheff a mother and she cared enough to make a  
4 difference. Yes, she had a problem in her family. Just  
5 like any other mother she loved her children, but this  
6 problem grew worse. And her daughter was, as Mr. Silvester  
7 stated, wasn't seeing eye-to-eye with her mother, was  
8 experimenting in things she shouldn't have been doing. She  
9 really was a good girl, but making bad choices. And after  
10 trying whatever else she could do, things were not getting  
11 better, and she seemed to even be losing faith in life and  
12 in God and in everything and she was a total disconnect she  
13 started looking for help.

14 And you'll hear other parents take the witness stand  
15 this week and tell you how they looked for help. And you'll  
16 see it on 48 Hours, see the stories of parents how they  
17 looked for help, and they thought this program was good.  
18 They thought their children would be helped.

19 Well, WWASP isn't a perfect program either, just like  
20 she isn't a perfect mother. And there have been story after  
21 story all before Mrs. Scheff was even a WWASP parent, even  
22 before she put [REDACTED] in their school, there is story after  
23 story, program after program, which she did not know, she  
24 did not read, she did not hear. And during this little  
25 cloudy time, Mr. Silvester describes to you was she

1 referring to WWASP to get her tuition paid? Yes. Did she  
2 continue to refer to WWASP after [REDACTED] first came out?  
3 Yes. Because she could help pay back what happened.

4 But then she received this information. And so they  
5 say well what changed is the fact that the word -- the deal  
6 she worked out with Randall Hinton who is their employee of  
7 Teen Help, he said you can just do it like this. He gave  
8 her the name of the [REDACTED] people and said if she got them  
9 in the program you two jointly do this and you take an and  
10 you refer these people and you can get discounts for her too  
11 because she didn't have the money. And Randall Hinton who  
12 was the worker at Teen Help advised her of that.

13 Then they changed the individual at WWASP during this  
14 little cloudy period of time to a different guy that said,  
15 oh, you can't do it like that. And this is also the same  
16 period of time when she read and we heard and she saw the  
17 article. And so that is why we have this change in what she  
18 did. She stopped referring to WWASP schools. And when you  
19 read these articles, and when you see what is in them, you  
20 need to ask yourselves several questions. One is, what did  
21 Sue Scheff reasonably believe about these programs before  
22 these Woodbury Reports were posted? What information did  
23 she have? What information do we have in this courtroom  
24 that we will look at as to why she said what she said? And  
25 then I'll think we'll know the rest of the story.

1           Now WWASP is a large group. They have schools all  
2 over. But they have had schools closed by government  
3 authorities who have come in and shut them down. You'll  
4 hear about this, and she put that on the website and those  
5 are true. You'll hear them say that she is all for money.  
6 If she was all for money and not for the children, she would  
7 refer to everyone. Why not refer to all schools? Why not  
8 refer to all WWASP schools, her schools, the rest of the  
9 schools to make the money? She was already making money  
10 doing this. There is no reason to change and to do it in  
11 some other way.

12           [REDACTED] came home and she was different. She was  
13 quiet, she was solemn, she wasn't disobedient, but she had  
14 no argument left in her. And then after a few months she  
15 started opening up and telling her things that happened.  
16 She was tied together with another girl and had to go to the  
17 bathroom together, had to eat together. Can you imagine  
18 being tied to someone and having to have to go in and go to  
19 the bathroom. She learned of these stories and she was  
20 terribly and horribly surprised. Because the stories that  
21 came in from other people that she talked to were  
22 consistently there. She just didn't have one story and  
23 another story and another story from these people, she had  
24 many stories that were consistent about how they treated the  
25 children in these programs. The stories came as to how they

1 sold the parents a bill of goods, convinced them of what was  
2 going to happen verbally and orally, and told them different  
3 things would be available. And did you hear what he said?  
4 They signed the contract in 12 places. How many of you have  
5 ever signed the same contract in 12 places? Sometimes you  
6 go to a real estate closing you might sign a different  
7 document, but the same document 12 places? Do you think  
8 that is an organization that has had problem with parents  
9 doing the same thing? Saying they didn't tell me everything  
10 and then they had them sign in 12 places. And you'll hear  
11 what she says is they didn't tell me about these things and  
12 I didn't see them in the fine print, they're there. One of  
13 them has her signature on it. It says do you want a full  
14 psychological evaluation and she says no, I don't think she  
15 needs that. She trusted them.

16 Now, we're going to read the articles from, for  
17 example, the St. George Spectrum, from The Post, from the  
18 Denver Rocky Mountain News. You'll see stories from the  
19 Miami Herald. You'll see stories from the Salt Lake  
20 Tribune. You'll see stories from the New York Times. I  
21 would like to have Q-116 brought up on the screen.

22 THE COURT: What we have done, ladies and gentlemen,  
23 not to interrupt you here, but we have a woman who has  
24 agreed to come in and help both sides present exhibits up  
25 here on a screen so that you can see some of these things.

1 And at the end of the trial, we'll send back a couple -- we  
2 have a couple of notebooks, one from the plaintiff and one  
3 from the defendant with all these exhibits. So you will  
4 have a chance to look at them more carefully.

5 Mr. Henriksen is properly putting up an exhibit now  
6 that he anticipates will be significant in the case.

7 MR. HENRIKSEN: This is an article that she read  
8 during this incident time. Paragraph two, can you enlarge  
9 that for us. This is from Donna Burke, and this is from  
10 Strugglingteens.com. And this is a story read by Sue Scheff  
11 during that time. "I soon became suspicious when I realized  
12 I was locked out of the program. I could not visit or talk  
13 to my boys until they reached a certain level. After seven  
14 months I went for a visit. I became very angry when I  
15 realized that neither the brochure or the video had been  
16 done at any of the campuses. I expected to see a resort and  
17 instead I saw a prison. The school was dirty, crowded and  
18 silent. The boys were standing in line at attention in the  
19 blazing sun for hours. My two boys were terribly thin and  
20 sunburned. They were sleeping on bare, dirty mattresses and  
21 there were no fans or air conditioning. When I spoke to the  
22 other children, they became very uneasy so I know that this  
23 was not allowed. I tried to take pictures but was told that  
24 I could not. This made me worry even more about what they  
25 were hiding."

1 Paragraph three, the first sentence is enlarged.  
2 "Upon examining my children, I found ringworm scars,  
3 chemical burns and lots of bug bites." This is what Sue  
4 Scheff read. This is just part of this article and she  
5 talked to 20 or 30 parents who personally told them the  
6 story. She got on the phone with these people and talked  
7 with her and talked with them and they said this is what  
8 really happened to my son. This is during this time before  
9 the postings in December 2001.

10 Q-93, five paragraphs from the bottom, starting two  
11 associated -- this is a story that the Miami Herald  
12 June 13th '99 sent to Sue which read before the postings.  
13 Two associated schools in Cancun, Mexico, and in the Czech  
14 Republic, Czech Republic was Morova Academy, a WWASP school,  
15 have been shut down by authorities amid allegations of abuse  
16 and concerns about children being illegally confined."

17 I would like to go to W-1 is -- there are three that  
18 are in evidence. At this point I would like to read from  
19 Brian Rogue on W-1. Paragraph three, the first six lines.  
20 Could you enlarge those? Starts our experiences, enlarge  
21 about six lines of that. "She spoke with Ryan Rose and had  
22 -- he actually sent her a story that she had read prior to  
23 these postings. Our experience right after we came from  
24 Tranquility Bay with our son was pretty scary. He locked  
25 himself up in a closet, not a walk-in closet, curled up in a

1 fetal position and screamed and kicked and yelled for nearly  
2 an hour. He never had done anything like this before and I  
3 think this was due to the fact that he was not allowed to  
4 show any emotions at the school." That goes on.

5 I would like to go to W-11 paragraph one at the bottom  
6 has a number on that is enlarged. She spoke with Karen Lyle  
7 and read the story she wrote. "We discovered that when we  
8 had been deliberately misled and deceived when the program  
9 was marketed to us initially this prevented us from making  
10 an informed decision about the safety, welfare and  
11 well-being of our child. Many things we had been told to  
12 sell us on the program we later found out to be untrue.  
13 Some of them are listed below." And we'll go into those  
14 later. Other mothers and fathers shared with her their  
15 stories. And you'll hear from some of those in the  
16 courtroom this week. Bernadette Cabrael, John Francis,  
17 Chris Goodwin.

18 Let's talk for a minute about the starting of the PURE  
19 Foundation. She decided with a friend maybe she could put  
20 together a group of people and try to get information out  
21 about the programs. She started organizing this program  
22 before she knew anything about WWASP problems. They started  
23 up this program, put together the foundation with a friend  
24 had to leave the business because she had a messy divorce  
25 and was too busy, so she began PURE, Inc. and changed the

1 plan of it slightly, that sort of came out later along. And  
2 instead of doing grants and donations, she could start  
3 receiving some referrals, and she did start doing that.

4 Did she put together a group of schools as she -- not  
5 an organized group she did do an investigation on schools  
6 yes. You'll hear about people involved in checking out  
7 WWASP way before Mrs. Scheff was even involved in this. A  
8 person by the name of Donna Headrick who for years had been  
9 doing investigations into WWASP programs and schools. And  
10 other individuals that had started a group long before  
11 Scheff was even involved with her daughter in this program  
12 to organize parents who could share information with other  
13 parents. Parents talking to parents had given them  
14 information so they could make appropriate decisions. And  
15 she says, you know, I should do that and so she starts a  
16 program and she does newsletters and parents can find her  
17 site and she tells them about different programs and  
18 psychologists have reports on there, she talks about  
19 different schools, that are on there.

20 She was a novice at business. She never tried opening  
21 a business before. I can't remember because we did this so  
22 quickly this morning, I can't remember if any of you have  
23 your own businesses, maybe some of you do. But she was a  
24 novice at it. And did she do everything right? No. Does  
25 she make some errors? Yes. Did she make some mistakes on

1 the wording of some documents and the wording of how she  
2 describes certain things? Yes. But what you have to look  
3 at is this in this case. These are key questions that you  
4 need to ask yourself as you're listening to all of the  
5 plaintiff's witnesses. Did they prove the statement was  
6 false? You need to ask yourself that question. And who it  
7 is that they're bringing to you to prove that these things  
8 that she said were false. The stories that she told of  
9 these parents, who is it that they're bringing to say that  
10 story is false. So who is that?

11 Did Sue Scheff have a reasonable belief in those  
12 stories and all of the consistent stories? Did she  
13 reasonably believe the stories? If she did that is a  
14 question that we need to ask.

15 The case also hinges around this. The First  
16 Amendment, as we know, and I'm not going to go into a long  
17 political speech, but the First Amendment allows an  
18 individual the freedom of speech to give an opinion. Is Sue  
19 allowed to give her opinion as she formulated after reading  
20 all of this information? Yes. Is she allowed to defame  
21 somebody, to intentionally say things that she knows are  
22 false? No. The question is, did she have a reasonable  
23 belief that they were true? And you're going to be asking  
24 to judge someone who was sitting on a computer typing an  
25 e-mail or in a chat room to the exact word they chose. It

1 is not something we spent like an English or high school  
2 class or college and some of you where you write something  
3 and spend hours and hours and hours editing and go over it  
4 the best we can, judge her on quick things they wrote. Did  
5 she defame him? That means did she intentionally say  
6 something that was false, that she knew was false? And  
7 there is other requirement we'll talk about.

8 Another key question, were the things that she said  
9 material? Were they so significant, so important the fact  
10 that she told her web person who she had to do webs, she  
11 said put something together for me, and when they came back  
12 she caught one thing that was a mistake, she writes and says  
13 change that, it wrote she had a college degree. Is that  
14 material whether or not she had a college degree or not? Is  
15 that material? Would that make a difference to parents  
16 helping parents decide if they want to put their children in  
17 this particular program or that particular program, and I  
18 think as you listen to the evidence you'll hear all kinds of  
19 stuff just not significant in making that decision. And  
20 you'll see things that she made mistakes on and errors.  
21 Those were errors of judgment and errors that are  
22 insignificant or not material.

23 The malice is something you need to be looking at.  
24 That is whether she knew something was absolutely false.  
25 Then you're going to have to listen and just determine what

1 was the cause? They're claiming damages. They stood here  
2 and said she damaged them. You're going to hear newspaper  
3 article after newspaper article after newspaper article and  
4 TV shows and you'll hear from doctor and a professor from  
5 the University of Utah in marketing and communication say  
6 that what she has on her website and the Woodbury Report,  
7 the little private list serve kind of thing, is a drop in  
8 the bucket compared to all of the bad damning things said by  
9 others about WWASP. Not said by Sue Scheff, not said by any  
10 of the people that are the parents helping parents, they are  
11 said by news media, other people who have investigated these  
12 incidents, and written reports, damage of a TV show, et  
13 cetera. You'll see that a drop in the bucket means the  
14 marketing as far as exposure on the website versus the TV  
15 shows like 48 Hours or Dateline or Inside Edition is one  
16 little spec to a whole bunch. And we'll ask some of their  
17 witnesses about the harm those newspapers charged and caused  
18 them and they will admit to that.

19 Now talking a little bit about these names on the  
20 Woodbury. Yes. Did she make up a name for herself? Yes.  
21 People who go on chat rooms, those of you who have gone on  
22 chat rooms know you don't use our right name, people don't  
23 use our right names on a chat room. But did she use more  
24 than one name? Yes. She made up a name to protect the  
25 confidentiality of one of the parents which was her

1 neighbor, Debbie Saens. And she told Debbie Saens story of  
2 her daughter and what happened to her. And rather than do  
3 it in her own name, rather than doing it in Deb Saens' name,  
4 she put a name Deb C. And that is what she is guilty of.  
5 She said a different name. But is the information in that  
6 story false? No.

7 THE COURT: Mr. Henriksen, you have about ten minutes  
8 or so left.

9 MR. HENRIKSEN: Thank you, I appreciate that, Your  
10 Honor.

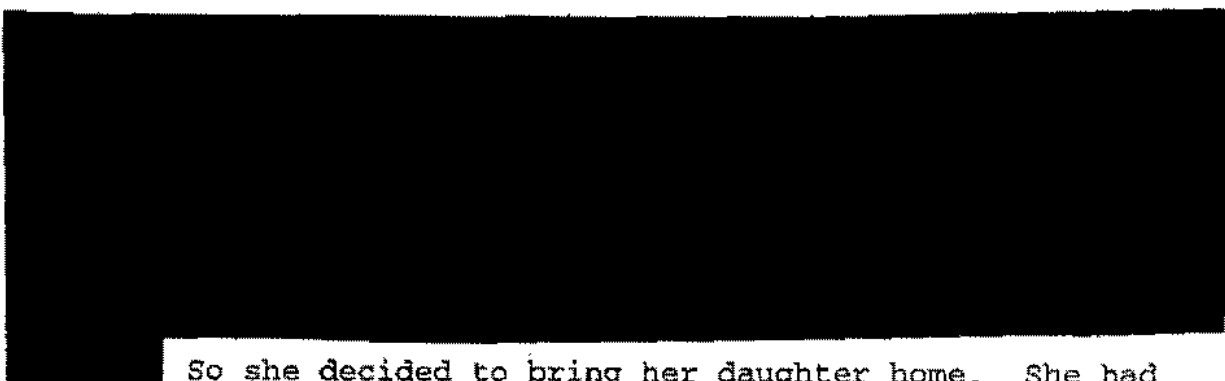
11 Who knows the name of Samuel Clemens or do we know the  
12 name of Mark Twain better? Samuel Clemens wrote a book  
13 Huckleberry Finn and Tom Sawyer in a pen named called Mark  
14 Twain. It wasn't his name. Sam Clemens. The country has  
15 recognized from the beginning people have a right to remain  
16 anonymous and give their opinions. That is what she did.  
17 She protected the confidentiality of others by putting  
18 different names on the stories she told. Should she have  
19 done that? You know, probably not good judgment. But that  
20 isn't something that she can be held responsible for lack of  
21 good judgment. She has to do something that she knows is  
22 false.

23 Let's talk for a minute about a couple of other  
24 things. Did Ms. Scheff, Sue Scheff, write a letter to  
25 Carolina Springs thanking them for helping her daughter and

1 saying she saved my life and daughter? Yes. Had she seen  
2 her daughter before she wrote that letter? No.

3 Had her daughter told her what went on? No. Did she  
4 know what was going on at Carolina Springs? No. Did she  
5 know what was going on at all these other programs at that  
6 time? No. She had to write that letter as part of the home  
7 work assignment in a seminar you have to attend. And you  
8 must fulfill every requirement as a parent before you can  
9 talk to your own child. They put their kids in these  
10 schools and you cannot talk to your child for months and  
11 months and months. They have to reach a certain level. And  
12 then still you as the parents have to reach a certain level  
13 by going to these seminars. And that letter was one of the  
14 requirements.

15 Did she take her daughter out of the school? Yes.



21 So she decided to bring her daughter home. She had  
22 a feeling in her gut after that seminar that maybe things  
23 weren't quite right. She was uneasy about the seminar she  
24 had to attend.

25 What did Sue Scheff do in this case that another

1 mother or father who loves their child wouldn't do? And  
2 wants to help other people not to fall in the same trap?  
3 She says to the individual she speaks to, let's give the  
4 information to the people so that they can make a wise  
5 decision, not like I did without the right information. So  
6 she spent her time giving out the information concerning  
7 these schools and having the parents talk to other parents  
8 so they can help and assist.

9 This is a large business wanting to shut her up. She  
10 has a First Amendment right to speak. She has not defamed  
11 them, she has not said anything that was false. And the  
12 evidence will show that. And as you review it, you will  
13 also be shocked and horrified about what you see and what  
14 you read about what they do to these children in these  
15 schools.

16 And at the end of the case, I am sure that you'll come  
17 up with the right verdict for the right reasons. And let  
18 this mother continue to tell other mothers what her  
19 experience was and give her own opinions about that and let  
20 other mothers and fathers be able to spread the information.  
21 Let people make their own decision as to what school they  
22 chose to go to. People can chose to go to WWASP schools if  
23 they would like to. People can chose to go to other  
24 schools.

25 But to stop people from sharing information, and

1 giving their opinion, is against what this country is  
2 founded on. And that is the decision that you'll have to be  
3 making because that is -- that is where the evidence will  
4 take us. And I believe that at the end of this -- the end  
5 of this case, that you will agree that this mother has a  
6 right to share information properly.

7 Thank you very much for your attention.

8 THE COURT: All right. Thank you, Mr. Henriksen. And  
9 plaintiff, I guess, is going to call their first witness  
10 now. If you want to take a second to get the courtroom set  
11 up. And again, ladies and gentlemen, if you want to stretch  
12 for a second while Mr. Silvester is getting things organized  
13 here. Do we need to move that easel?

14 As soon as you're ready. All right. Are we all set  
15 for our first witness?

16 MR. SILVESTER: Yes, Your Honor.

17 THE COURT: Call your first witness.

18 MR. SILVESTER: We would call Karr Farnsworth.

19 THE CLERK: If you will come forward by the witness  
20 stand I'll swear you in over there.

21 KARR FARNSWORTH,

22 Having been first duly sworn,

23 was examined and testified as follows

24 THE WITNESS: I do.

25 THE CLERK: Have a seat right there, sir. If you

1 would state your name and spell it for the record, please.

2 THE WITNESS: My name is --

3 THE COURT: Speak into the microphone. You might have  
4 to move that up. State your name and spell it for the  
5 record.

6 THE WITNESS: Okay. It is L -- cap L, Karr, K-A-R-R,  
7 Farnsworth, F-A-R-N-S-W-O-R-T-H.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MR. SILVESTER:

11 Q. Mr. Farnsworth, where do you work?

12 A. Cross Creek, loosely Programs, but it is Cross  
13 Creek Manor, Cross Creek Center, Cross Creek Academy.

14 Q. Keep your voice up and if could you stay a little  
15 bit closer to the microphone it will help us all.

16 A. All right.

17 Q. You're originally from Southern California; is  
18 that right?

19 A. Yes, sir.

20 Q. And you went to school there?

21 A. Yes, sir.

22 Q. And did you go to college there?

23 A. Part, some college, yes, sir.

24 Q. Okay. What did you do in college? I mean what  
25 academically did you do?

1           A.    I actually went with police science which  
2 included some psychology, et cetera, but I graduated from a  
3 police academy.

4           Q.    Okay. And after you graduated from the police  
5 academy, did you go to work?

6           A.    I went to work on the Riverside County Sheriff's  
7 Department.

8           Q.    How long did you work for the Riverside County  
9 Sheriff's Department?

10          A.    Approximately six years.

11          Q.    What did you do after that?

12          A.    I went to work at a residential program in  
13 California there in the same community that took wards of  
14 the court.

15          Q.    Okay. When you say a residential program, tell  
16 us what you mean?

17          A.    It is a program where the students were placed  
18 there. In California they were placed either by the  
19 probation department or by social services to have therapy  
20 behavior mod, academics, the full residential program.

21          Q.    About when was that that you went to work for the  
22 program in Southern California?

23          A.    1966.

24          Q.    Okay. How long did you work there?

25          A.    Approximately six years.

1 Q. What did you do?

2 A. Well, when a program starts you do a little bit  
3 of everything. I worked --

4 Q. Can you tell us a little about what everything  
5 is?

6 A. I did a little bit of group living. I did some  
7 of the administration, some of the problems that were done.  
8 I am not a therapist, so I did not do therapy. I'm not a  
9 credentialed teacher, I did not teach classes, but I did  
10 most of the things in the group living, any PR work,  
11 activities, a lot of things like that.

12 Q. I'm going to interrupt you for a second. When  
13 you talk about group living in a residential center like  
14 this, what does that mean?

15 A. That means just about everything except for the  
16 time the students are in the classroom or in a therapy  
17 session, either individual or group.

18 Q. So you actually worked directly with students in  
19 these programs?

20 A. Yes, sir.

21 Q. What was the name of the program?

22 A. Lakeside Lodge.

23 Q. After spending six years with Lakeside Lodge,  
24 then what did you do?

25 A. Then I moved up to Utah and went to work at a

1 program in Provo.

2 Q. What was the name of that program?

3 A. Provo Canyon School.

4 Q. When would that have been?

5 A. That was '70 -- the start of '72.

6 Q. And what did you do at Provo Canyon School?

7 A. Again, it was a young program, so I did just  
8 about -- this program took private placements. So in  
9 addition to working with the students in the group living  
10 setting, in addition to activities, whatever, then I also  
11 did some in admissions.

12 Q. What does that mean?

13 A. Field phone calls from parents that were wanting  
14 to get assistance or help with their child.

15 Q. Who owned the program in Provo Canyon at the time  
16 you worked there?

17 A. Jack Williams initially, and then it was later  
18 sold to the Charter Hospital Group, and then I left there  
19 while it was still owned by Charter. It since has been  
20 bought again by another hospital group.

21 Q. And when you say it was a private placement  
22 school, what does that mean in your business?

23 A. That means that the parents are putting the  
24 students there. For the most part, the students are funded  
25 by the parents. At that time there was a little more

1 third-party money available, insurance, some public monies,  
2 that kind of thing. But for the most part, private funding.

3 Q. Okay. And during the period of time that you  
4 were in Provo Canyon School, you had the opportunity to work  
5 with Mr. Robert Lichfield; is that correct?

6 A. Yes, sir.

7 Q. And you would end up working with him later on,  
8 correct?

9 A. Yes, sir.

10 Q. You also ended up having a chance to work with  
11 Mr. Brent Facer during that period of time?

12 A. Yes, sir.

13 Q. You would end up working with him later on; is  
14 that correct?

15 A. Yes, sir.

16 Q. So how long were you at Provo Canyon School?

17 A. Approximately 17 years.

18 Q. Okay. So you had six years in a group facility  
19 in California, and 17 years here in Utah?

20 A. Yes, sir.

21 Q. That takes us up to about when?

22 A. '88.

23 Q. Okay. What did you do in 1988?

24 A. Then Bob Lichfield hired me and I went down to  
25 Southern Utah to work in LaVerkin there at the Cross Creek

1 Manor which was the all girls program at that time.

2 Q. What had Mr. Lichfield done, as you recall, when  
3 he was at the Provo Canyon School?

4 A. He was the -- well, when he was there, he went in  
5 as a group living supervisor, and I was over in admissions  
6 at that time.

7 Q. Okay. And Brent Facer, what was his job at Provo  
8 Canyon School?

9 A. He was a shift supervisor, as I recall.

10 Q. Now, when you went to Southern Utah to work for  
11 the Cross Creek programs, did you gain any ownership  
12 interest in those programs?

13 A. Not initially.

14 Q. What did you do for Cross Creek when you first  
15 went down there?

16 A. Again, it was a young starting program so I did  
17 the group living, the supervising of the kids, and also  
18 mainly there I focused on admissions, fielding the phone  
19 calls and recruiting kids for the program.

20 Q. Okay. What kind of physical facility was that  
21 when you first started the Cross Creek Program in LaVerkin?

22 A. It had been a bed and breakfast that went cafunk  
23 so then we took it over and used part of it as an academic  
24 area and at that time we contracted the therapy portion, and  
25 then the bedroom areas.

1 Q. Okay. When you say you contracted the therapy  
2 portion, describe for us what that means?

3 A. Hired therapists from St. George that would come  
4 out and see the kids individually or in groups.

5 Q. And what kind of academic program was at Cross  
6 Creek when you first started?

7 A. Let's see, initially we were sending the kids to  
8 public school.

9 Q. Okay. At some point in time did that change?

10 A. Yes. Then we changed and we did correspondence  
11 courses with BYU, the high school part of the correspondence  
12 with BYU.

13 Q. Okay. And did it change after that?

14 A. Then it changed again and we moved into having  
15 our own academic program with teachers, certified teachers,  
16 et cetera, and had our own school on grounds.

17 Q. Now, when you have your own academic program in  
18 places like that, is there any way you get it accredited?

19 A. Yes. You need to be accredited because of course  
20 most parents want the kids to advance in school and move  
21 forward, and so we were accredited by the State of Utah and  
22 the Northwest Association of Schools and Colleges.

23 Q. Tell us a little bit about how your job  
24 progressed after you first got to Cross Creek?

25 A. Well, as you grow in a program then budget wise

1       you can afford more staff. And so then the group living  
2       grew. There were initially in fact we did have house  
3       parents. We had husband and wives initially. And then as  
4       you move along then we just grew with a group living staff  
5       supervisor and then again I was mainly focused in group  
6       living, I mean excuse me, in admissions at that time. As we  
7       continued to grow, acquired additional buildings, et cetera.

8               Q.    Who was the director of the program when you  
9       first went down there?

10              A.    Um, well let's see, Bob Lichfield was the  
11       director; Brent Facer, I think, had the title of director,  
12       if I recall.

13              Q.    And they both worked at the school with students  
14       when you first got there?

15              A.    Initially, yes.

16              Q.    Okay.

17              A.    And then Bob went into another venture. Tried  
18       other things.

19              Q.    How did you market Cross Creek Programs when you  
20       were the admissions director?

21              A.    In those days it was mainly Sunset Magazine,  
22       other magazines, and then word of mouth. Parents who either  
23       had a kid in the program or had had a kid in the program  
24       which that was our best referral source.

25              Q.    Okay. And at some point in time --

1           A.    And professionals, excuse me.  There are  
2 professionals, too, that referred.  Psychiatrists,  
3 psychologists, sometimes law enforcement had -- knew that a  
4 kid went there, went home, did well, probation departments.  
5 Just anyone at all that was looking to getting a girl that  
6 needed help.

7           Q.    Okay.  And that was a girls program?

8           A.    That was all girls, yes, sir.

9           Q.    Okay.  Did there come a time when you got an  
10 ownership interest in Cross Creek Manor?

11          A.    Yes, sir.

12          Q.    When was that?

13          A.    That was ninety -- 1999.

14          Q.    Prior to that, did your job ever change with  
15 Cross Creek?

16          A.    Yes.  There was a year when the World Wide  
17 Association of Specialty Programs first started.  I went in  
18 as director of that organization for about a year.

19          Q.    So you were actually the first president of the  
20 World Wide Association?

21          A.    Yes, sir.

22          Q.    And at the time that you became president of  
23 World Wide Association, that would have been what '97?

24          A.    About '98 is the best I recall.  1998.

25          Q.    Do you recall what programs joined the

1 association at that time?

2 A. At that time, of course, there was Cross Creek,  
3 Paradise Cove, Tranquility Bay, Carolina Springs, Spring  
4 Creek. I think those were the ones, yeah.

5 Q. Okay. What was your role as the president of the  
6 World Wide Association?

7 A. I would visit the different programs and consult  
8 with them and help them in different -- you know, each  
9 program is unique based on its location and other things.  
10 But generally, consult and assist and help them.

11 Q. And you have some what, 20 some 30 some years by  
12 that time working with these kinds of programs?

13 A. Correct. Altogether now it is 38 years.

14 Q. Okay. And for that year period of time did you  
15 visit all of those programs?

16 A. Yes, sir.

17 Q. And what did you do when you visited the  
18 programs?

19 A. I met with the directors and then would meet with  
20 like the family reps or supervisors and assist where the  
21 director saw there was a need.

22 Q. Okay. Now talk to us for just a minute about how  
23 the schools actually worked. You used the terms I don't  
24 think we have used family rep and supervisor. How was a  
25 World Wide School set up? Excuse me. How was a World Wide

1 School set up during that period of time when you were the  
2 president of World Wide?

3 A. Each of the programs that we call the family  
4 representative was a parent, was an adult who would  
5 communicate with the students and with the parents as a  
6 liaison. And then, of course, each of the programs had the  
7 academic area and then the group living area and then the  
8 administrative supportive areas.

9 Q. Okay. These were all programs where the doors  
10 were locked, correct?

11 A. No. No. There weren't any locked doors in any  
12 of those facilities.

13 Q. Okay. These were places where the kids weren't  
14 supposed to leave though; is that right?

15 A. Correct. Correct.

16 Q. And when you say the family representatives had  
17 contact with the children and the parents, were there  
18 restrictions when you were the president of World Wide on  
19 contact between parents and children?

20 A. There was a buffer period between the time that  
21 the parents and the kids would talk on the phone. However,  
22 they could write letters at any time.

23 Q. And were children encouraged to write letters to  
24 their parents?

25 A. Yes, sir.

1           Q.    Were parents encouraged to write letters to their  
2 children?

3           A.    Yes, sir.

4           Q.    And what was the purpose, as you understood it,  
5 of the buffer period?

6           A.    Most of the students when they went to the  
7 program were less than enthusiastic. They had been not  
8 going to school, doing their own thing in the community at  
9 home and rather than the parent get a lot of flack, a lot of  
10 manipulation initially, the parent was ready, looking for  
11 the student to get help. And rather than talk on the phone  
12 or have that situation, it was better to communicate through  
13 letters and communicate that way and give it a period of  
14 time so the student could adjust and then talk to the parent  
15 after a period of time and the calls were much more positive  
16 and went in a positive direction.

17          Q.    During that break, during that period of time  
18 when there wasn't direct telephone communication, was there  
19 anyone from the schools that were having contact with  
20 parents?

21          A.    The family representative, if they had a problem,  
22 the directors, we at World Wide answered any questions. At  
23 that time, Cross Creek, I guess I didn't mention Cross Creek  
24 earlier is one I visited, obviously I visited Cross Creek,  
25 Cross Creek has always been a therapeutic problem with

1 therapists. By then we had a full therapy program there and  
2 so then the therapists would communicate with the parents  
3 and do family therapy prior to the student being on the  
4 phone with the therapist and the parent.

5 Q. During the period of time that you were the first  
6 president of World Wide Association, how were the programs  
7 marketed to parents?

8 A. As time went along, they were -- there were  
9 additional marketing groups created. I mean initially Cross  
10 Creek had its own marketing because it was the only program.  
11 And then as other programs were added, then different  
12 marketing groups were added, Teen Help. Cross Creek kept  
13 its marketing group but then Teen Help was added who  
14 marketed all of the programs. Cross Creek's admission could  
15 also market the other programs for a student that didn't go  
16 to Cross Creek. And then there was another marketing arm  
17 that subsequently merged with Teen Help, and then there were  
18 other marketing groups that were added that would do  
19 admissions for the group of programs, the associated  
20 programs.

21 Q. Marketing groups such as Teen Help, did they have  
22 any role in administering any of the World Wide programs  
23 when you were the president?

24 A. No.

25 Q. So how did they market the programs?

1           A.    They would learn about the program the same way  
2           and then go and be taught and then go through the  
3           advertising word of mouth and then eventually, of course,  
4           the internet came along, which I don't remember the year,  
5           but the internet has been a big thing at this point.

6           Q.    And you as president of the World Wide Programs  
7           during that period of time, did you supply any information  
8           to the marketing firms?

9           A.    I would -- I would talk to them and explain the  
10          programs and what I saw when I went there and give them  
11          information, yes.

12          Q.    Let me take you back now to the end of that year.  
13          You went back to Cross Creek; is that right?

14          A.    Yes, sir.

15          Q.    And was that when you bought it?

16          A.    Yes, sir. That is when I bought in a share.

17          Q.    Who did you buy it from?

18          A.    From Bob Lichfield.

19          Q.    Did you have partners?

20          A.    Yes, I still do.

21          Q.    Who are your partners?

22          A.    It is Carry Gubler and Brian Viafinua and we had  
23          another partner who we bought out.

24          Q.    Okay. And does Mr. Gubler have a role at the  
25          school?

1           A.    He is the director.

2           Q.    And what is your role?

3           A.    I'm the administrator.

4           Q.    And is Mr. Viafinua with the school any more?

5           A.    Not any more.  He is gone and involved in another  
6 school.

7           Q.    Okay.  And we talked, I think, earlier about the  
8 former bed and breakfast that you turned into the schools  
9 program.  Has the school changed in terms of its physical  
10 facilities?

11          A.    Quite a bit.

12          Q.    And how is that?

13          A.    Well, we have added additional -- the first thing  
14 we did was we purchased a movie theater that had gone crafunk  
15 and remodeled the inside of that.  And then we have now  
16 added office space to the site, again there were classrooms,  
17 meeting rooms, the dining room, the cafeteria put in there.

18                Then we added additional space, and then that is when  
19 we added the boys.  About '99, about five years ago when I  
20 went in.  And then we added additional space down the  
21 street.  And then since then we have added another large  
22 dormitory with classrooms, the gymnasium, et cetera.  We are  
23 now in the process of just finishing another meeting room, a  
24 new dining room, a kitchen and a playing field down the  
25 street.

1           Q.    Let's take the last, oh, five year period of  
2 time. Can you give us some idea of the type of children  
3 that Cross Creek enrolls?

4           A.    The students that we take are not murderers,  
5 robbers or rapists, but in their own way they're in great  
6 danger. Many of them living a very dangerous life with the  
7 peer group that they run around with. Some have made  
8 suicide gestures or threats, drugs and alcohol, getting  
9 expelled from school. Generally the kids are -- the  
10 students are kids that are not making it in the community  
11 and there are no community resources for them.

12           Their next step would be to get into major probation  
13 court situations. Some of the kids have actually had court  
14 hearings but are not placed through the courts. The  
15 third-party funding, the insurance is still there to a  
16 degree but very limited as everybody sees what insurance is  
17 doing these days, any other public monies, once in a while  
18 some money from victims of crime.

19           Q.    Let me interrupt you for just a second.

20           A.    Go ahead.

21           Q.    At the present time, what is the size of the  
22 population at Cross Creek Manor, the Cross Creek Programs?

23           A.    425 beds, 400 kids today.

24           Q.    And of those, how many are girls and how many are  
25 boys?

1           A.    About 100 and -- I didn't look today.   About 185  
2 boys and the rest girls.

3           Q.    They stay there full-time, right?

4           A.    Yes, sir.   Except when they're on a higher level  
5 doing the other community services, all of that.

6           Q.    There are dormitory facilities there?

7           A.    Yes, sir.

8           Q.    There are classroom facilities there?

9           A.    Yes, sir.

10          Q.    Is the program still accredited as an academic  
11 program?

12          A.    It is accredited as an academic program and it is  
13 licensed by the State of Utah.

14          Q.    And what is the level or degree of licensing for  
15 the Cross Creek Programs?

16          A.    The main building is an intermediate secure  
17 facility that we went to some years ago.   The north facility  
18 is a strict -- is classified as an RTC, residential  
19 treatment center.   The south facility is a residential  
20 treatment center.   And the building in the back is  
21 classified as an RTC or assisted-living type thing.   The  
22 intermediate secure facility is also an RTC, but the  
23 external doors are secured which many of the students we get  
24 have a run away history.   They run away from home to show  
25 they're in control, the parent can't put them on

1 restriction, nobody is going to tell them what to do.  
2 They're going to do what they want. So the secure facility  
3 gives us external control until they see the wisdom to be in  
4 the program and then it is more of an open setting and they  
5 participate in all kinds of community projects. But the  
6 secure facility saves us from running down the street all of  
7 the time.

8 Q. Let me ask you this. From your experience having  
9 been the president of the World Wide Association for a year,  
10 and expansion of its membership, are you familiar with any  
11 of the other World Wide programs?

12 A. Yeah, a little bit. Yes, sir.

13 Q. Have you been to the other World Wide programs?

14 A. Yes, sir.

15 Q. All of them?

16 A. All of the World Wide Programs, yes, sir.

17 Q. Okay. And are there differences among the  
18 programs?

19 A. There are differences, I would say, based on  
20 location, the community amenities within the programs, the  
21 way they do certain things would be a little bit different.  
22 However philosophy wise, they would be very similar.

23 Q. Okay. So they're all based on a behavior  
24 modification?

25 A. Yes, sir.

1           Q.    Explain for the Court and the jury what that  
2 means as an administrator, what a behavior modification  
3 system is?

4           A.    Okay.  What happens, as I mentioned, when the  
5 students first come they're not enthused about being here.  
6 I mean give me a place to live, a place to eat, all of the  
7 money I want, don't expect anything else, we'll get along  
8 just great.  Parents have expectations of going to school,  
9 being part of a family, running with a good peer group,  
10 running to get their life in order to be a productive adult.  
11 And so when you do take a student in, then you're setting up  
12 guidelines that they live by, a grading system where they  
13 earn points, and they advance at different levels.  And as  
14 they move in the levels then there is the different  
15 privileges that go with that.  And so -- and then, of  
16 course, the academic part of the program stays fairly  
17 consistent, but there are additional privileges that go with  
18 that.

19           As an example, at Cross Creek we're involved in  
20 community softball leagues, we're involved in public school  
21 and cross country track, basketball.  We assist the St.  
22 George Police Department when they want to do the things  
23 with the kids where they fingerprint and the identification  
24 process.  We build trails at Zions.  All kinds of different  
25 community projects.

1           Q.    Do the kids get some sort of credit for those  
2 community projects?

3           A.    No, just certificates. That type of thing.

4           Q.    In the behavior modification program, you say  
5 some of these kids are not particularly happy to be there.  
6 What do they have to do to be able to get involved in some  
7 of the community projects and earn privileges?

8           A.    To move up the levels, which would be similar in  
9 all of the programs, they would attend school, you know  
10 behavior is scored in the group living. They make their own  
11 beds, they clean their room, help out in the kitchen and  
12 everything is scored. They dress properly, take care of  
13 their things. So there is scoring in the group living. And  
14 in academics, they do the seminars, we do seminars on  
15 grounds, we do -- the therapy we don't score, but the rest  
16 of the program about everything has a scoring to it.

17          Q.    Does that scoring include losing points or  
18 negative scoring?

19          A.    Yes, sir.

20          Q.    And how does that work?

21          A.    It can be on a minor offense they can lose points  
22 and just it would be just lose points and they're not  
23 advancing in the program. That would be the initial thing.

24          Q.    Since some of these kids don't particularly want  
25 to be there, are there ever occasions where they use any

1 kind of isolation?

2 A. What happens is generally on new students is  
3 where it would occur because again they have lost the power  
4 position. That is the hardest thing for the adolescent  
5 because they were telling everybody else stick it, I'm not  
6 going to go to school, tell the parent I'm not going to do  
7 that. By losing the power position, they need to, in order  
8 to try to get back to the power position is to manipulate  
9 the parent because they weren't put there by the Court. And  
10 so in order to do that, some would act out physically, make  
11 threats, write the parents more heavy duty manipulative  
12 letters, whatever they think is going to get the parent to  
13 give in to take them out.

14 Q. Let me ask you about the physical part. When you  
15 have physical confrontations, because those do occur in  
16 these kinds of schools, how are they handled?

17 A. The staff are all trained with max training, we  
18 call it, and they're re-certified every year so that -- I  
19 mean they're not punching the kids out, they're just  
20 physically holding them, restraining them, getting  
21 additional staff there. And many of the students will calm  
22 down right then. Other students would then go to  
23 observation status where there are two staff that watch  
24 them. And then as soon as the student is ready to go back  
25 and participate with the group, then they're put back into

1 the main stream.

2 We do have some timeout rooms where again if a student  
3 needs to go in, there are no locked doors or anything like  
4 that. There is two staff that sit there with the student,  
5 work with the student. The therapist sees the student, and  
6 again generally those are short-term, generally it is very  
7 few kids that get into the physical thing, and again, as I  
8 say, it is normally at the start and doesn't continue on  
9 through the program.

10 Q. Let me ask you a couple more components of the  
11 program involving the children. You have talked about  
12 therapy and I want to make sure that we all understand what  
13 you're talking about. What involvement do the kids have  
14 then in some sort of mental health program within your  
15 facility?

16 A. They have the individual therapy, group therapy  
17 five days a week, we have an AA program, we have an  
18 adoptions program, we have the students that are various  
19 committees, we have a grievance committee, the boys call  
20 theirs SLOT the girls calls theirs IRS. It stands for  
21 different -- each letter stands for something. I couldn't  
22 tell you what.

23 Q. Let me ask you a little bit about the therapy  
24 program before we move on. When you talk about a therapy  
25 program, what are the credentials of the people in charge of

1       that program for Cross Creek?

2           A.    All right.  Our therapists are either MSW's or  
3       MFT's.

4           Q.    Which is what?

5           A.    That is a master in family therapy.  And then we  
6       have a full-time psychologist that assists or sees kids  
7       periodically plus does testing, if that is needed.  Plus we  
8       have a consulting psychiatrist who comes and if there is any  
9       med reviews or any medication that needs to be adjusted or  
10      taken.  Our general philosophy is don't have kids on meds,  
11      but there are kids that need to be on meds.  If they're  
12      severe ADHD or some other things or depression and that is  
13      handled by the psychiatrist.

14          Q.    In your experience as president of the World Wide  
15      Program, do all of the World Wide programs have the same  
16      level of therapeutic benefit that Cross Creek has?

17          A.    They don't have the same level on grounds and set  
18      up exactly the way we are, but they do have participating  
19      therapists that do come in as needed or required similar to  
20      a public school but the student would see a therapist, et  
21      cetera.

22          Q.    The marketing organizations that you're familiar  
23      with, Teen Help and some of the others we have talked about,  
24      would you have made them aware, when you were the president  
25      of World Wide, that the programs had different levels of

1 therapy?

2 A. Yes, sir. By the way, now TB does have therapy,  
3 too.

4 Q. Excuse me?

5 A. Tranquility Bay does have more of an extensive  
6 therapy program.

7 Q. At a time when some of the programs didn't have  
8 the same level of therapy that Cross Creek did, what -- did  
9 the marketers know that? Were they able to use that  
10 information?

11 A. Yes, sir.

12 Q. Now I want to talk a little bit about what your  
13 relationship is with the parents who place children in  
14 programs like Cross Creek. Do they have any involvement in  
15 the program?

16 A. Yes, sir.

17 Q. Why is that?

18 A. We feel that you need to change the home  
19 situation while you're working with the student. By the  
20 way, if I could clear up one thing. Our parents sacrifice a  
21 lot to have the kids there. The theory, rich parent kids in  
22 private school is not really true. The parents are  
23 mortgaging their house or using their 401(k), they're taking  
24 other loans, they're using the kids college fund or  
25 whatever. So our parents are invested in the programs. And

1 by doing that, we then require them to do several seminars  
2 in the process. While the student is there, the student is  
3 doing seminars and then there is parent/child seminars that  
4 go through the process, there are three of those. With the  
5 exit being parent/child three. And so the parents have not  
6 been able to get any community help, they realize they need  
7 help within their family and so they are committed.

8 Q. Tell us a little bit about the parent seminars.  
9 How do they work?

10 A. The parent seminars are held around the country.  
11 That was one of the purposes of the World Wide that most  
12 programs could not afford to have parent teaching groups, if  
13 you will, around the country. And so by having the  
14 organization and a group of parents go from various  
15 programs, then that makes it financially possible. And so  
16 the parents would go for three days to discovery, Friday,  
17 Saturday, Sunday, and it is a lot about what is with them  
18 not about what is going on with their child.

19 And then later they can do a focus, and that is a  
20 two-day seminar. And then after they do those, then they  
21 would come to a facility to do a parent/child one. Then  
22 hopefully they would go ahead and do a variety of seminars  
23 that are -- that would fit their needs. These are held at  
24 various locations. Then there is a parent/child two which  
25 is generally held at the facilities also. And then of

1 course during this time they are also visiting, et cetera.  
2 Then after a parent/child two, the largest percent of the  
3 students would do home visits for a period of time, and then  
4 parent/child three is the exit seminar where the children go  
5 home, or if they're an older student they would graduate the  
6 seminar and then have a high school graduation afterwards  
7 and then go on to college or whatever.

8 A very high percent of the kids when they come in the  
9 program would never have gone to college. After the  
10 programs, they then are prepared and ready to go to college.

11 Q. In order to go to college out of a place like  
12 Cross Creek Manor, you have to have some sort of diploma,  
13 right?

14 A. Yes, sir.

15 Q. And who issues them a diploma?

16 A. The diplomas are issued by the Northwest  
17 Association of Schools.

18 Q. Okay. And you also have to take some college  
19 entrance exams and that kind of thing in order to get into  
20 college. How do you handle that at Cross Creek?

21 A. We take the students over to the local community  
22 college and they take their SAT's or ACT's. We even have  
23 some of the students that will stay, when they could leave,  
24 even after they're 18. At 18 the student can leave any of  
25 the programs, but they will stay voluntarily and do a

1 quarter or semester at the local community college.

2 Q. And then leave the LaVerkin area that is Dixie?

3 A. That is Dixie in St. George and then they live at  
4 the facility.

5 Q. Um, the graduation, a parent/child three seminar,  
6 how often are those held, do you know?

7 A. About every two months.

8 Q. Okay. And do you know about how many kids go  
9 through those?

10 A. Well, it varies because what tends to happen now  
11 are the students pack up to leave like at the start of the  
12 summer, the end of the summer, or around Christmastime in  
13 order -- if they're a younger kid can go back to the public  
14 school or somewhere else. We usually lose anywhere from 20  
15 to 30 kids at a PC3, the big ones. The other programs again  
16 within the World Wide are also there, so there is probably  
17 somewhere between 60 to 100, I would guess.

18 Q. Okay. After a child leaves a program like Cross  
19 Creek Manor, do you keep track of the child or his parents?

20 A. We have a little bit with doing different surveys  
21 and that was one of the things that the World Wide does more  
22 extensively now as it has gone -- we hear back more as a  
23 program with the students writing back, coming to visit,  
24 inviting staffs to their weddings, things like that. A lot  
25 of correspondence that way. World Wide would have more

1 statistics on all of the programs.

2 Q. Personally have you had contact with students who  
3 have been in Cross Creek programs after they have gotten out  
4 of there?

5 A. Yes, sir.

6 Q. And how does that happen?

7 A. The students will call or they will come by.  
8 Like I say the wife and I were invited to a wedding a few  
9 months ago. And just generally from the program point of  
10 view, we don't do the follow-up calls that have been done by  
11 World Wide.

12 Q. But --

13 A. They're --

14 Q. The students will do that?

15 A. The students are coming back to us. And again  
16 through referrals. Because the parents down the street will  
17 know where that kid went and then they're sending their kid  
18 so then we hear from that parent how the other kid is doing  
19 or whatever. Again, even law enforcement knows that a kid  
20 that was struggling went in a program they'll refer another  
21 kid.

22 Q. So you actually keep track of some of the success  
23 stories?

24 A. Right, yes.

25 Q. Do you ever have failure?

1           A.    Oh, yes. We have some that come back. We offer  
2           a two-month warranty that if a student goes all the way  
3           through PC3 and relapses, the parents can bring them in at  
4           no cost for two months and then elect to either continue to  
5           pay for a longer period of time or whatever. Those parents,  
6           the same as parents that take the kid early, will generally  
7           say they took the kid too early. I mean we'll have parents  
8           that will take a kid out before the end of the program and  
9           then the kid doesn't do well, they say oops, we goofed, and  
10          then send the kid back. But several of the kids, or most of  
11          the kids that have come back on the warranty, then will go  
12          on and do well afterwards the second time. That is a very  
13          small percent but it is.

14          Q.    The admissions program with Cross Creek Manor,  
15          that is a marketing group that you have, correct?

16          A.    We have -- we have a section called, yes, Cross  
17          Creek admissions. And I head that up along with my other  
18          duties at Cross Creek.

19          Q.    Okay. And what do those admissions people do?

20          A.    They field the phone calls again that come in  
21          through the internet or through referrals or through  
22          advertising. Fill out the forms screened to make sure that  
23          the student is appropriate for the program in their opinion  
24          and then they submit it to either myself or Carry for final  
25          approval. And if the student is appropriate for our

1 program, then we admit them to the program.

2 Q. Now, the screening process that you go through,  
3 when you get this information back on a student and you and  
4 Carry look at it, what would be the criteria for not  
5 accepting this student?

6 A. Again, we wouldn't take a kid with a hard core  
7 criminal record, murder, robber, raper. Kids that are very,  
8 very physically aggressive, a student that maybe pushed mom  
9 we would take, someone that is punching out everybody at  
10 high school we would not take.

11 A kid that was shooting up drugs we would not take,  
12 but a kid using pot, cocaine, things like that, we would  
13 take. Suicide, suicide attempts or gestures we would review  
14 on an individual basis. A student that was bound and  
15 determined that the gun misfired, whatever, we would not  
16 accept.

17 Q. In making that kind of determination, do you as  
18 the administrator and Carry, as the director, have resources  
19 within the program so that if you're not sure you can have  
20 the issues reviewed?

21 A. What we do is if possible we try to get any prior  
22 psychologicals or any testing that has been done or talk to  
23 a previous therapist in the community, and then the  
24 psychologist reviews all of the psychologicals that we get  
25 and then again we would meet as a committee and review it.

1 We again get as much information from both parents, both  
2 households, if there has been a divorce, that type of thing,  
3 and once in a while you get kid that is inappropriate and  
4 have to have them leave. But for the most part it works.

5 Q. And why do you try to weed out certain kinds of  
6 potential students?

7 A. Mainly for the safety of the other students,  
8 safety of the staff, and also a kid that is going to be  
9 workable that we can turn around and fits within our  
10 parameters to be a success and move forward.

11 MR. SILVESTER: Your Honor, my throat is just about to  
12 close up. Can I have just a minute to get a glass of water?

13 THE COURT: Sure. How are you doing here? Are you  
14 about to the end of this?

15 MR. SILVESTER: Yes, I am.

16 THE COURT: Okay.

17 MR. SILVESTER: I apologize.

18 Q. (By Mr. Silvester) Mr. Farnsworth, we know each  
19 other. I have represented Cross Creek for years; isn't that  
20 correct?

21 A. Correct.

22 Q. So I'm sorry I was just about to call you Karr.  
23 Mr. Farnsworth, have you become aware of the PURE website?

24 A. Yes, sir.

25 Q. And have you looked at that website?

1           A.    Yes, sir.

2           Q.    Have you looked at the information on that  
3 website about World Wide programs?

4           A.    Yes, sir.

5           Q.    After becoming aware of that, well let me ask you  
6 this. How did you become aware of the website?

7           A.    I was told by Ken, the president of World Wide,  
8 and about the same time we were in our admissions department  
9 hearing about it from parents that called us and --

10          MR. FLATER:  Objection, Your Honor, hearsay.

11          THE COURT:  All right. And you're handling this  
12 witness?

13          MR. FLATER:  Yes, Your Honor.

14          THE COURT:  All right. So hearsay objection? What is  
15 the response?

16          MR. SILVESTER:  It is not going to the truth of the  
17 matter, sir, I'm just getting his present -- his impression  
18 of what was going on.

19          THE COURT:  All right. I'll allow the limited  
20 background. Overruled.

21          THE WITNESS:  We were hearing about it from parents in  
22 and out of the program and in fact we lost a few kids both  
23 before they came and after they were in the program from  
24 what the parents told us.

25          MR. SILVESTER:  If I may have just a second.

1 THE COURT: Sure.

2 MR. SILVESTER: That is all I have.

3 THE COURT: All right. I think what we'll do is take  
4 our -- is this a good point for our break? Do you think --  
5 why don't we go ahead and take a 15 minute break now. We  
6 have some sandwiches for you and then we'll get ready for  
7 some more testimony after that.

8 THE CLERK: All rise for the jury, please.

9 (Whereupon, the jury left the courtroom.)

10 THE COURT: All right. Everyone may be seated. And I  
11 just wanted to put on the record we had some questions about  
12 time limits. Mr. Silvester came in under budget at  
13 28 minutes and Mr. Henriksen was even lower at about  
14 26 minutes. So I think everything worked out well on that.  
15 Mr. Farnsworth, you'll need to stay here and take a break,  
16 of course, and Mr. Flater has some questions for you after  
17 that.

18 MR. HENRIKSEN: That leaves me a question. I didn't  
19 know these minutes were being counted.

20 THE COURT: Just -- no, the clock -- your clock hasn't  
21 started running.

22 MR. HENRIKSEN: I was wondering how you read that  
23 clock. Can we see it every once in a while?

24 THE COURT: What I have done, you turn into a pumpkin  
25 at midnight. So you see that you're set at 5:00 and that

1 will give you seven hours. I'll be glad to work with you on  
2 time, keep you posted, and make sure that everything goes  
3 smoothly.

4 MR. HENRIKSEN: Thank you. I hadn't got a close look  
5 to see that.

6 THE COURT: All right. We'll take a short break.

7 (Recess.)

8 THE COURT: All right. Should we bring the jury in  
9 for cross examination?

10 THE CLERK: All rise for the jury please.

11 (Whereupon, the jury returned to the courtroom.)

12 THE COURT: All right, ladies and gentlemen, I hope  
13 the sandwiches were good. We do the best we can with our  
14 government issued funds and sandwiches but we'll do the best  
15 we can to keep you comfortable. We'll try to wrap up around  
16 1:30 today give or take a little bit. Obviously this is not  
17 an exact science as to exactly how much time these things  
18 take. I'll try to work with the lawyers to find a  
19 convenient breaking point.

20 So to let jurors number two and three know, if I seem  
21 to be looking at you I'm kind of looking at the clock right  
22 there over your head, just to keep track of the time. As I  
23 say, there are a lot of different things to be balanced  
24 here, but we'll do the best we can to keep everything going  
25 smoothly and keep you comfortable during the proceedings.

1           Mr. Flater, I think you have got some questions at  
2 this time.

3           MR. FLATER: Thank you, Your Honor.

4                           CROSS EXAMINATION

5 BY MR. FLATER:

6           Q. Mr. Farnsworth, I have never been in front of a  
7 jury before and never questioned a witness in Court before.  
8 I apologize if I seem a little bit nervous or if I stutter.  
9 I'll do my best to speak clearly.

10           Mr. Farnsworth, I just wanted to talk a little bit  
11 about what you spoke about earlier. As I recall in the  
12 direct examination, didn't you state that you believe that  
13 parents read PURE's website and then decided not to go to a  
14 World Wide program?

15           A. Did you say they looked at it and then decided  
16 not to go?

17           Q. Yes?

18           A. Yes, sir.

19           Q. And you believe that Ms. Scheff or PURE have  
20 caused damage to World Wide's reputation, don't you,  
21 Mr. Farnsworth?

22           A. World Wide, specifically to Cross Creek, yes.

23           Q. Mr. Farnsworth, wouldn't you agree that there is  
24 other factors that might cause parents not to go to World  
25 Wide programs?

1 A. Certainly.

2 Q. And isn't it true that there is other things out  
3 there in the universe that might cause damage to World  
4 Wide's reputation?

5 A. And in these cases they mentioned the PURE  
6 website though.

7 Q. Well --

8 A. There are others, yes.

9 Q. And Mr. Farnsworth, I believe you also testified  
10 earlier in your deposition -- excuse me, earlier in your  
11 direct examination that you were president of the World Wide  
12 Association in approximately 1998. Isn't that correct?

13 A. Yes, sir.

14 Q. And you also testified that the Paradise Cove  
15 Program joined the World Wide Association during that period  
16 of time, isn't that correct?

17 A. It was in operation prior to the forming of the  
18 World Wide.

19 Q. And during the time that you were -- when World  
20 Wide was formed, Paradise Cove joined the World Wide  
21 association, didn't it?

22 A. Yeah, under -- technically that is correct, yeah.  
23 It became part of the World Wide, it had already been in  
24 existence for some years, right.

25 Q. Mr. Farnsworth, during 1998, you're aware, aren't

1       you, that there was a television program on Paradise Cove  
2       done by the television program 48 Hours, aren't you?

3           A.     I'm aware of it.

4           Q.     Let's take a look at that, Mr. Farnsworth. I  
5       would like to -- I would like to play a clip from that  
6       video. If I could have you play the 48 Hours segment one.

7           MR. SILVESTER: I'm going to object, Your Honor. I  
8       think this is not what this was intended for based on the  
9       representations made to us earlier.

10          THE COURT: Mr. Flater is asking about damages to  
11       reputation, right? That is what --

12          MR. SILVESTER: I thought this was information that  
13       Ms. Scheff had relied on.

14          THE COURT: The evidence was admitted to -- you're  
15       alleging she damaged the reputation of World Wide and  
16       Mr. Flater is saying there were other things that went into  
17       that and that is what we're exploring.

18          Hang on one second. I'm not going to have the court  
19       reporter type this down since it is in the record elsewhere.  
20       Is that all right to both sides? There is no reason --

21                (Whereupon, a video portion of 48 Hours segment one  
22       was played but was not written down by the  
23       court reporter.)

24          Q.     (By Mr. Flater) Mr. Farnsworth, wouldn't you  
25       agree that it might be damaging to a program's reputation to

1 have a child say that he was in handcuffs for two and a half  
2 days straight?

3 A. If it is true.

4 Q. Wouldn't you also agree that it might be damaging  
5 to the reputation for a child who was at a program to say  
6 that their mouths were duct taped?

7 A. If it is true. You're showing three students. I  
8 can show you a video of the students participating in the  
9 dance, the native dance for the governor.

10 Q. Excuse me, Mr. Farnsworth. Wouldn't you agree  
11 that it might be damaging for a program, for a newspaper or  
12 for a reporter to state that kids with serious problems go  
13 to the program but there are no licensed counselors and  
14 therapists there to deal with those programs?

15 A. If it is true.

16 Q. Mr. Farnsworth, you actually stated in your  
17 deposition that people believe what they read in the  
18 newspapers and see on websites, don't you?

19 MR. SILVESTER: Your Honor, I'm going to object. He  
20 is not a party. You can't use a deposition that way. You  
21 have got to at least allow him to answer the question before  
22 you try to impeach him.

23 THE COURT: Well, you say he is not a party here?

24 MR. FLATER: He is not a party here, Your Honor.

25 THE COURT: All right. Why don't you see if you can

1 get at it another way.

2 Q. (By Mr. Flater) Mr. Farnsworth, you believe that  
3 most people believe what they see in newspapers and on  
4 television and on the internet, don't you?

5 A. A very high percent of people do.

6 Q. Mr. Farnsworth, you actually have been quoted by  
7 newspapers, haven't you?

8 A. I have.

9 Q. Let's take a look at a newspaper article that you  
10 were quoted in, Mr. Farnsworth. I would like to display  
11 Defendant's Exhibit Q-92, excuse me, that would be 93. I  
12 would like to go down to the fifth paragraph up from the  
13 bottom, there are three paragraphs there beginning with "two  
14 associated schools." Highlight those three paragraphs,  
15 please?

16 A. Okay.

17 Q. Let's read some of the language from this article  
18 that -- in which you were quoted, Mr. Farnsworth. "Two  
19 associated schools in Cancun, Mexico, and in the Czech  
20 Republic, have been shut down by authorities amid  
21 allegations of abuse and concerns about children being  
22 illegally confined. Donna Burke, a Houston real estate  
23 agent, said her two teenage sons were mistreated at  
24 Tranquility Bay and turned into Stepford children. When she  
25 paid them a visit at Tranquility Bay, she said they were

1 thin and there was terror in their faces. She said they  
2 displayed ringworm scars and chemical burns suffered while  
3 mixing cleaning solutions for janitorial chores. They  
4 showed her plywood beds where they slept on soiled  
5 mattresses and they had no soap, no toilet paper, no fans,  
6 no hot water."

7 Mr. Farnsworth, wouldn't you agree with me that a  
8 statement like that in a newspaper about a program would  
9 have a tendency to damage its reputation?

10 A. No. You said that I have been quoted. I haven't  
11 said anything on any of those. You said have I been quoted  
12 in a newspaper, have I given a press release, and then you  
13 read these three paragraphs. I made none of those  
14 statements.

15 Q. Thank you for pointing that out, Mr. Farnsworth.  
16 I'm sorry if I -- if I mislead you. There is -- there is a  
17 quote from you in the article, I would be happy to take a  
18 look at that. Let's go to Q-94, the next page of this  
19 article. There is a paragraph about four or five paragraphs  
20 down starting with Program Directors. Will you highlight  
21 that portion of the article. It says, "Program directors  
22 stand by the schools. We have nothing to hide, said Karr  
23 Farnsworth, president of the World Wide Association of  
24 Specialty Schools. Parents are very much in support." Do  
25 you remember -- do you remember being quoted by that

1 article, Mr. Farnsworth?

2 A. That is something I would say, uh-huh  
3 (affirmative). Where was this article? What was it in? Do  
4 you recall? I don't.

5 Q. I do recall, Mr. Farnsworth. This article --  
6 this article was published in the Miami Herald on June 13th,  
7 1999. It is Defendant's Exhibit Q?

8 A. Okay. I don't recall ever talking to a Miami  
9 Herald reporter but I may have talked to another reporter  
10 who put it in that article. I found many --

11 Q. Mr. Farnsworth, do you remember an article in  
12 Forbes Magazine written by Tom Kellner?

13 A. I recall it, yeah.

14 Q. Let's look at that article, Plaintiff's Exhibit  
15 Q, we'll start with 101. It was in Forbes Magazine in 1999.  
16 Let's look at some of the things that it says in this  
17 article.

18 Go to the second paragraph beginning with, "a week  
19 later" and highlight that, please. Quote, "A week later,  
20 talking about a boy at a program, he says "a week later, he  
21 says, he was put on a plane to Western Samoa, site of the  
22 school called Paradise Cove, where he was forced to sleep on  
23 a small mat in a crowded room. It was worse than being in  
24 prison, because we didn't know when we were going to leave,  
25 says Stanley, who claims he still suffers from nightmares."

1           Mr. Farnsworth, wouldn't you agree with me that a  
2 statement like that in a newspaper about a World Wide  
3 Program would have a tendency to damage its reputation?

4           A.    If they're true.

5           Q.    Let's go down to three paragraphs below that.  
6 Highlight that paragraph beginning with "okay." I'm going  
7 to skip that first sentence. No, I won't, I'll read the  
8 entire paragraph. "Okay, lots of troubled teenagers aren't  
9 going to respond to gentle suggestion, especially from their  
10 parents. But some of the WWASP's camps may push tough love  
11 too far. Last November its Morava Academy closed down after  
12 the Czech police charged its U.S. managers with child  
13 torture; those criminal charges are pending. They were the  
14 same managers who were arrested, did time and fled Mexico  
15 when Sunrise Beach, a school for girls in Punta Sam, was  
16 shut down in May 1996 after employees complained to the  
17 media about prison like conditions inside the facility."

18           Mr. Farnsworth, you would agree with me, wouldn't you,  
19 that that kind of statement in a newspaper about World Wide  
20 Programs would have a tendency to injure its reputation,  
21 wouldn't you?

22           A.    It is inaccurate. Again, if it were true but  
23 they're not true statements. I can respond. I happen to  
24 know about Morava.

25           Q.    Let's go to page Q-102. I would like to go down

1 to the fourth paragraph beginning with Stanley. Please  
2 highlight that. Thank you.

3 "Stanley Goold says he never received any counseling  
4 during his 11-month stay. But he vividly remembers the  
5 physical treatment. I saw a few kids punched, kicked and  
6 thrown, but not nearly as many as I heard about, he recalls.  
7 For small infractions -- chewing food with an open mouth,  
8 talking back to the staff, failing a test -- Stanley himself  
9 landed in the dungeon a half-dozen times for a day or two.  
10 There he'd be forced to sit cross-legged on a cement floor  
11 for 12 hours a day, listening to tapes about the lives of  
12 Socrates, Beethoven and Genghis Khan. Students who tried to  
13 flee the dungeon, says Stanley, would be locked up in a tiny  
14 cell for weeks at a time. Sometimes they'd put duct tape  
15 over the kid's mouth, hog-tie him or put on handcuffs, he  
16 says."

17 Mr. Farnsworth, you would agree with me, wouldn't you,  
18 that a statement like that in Forbes Magazine would have a  
19 tendency to damage World Wide's reputation, wouldn't it?

20 A. If they were true. His case was thrown out, went  
21 away, couldn't be proven and it worked for his father, he  
22 manipulated his father to take him out of the program. It  
23 was full manipulation all the way through. I mean just  
24 because it is in the Forbes Magazine or a newspaper, as you  
25 proved earlier, where I stated earlier, doesn't mean they're

1 true.

2 Q. Mr. Farnsworth, you stated just a moment ago that  
3 most people believe what they see in the newspaper, didn't  
4 you?

5 A. I think a high percent do, right.

6 Q. Wouldn't you agree with me then that even if a  
7 reporter got it wrong, that the fact that that was in the  
8 newspaper would be extremely damaging to World Wide's  
9 reputation?

10 A. I think it would be. I think anyone that  
11 repeated it or reprinted it should have investigated it to  
12 see that it is untrue.

13 Q. Mr. Farnsworth, could you tell me how many beds  
14 or children you had at Cross Creek manner when you first  
15 started?

16 A. I think there were about 12 students when I  
17 started and the building was geared for about 49, if I  
18 recall. That is a ways back, but I believe that is about  
19 right.

20 Q. 12 students when you first started and if I  
21 recall correctly that was about 1997; is that correct?

22 A. No, no.

23 Q. I apologize.

24 A. It was '88 when I went to Cross Creek.

25 Q. 1988, okay. Thank you, Mr. Farnsworth. Now

1 parents that enroll their children at Cross Creek pay about  
2 \$3,000 a month; isn't that true?

3 A. A little more, yes. True.

4 Q. Even more than \$3,000 a month. If the current  
5 number of students, I believe you testified on direct  
6 examination you have currently about 425 beds in your  
7 program. If we just estimate it at \$3,000 a month times  
8 12 months in a year that is over \$15 million that is being  
9 paid to your program in one year, isn't it?

10 A. If your math -- I didn't bother to multiply it  
11 because we have to look at expenses, too, that go up every  
12 year. The insurances, the professionals, what have you.

13 Q. I can't promise you that my math is accurate  
14 because I, like Mr. Silvester, went to law school because I  
15 don't do math. I do believe that is accurate,  
16 Mr. Farnsworth.

17 A. It could be. That is not net profit.

18 Q. You would agree with me, wouldn't you, that  
19 people have different definitions of what is considered to  
20 be abuse?

21 A. Yes.

22 Q. And, in fact, your definition of abuse might be  
23 very different from what your neighbor considers to be  
24 abuse; isn't that true?

25 A. I think that is a wide range word, yes.

1           Q.    In fact, let's take a -- let's take a look at a  
2           definition of abuse as used by World Wide Programs. I would  
3           like to display Defendant's Exhibit N, please.

4           Mr. Farnsworth, I don't know if you can -- if you can read  
5           that language on your monitor, can you see that?

6           THE COURT: I'm not sure the jury can see it. So do  
7           you want to enlarge the salient part.

8           Q.    (By Mr. Flater) Let's enlarge section 1-A through  
9           G and see if that --

10          A.    That is the older -- that is the older section, I  
11          think. We clarified it since then.

12          Q.    The definition of abuse that you have used has  
13          changed overtime; is that correct?

14          A.    Well, we clarified it a little bit, you know,  
15          because there -- there is intent, there is et cetera that is  
16          involved in it. But basically, that could be used as abuse  
17          there under that definition. We have changed it a little  
18          bit to make it a little clearer, but go ahead.

19          Q.    In fact, Mr. Farnsworth, wouldn't you agree that  
20          it would be a fair statement to say that under the way that  
21          you previously defined abuse that students have been abused  
22          at Cross Creek programs?

23          A.    Under verbal, that type of thing, we don't -- we  
24          never have done punching or slapping or anything like that,  
25          kicking.

1 Q. But you would agree that it is fair to state that  
2 under the way you define abuse, that students have been  
3 abused at Cross Creek; isn't that true?

4 A. Under -- well under the minor verbal abuse, yeah,  
5 uh-huh.

6 Q. Wouldn't you also agree that it would be a fair  
7 statement to say that students in World Wide programs have  
8 been abused, Mr. Farnsworth?

9 A. Under the broad definition of abuse probably.

10 MR. FLATER: No further questions.

11 THE COURT: All right. Thank you, Mr. Flater. You  
12 seem to have gotten the opening day jitters out of your  
13 system. I didn't know this was your first trial here. You  
14 have been so experienced all the way through. Well there we  
15 go.

16 Any follow up, Mr. Silvester?

17 REDIRECT EXAMINATION

18 BY MR. SILVESTER:

19 Q. I wish I could remember my first time. Just a  
20 couple of follow up questions, Mr. Farnsworth.

21 You noticed Sergio Alba on there?

22 A. Yes.

23 Q. Paradise Cove video and Sergio Alba actually sued  
24 you and World Wide and Teen Help in federal court?

25 MR. FLATER: Objection, leading the witness, Your

1 Honor.

2 THE WITNESS: Yes.

3 THE COURT: I'm going to overrule the objection. It  
4 is preliminary. Go ahead.

5 Q. (By Mr. Silvester) Do you know what the result  
6 of Mr. Alba's case was?

7 A. It was thrown out.

8 Q. Okay.

9 A. Dismissed, whatever the technical term is.

10 Q. And you saw the quote there from Stanley Goold  
11 out of California? Do you remember Stanley Goold?

12 A. I do.

13 Q. And you were sued along with World Wide and Teen  
14 Help and everybody else by Stanley Goold; right?

15 A. Yes.

16 Q. What happened in that case?

17 A. It was thrown out, dismissed.

18 Q. You were trying to indicate to Mr. Flater that  
19 you didn't particularly believe that these were accurate  
20 statements. Is that what you were trying to say?

21 A. That is correct.

22 Q. Why is that?

23 A. We do a survey when the students come into the  
24 program of the parents as to how many children lie. Almost  
25 every single one the parents put down, yes, they lie. Now

1       these students here were thinking they were going to get  
2       money. And so by going after the programs and suing, they  
3       felt that they would get money. Even though the program  
4       helped them, if we -- if we had ran the whole 48 Hours Silva  
5       would have admitted that the program helped him, that he is  
6       off drugs, going to school et cetera.

7               MR. FLATER: Objection, Your Honor, to hearsay.

8               THE WITNESS: We ran pieces, that is what the media  
9       does, piecemeal the truth.

10              THE COURT: Overruled. You wanted to play part of it.  
11       If he wants to talk about another part that is fine. I  
12       should tell the jury, we're going to get -- we're going to  
13       get all these materials back into the jury room and if you  
14       want to see what one piece or another of these different  
15       programs or different pieces of evidence show, you'll have  
16       all of that back there to take a look at.

17              Q.     (By Mr. Silvester) Mr. Flater asked you a couple  
18       of questions about whether or not under the definition that  
19       he put up you would agree that students had been abused at  
20       Cross Creek. Do you remember that question?

21              A.     Yes, sir.

22              Q.     Has Cross Creek ever been found by any court in  
23       this state to have abused a child in its program?

24              A.     No, sir.

25              MR. SILVESTER: Okay, that is all I have. Thank you.

1 THE COURT: All right. Thank you for your testimony  
2 then, Mr. Farnsworth. All right, who is the plaintiff's  
3 next witness? Is Mr. Farnsworth excused?

4 MR. SILVESTER: I would ask that he be excused and  
5 then he can sit in the courtroom.

6 THE COURT: All right. He'll be, without objection,  
7 he'll be excused and he can watch the rest of the  
8 proceedings as any other member of the public.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Who is your next witness then?

11 MR. SILVESTER: Sue Scheff.

12 THE COURT: All right. If you will take the stand  
13 then, Mrs. Scheff.

14 THE CLERK: If you will raise your right hand please.

15 SUE SCHEFF,

16 Having been first duly sworn,

17 was examined and testified as follows:

18 THE CLERK: Have a seat there. State your name and  
19 spell it for the record and please speak into the  
20 microphone.

21 THE WITNESS: Susan, S-U-S-A-N, Scheff, S-C-H-E-F-F.

22 THE COURT: Mrs. Scheff, can you make sure -- our  
23 acoustics aren't the best. So you may want to scoot up and  
24 get that microphone right in there so everybody can hear  
25 what you have to say. Great.

1 THE WITNESS: Is that better?

2 DIRECT EXAMINATION

3 BY MR. SILVESTER:

4 Q. We have met before today, correct, Ms. Scheff?

5 A. Yes, we have.

6 Q. We met when your deposition was taken, correct?

7 A. That is correct.

8 Q. And you're going to have to speak up a little bit  
9 just for me because I'm a little hard of hearing. So stay  
10 close to that microphone, please.

11 Let's see if we can get some background information.  
12 You were originally born and raised in the state of New  
13 York; is that correct?

14 A. Yes.

15 Q. You went to high school in New York, correct?

16 A. Yes, I did.

17 Q. You did some college work in Poughkeepsie, New  
18 York?

19 A. Poughkeepsie Hyde Park, New York, correct.

20 Q. You never received a degree?

21 A. No, I didn't.

22 Q. And for some period of time while you were in New  
23 York you worked in your mother's business; is that right?

24 A. Yes, I did.

25 Q. In fact, you helped her run the business, didn't



1       you?

2               A.    I wouldn't say I helped her run it, I was only  
3       15, 16, 17, 18 years old.

4               Q.    What did you do for the business?

5               A.    A variety of different things, different things  
6       with the business.  It was a family business.  It was third  
7       generation owned so --

8               Q.    What was the business?

9               A.    Washington Road and Distributors.

10              Q.    And then at some point in time after you got  
11       married you moved to the State of Florida; is that correct?

12              A.    I did.

13              Q.    And you received no additional college education  
14       when you were in Florida, correct?

15              A.    I did go to some classes at Nova University but  
16       they were just like vocational classes.

17              Q.    Okay.  You have no degree, correct?

18              A.    Yes.  No -- yes, I have no degree.

19              Q.    You have no training in social work?

20              A.    I don't.  I never trained in social work.

21              Q.    You have no training in psychology?

22              A.    No, I don't.

23              Q.    You have no training in law?

24              A.    No, I don't.

25              Q.    You have never worked in the juvenile justice

1 system?

2 A. No, I haven't.

3 Q. You have never worked for a social service  
4 agency?

5 A. No, I haven't.

6 Q. At some point in time in this case, could we see  
7 Exhibit 4 which is in evidence in this case, you filed an  
8 affidavit in this case, correct?

9 A. I think I filed a couple, yes.

10 Q. And Sue Scheff, that is your name, is that  
11 correct?

12 A. Yes.

13 Q. I would like you to look at this affidavit for  
14 just a minute with me. And paragraph one, if we could have  
15 that highlighted and enlarged. Paragraph one says, "I'm a  
16 defendant named in this matter and I am the president of  
17 defendants PURE Inc., PURE Foundation, Inc."

18 Now, when we look at the back page of this, this was  
19 filed February 16th of 2002. It is true, isn't it,  
20 Ms. Scheff, there was no PURE Foundation in 2002.

21 A. I believe we dissolved the foundation I believe  
22 in October '01. However, I don't think my accountant did  
23 the official filing until March of '02. I think we had  
24 papers to back it up. It was my mistake. I thought it was  
25 supposed to be dissolved.

1 Q. There was actually never PURE Foundation that  
2 operated as a nonprofit organization in Florida, correct?


3 A. That is not correct. We had our 501(c) number.  
4 I didn't run it but we did have one.

5 Q. Let's go to paragraph three in the affidavit  
6 filed in this court signed by you under oath. You said  
7 you're a resident of the State of Florida, you never resided  
8 in the State of Utah and you had only made one visit to Utah  
9 as a tourist ten years previously. Was that a true  
10 statement when you made it?

11 A. Yes it was when I made it.

12 Q. Let's go to the second page. And let's look at  
13 paragraph seven of your affidavit in this case. This says  
14 "Sue Scheff, PURE, Inc. and PURE Foundation, Inc. do not  
15 maintain a place of business in Utah, do not have any  
16 employees or agents in Utah, and do not have any bank  
17 accounts or other assets in the State of Utah." Did you  
18 believe that to be a true statement when you made it under  
19 oath in this court?

20 A. Yes.

21  Q. Wasn't Marie Peart working for you in 2002 making  
22 placements in schools?

23 A. Not until it was November or December of 2002.

24 Q. So --

25 THE COURT: Mr. Silvester, hang on one second. So

1 we're clear, when was this affidavit signed again? What is  
2 the date so everybody understands what --

3 MR. SILVESTER: February 16th of 2002.

4 THE COURT: Thank you. Go ahead.

5 Q. (By Mr. Silvester) Could we go to paragraph  
6 nine. Paragraph nine says, "Sue Scheff, PURE, Inc., and  
7 PURE Foundation, have not entered into any contracts in the  
8 State of Utah." Now you understood that you were filing  
9 this affidavit under oath, correct?

10 A. Yes, sir.

11 Q. And you understood that you were filing it  
12 because you wanted jurisdiction to be changed somewhere  
13 besides Utah, correct?

14 A. I am not that familiar with the law, but I think  
15 that is what they were trying to bring it into where I live  
16 in Florida.

17 Q. And paragraph nine was not a true statement when  
18 you made it under oath in this court, was it?

19 A. That is an absolutely true statement.

20 Q. Wasn't it true that in February of 2002, that you  
21 had referred to and accepted referral fees from Red Rock in  
22 St. George?

23 A. I had. This says Sue Scheff had not entered into  
24 any contracts. I never had a contract with Red Rock. And I  
25 don't think I received any payments from them in February of

1 '02.

2 Q. Isn't it true that the first money that you got  
3 from Frank Cavivian, the operator of Red Rock Academy, you  
4 got in June of 2001?

5 A. I have my years -- it was June of 2001. This is  
6 dated --

7 Q. February of 2002?

8 A. I did not -- this statement says have I entered  
9 into any contracts and I did not. I did not have a contract  
10 with him.

11 Q. Ms. Scheff, you were referring students to the  
12 Red Rock Academy, correct?

13 A. That is correct.

14 Q. And they were sending you money as a result of an  
15 agreement that you reached with them on any student that  
16 enrolled in that program, correct?

17 A. The question was did I enter into any contracts.  
18 The answer is no, I did not. I didn't have a contract with  
19 them. I don't know why you want to change it but --

20 Q. At the same period of time, Ms. Scheff --

21 MR. HENRIKSEN: Your Honor, we need to object. I  
22 think he is cutting her off and I think she is trying to be  
23 responsive.

24 THE COURT: This is going to be an issue that we'll  
25 watch throughout the testimony here. I think on that one

1 Mr. Silvester she was trying to say a few more things and  
2 you didn't give her a chance to finish.

3 MR. SILVESTER: I apologize. I didn't mean to do  
4 that.

5 THE COURT: On the other hand, Ms. Scheff, you need to  
6 make sure if it is a narrow question -- there is going to be  
7 a chance later on for Mr. Henriksen to give you a chance to  
8 explain. If there is a narrow question you need to give a  
9 narrow answer.

10 THE WITNESS: Okay.

11 THE COURT: Go ahead.

12 Q. (By Mr. Silvester) It is actually true that by  
13 February of 2002 you had referred students to Cedar Mountain  
14 Academy and received referral fees, correct?

15 A. In 2002, yes, that is correct, but we did not  
16 have a contract with them.

17 Q. They just paid you out of the goodness of their  
18 heart?

19 A. They paid us because we had referred some  
20 children to them and some of the children they didn't pay us  
21 for.

22 Q. You don't think that paying for service is a  
23 contract?

24 A. No, I didn't have any contracts with them. They  
25 did not have to pay us.

1           Q.    By February 2002, you had a contract to refer  
2 students to Sorenson's Ranch and you had in fact referred  
3 and received money by February of 2002, correct?

4           A.    I'm going to repeat that I didn't have a contract  
5 with any of these people. I did refer kids to them. If  
6 they wanted to pay us they did. There was a verbal  
7 agreement that they would pay us, but if they missed a child  
8 or referral or two there was no -- there was no system in  
9 place. There was no contract.

10          Q.    Also by February of 2002 you were referring to  
11 Hilltop Ranch and Lost Legacy; correct?

12          A.    Hightop Ranch which was part of Sorenson's Ranch.

13          Q.    Right?

14          A.    Right.

15          Q.    And Lost Legacy?

16          A.    Lost Legacy, yes, we did refer to them for a  
17 short time.

18          Q.    And each one of those programs paid you a  
19 referral fee to make -- to place students with their  
20 programs?

21          A.    I am not sure that Lost Legacy ever paid us  
22 anything. I know Lost was starting out, it was a newer  
23 program, and we knew the people that opened it and we were  
24 helping them out. I'm not certain that we got paid, maybe  
25 one I'm not -- I don't recall. It was a long time ago.

1 Q. Do you remember that by 2001, by the middle of  
2 2001, by the time your website was up and operating, you  
3 were advertising that you had an approved network of schools  
4 as part of the PURE Foundation or PURE, Inc.?

5 A. Yes, sir.

6 Q. And that approved schools were Red Rock, Cedar  
7 Mountain and Sorenson's by 2002, correct?

8 A. Yes, sir, and several others.

9 Q. Could we go to paragraph number ten. Paragraph  
10 number ten is another provision of the affidavit that you  
11 filed in this court and it says, "Sue Scheff, PURE, Inc.,  
12 and PURE Foundation do not advertise nationwide and do not  
13 advertise within the State of Utah." Again, in February  
14 2002, you understood that your website was distributed  
15 nationwide?

16 A. Yes, sir, but they did not name any of the  
17 schools. It was not -- there was nothing on Utah on my  
18 website.

19 Q. By February of 2002, however, you had made a  
20 number of postings, most of them in the name of Hilda on the  
21 Woodbury website referring people to your website, hadn't  
22 you?

23 A. I made a lot of postings with various pseudonyms,  
24 yes.

25 Q. And you made referrals to your, what is it,

1 Helpyourteens.com website?

2 A. I most likely did, yes.

3 Q. Okay. And in addition to that, you indicated in  
4 some of those referrals that we'll see in a few minutes,  
5 that you had successfully placed children at Red Rock Canyon  
6 School in St. George, didn't you?

7 A. Yes, I would imagine so.

8 Q. Okay. Let's go to paragraph 11. Paragraph 11 in  
9 this affidavit says, "Sue Scheff, PURE, Inc. and PURE  
10 Foundation have never knowingly communicated with Utah  
11 residents in regards to the plaintiff" that is in regards to  
12 World Wide. That wasn't a true statement in February of  
13 2002, was it?

14 A. Utah residents?

15 Q. Yeah.

16 A. No, that is a true statement.

17 Q. Don't you remember posting on websites that you  
18 had friends in Teen Help that you were communicating with,  
19 and that they said that World Wide programs were going down?

20 A. I recall vaguely of what I said. I had done a  
21 lot of posting at that point to create parent awareness and  
22 I am not sure about that.

23 Q. And by February of 2002, you had regular contact  
24 with Kevin Richie in the State of Utah to discuss World  
25 Wide, didn't you?

1           A.    I'm not sure if it was 2001 or 2002 or possibly  
2           2003 with Kevin.  I do know Kevin.

3           Q.    And you talked to Kevin when he was at Teen Help  
4           in August of 2001 when he told you he couldn't change  
5           referrals, right?

6           A.    I never asked him to change referrals.

7           Q.    You talked to him then?

8           A.    I spoke with Kevin I believe it was in July.

9           Q.    And you continued to talk to him until he left  
10          Teen Help in December, correct?

11          A.    Um, I am not sure that I spoke with him that  
12          frequently.  I know he was being sued by your client so he  
13          wasn't allowed to speak to people so --

14          Q.    You don't know that, do you?

15          A.    That is my belief, sir.

16          Q.    Because he told you?

17          A.    I believe he did, he may not have.  Someone else  
18          may have, maybe Randall told me.

19          Q.    You don't know when that occurred, right?

20          A.    When the lawsuit occurred?

21          Q.    Right.

22          A.    I don't recall the date, no.

23          Q.    But the point is you had regular ongoing contact  
24          with Kevin Richie, a resident of the State of Utah, what you  
25          were trying to do is get as much information as you could,

1 as much dirt as you could about World Wide, right?

2 A. No, sir. I was just trying -- I don't even  
3 remember the date, but Kevin and I did talk but I don't  
4 recall the dates. He had many concerns also.

5 Q. So paragraph 11 is a false statement?

6 A. I won't agree with that, sir.

7 Q. Paragraph 13, please.

8 THE COURT: Let me just ask the jury. Is this working  
9 all right? Are you able to see what is going on here?  
10 Okay.

11 Q. (By Mr. Silvester) Paragraph 13 says, quote,  
12 "Sue Scheff, PURE, Inc. and PURE Foundation have directed no  
13 comments or activities concerning the plaintiffs World Wide  
14 Association to the State of Utah." That wasn't true, was  
15 it?

16 A. Probably in this legalese form it was. I didn't  
17 talk about the lawsuit at all.

18 Q. You talked about World Wide, you directed  
19 comments about World Wide to Randall Hinton, to Kevin  
20 Richie, to Lisa Irvin, to Bernie and Arlene Farrow, to Frank  
21 Cavivian, to Shane Sorenson, correct?

22 A. I don't believe that is correct, no, sir.

23 Q. Now there came a time, Ms. Scheff, in the summer  
24 of 2000, when you enrolled your daughter at Carolina Springs  
25 Academy, correct?

1 A. Yes, sir.

2 Q. And, in fact, you had had discussions with  
3 Randall Hinton at Teen Help about doing that?

4 A. I discussed with Randall, Lisa and Lynn.

5 Q. Your representative at Teen Help who was working  
6 with you to get [REDACTED] into Carolina Springs was Randall  
7 Hinton?

8 A. Randall and Lisa Irvin, both of them.

9 Q. I'm not disputing you talked with more than one  
10 person. I want to know if your primary representative at.  
11 Teen Help was Randall Hinton?

12 A. I'm going to say that it was both of them because  
13 Lisa gave me just as much information as Randall. I worked  
14 with both of them.

15 Q. And at some point in time you decided that you  
16 were going to enroll [REDACTED] in Carolina Springs; correct?

17 A. Yes, sir.

18 Q. And you decided at that time that you would  
19 actually drive her to the Carolina Springs campus in South  
20 Carolina, correct?

21 A. No, sir, that is not correct.

22 Q. You didn't decide to drive her?

23 A. No, we flew up there.

24 Q. Okay, I'm sorry. You decided to take her to the  
25 Carolina Springs Academy?

1 A. Yes, I did.

2 Q. In August of 2000?

3 A. Yes.

4 Q. And you had to drive to the campus?

5 A. Yes, you did.

6 Q. And you drove with your daughter?

7 A. And my sister.

8 Q. And before you decided to go to South Carolina,  
9 Teen Help sent you an enrollment package, correct?

10 A. A very nice one.

11 Q. And the enrollment package included the  
12 enrollment agreement that you would be required to sign when  
13 you got to Carolina Springs, correct?

14 A. Well, actually they sent me the glossy brochures  
15 and the video far in advance and I had time to look at that  
16 and then they hooked me up with the support group leader  
17 Lynn Critchfield in Miami who recruits parents and then it  
18 was --

19 Q. My question was?

20 A. I'm going to answer it, sir.

21 Q. They sent you an enrollment agreement?

22 A. I was sent the enrollment agreement approximately  
23 three days before I was getting ready to send my daughter  
24 because I was on the fence about it.

25 Q. Now, this was a big decision, right?

1           A.    It was a huge decision.

2           Q.    It was certainly more important than something  
3 like buying or selling a house?

4           A.    Um, of course, it is your child.


5           Q.    Buying or selling a car? This was much more  
6 important, it was your daughter who was out of control and  
7 you needed help?

8           A.    Yes, sir.

9           Q.    So you carefully looked over all of the  
10 information you got, correct?

11          A.    I did not look over the enrollment agreement. I  
12 briefly went through it. I relied and trusted the Teen Help  
13 reps. I relied and trusted all of the people in Miami that  
14 told me not to worry because I was extremely emotional.  
15 Sending your child away has got to be the hardest -- just  
16 the hardest thing to ever do. And I didn't -- under duress  
17 I signed everything because all these parents and they were  
18 I think I read somewhere like Stepford parents. I was  
19 desperate. I needed help. My daughter was a really good  
20 child and she was making some really bad choices.

21          Q.    And you were under duress?

22          A.  I was completely under duress. I didn't want to  
23 send her away, but I wanted help for her.

24          Q.    Someone from Carolina Springs was standing over  
25 your shoulders forcing you to sign documents?

1 A. I didn't say that.

2 Q. You said duress. Do you know what that means?

3 A. In my opinion I was stressed out. I was -- I  
4 knew I had to do something to help her.

5 Q. You dropped her off on the 7th and went home and  
6 you wrote a commitment letter?

7 A. I did exactly what the program told me to do.  
8 They instructed me to write a commitment letter.

9 Q. Do you remember going home and writing a  
10 commitment letter?

11 A. Under the instructions of the program that is  
12 exactly what I did.

13 Q. Exhibit 5, please. Exhibit 5 is in fact in your  
14 handwriting; isn't it, that is your commitment letter?

15 A. Yes. Yes, it is.

16 Q. If we could look at the first paragraph, bring  
17 that up because it is a little light. This is to "Dear  
18 [REDACTED]," and it says "first, I must apologize for all the  
19 lies and misconceptions I told you about going to CSA." CSA  
20 stood for Carolina Springs Academy; right?

21 A. Yes.

22 Q. "I felt it was only -- the only way to get you  
23 there." You didn't think she would go on her own, did you?

24 A. She wanted -- she definitely wanted to leave. We  
25 were at a point where we were butting heads, but I did know

1 that it probably wasn't exactly what she thought it was  
2 going to be.

3 Q. Would you now highlight the second paragraph?  
4 This is what you were telling your daughter, after you  
5 placed her in the program, you thought that the problems  
6 were that she had -- that resulted in this program; is that  
7 correct?

8 A. Yes.

9 Q. You thought she had a lack of respect for  
10 authority, correct?

11 A. Yes.

12 Q. 

13 A. 

14 Q. 

15   
16 A. 

17 Q. 

18   
19 A. 

20 Q. And you said one of the problems was all of her  
21 anger and hatred towards you?

22 A. Towards me, yes.

23 Q. She had a nasty attitude?

24 A. She was a very typical teenager, yes.

25 Q. She wasn't a typical teen-ager, she was an out of

1 control teenager, wasn't she, Ms. Scheff?

2 A. I'm not going to -- she was -- she was not a hard  
3 core child. She was definitely escalating to become out of  
4 control, but she wasn't -- she wasn't a really, really hard  
5 core child. This is a child that at 13 years old made the  
6 national gymnastics team and then broke her foot so badly  
7 that she could never do gymnastics again which was her whole  
8 life for how many years. And --

9 Q. She was making a poor choice of peers?

10 A. She was making poor choices.

11 Q. And on the next page, if we look at the third  
12 paragraph, I'm still on the long one. The next question you  
13 said was how long you told her that you had made a  
14 commitment that she would finish the program up to level  
15 six; isn't that correct?

16 A. I said that due to the fact that your -- the  
17 sales rep fraudulently told me that level six could be  
18 achieved in as little as six months, and as long as  
19 12 months was the normal stay, I never ever knew that it  
20 took usually up to three years for a child to graduate. My  
21 daughter was there over five months. I never once saw her.  
22 I never once spoke to her.

23 THE COURT: That one I think was -- I think  
24 Mr. Silvester is entitled to a little narrower answer on  
25 that. Again, Mr. Henriksen will have a chance to bring out

1 some of this extra detail when he asks you the questions.

2 Q. (By Mr. Silvester) Let's turn to Exhibit 6,  
3 Ms. Scheff. Exhibit 6 which has been admitted in this case  
4 is the screening form that shows that it has got your name  
5 on the top. It shows your contact being Randall. And I  
6 wanted to just review a couple of things with you. Under --  
7 if you can, Ms. Scheff, in the corner there bring that up  
8 for us.

9 You explain to Randall at the time that you were  
10 talking with him about the program you needed, that your  
11 daughter was involved with a guy that was not a very good  
12 person, you thought she might have put a spell on him and  
13 she was a great gymnast until recently when she lost all her  
14 drive. That is how you explained it to Randall.

15 A. I'm not sure that is exactly how I explained it  
16 to Randall, but obviously that is the way Randall typed it  
17 in.

18 Q. If you go over under academics in the next  
19 column, you indicated to him that she just doesn't want to  
20 do the work any more, she is very capable and smart. That  
21 was your impression of the way your daughter was reacting in  
22 school?

23 A. Yes, very much so.

24 Q. Now, if we go down under the one that says  
25 suicide. You also indicated to Randall that under suicide

1 she uses it to get her way. No attempts have ever been  
2 made. That is what you said.

3 A. I'm going to say that no, I never said that. He  
4 asked -- they specifically asked you, the Teen Help reps are  
5 trained to ask you in such a way that you may say a comment  
6 well I'm sure she would, she threatened it she knew she  
7 could get her way. I don't -- I do not recall saying that.

8 Q. You have never been trained as a Teen Help  
9 representative, have you?

10 A. No, sir, but I have spoken with many of them. .

11 Q. You don't know how they're trained, do you?

12 A. I have spoken to them. They have shared with me  
13 how they have to go into meetings and they go off of a  
14 script. I have. I have spoken with several of them. This  
15 was my child.

16 Q. Before February of 2002?

17 A. I don't remember the dates but --

18 Q. Let's go to the next page, please.

19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

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Q.

A.

Q.

A.

Q. You were in court just a few minutes ago and you saw the 48 Hour video, right? You relied a lot on that, correct?

A. Yes, I did.

Q. Do you think any of those boys that were making those statements might have just misperceived what was happening to them?

A. Had I not talked to literally hundreds of

1 children --

2 Q. That is not my question.

3 A. No, I firmly believe --

4 THE COURT: I think Mr. Silvester is entitled to get a  
5 more direct answer to the question.

6 Q. (By Mr. Silvester) Do you believe that those  
7 boys might have misperceived what happened?

8 A. No, I don't.

9 Q. You don't believe teenagers lie on occasion when  
10 they're under pressure or they might get money?

11 A. None of them were about to get money and the  
12 stories are so horrific and so consistent. No, I don't  
13 believe that they're lying. I have seen scars on some of  
14 them.

15 MR. SILVESTER: Is this a good time, Your Honor? It  
16 is a good time for me stop today.

17 THE COURT: Why don't we go ahead and take our break  
18 for the day then, ladies and gentlemen. Let me just remind  
19 you about a couple of things. Remember not to deliberate on  
20 the case at home. I know folks at home or elsewhere may be  
21 interested in what the case is all about and so forth. Feel  
22 free to tell them how you have been treated here, but don't  
23 discuss the case with other people. And again the reason  
24 for that is out of fairness to both sides. We haven't heard  
25 from the defendant yet. We have only heard a little bit of

1 the plaintiff's case.

2 And the other reason it wouldn't be fair is there is  
3 going to be a point in the process for deliberating with all  
4 12 of you here. And if you start deliberating about the  
5 case with some other folks, then maybe you'll get set one  
6 way and won't have had a chance to hear from everybody else  
7 on the jury. Don't do that, don't do any research on the  
8 case. And tomorrow, if you could be here at 8:15, we will  
9 get started promptly at 8:30 and again Ms. Scheff and  
10 eventually some other witnesses tomorrow. So we'll see  
11 everybody tomorrow at 8:15 and we'll get the trial started  
12 promptly at 8:30.

13 THE CLERK: All rise. For the jury, please.

14 (Whereupon, the jury left the courtroom.)

15 THE COURT: All right. Everyone may be seated.  
16 Ms. Scheff, if you would be more comfortable sitting down  
17 there. I just wanted to check on a couple of things. I  
18 know that we're in the middle of Ms. Scheff's examination.  
19 My understanding is that there is no barrier to  
20 Mr. Henriksen and Mr. Flater talking with their client over  
21 the evening; is that correct?

22 MR. SILVESTER: I don't have any problem with that.

23 THE COURT: All right. And I know sometimes people  
24 interpret the rule on witnesses differently but because she  
25 is a party here, that seems to me to be appropriate. Is

1       there anything else that we can take care of while the jury  
2       is gone that will make tomorrow go smoothly? So far I think  
3       things are going smoothly. I commend both sides. I know we  
4       spent a lot of time working on this.

5               MR. SILVESTER: Can you give me my total score?

6               THE COURT: I just stopped your clock. Here is where  
7       we are. You have burned one hour and 27 minutes and,  
8       Mr. Flater, in his inaugural courtroom appearance, burned 25  
9       minutes at this point.

10              MR. SILVESTER: Thank you, Your Honor.

11              THE COURT: And I think -- I am getting the sense, I  
12       know that we set these presumptive time limits, but I'm  
13       getting a feel that these time limits are about. This is  
14       one of these cases we could spend an infinite amount of time  
15       looking at allegations and counter allegations, but I think  
16       we have come up again, having worked with this, for about  
17       the right amount of time to --

18              MR. SILVESTER: Asked Mr. Siebers how close I came to  
19       45 minutes with Mr. Farnsworth he said right on the dot.

20              THE COURT: I think we're working -- of course counsel  
21       should feel free to let me know how they assess the  
22       situation, but I do think we have a case here where there is  
23       information that both sides could burrow into forever. We  
24       could watch 48 Hours and 72 Hours and 96 Hours, whatever all  
25       of the programs are. And similarly you have got documents

1 on your side. But I think we need to keep the jury focused  
2 on the main event here and hopefully this will do it. We'll  
3 see everyone -- if we could get together at 8:15 in case you  
4 all think of anything and then we'll get started at promptly  
5 8:30. See everyone tomorrow.

6 (Whereupon, the trial adjourned for the day  
7 at 1:35 p.m.)  
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STATE OF UTAH )  
 )ss  
COUNTY OF SALT LAKE )

I, Laura W. Robinson, Certified Shorthand  
Reporter, Registered Professional Reporter and Notary Public  
within and for the County of Salt Lake, State of Utah, do  
hereby certify:

That the foregoing proceedings were taken before  
me at the time and place set forth herein and were taken  
down by me in shorthand and thereafter transcribed into  
typewriting under my direction and supervision;

That the foregoing pages contain a true and  
correct transcription of my said shorthand notes so taken.

In witness whereof I have subscribed my name and  
affixed my seal this 20th day of October, 2004.



Laura W. Robinson, CSR, RPR, CP  
and Notary Public

MY COMMISSION EXPIRES:  
December 1, 2004



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1                                 Salt Lake City, Utah, August 3, 2004

2                                 (8:20 a.m.)

3                 THE COURT:    Good morning everyone.

4                 MR. FLATER:   Good morning, Your Honor.

5                 MR. SILVESTER:   Good morning, Your Honor.

6                 THE COURT:    I just wanted to go over a couple of  
7 things with our folks.   We have our jury instruction  
8 conference set for tomorrow at four.   I would like to move  
9 that up to tomorrow at three.

10                MR. SILVESTER:   Fine, Your Honor.

11                THE COURT:    We have had something drop off our  
12 calendar.   If that works for folks, we'll do that tomorrow  
13 at three.

14                Also, I had a ruling early on in this case about  
15 whether there was personal jurisdiction over Ms. Scheff and  
16 I ruled that there was.   Yesterday, Mr. Silvester put into  
17 the record some additional points that would support the  
18 court's conclusion that there was personal jurisdiction over  
19 Ms. Scheff so I wanted the record to reflect if that issue  
20 goes up on appeal that in addition to the matters relied  
21 upon earlier, relying on factual matters alluded to by  
22 Mr. Silvester in his cross examination it would seem that  
23 plainly established personal jurisdiction over Ms. Scheff  
24 indeed.

25                All right.   Now, I had one matter I wanted to take up

1 with folks. Did you all have anything pressing before we  
2 got to that?

3 MR. FLATER: Yes, Your Honor. With regards to the  
4 depositions that were taken just this past week, we have  
5 been told by plaintiff's counsel that they anticipate  
6 playing those depositions in their entirety. There are some  
7 objections and exhibits that were just produced at the  
8 deposition that we objected to.

9 THE COURT: All right.

10 MR. FLATER: And we would like to address those  
11 objections with you.

12 THE COURT: Do we anticipate doing that today with the  
13 depositions?

14 MR. SIEBERS: Your Honor, we're not sure. It depends  
15 on -- we don't know what the cross examination of Ms. Scheff  
16 will entail. We think there is a chance that there may be  
17 -- we may get to it today. We also have Kevin Richey here  
18 today who we want to get back on the road. So if nothing  
19 else I would like to stop at 1:00 and put Kevin on the stand  
20 and we can get him out of here.

21 THE COURT: All right. And without objection, I'll be  
22 glad to work with you.

23 MR. SIEBERS: But I think we may have -- I agree with  
24 Mr. Flater that we would seek the Court's ruling for no  
25 other reason that if these videos need to be edited we can

1 try to get that done before we go on.

2 THE COURT: Why don't we just -- is there something I  
3 should read and then at 10:00 or something --

4 MR. FLATER: I have a copy for you, Your Honor.

5 MR. SIEBERS: That is a good idea.

6 THE COURT: Why don't I take a look at it and maybe  
7 having read through them just a little bit, I'll be more  
8 intelligent on my rulings. Although I'm sure the losing  
9 side will dispute that characterization.

10 MR. SIEBERS: We'll still respect you.

11 MR. FLATER: I have a letter outlining our objections  
12 and then both depositions are marked with the objectionable  
13 material that we --

14 THE COURT: So what I'm looking at, I appreciate this  
15 Mr. Flater, so where am I going to see the objections? Are  
16 these the yellow things that are X'd out?

17 MR. FLATER: Right.

18 THE COURT: Those are what you're objecting to then?

19 MR. FLATER: Exactly.

20 THE COURT: I'll try to eyeball those a little bit  
21 during our proceedings this morning, and then maybe at 10:00  
22 or so, when we take our first break, we can chat about that.

23 MR. SIEBERS: Thank you.

24 MR. FLATER: Thank you.

25 THE COURT: Here is the issue that I'm wondering

1       about.

2               We have in evidence some business records that have  
3       notations saying I'm not going to WWASP because of  
4       Ms. Scheff's website or words to that effect. Mr. Flater  
5       yesterday raised the point that that is not accurately a  
6       business record. I think he might be right on that.

7               It is the fact -- if somebody says I'm not going to  
8       WWASP, that is a verbal act like making or cancelling a  
9       contract. That is not hearsay. But if it says I'm  
10      cancelling the contract because I read something of Ms.  
11      Scheff, that component is not a business record. As I  
12      understand the business record doctrine, the source of  
13      information must be acting under a business duty to report  
14      such as a clerk in a bank or something like that. And  
15      certainly the people inside of WWASP are all under a  
16      business duty to report. So I don't think that information  
17      comes in as a business record and I'm wondering if the  
18      plaintiff has any other -- if the plaintiff disagrees with  
19      that analysis or if the plaintiff has other theories for  
20      getting that.

21              Again, it seems to me clearly that the record saying  
22      I'm not going to WWASP, comes in. I didn't understand  
23      Mr. Flater, perhaps Mr. Henriksen made the same point  
24      earlier, to be making that argument, but they are saying the  
25      component of the record that says Ms. Scheff told me

1 something nasty about WWASP is the reason. That seems to me  
2 to be problematic.

3 MR. SIEBERS: I believe it is Exhibit 99, Your Honor.

4 THE COURT: Do you have a page number on that?

5 MR. SIEBERS: 433.

6 THE COURT: How many such documents are we talking  
7 about? Are there multiple records or one record?

8 MR. SIEBERS: We'll withdraw the exhibit, Your Honor.

9 THE COURT: All right. I don't know if you need to  
10 withdraw the exhibit so much as redact that, Plaintiff's  
11 Exhibit 99, and --

12 MR. SIEBERS: There wouldn't be any need for it, Your  
13 Honor. We can just withdraw the exhibit.

14 THE COURT: All right, great. That will resolve that  
15 issue. Exhibit 99, Ms. Little always loves us to do this,  
16 is withdrawn. She is very good at admitting things.  
17 Withdrawing things is a bit more complex.

18 MR. HENRIKSEN: Your Honor, it is the same objection  
19 that we're making when they're including that in their  
20 statement. When they're testifying they say well this is  
21 what that person told me. In their mind they didn't come to  
22 WWASP because they saw a website. It is a hearsay objection  
23 with no -- with no exception.

24 THE COURT: All right.

25 MR. HENRIKSEN: So we think that one of their

1 witnesses, Jane Hawley, will testify to such. And I think  
2 there was one yesterday that we said that is what we're  
3 trying to get at, is they're trying to say with someone else  
4 brought in. But I guess we'll just take it at the time.

5 THE COURT: I think you're right, Mr. Henriksen, that  
6 yesterday I was saying if the business records in, somebody  
7 can testify about the record. But now that the record is  
8 out, what do we do, I think it is Ms. Hawley's testimony.

9 MR. SIEBERS: Your Honor, Ms. Hawley is the person  
10 that spoke with these persons on the phone. What we intend  
11 to ask Ms. Hawley is did she speak with parents who had  
12 viewed Ms. Scheff's website and what effect did that have on  
13 the parents. That she can testify to on her personal  
14 knowledge. These parents were upset, they were angry after  
15 seeing the website and they thought they had been defrauded.  
16 It didn't go to the truth of the matter, asserted how these  
17 parents felt. The only truth being asserted is that  
18 Ms. Hawley spoke with these parents and they were upset.

19 MR. HENRIKSEN: And that they thought they had been  
20 defrauded. That is hearsay.

21 THE COURT: I think Mr. Henriksen is right. There is  
22 a hearsay issue. Ms. Hawley says I spoke to parent X, she  
23 was upset, no problem. Why were you upset? I read  
24 something that Ms. Scheff had written. And Ms. Scheff had  
25 said nasty things about WWASP.

1           Now, I mean there is a hearsay, you know, the parent X  
2           is recounting something.

3           MR. SIEBERS: I don't think the parent has to get to  
4           what the information is that is on Ms. Scheff's website.  
5           That we already put into evidence through Ms. Scheff today.  
6           All Ms. Hawley needs to speak to is yes, the parents saw the  
7           website and called me and they were upset. She can testify  
8           as to her impression of their reaction to her website.

9           THE COURT: What about that?

10          MR. HENRIKSEN: She is testifying that they were upset  
11          because of a certain item. How did she get that is because  
12          they told her something. So you're still trying to get  
13          something they told her that she is perceiving and she is  
14          interpreting their perception. I saw the website and I'm  
15          upset. That is still hearsay. There is no exception for  
16          that because they're tying it to -- it is not like she is in  
17          the room and someone sees something and says exception for  
18          a, you know, an excited utterance or something like that  
19          also would help. This isn't that. This is where they're  
20          saying I saw something and then she perceives they're upset,  
21          that still I saw something. I saw something is the hearsay.  
22          It is still there.

23          And so they can bring in a parent or someone like  
24          that, but they can't have someone say we talked with a  
25          parent and they saw the website and I thought they were

1       upset because they're still saying I saw a website. That is  
2       still hearsay.

3           THE COURT: Here is the hearsay exception that I think  
4       might be in play on this. There is the state of mind  
5       exception. And if the state of mind have potential  
6       customers of WWASP is at issue in this case, which I think  
7       it is, whether they were, you know, favorably disposed  
8       towards WWASP or not, then it seems to me some evidence  
9       along the lines where Mr. Siebers is talking about that they  
10      were upset might be -- might be appropriate. But I don't  
11      know. There is still -- Mr. Henriksen still has got a point  
12      that the reason why they're upset, being -- having read the  
13      PURE website, I'm not sure, it is not immediately clear to  
14      me that that would be covered by the state of mind  
15      exception.

16           MR. HENRIKSEN: One of the records that we just took  
17      out says they saw bad press in Ms. Scheff's website on the  
18      one they just took out. And that is our objection. They  
19      don't know why they're upset. They may have seen the  
20      website, they may have seen a TV show, they may have seen  
21      something else and this is all -- this is all Mrs. Hawley is  
22      going to report to us.

23           THE COURT: Let me --

24           MR. SIEBERS: Cross examination, Your Honor.

25           THE COURT: What about -- is Richey going to be

1 getting into this issue? Mr. Richey?

2 MR. SIEBERS: As to what parents? No.

3 THE COURT: Let's all think about this a little bit.

4 MR. HENRIKSEN: Okay.

5 THE COURT: Because I do think that the hearsay issue  
6 is fairly complicated. But it doesn't sound like we need to  
7 resolve it for today because clearly these are all subjects  
8 that can be fully explored with Ms. Scheff. And so let's do  
9 that. The only other thing I would say, Ms. Scheff, is be  
10 sure and listen carefully to Mr. Silvester's questions  
11 today. Sometimes you wanted to get in a few extra points  
12 and I understand that, I have been a witness and I tried to  
13 do the same thing as well. But if he is asking a narrow  
14 question, you have to give a narrow answer and rely on  
15 Mr. Henriksen to flesh that out a little bit once he gets  
16 his chance.

17 All right. I think hopefully all of our jurors are  
18 here. Do you want to see what the situation is?

19 THE CLERK: I'll go back.

20 THE COURT: On Richey you think that is a half hour  
21 projected for both direct and cross examination?

22 MR. SILVESTER: I wouldn't imagine it is more than 15  
23 or 20 minutes.

24 THE COURT: Is that your assessment as well? Because  
25 I would like to accommodate witnesses on both sides, if we

1 can.

2 MR. HENRIKSEN: If they're going 15 minutes we'll be,  
3 you know, ten, or something like that.

4 THE COURT: All right. Why don't you help me remember  
5 if we haven't done that by 1:00 --

6 THE CLERK: All rise for the jury, please.

7 (Whereupon, the jury returned to the courtroom.)

8 THE COURT: All right. Ladies and gentlemen, good to  
9 see everybody back. You're already ahead of some of our  
10 juries. Sometimes not everybody finds their way back to the  
11 courthouse on the second day. So we appreciate everybody  
12 being here in a timely fashion. And we're starting right at  
13 8:30. We'll try to run things the way we did yesterday.  
14 We'll have our -- guess you might think of them in terms of  
15 a bagel break and sandwich break along the way and try to  
16 wrap up about 1:30 again.

17 Both sides have some testimony they want to present to  
18 you. So without further adieu, I guess Ms. Scheff will  
19 resume the stand, and Mr. Silvester, you can resume asking  
20 questions.

21 MR. SILVESTER: Thank you, Your Honor.

22 THE COURT: And you remember you're still under oath,  
23 Ms. Scheff.

24 **CONTINUED DIRECT EXAMINATION**

25 MR. SILVESTER: We just need to move this over.

1 THE COURT: Make sure that everybody can see.

2 BY MR. SILVESTER:

3 Q. Too many things and not enough room. Good  
4 morning, Ms. Scheff.

5 A. Good morning.

6 Q. Yesterday when we ended, we had been talking  
7 about your enrollment of [REDACTED] at Carolina Springs. Do you  
8 recall that?

9 A. Yes, I do.

10 Q. I would like you to look at Exhibit 8 now.  
11 Plaintiff's Exhibit 8 is the Enrollment Agreement for your  
12 daughter at Carolina Springs, correct?

13 THE CLERK: Is it on your screen?

14 THE WITNESS: I'm looking up here.

15 THE CLERK: It should be on your screen.

16 MR. HENRIKSEN: The screen is not on over here either.

17 THE WITNESS: It is on.

18 Q. (By Mr. Silvester) It is hard to read on that  
19 screen. You may have to look at it on this screen. That is  
20 the Enrollment Agreement for your daughter at Carolina  
21 Springs, correct?

22 A. Yes, I believe it is.

23 Q. It is your writing that says Sue Scheff on the  
24 top and it says [REDACTED] Scheff right there; is that correct?

25 A. Yes. Yes, it does.

1           Q.    I'm not going to run forward to where your  
2           signature is, we'll look at that in a minute, but I would  
3           like to have you look at the paragraph under enrollment that  
4           says sponsors. Can you bring that up for us? This one  
5           right here.

6           This particular paragraph of the contract says,  
7           basically, "Sponsors," which is you, "understands Carolina  
8           Springs Academy is a Special Boarding School," then it goes  
9           on to say, "It is not a treatment facility, counseling-based  
10          program, or a correctional institution." That is what the  
11          contract says, correct.

12          A.    It states that, sir, but I did not see that when  
13          I signed it.

14          Q.    Did you misunderstand my question? I just asked  
15          if that is what the contract says?

16          A.    Yes, sir, and I answered it.

17          Q.    And the next paragraph, if you will look at that,  
18          right in this area (indicating) says, "The School/Program  
19          also does not accept responsibility for any services  
20          represented orally by any of its School/Program staff or  
21          public relations personnel." You would agree that I read  
22          that correctly, right?

23          A.    I would agree that that is fraudulent due to the  
24          fact that their sales rep sold the program to me in a  
25          different manner. And if you can't trust their sales

1 person --

2 Q. Did I read that correctly, Ms. Scheff?

3 A. You read it correctly, but it is not the way it  
4 was sold to me.

5 Q. That says you can't rely on sales staff, correct?

6 A. That is fraudulent, correct.

7 Q. Was there something about that particular  
8 sentence that you did not understand?

9 A. I did not understand the fact that I could not  
10 trust the people that I was speaking with. I had --

11 Q. Ms. Scheff, my question is are there any words in  
12 that sentence you didn't understand?

13 MR. HENRIKSEN: Your Honor, I think she was answering  
14 that question.

15 THE COURT: Well, I'm going to give Mr. Silvester a  
16 little bit of latitude.

17 MR. HENRIKSEN: Okay.

18 THE COURT: Go ahead and re-ask the question,  
19 Mr. Silvester.

20 Q. (By Mr. Silvester) Yeah. Are there any words in  
21 that particular sentence that you don't understand?

22 A. I truthfully don't understand how they could  
23 write something in their contract -- under duress I didn't  
24 read that. Had I read that probably clearly I would have  
25 realized that I couldn't trust Randall, Lisa or Lynn

1 Crestfield.

2 Q. You were under duress when you signed this  
3 contract?

4 A. Yes, sir, I was.

5 Q. Somebody from Carolina Springs was standing over  
6 your shoulder forcing you to sign this contract?

7 A. Sir, my definition of duress is under -- I was  
8 under a lot of stress. I was quite upset.

9 Q. You had received this contract long before you  
10 went to Carolina Springs and had a chance to read it,  
11 correct?

12 A. No, I testified yesterday I only received it a  
13 few days prior. I had more relied on the brochures, the  
14 video, the support group meeting that they sent me to with  
15 all of the parents that were selling me a bag of goods. I  
16 only got this contract like two or three days before my  
17 daughter went.

18 Q. You were going to put your daughter in a  
19 residential treatment program and you didn't find it  
20 important to read the document that you were signing to put  
21 her in that program?

22 A. I trusted those people. They seemed like they  
23 cared.

24 Q. I want you now to look at the next page, page 24  
25 of the exhibit. If you look at page 24, we'll look at this

1 particular paragraph under "Tuition." That paragraph says,  
2 "Upon admission you will also be required to purchase a  
3 student uniform for two hundred fifty dollars. Make a  
4 separate check payable to Uniform Unlimited in the amount of  
5 two hundred fifty dollars for the student uniform." Did I  
6 read that correctly?

7 A. You read that correctly, but that was not told to  
8 me. And I --

9 Q. Excuse me, I just asked you did I read that  
10 correctly.

11 A. You read it correctly, but it was not in the  
12 contract that I received.

13 Q. Okay. Let's look at this paragraph that talks  
14 about Personal Incidental Costs and Expenses, starting at  
15 number six. The contract that you signed indicated that  
16 there might be additional expenses besides the monthly  
17 tuition and it included any medical expenses; transportation  
18 to and from the school; clothing and uniform; hair cuts;  
19 postage; phone calls from the students; supervision and  
20 transportation costs for different areas. And that was in  
21 the contract you signed, correct?

22 A. That I do recall.

23 Q. Okay. Would you turn to the next page, please.  
24 We'll go to number J. The contract you signed also said  
25 "That the School/Program services do not include any formal

1 individual therapy sessions. Individual therapy sessions,  
2 while usually not needed or recommended, can be obtained for  
3 \$75.00 per hour." That was in the contract you signed,  
4 correct?


5 A. I don't believe that was in the contract that I  
6 signed. I know that they changed their contracts quite  
7 frequently, and I'm not sure if this was an edited contract  
8 since I don't have my original one. I think I would have  
9 seen that. On top of the fact that I relied upon Randall,  
10 Lisa and Lynn that all told me it was a therapeutic  
11 horseback riding boarding school and it had no therapy and  
12 no horses.

13 Q. Ms. Scheff, the contract that you're looking at  
14 was subpoenaed by your counsel from Carolina Springs. And  
15 you're claiming this is not the contract that you signed?

16 A. You just said it was subpoenaed by my attorneys  
17 from Carolina Springs, not from Sue Scheff. Sue Scheff does  
18 not have -- I don't have the contract. I wish I did. I  
19 don't have it.

20 Q. In fact, you haven't kept any documents about  
21 this case, have you?

22 A. I don't recall what documents I kept or didn't  
23 keep.

24 Q.  You found it quite convenient to destroy  
25 documents that were on your computer that you were supposed

1 to have to support your story because you didn't want those  
2 documents to come out. Isn't that true?

3 A. I have never destroyed anything that -- as a  
4 matter of fact, they had subpoenaed my personal computers  
5 and took them and when we asked for them, they took a hammer  
6 to theirs. I did not destroy anything.

7 Q. Excuse me, Ms. Scheff. You had a setting on your  
8 computer so that any document on the computer more than  
9 24 hours was eliminated?

10 A. That was always -- that is a computer setting  
11 that I have had for years. That has nothing to do with this  
12 case, sir.

13 Q. Let's go to page 32, please. Page 32 of this  
14 document appears to have a signature. That is your  
15 signature, correct?

16 A. Yes, sir.

17 Q. It is dated the 7th of August of 2000; is that  
18 correct?

19 A. Yes, sir.

20 Q. That isn't a forged signature, that is your  
21 signature?

22 A. Yes, it is, sir.

23 Q. Let's turn to page 41, please. Page 41 is an  
24 addendum to this contract that is included in this exhibit  
25 that is called Medical Care Release. And that is your

1 signature also, isn't it?

2 A. Yes, sir.

3 Q. In fact, that is your handwriting where your  
4 daughter's name is put in the blank on the first line; is  
5 that correct?

6 A. Yes.

7 Q. And this says, "We, the parents/guardians of  
8 [REDACTED] Scheff hereby authorize Carolina Springs, 86 Green  
9 Acres Lane, Donalds, South Carolina, to obtain medical care  
10 for the student in the event of an illness, injury, or other  
11 emergency." And you signed that particular agreement?

12 A. I did sign that agreement. However, when they  
13 did rush her to the hospital for potential food poisoning  
14 with 40 other kids in the ambulance, they never contacted  
15 me.

16 Q. Is there something that you see in there that  
17 says you have to be contacted if there is a viral outbreak  
18 at the school and they try to get the child medical care?

19 A. I would say that absolutely they should at least  
20 as a courtesy call a parent. Every other school that I know  
21 of would call a parent if their child is hospitalized. She  
22 sat there not knowing that I cared.

23 Q. Did you misunderstand the question?

24 A. No, I didn't.

25 Q. Is there anything in that provision that says if

1       there is a viral outbreak at the school they have to call  
2       you?

3             A.    To me it is common knowledge.  It is your child.  
4       It is your daughter.

5             Q.    My question is, do you see it in the contract?

6             A.    This is how fraudulent it is.

7             Q.    Right.

8             A.    Right.

9             Q.    Would you turn to page 46, please.  46 is a  
10       document that you filled out, correct?  Those -- that is  
11       your handwriting on that document?

12            A.    Yes.

13            Q.    And the first question on the document, excuse  
14       me, the start of the document says, "As we discuss issues  
15       with your child, we need to know what to expect in terms of  
16       their honesty."  Do you see that first paragraph, that first  
17       sentence?

18            A.    Yes, sir.

19            Q.    Then it says, "Does your child have a history of  
20       misrepresenting the truth?"  And the yes box is checked by  
21       you, correct?

22            A.    Yes sir.

23            Q.    And your comment was, "She sees things her own  
24       way.  It's always someone else's fault."  You wrote that?

25            A.    Yes, I did.

1 Q. Okay. And the next section says, "Is honesty a  
2 significant problem for your child?" And you checked yes,  
3 correct?

4 A. Yes, I did.


5 Q. And it says, "Sometimes. Depends on the  
6 situation. She has her own definition for truth. She will  
7 tell you what you want to hear." You wrote that?

8 A. Yes, I did.

9 Q. And in the last section, the circled parts says,  
10 "The information my child gives could be fairly inaccurate,"  
11 doesn't it.

12 A. Yes, it does.

13 Q.   
14   
15   
16   
17   
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19   
20   
21   
22   
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18 A.   
19 Q. Could we turn to page 47, please. Page 47 is  
20 another page that you signed indicating that mail could be  
21 reviewed by Carolina Springs when it was either coming in or  
22 going out, correct?

23 A. That is correct.

24 Q. And, in fact, you wanted the mail reviewed that  
25 your daughter was sending?

1           A.    I never had an issue with that.

2           Q.    Let's turn to page 53.  Maybe you can bring out  
3 the entire typewritten copy.  Addendum six is also an  
4 addendum you signed; is that correct?  Let me see if I can  
5 help.  You see your signature right there (indicating)?

6           A.    I'm reading it.

7           Q.    All I asked you is if you signed it.

8           A.    Okay, I signed it, but I wanted to see what I  
9 signed.

10          Q.    Okay.  This particular addendum says that the  
11 World Wide Association of Specialty Programs provides  
12 certain support for the schools and that they don't run or  
13 operate the schools.  So at the time you signed this, you  
14 acknowledged that you understood that World Wide was simply  
15 an association of schools; correct?

16          A.    That is not correct, sir.  I didn't understand  
17 the legal language that is in this.  I assumed from their  
18 sales reps, three different sales reps, that it was all one  
19 in the same.

20          Q.    Ms. Scheff, you never talked to a person at the  
21 World Wide Association of Specialty Programs before you  
22 signed this contract, correct?

23          A.    I spoke with people that represented themselves  
24 as the World Wide Association of Programs.

25          Q.    Ms. Scheff, you talked to people at Teen Help who

1 are the marketers, correct?

2 A. And also Lynn Crestfield who has Teen Help  
3 Southeast. It has the World Wide emblem and so does Teen  
4 Help.

5 Q. I think you just said Teen Help, right? Teen  
6 Help Southeast?

7 A. Teen Help Southeast and the globe with the World  
8 Wide -- I had no reason not to believe that they're not all  
9 one. It is part of big conglomeration that I was defrauded  
10 on.

11 Q. You were defrauded because they told you that the  
12 World Wide didn't run Carolina Springs, that you had to look  
13 to Carolina Springs for the services you were buying. That  
14 was fraud?

15 A. The entire --

16 Q. That was a misstatement of fact?

17 A. Obviously, I believe that I -- it is my belief  
18 that they did defraud me on this whole situation.

19 Q. That is not my question. That statement about  
20 the relationship between World Wide and Carolina Springs was  
21 not fraudulent, was it?

22 A. I can't say that it was or it wasn't.

23 Q. You just said that?

24 A. I am saying that --

25 THE COURT: Hang on a second, Mr. Silvester. I think

1       you may be cutting off just a little bit too fast here.

2               MR. SILVESTER: I apologize, Your Honor.

3               THE COURT: It is obviously a balancing act here.

4               THE WITNESS: What I'm trying to say is I am only a  
5       parent. I don't -- I didn't understand all of the legalese,  
6       so to speak, the way they twist words, the way they -- this  
7       one is not related to that one, that is not related to this  
8       one. But in reality, it is all the same. All of the money  
9       is going to the same place. I didn't understand. I am  
10      sorry. I am human. I was a parent. I call myself under  
11      duress. I was under stress. I was upset. I'm sorry. I  
12      didn't read the fine print. I relied and I trusted people  
13      and that was a mistake and that is something that I have  
14      since learned.

15              Q. Do you remember my question? I realize --

16              A. You asked me if I understood. You asked me if I  
17      understood this line and obviously I don't.

18              Q. No. No obviously you misunderstood my question.  
19      My question was, was there anything in this statement made  
20      in this addendum saying World Wide did not operate the  
21      school that was a false statement of fact?

22              A. I'm sorry, I'm really not understanding.

23              Q. You have no facts in your possession that  
24      indicate that Carolina Springs was operated by the World  
25      Wide Association?

1           A.    I have a belief in my head that World Wide was  
2 and is Carolina Springs as well as 11 other schools.

3           MR. SILVESTER:  I understand what the belief in your  
4 head is.  My question is you have no facts to support that.

5           THE COURT:  I'm going to overrule that objection.  Go  
6 ahead.

7           Q.    (By Mr. Silvester)  You have no facts to support  
8 that?

9           A.    I wouldn't say I wouldn't have any facts.  I have  
10 documentation and all their brochures has the World Wide .  
11 Association combined with Teen Help on it.  The glossy  
12 brochures had World Wide Association on the back and on the  
13 front it is Teen Help.  There would be -- to me, that is the  
14 fact, if I had the brochures.

15          Q.    Could we turn to page -- addendum seven page 54.  
16 Addendum seven says Psychological Services and it is signed  
17 by you; is that correct?

18          A.    Yes.

19          Q.    Has your address on it, excuse me, has your phone  
20 number and it has the date August 7th of 2000; correct?

21          A.    Correct.

22          Q.    And in your handwriting it has [REDACTED] Scheff's  
23 name, correct?

24          A.    Correct.

25          Q.    And this particular addendum is an addendum that

1        says if you choose, you can have a full psychological  
2        evaluation of your child; doesn't it?

3            A.    Yes, sir, it does.

4            Q.    In fact, you checked at the bottom, "No, I'm not  
5        interested in having a comprehensive diagnostic evaluation  
6        at this time." You checked that?

7            A.    She had just had one previously going in.

8            Q.    You checked that?

9            A.    Yes, I did not want one.

10          Q.    Okay. Exhibit 10, please. And Exhibit 10 is the  
11        letter that you wrote to Elaine, correct?

12          A.    Yes, sir.

13          Q.    We are looking at page 61. And I realize the  
14        court and counsel may not have it as readily as I do. This  
15        is a letter that you wrote to Elaine Davis, the director of  
16        Carolina Springs Academy, correct?

17          A.    Yes.

18          Q.    This is the letter that your counsel mentioned in  
19        his opening statement you were forced to write from the  
20        second seminar you attended, correct?

21          A.    That was our homework assignment was to write a  
22        letter to the director of the program letting them know how  
23        much we appreciate them.

24          Q.    And you wrote this letter?

25          A.    Yes, I did.

1           Q.    And you wrote it to convey false information to  
2   Ms. Davis?

3           A.    At the time it wasn't false.  At the time, I was  
4   being totally misled and given false information.  I had no  
5   idea.  I wasn't allowed to speak with my daughter, see my  
6   daughter, so I didn't know at the time that she was being, I  
7   called it hog-tied, but she was being tied to other  
8   children, slept in sewage, not being fed.  I didn't know all  
9   these things.  So yes, I wrote that when I was given  
10  fraudulent information.

11          Q.    Ms. Scheff, you still don't have any support for  
12  what you just said, do you?

13          A.    I do have a lot of support for that.

14          Q.    Because what your daughter told me --

15          A.    No, sir, because hundreds of other children have  
16  consistently told me the same story.

17          Q.    Excuse me, Ms. Scheff.  Did your daughter tell  
18  you that she slept in sewage at Carolina Springs?

19          A.    She said that the sewage was dripping down into  
20  their beds.

21          Q.    Did your daughter tell you that she was hog-tied  
22  at Carolina Springs Academy?

23          A.    She had told me that she was tied up to another  
24  child for, I think, a day or two.  And what happened what --  
25  at the time, after -- this is months after she was out of

1 the program when she finally told me this, I started reading  
2 all these articles and I read about kids.

3 Q. My question is, did she tell you she was  
4 hog-tied?

5 A. I'm going to share with you how I came to that  
6 conclusion.

7 Q. I don't need you to share with me, you can do  
8 that with you counsel.

9 (Whereupon, the court reporter requested counsel  
10 and the witness to not speak over each other.)

11 THE COURT: Ms. Scheff, you need to listen carefully  
12 and Mr. Henriksen is going to have a chance to bring out  
13 some of this information when he asks questions. But  
14 Mr. Silvester asked you a very narrow question and you need  
15 to give a narrow answer to Mr. Silvester.

16 Q. (By Mr. Silvester) Did she tell you she was  
17 hog-tied?

18 A. That was my perception.

19 Q. And your perception is that she had a rope around  
20 her feet and around her neck and around her arms?

21 A. That is not my perception of hog-tied.

22 Q. Okay. So when you said, "I am so glad I picked  
23 CSA for my daughter. You and your staff are the best!"  
24 That wasn't a true statement?

25 A. That was true during the time I was given

1 fraudulent information.

2 Q. And when you said, "I know my daughter is in  
3 God's hands and you are all his helpers," that wasn't a true  
4 statement?

5 A. It was true at the time while I was being misled.

6 Q. Exhibit 11, please, that is page 63. Let's bring  
7 out the top where the handwriting is, if we can. This is  
8 your handwriting on the top of this e-mail; is that right?

9 A. Yes, it is my handwriting.

10 Q. Let's go back to the whole thing. This e-mail  
11 was written Tuesday the 7th of November of 2000. That was  
12 immediately after you returned from the second seminar that  
13 you had been to, correct?

14 A. Yes, that is correct.

15 Q. And this particular e-mail is addressed to  
16 Shirley, who was your family representative at the Carolina  
17 Springs?

18 A. No. Shirley was -- I think she was director of  
19 the family reps.

20 Q. Okay. And Elaine Davis who was the director of  
21 Carolina Springs?

22 A. That is correct.

23 Q. And you wrote it also to Ken Kay, who was the  
24 World Wide Association in St. George?

25 A. That is correct.

1           Q.    Okay.  In this particular e-mail it says that  
2           your dedication to the program is reflected here.  And what  
3           you had done is you had sent this e-mail to a whole bunch of  
4           World Wide parents giving them your creative ideas about the  
5           way referrals for this school that your daughter was in and  
6           other schools?

7           A.    Yes, sir, I did.

8           Q.    This was the Tuesday following the focus seminar  
9           that you attended?

10          A.    That is correct.

11          Q     let's turn to Exhibit 12, please.  That is page  
12          66, Your Honor.  Exhibit 12 is a letter that you wrote to  
13          Elaine Davis on November 9th of 2000, correct?

14          A.    Yes, that is correct.

15          Q.    Two days after you had sent them a copy of the  
16          e-mail saying how much you supported the program?

17          A.    I did send that e-mail.  I was helping parents  
18          get referrals and I believed in the program at the time.

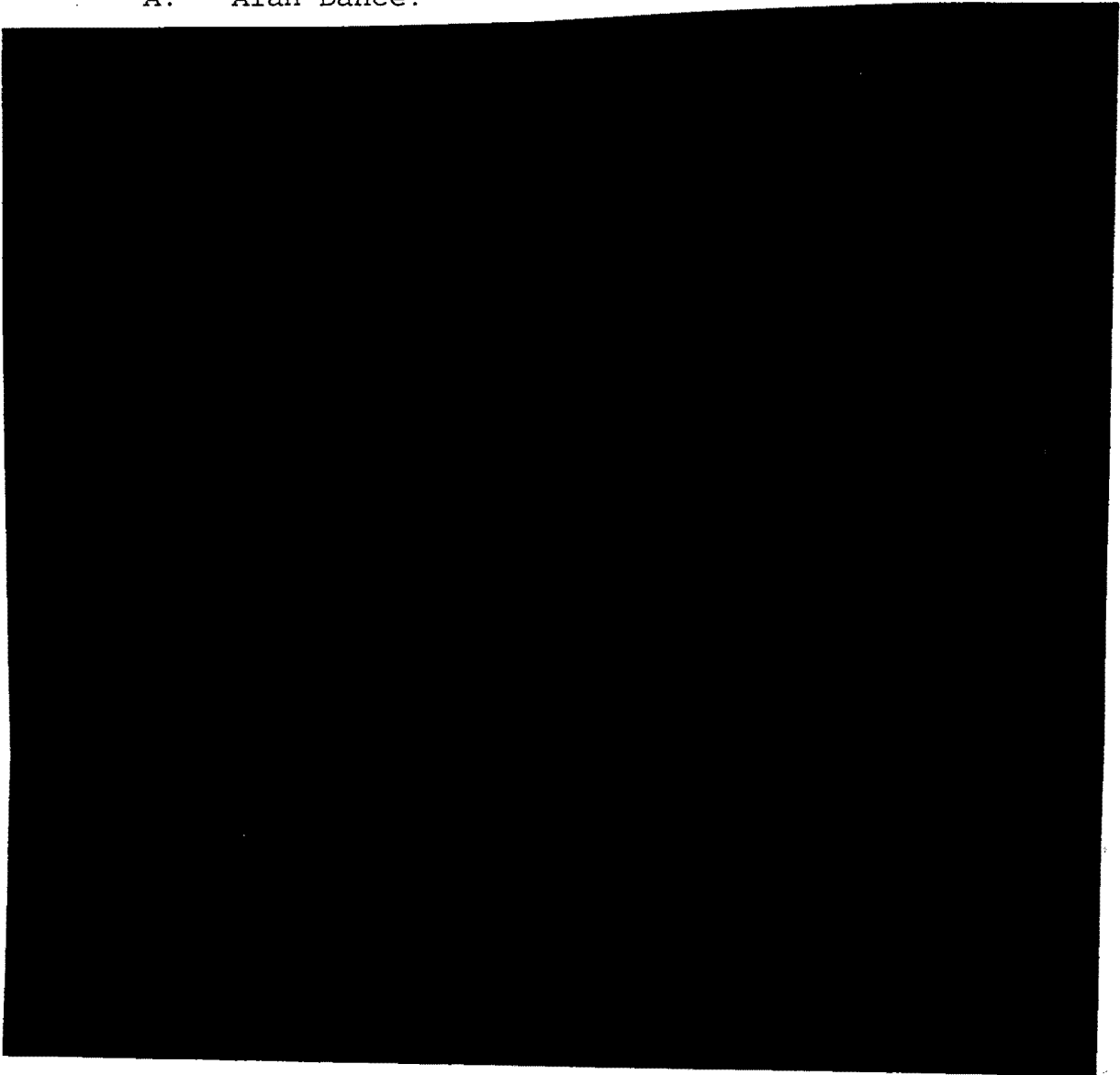
19          Q.    And this was sent two days later?

20          A.    That was sent two days later.

21          Q.    And the first paragraph says, "I spoke with  
22          Shirley last night; she was kind enough to call me from her  
23          home.  I was infuriated to say the least.  On Monday I spoke  
24          with Da'nelle and Tara regarding this issue.  After speaking  
25          with Shirley, my attorney and my family we believe action

1 needs to be taken immediately." Who was your attorney in  
2 November of 2000?

3 A. Alan Dance.



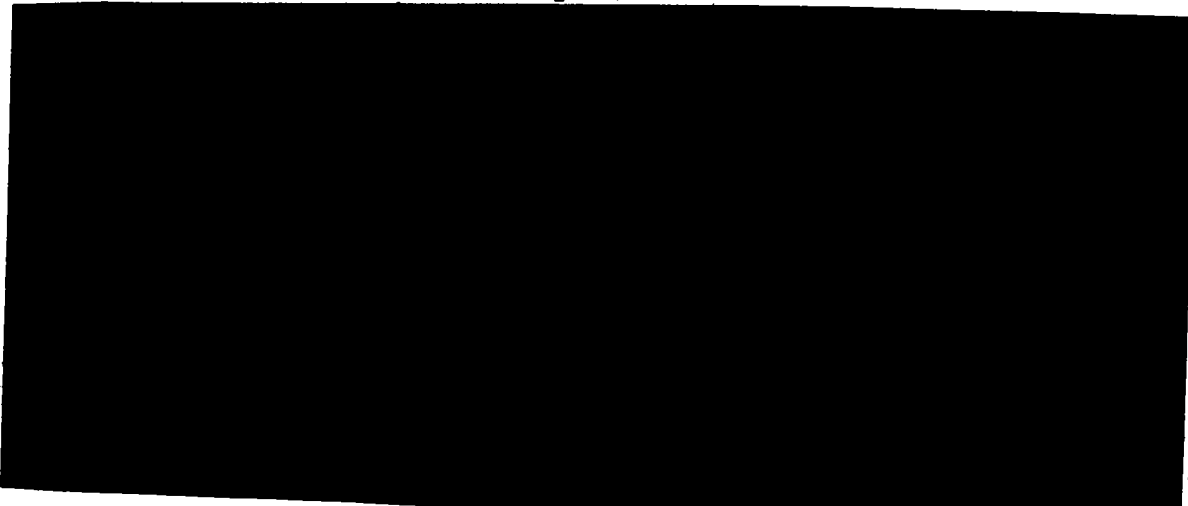
20 THE COURT: Could we just stop here for one second,

21 Mr. Silvester. The jury is probably wondering you just read  
22 [REDACTED] and you have the last name and they're going to see  
23 some blackouts. Let me just tell the jury one thing about  
24 the way we have been handling this case because this might  
25 come up later.

1           As you can tell, some of the information we're talking  
2 about in this case is personal and involves children and so  
3 forth. And so what I have directed the lawyers to do  
4 throughout all of the process leading up to trial was to  
5 blackout last names and so forth to try to protect the  
6 privacy of some of the other people that were involved in  
7 there.

8           But both sides ended up agreeing that if we went to  
9 trial, just as a matter of fact we would have to discuss  
10 different names because otherwise, you know, this wouldn't  
11 make sense to you. So what you're seeing here is not -- I  
12 wouldn't want anybody to think that either lawyer on either  
13 side was trying to knock something out. It is just kind of  
14 a remnant of that process earlier on that everybody has  
15 agreed at this point now that we just have to use names and  
16 let the chips fall where they may. That is why you see  
17 those blackouts there.

18           MR. SILVESTER: Thank you, Your Honor.



1 letter?

2 A. Yes, I do.

3 Q. Let's look at the first paragraph. You start out  
4 by saying, "I want to start by saying this is to be held in  
5 the utmost confidence." And the last sentence of that says,  
6 "I have no plans on telling [REDACTED] nor do I expect anyone  
7 to." Was there some particular reason you didn't want to  
8 tell your daughter you were going to remove her from the  
9 school?

10 A. I didn't want to tell [REDACTED] that I was coming to  
11 get her to get her hopes up and she would want to know when  
12 I was coming, maybe she would start acting out. I didn't  
13 know what her reaction would be. At this point, I didn't  
14 realize the abuse that was going on and I am actually glad  
15 they didn't tell her.

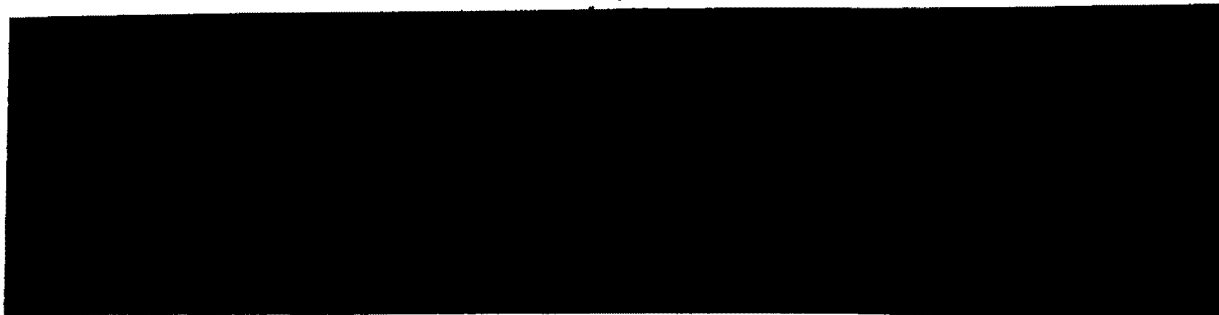
16 Q. Let's go down to the second paragraph. "I  
17 respect CSA, that is Carolina Springs, and most of their  
18 staff! You saved my daughters life. From the bottom of my  
19 heart, I will never regret sending my precious daughter to  
20 you." You wrote that?

21 A. Yes, sir, I did.

22 Q. Let's go to the next paragraph. The next  
23 paragraph says, "I have made plans to pick her up on or  
24 before January 11th, 2001." Doesn't it?

25 A. Yes, it does.

1 Q. It goes on to say in bold, "Due to circumstances  
2 that are beyond my control, leaves me with no other choice,  
3 but to withdraw her. I believe you know what they are."



4  
5  
6  
7  
8 A. That was the circumstance in that respect. Just  
9 to go back when I --

10 Q. I didn't ask you to go back.

11 A. When I respected CSA, it was during the time they  
12 misled me. I just don't want to mislead the jury.

13 Q. You don't?

14 A. No.

15 Q. Let's go to the next paragraph. The next  
16 paragraph, the second -- the third sentence, I guess, says,  
17 "I will continue my referral program as I am sure [REDACTED]  
18 will join me. I believe in CSA and all it has to offer. I  
19 will always hold CSA accountable for the wonderful  
20 transformation of my daughter and our family." You wrote  
21 that, correct?

22 A. Again, I wrote that just from the letters. I had  
23 not yet seen or spoken with my daughter in the entire five  
24 and a half months. It was just from the letters when she  
25 decided -- she learned how to fake it to make it to get fed

1 each day.

2 Q. Did you write that?

3 A. I said yes, I did, with an explanation of why I  
4 did.

5 Q. Let's go to Exhibit 15, please. Exhibit 15. In  
6 fact, let's blow up the top part of that so we can see it  
7 better. Exhibit 15 is an e-mail that you sent to Nelson  
8 Shumway; is that correct?

9 A. Yes, it is.

10 Q. That says, "sincerely, Sue Scheff." That is from  
11 you, right?

12 A. Yes.

13 Q. It says, "Dear Nelson," right?

14 A. Yes.

15 Q. Okay. Let's go to the second paragraph of that.  
16 You're asking Nelson for a copy of your commitment letter,  
17 right?

18 A. I thought I was asking him for a copy of the  
19 contract, but you're right, it is the commitment letter.

20 Q. Let's go to the second paragraph. It says,  
21 starting on the second line, "As I am sure you know, my  
22 daughter is home now and doing very well." That is what you  
23 wrote February 11th of 2001, correct?

24 A. As of that date she had not exposed to me what  
25 had happened to her for fear of being sent back. So on that

1 date --

2 Q. On February 11th?

3 A. On February 11th.

4 Q. That is what you wrote?

5 A. On February 11, 2001, that is what I believed.

6 Q. And let's go to the next paragraph. It says,  
7 "Staff members from CSA, Teen Help and Narvin will attest  
8 to, I support the program 100 percent." That is what you  
9 wrote?

10 A. Yes. On that date that is what I wrote.

11 Q. Take that down. I want to move to a different  
12 area then, Ms. Scheff. At some time, about the time that  
13 last e-mail was written to Nelson, you started a website on  
14 HelpYourTeens.com, correct?

15 A. Yes, that is correct.

16 Q. February of 2001, correct?

17 A. I believe it was in February or March of 2001.  
18 That is correct.

19 Q. In fact, I was kind of playing around on the  
20 computer this morning and found that there actually are  
21 archives of your old postings. And they show that PURE was  
22 -- had a website in February of 2001. That is accurate; is  
23 that right?

24 A. I just said it most likely is.

25 Q. Now, PURE was established as a for profit

1 referral agency?

2 A. No, it was established as a 501(c) under the PURE  
3 Foundation and later changed within a year to an S-Corp.

4 Q. And what was it -- what staff did you have in  
5 February of 2001?

6 A. We didn't have any salaried staff. There was --  
7 there was no payroll. We had some outside services.

8 Q. I think you answered my question. You didn't  
9 have a staff, it was just you?

10 A. Besides myself and Sandra and some women that  
11 would -- we were parents helping parents. And there were  
12 some parents that would come in and talk to parents on the  
13 phone and help us out. As far as paid staff, no, there was  
14 Sandra and myself.

15 Q. And it was initially organized as Parents  
16 Universal Referral Agency?

17 A. Yes, and we changed it to resource.

18 Q. And at the time it was organized, in February of  
19 2001, you had done no research into programs for troubled  
20 teens?

21 A. At the time I was still working with the WWASP  
22 referral teams. My heart was helping kids. I had been a  
23 parent for so long I felt when I went through this crisis I  
24 had no one to turn to. During the time [REDACTED] was in  
25 Carolina Springs, they had this pyramiding scheme that we

1 all did. I call it that now. At the time I thought it was  
2 just parents helping parents. I'm sharing with you why I  
3 created PURE. To help, it is parents helping parents.

4 Q. That wasn't my question.

5 A. It was the question.

6 Q. No. My question was, at the time you created  
7 PURE, you had not investigated any programs?

8 A. I had just -- I had just looked at the WWASP  
9 program that my daughter was in.

10 Q. And your only experience at the time you created  
11 the PURE organization was with Carolina Springs Academy?

12 A. And the WWASP schools. I had spoken with other  
13 parents that had kids in various WWASP programs.

14 Q. You hadn't visited any programs other than  
15 Carolina Springs?

16 A. That is correct.

17 Q. You had no training or experience working in any  
18 programs?

19 A. No, I have never worked in a program.

20 Q. 

21   
22 A. 

23   
24 Q.   
25 

1           A.    Yes.  We are about parents helping parents.

2           Q.    You had never worked in the juvenile justice  
3 system?

4           A.    No, sir.

5           Q.    You had no medical training?

6           A.    I worked in a hospital for several years on a  
7 referral -- doing referrals for on-call.  I was sent to  
8 Louisville, Kentucky for two months of training on how to do  
9 referrals for patients.

10          Q.    You had no medical training?

11          A.    I worked at a hospital for several years.

12          Q.    In a medical capacity?  You delivered patient  
13 care?

14          A.    No, I did not deliver patient care.  I was  
15 directly special services.

16          Q.    You had no training in delivering medical care?

17          A.    No, I am not a medical person.

18          Q.    Now, who was your staff in 2001, this volunteer  
19 staff you had for PURE?

20          A.    We had various parents coming in and out of our  
21 community that wanted to help.  Sandra was one of them.  She  
22 was really a partner at the time that set up the 401K and  
23 was writing grants through the State of Florida to help get  
24 our organization established.

25          Q.    Now, how long did it take you to get that

1 organization up and going?

2 A. We went through a lot of changes the first year,  
3 especially after I found out what truly happened to my  
4 daughter which was in the spring of that year. Things  
5 really started changing. My son went to a boarding school  
6 which I let them know what I had done. I was writing this  
7 Parents Helping Parents and they offered us a contract and  
8 said, you know, if you have any kids that are like my son,  
9 my son is a very good boy, he goes to a prep school, we  
10 would pay you ten percent. So that was helping us keep, ten  
11 percent of the tuition, that was helping us keep PURE up and  
12 going until Sandra got the grants written.

13 Q. And in March of 2001 when [REDACTED] apparently told  
14 you all of this nasty information about Carolina Springs,  
15 you continued to operate the Parents Universal Referral  
16 Efforts, correct?

17 A. I'm not exactly sure when I changed from referral  
18 to resource. [REDACTED] didn't share with me her experiences  
19 until, I believe, it was April or May, possibly June. I  
20 started getting calls from parents telling me to look at  
21 Intrepid Reporter, different various newspaper articles, and  
22 then I started speaking to local children that had been  
23 through WWASP programs.

24 Q. My question was, you remember telling us in your  
25 deposition that it was March or possibly April when you say

1 [REDACTED] told you these nasty things about Carolina Springs?

2 A. It may have been March and April. I'm  
3 remembering it more of April and May. In my deposition I  
4 don't remember exactly. I'm sure you have it in front of  
5 you, a month here a month there doesn't take away what  
6 happened to my daughter.

7 Q. Let's turn to Exhibit 18, please. Exhibit 18 is  
8 the home page for your HelpYourTeens.com website, correct?

9 A. I think so. At one time it was. We have had  
10 several. It has been refreshed.

11 Q. In fact, I found some this morning predated this  
12 one. This one looks like we printed it out on the 27th of  
13 February of 2002. You can see that down at the bottom  
14 corner. I want to draw your attention to the first  
15 paragraph where it says, "Parents Universal Resources."  
16 This was a statement that you had on your site so that you  
17 could attract people to your services, correct?

18 A. That is correct.

19 Q. And this says, "PURE is a service to assist  
20 parents of struggling or out-of-control teens. We  
21 specialize in short and long-term residential programs,  
22 along with Military Academies and Boarding Schools that  
23 accept moderate behavior issues." Was that the specialty  
24 that PURE had in February of 2002?

25 A. PURE is basically an organization that helps

1 parents. And when I wrote this, I'm a new business owner  
2 and that is what I wrote. That is what I felt in my heart  
3 we were doing.

4 Q. This was a year later. This was 2002?

5 A. Yes, continue --

6 Q. The year before that, you also had the same  
7 specialization; is that correct?

8 A. Yes, we do specialize in helping parents.

9 Q. It says you specialize in short and long-term  
10 residential programs along with Military Academies and  
11 Boarding Schools that accept moderate behavior issues?

12 A. Yes. We specialize in giving parents resources  
13 that can lead them to programs that either myself or  
14 actually not me, but parent volunteers have gone out and  
15 visited and researched where we placed our own children  
16 because of the experiences.

17 Q. Do you remember that in February of 2002, one of  
18 the programs that you referred to was Cedar Mountain Academy  
19 in Cedar City, Utah?

20 A. Yes, I did.

21 Q. You had never visited that school?

22 A. No, I had a parent volunteer visit that school.

23 Q. Excuse me. You never visited the school?

24 A. I personally did not visit that school.

25 Q. None of your staff had visited that school?

1           A.    The word "staff" there are -- everyone was a  
2 volunteer.  Parents helping parents.  I had a friend that  
3 visited that school and met with Dr. Bernie Farrow and  
4 Arlene Farrow.

5           Q.    Now, when we took your deposition, you didn't  
6 remember anybody that did that, did you?

7           A.    I don't recall what I said in my deposition, but  
8 I have thought about it.  Even one of the parents that  
9 reminded me that Gayle did go out there and did sit down  
10 with Arlene and Dr. Farrow.

11          Q.    Gayle who?

12          A.    Gayle DeGraff.

13          Q.    Well, Gayle DeGraff was the admissions director  
14 at Red Rock Canyon Schools in St. George at the time, wasn't  
15 she?

16          A.    That is correct.

17          Q.    So she is the one that did the research for Cedar  
18 Mountain Academy for PURE?

19          A.    She is the one that looked into it for us because  
20 she knew -- we had been referring to Red Rock.  And Red Rock  
21 and Cedar Mountain are two completely different schools and  
22 they were looking for a transitional school for even the  
23 kids that were coming out of Red Rock.

24          Q.    You had never been to Red Rock?

25          A.    At that date I had not.  I have been since.

1 Q. In fact -- well, let's look --

2 A. However, I do have a parent volunteer that did go  
3 to that school. I did have a parent volunteer visit Gayle  
4 DeGraff and that school, sir.

5 Q. Let's look at the next paragraph. We have -- "We  
6 offer first hand experience and only refer to  
7 programs/schools that we would send our own children to."  
8 That is what you wrote on your website?

9 A. Yes and that is true.

10 Q. It says, "Our dynamic network is small, yet  
11 proven qualified programs/schools with longevity of  
12 success." That wasn't true, was it?

13 A. I believed it to be true.

14 Q. Ms. Scheff, Red Rock Canyon School in 2001 when  
15 you started referring to them was a brand new school with no  
16 longevity of success, correct?

17 A. No, that is not correct. They were around  
18 several years.

19 Q. Cedar Mountain Academy was a brand new school  
20 just trying to fill their beds and had no proven qualified  
21 program with longevity and success?

22 A. Cedar Mountain Academy had been around a while  
23 but they had recently hired Dr. Bernie Farrow who had been  
24 working with children for many, many years.

25 Q. Did you understand Dr. Bernie Farrow had never

1 worked in a residential treatment program before he went to  
2 Cedar Mountain Academy?

3 A. I understand that Dr. Bernie Farrow worked with  
4 children. He was a psychologist for many years.

5 Q. You haven't read Ms. Tuttle's deposition in this  
6 case?

7 A. Ms. Tuttle is extremely biased and I found her to  
8 be a liar, to be blunt.

9 Q. Oh really?

10 A. Yes, sir.

11 Q. A woman with 30 years experience dealing with  
12 specialty schools you're claiming is a liar?

13 A. Yes, I am, because I had met with Ms. Tuttle at a  
14 NATSAP conference and she was all friendly with me and  
15 offered me money to refer kids to her program. And then she  
16 turns around and she is giving WWASP all sorts of bogus  
17 information including saying that she saw a child come in  
18 when she wasn't even on the campus the day the child came  
19 in.

20 Q. Excuse me, Ms. Scheff. You're saying she lied  
21 under oath. You have read her deposition?

22 A. No, I haven't. I have heard. My attorneys have  
23 advised me of what she said.

24 Q. Oh, so you're relying on your conclusion that a  
25 respected educator from this community is a liar based on

1        what you were told about a deposition?

2            A.     With the people that I have spoken with, she is  
3        not that respected.

4            Q.     Did they also tell you that Cedar Mountain  
5        Academy sued Barnie and Arlene Farrow in part for  
6        misrepresenting their credentials to Cedar Mountain?

7            MR. HENRIKSEN:   Object as to relevancy.

8            THE COURT:   I think this may be getting a little far  
9        afield to what may or may not have happened in some other  
10       lawsuit.   But let's focus on this one at least on that  
11       point.

12           Q.     (By Mr. Silvester)   As of February 2002 you  
13        hadn't visited Cedar Mountain Academy?

14           A.     I believe I already said that.

15           Q.     You hadn't looked at the credentials of Dr.  
16        Farrow?

17           A.     I don't recall if they were faxed to me or not.  
18        They may have been.   Actually they would have probably went  
19        to Donna Headricks who was doing the research at that time.

20           Q.     You had no firsthand experience with Cedar  
21        Mountain Academy?

22           A.     I had spoken with parents that had firsthand  
23        experience with Dr. Farrow and I had spoken with Gayle  
24        DeGraff who went to visit the school.

25           Q.     I thought when we looked at your affidavit

1 yesterday, that you filed in this court, you said you had no  
2 significant contact with parties in the State of Utah?

3 A. Sir, my attorneys prepared that affidavit and I  
4 read it to the best of my knowledge of how I read it. I did  
5 speak with people, maybe not -- maybe they meant prior to  
6 that date. I'm not sure. I'm not a legal mind, sir.

7 Q. Let's go to Exhibit 19, please. You recognize  
8 Exhibit 19 as the Frequently Asked Questions that you posted  
9 on your PURE website when you started, right?

10 A. Yes.

11 Q. Let's go down to this section right down here, it  
12 is the first paragraph where you are talking about who is  
13 PURE. This says, "PURE is a dedicated staff of  
14 Professionals that have spent time researching and  
15 investigating many schools and programs." That wasn't true,  
16 was it?

17 A. It is absolutely true.

18 Q. Let's go to the next paragraph. It says, "we  
19 consider PURE professionals very special and sincere. With  
20 PURE you will work with a professional who is also a  
21 parent." That wasn't true, was it?

22 A. That was absolutely true. We were all parents  
23 helping parents.

24 Q. Most of the people that worked with PURE worked  
25 with you, didn't they?

1           A.    We are parents helping parents.  It is kind of  
2           like Mad Mothers Against Drunk Driving.  We are a group of  
3           parents.

4           Q.    Excuse me.  My question is --

5           A.    Excuse me.

6           Q.    Did most of the parents who contacted PURE work  
7           with you?

8           A.    Work with me?  We all worked together as parents.

9           Q.    You were -- you were the consultant that was  
10          making referrals to programs, correct?

11          A.    I was one of many.

12          Q.    You had no license in any profession; correct?

13          A.    My business is licensed.

14          Q.    Yeah, you have a business license?

15          A.    Right.  And the better business --

16          Q.    You pay your \$35 down at the courthouse and you  
17          become a business but you had no professional license,

18          A.    Personally no, I don't have a professional  
19          license except as a professional, I believe, a parent.

20          Q.    You were a professional parent?

21          A.    Life skills.  I think many of us are.  We're not  
22          perfect.  We do our best.  That is based on life skills.

23          Q.    Let's go to the next page, please.  On number  
24          two, right here, it says we have done the research and taken  
25          the time to give you the most qualified, proven, successful

1 programs and schools. That wasn't a true statement.

2 A. It is absolutely a true statement. I want the  
3 children to be safe.

4 Q. Did you think that the Cedar Mountain Academy was  
5 the most qualified, proven, successful program?

6 A. I absolutely did at the time because of Dr.  
7 Bernie Farrow. Had I known Jody Tuttle was involved, it  
8 probably would have been questionable.

9 Q. Have you had occasion to read or look at the  
10 deposition of Arlene Farrow in this case?

11 A. No, I haven't.

12 Q. So you don't know that when Arlene and Bernie  
13 Farrow were working at Cedar Mountain Academy, that  
14 according to her the kids weren't properly fed, you didn't  
15 know that?

16 A. Do you want me to answer that?

17 Q. You didn't know that?

18 A. Yes, I did know that there was some problems as  
19 well as some kids were smoking on campus and they were  
20 trying to rectify these problems. And when Bernie and  
21 Arlene stepped in to try to make some changes, Bernie got  
22 fired by Jody Tuttle.

23 Q. Did you know while he was operating the program  
24 that children were using drugs and having sex in the  
25 dormitories?

1           A.    Yes, sir.  Bernie was trying to rectify that.

2           Q.    Well, you were referring to the program as the  
3 most qualified proven successful program, correct?

4           A.    I was referring the program until they let Dr.  
5 Farrow go.  I knew Dr. Farrow was trying to make some change  
6 and was going to make changes.  There are no perfect  
7 programs.  If you have a good staff, that wants to make  
8 changes, that is very positive.

9           Q.    There are no perfect programs, right?

10          A.    No.  There are no perfect programs.

11          Q.    And by the end of 2001, you were referring to Red  
12 Rock Academy, excuse me, Red Rock Canyon School in Utah,  
13 correct?

14          A.    That is correct.

15          Q.    You were referring to Cedar Mountain Academy?

16          A.    That is correct.

17          Q.    You had investigated those programs by talking  
18 with the admissions director of both of those schools?

19          A.    And at Red Rock I also spoke with the owner.

20          Q.    And you spoke with the owner at the school at Red  
21 Rock?

22          A.    And the doctors.

23          Q.    And you spoke with the therapist, I believe, Ken  
24 Bell, right?  Don't you remember the therapist that you  
25 talked about speaking with at Red Rock?  Ken --

1           A.    No, Dr. West.  I don't remember a Ken.

2           Q.    Excuse me, it is Wes?

3           A.    Wes Craig.

4           Q.    Did anybody ever tell you that Wes Craig was a  
5 therapist at Brightway Adolescent Hospital and worked for  
6 Ken Kay?

7           A.    Yes, we did know that.

8           Q.    So you talked to these people, you never visited  
9 the school, right?

10          A.    I had parents that had visited and I had their  
11 kids in their school and I had spoken to kids that have  
12 graduated from your school.

13          Q.    I thought you approved schools as qualified  
14 schools before you would send kids because you didn't want  
15 them to be in an unsafe environment?

16          A.    Again, I had spoken to many parents that had sent  
17 their child there before we referred to them.  I spoke to  
18 friends that I trusted that had kids there.

19          Q.    So based on the way you qualified programs, you  
20 were in court yesterday when Mr. Farnsworth was on the  
21 stand, right?

22          A.    Yes.

23          Q.    You understand that Mr. Farnsworth has 38 years  
24 of experience working with various youth programs; correct?

25          A.    And he has the same college level that I do.

1 Q. Is that correct?

2 A. Yes, sir.

3 Q. 38 years working with programs?

4 A. Yes, sir.

5 Q. And if you believed what he said on the stand  
6 yesterday --

7 A. If you believe --

8 Q. -- that they have excellent programs, that they  
9 have a licensed staff of therapists, that they have hundreds  
10 and hundreds of children who have successfully not only  
11 completed the program but gone on to college, based on your  
12 criteria for approving the programs, you would approve Cross  
13 Creek as a good program?

14 A. Absolutely not. I have -- I have interviewed  
15 many, many students out of their programs. Furthermore,  
16 when I say there is no perfect program, this is true for  
17 every program out there. Sorenson's Ranch School has been  
18 around 48 years and they have had instances but not in the  
19 volume of WWASP. At least once a day, five times a week, I  
20 get calls from students that were physically and emotionally  
21 abused, parents that were defrauded.

22 Q. You keep track of those, don't you, Ms. Scheff?

23 A. I try to keep them in my head.

24 Q. You print them out?

25 A. This is children being abused.

1 Q. You call governmental authorities --

2 THE COURT: Hang on, I don't know how we're going to  
3 do this, but why don't you ask a narrow question and  
4 Ms. Scheff you can give a narrow answer. Otherwise, I'm  
5 going to lose a court reporter here.

6 MR. SILVESTER: Let me take one second, Your Honor.  
7 Maybe I can take a deep breath. I'm sorry.

8 THE COURT: I'll tell you what, if you want to stretch  
9 for a second ladies and gentlemen, let's do that. Sometimes  
10 I know sitting for an hour and a half straight is a little  
11 hard for everybody. All right. Why don't you move on to  
12 the next subject then, Mr. Silvester.

13 MR. SILVESTER: Thank you, Your Honor.

14 Q. (By Mr. Silvester) I want to draw your attention  
15 now to paragraph three, Ms. Scheff. Why don't we do the  
16 whole thing.

17 Paragraph three, this is -- this is in your services  
18 section, or excuse me, frequently asked questions section.  
19 It says, "PURE professionals will evaluate your situation on  
20 an individual basis. From there," and then it goes on in  
21 the next paragraph to say, "we are recommending the most  
22 appropriate placement for your child." You don't have the  
23 ability to evaluate a child to determine the most  
24 appropriate placement, do you?

25 A. What I meant by that, probably evaluate may not

1 be the best word. Again, I was a beginner. What we do is  
2 we listen to the parents, what they have to say, and we give  
3 them resources and phone numbers and schools that have taken  
4 kids similar to the background that they're telling us.  
5 Like if a child is adopted, we would refer them to a school  
6 that specializes in adoption issues. We're not telling them  
7 to sign up. We never told a parent to sign up for a school,  
8 but we'll give respect, the best resources we can.

9 Q. So that was just one of those mistakes your  
10 counsel mentioned?

11 A. It is not really a mistake. It could be an -- it  
12 could be like that. I believe that you're reading into it a  
13 little bit. I didn't write it as a doctor or therapist  
14 evaluation. We would assess the situation, listen.  
15 Listening to parents is what we do best.

16 Q. And choose the most appropriate school for their  
17 child's needs?

18 A. Yes, I want to keep them safe and qualified.

19 Q. Without a psychological evaluation, with no  
20 medical training; correct?

21 A. This is correct.

22 Q. With no social training, with no psychological  
23 training you choose the best program for the children?

24 A. From the love for a child for what I believe as a  
25 parent that what I -- when I was going through this I wish

1       there was someone like PURE to be out there to help me and  
2       guide me. Not an educational consultant that could be tied  
3       politically to a program. Not a sales rep that I got burned  
4       by. Someone that can be objective. Like parents helping  
5       parents. We are parents helping parents.

6           Q. Now I would like to draw your attention to four,  
7       if we could highlight that. It says, "There is no cost for  
8       our services." That is quite misleading, don't you think?

9           A. Not at all, sir.

10          Q. You were paid for every referral that went to a  
11       school where the child was enrolled?

12          A. That is an absolutely false statement.

13          Q. Let's go to page 76, the next page. Would you  
14       highlight number seven, please.

15               This says, "We are located in Weston, Florida. This  
16       is about 10 miles west of Ft. Lauderdale. PURE is  
17       conveniently located in the Weston Town Center with  
18       Adolescent Psychologists, Psychiatrists and Attorneys."  
19       PURE did not have adolescent psychologists, psychiatrists  
20       and attorneys, did they?

21          A. We specifically moved into a building with the  
22       therapists and juvenile attorneys. Yes, they're not on  
23       staff, no, but we were in the same building with each other.  
24       It doesn't say that they were on staff.

25          Q. Let me make sure my question was clear.

1           A.    Okay.

2           Q.    PURE does not have adolescent psychologists,  
3 psychiatrists or attorneys, correct?

4           A.    We worked -- we work with them.  We don't have  
5 them on staff.

6           Q.    Turn to page 78, please.  78, Your Honor.  I  
7 would like to -- I would like to have you highlight that  
8 (indicating).  This is talking about PURE services on this  
9 page and it says -- it says at the top, "that our referral  
10 consultants find the best school programs for your teens"  
11 and then in this paragraph it says, "Researching can be time  
12 consuming and very tedious."  It goes on to say, "Let us  
13 help you with your research.  We only refer to programs and  
14 schools that we have fully approved.  This means, we have  
15 done the work for you."  So you were encouraging parents,  
16 with this information out on the internet, that they didn't  
17 need to look into the schools, all they needed to do was to  
18 accept your referrals, correct?

19          A.    No.  We always encouraged research, but we would  
20 let them know that we have researched some of them.  If they  
21 want to hear what we have.  But I always encouraged people  
22 to research schools, even the ones that we give them, as  
23 part of doing due diligence from my own experiences.

24          Q.    Now, I would like to go to this paragraph.  Again  
25 we're saying, "PURE consultants are professionals and we are

1 parents." But the last sentence says, we are not just  
2 selling programs and schools, we are giving parents  
3 qualified choices. That is what it says?

4 A. Yes, sir. That is what it says.

5 Q. That is not true?

6 A. I believe it is true.

7 Q. You were selling programs?

8 A. We are selling them as far as giving out their  
9 names.

10 Q. You were selling Red Rock Canyon School in St.  
11 George that you had never visited?

12 A. I had consultants visit it or parents, parents I  
13 should say visit it.

14 Q. And that was before February 27th of 2002, right?

15 A. I don't have the dates in front have me, sir. I  
16 don't know when.

17 Q. This is -- that is when this is posted saying you  
18 have approved schools so --

19 A. Right.

20 Q. You must have had those contacts?

21 A. As a matter have fact, I did have someone out  
22 there that actually worked there and visited there, yes,  
23 you're correct.

24 Q. And the same thing about Cedar Mountain Academy.  
25 Although you knew both of those schools had major

1 difficulties?

2 A. I did not know about major difficulties.

3 Q. You knew there had been a death in 2002 at Red  
4 Rock Canyon?

5 A. That death at Red Rock Canyon Ranch, sir? Yes,  
6 there was a death of a poor young girl that fell off -- she  
7 did not die at the school. I personally, I personally, I  
8 personally investigated it.

9 Q. How did you personally investigate it?

10 A. I spoke with the school, most importantly, and  
11 see we are parents helping parents. We talked to parents  
12 and students. I talked to students that were with this  
13 young girl Katie when she slipped and fell off the cliff.  
14 They said there was absolutely no negligence. Absolutely  
15 none.

16 Q. Students used that term?

17 A. I paraphrased it from what the kids had told me.

18 Q. And you believed the kids?

19 A. Yes. One of the kids happens to be my neighbor.  
20 So, yes, I do believe him and trust him. And then there  
21 were other ones, the other one I know his father personally,  
22 he is a criminal investigator. So yes, I do believe them  
23 and I did trust them. I go straight to the source. I don't  
24 need to look at --

25 Q. And kids in schools that you categorize such as

1 Red Rock Canyon that are kids -- schools for hard core kids,  
2 are the kind of kids that you base your investigations on?

3 A. I'm not understanding the question.

4 Q. Let's turn to page 080. You recognize this part  
5 of your website as part that was actually up and running  
6 just before your deposition was taken in 2003; correct?


7 A. Yes.

8 Q. I want to go to -- let's go to this paragraph  
9 right here (indicating). It says, "for the past several  
10 years, she has devoted her time, energy and support to  
11 helping parents find healthy and safe environments for their  
12 children." Including environments where they were smoking  
13 and taking drugs and having sex in the dormitories at Cedar  
14 Mountain; correct?

15 A. Again those --

16 Q. Correct?

17 A. They were issues that were being rectified.

18  Q. Okay. And a safe environment such as Red Rock  
19 where there had been a death?

20 A. That is not true either.

21 Q. You actually don't believe a program can ever  
22 recover from having a child die at a program, do you?

23 A. And Red Rock proved that. By May of that year  
24 after Katie had died -- first of all, Katie died at the  
25 hospital, she didn't die at the school. They went under

1       like a conditional license and I stopped referring to them  
2       in May as soon as they were under a conditional license  
3       because I knew they probably would fold up and they did that  
4       following October and many parents were left with loss of  
5       money.

6               Q.     It wasn't a safe school?

7               A.     Some things do happen but not with the  
8       consistency as WWASP.

9               Q.     Some things do happen, right?

10              A.     Uh-huh (affirmative), right. But again, not with  
11      the consistency of dislocated joints, broken bones.

12              Q.     Are you done?

13              A.     I could go on but I'll stop now.

14              Q.     I'm sure you could. Let's now go to the next  
15      line in that. It is talking about -- it says, "With a  
16      degree in business and finance" which you didn't have,  
17      correct?

18              A.     I did not write this. I did not --

19              Q.     Your webmaster made a mistake?

20              A.     No, it wasn't my webmaster either.

21              Q.     Okay. "With years of experience in the medical  
22      field" don't you think that might mislead parents who you're  
23      trying to help into thinking that you actually had a medical  
24      education?

25              A.     What had happened is I wrote out my outline on my

1 background to the woman that wrote this. And she assumed it  
2 was a degree when it was several years and she assumed years  
3 in the -- when I put down I worked at the hospital and I put  
4 referrals, she put medical field. I didn't recheck my bio.  
5 I trusted the people that wrote it. It wasn't that  
6 important to me.

7 Q. We looked at this bio in 2003 it had been on your  
8 website for two years. You hadn't looked at it in two  
9 years?

10 A. I don't read that at all, sir, not at all.

11 Q. You had no intention of misleading the consumers  
12 out there who were coming to your website into thinking that  
13 you had a degree in business and that you had experience  
14 delivering health care. You didn't intend that?

15 A. Whether I had a degree or not does not -- does  
16 not preclude me from being able to help parents. As a  
17 matter of fact, I don't know too many people that even read  
18 the bio. It was a mistake that was there and we rectified  
19 it as soon as it was noticed.

20 Q. You didn't put it on the site to give people  
21 accurate information about you?

22 A. I didn't write the bio.

23 Q. Let's turn to page 82. Now this is another  
24 portion of your website. You actually do newsletters;  
25 correct?

1           A.    Yes, we do.

2           Q.    And as I was looking over your website this  
3 morning, the archives for your website, the first newsletter  
4 was sometime in about July of 2001. Do you recall that?

5           A.    I don't remember the date, but it could be.

6           Q.    Okay. This one happens to be February of 2002.  
7 Now, this is the same period of time that we looked at the  
8 home page, correct?

9           A.    If you say so. I'm not looking at the date  
10 closely, but I know it is my website.

11          Q.    Let's go to this paragraph near the bottom  
12 (indicating). This talks about how PURE is all about the  
13 heart, right? That is what this newsletter is about?

14          A.    Yes, sir.

15          Q.    And down here it says, "When a parent can call  
16 and express their pain and sorrow, along with their concerns  
17 and not have to worry about "what do we want" or "how much  
18 is this costing me" it places them at ease. With that, PURE  
19 has successfully and honorably placed many children into  
20 healthy and safe environments." Well you knew you had also  
21 placed children in unsafe and unhealthy environments.

22          A.    As far as WWASP, absolutely. But when I -- the  
23 PURE -- when I wrote this, I wasn't referring to WWASP any  
24 longer.

25          Q.    Well, this is a 2003 posting and by that time you

1           were also referring to Sorenson Ranch, correct?

2           A.     And Sorenson is an extremely reputable school.

3           Q.     There had been a 13-year old raped there that you  
4           had investigated, correct?

5           A.     It was investigated and I reviewed the incident  
6           and it is not as you are stating it to be.

7           Q.     No big deal, huh?

8           A.     Oh, any time that there is a sexual attack, it is  
9           a big deal. But we're talking about a school that has been  
10          around for 48 years. If they had one, two, even five  
11          incidences in 48 years, that is not too bad. It is sort  
12          have like being a parent and having three or four mistakes  
13          that you made. I wish I only made three or four mistakes.  
14          But with World Wide, you get consistency. Kids from  
15          different states, different times in the different programs  
16          with the same ugly stories. Consistency.

17          Q.     You have never seen a positive story about World  
18          Wide?

19          A.     I believe there are some positive stories, but  
20          does that condone a broken elbow? Does that condone kids  
21          being handcuffed.

22          Q.     No. My question is you have never seen a  
23          positive story?

24          A.     I have seen some positive stories, yes.

25          Q.     You don't believe that?

1           A.    I didn't say whether I believed them or not.  I  
2 really hope they helped some people.

3           Q.    My question is, you do not believe any of the  
4 positive stories?

5           A.    I'm not sure how I -- whether I believe them or  
6 not.  I certainly hope there are some positive stories.

7           Q.    Well, you saw your counsel show the 48 Hours  
8 segment yesterday to everybody here, right?

9           A.    Yes.

10          Q.    Did you in fact believe the stories that were in  
11 the 48 Hour segment?

12          A.    Yes, I did believe them.

13          Q.    Did you also believe the last story in the 48  
14 Hour segment where a child said he had been at Paradise Cove  
15 for 18 months and it changed his life and he was successful  
16 in life?

17          A.    I don't even recall seeing that.

18          Q.    I'm sure you don't.  You didn't believe it, did  
19 you?

20          A.    I'm not sure that it was there.

21          Q.    Okay.  Now, I want you to look at the bottom part  
22 of this.  Do you see the last line?  It says, "We honor  
23 confidentiality as a sacred unspoken attribute."  You wrote  
24 that in that newsletter?

25          A.    I believe I did write that newsletter, yes.

1 Q. It is not true?

2 A. No, it is true.

3 Q. You do not value children's confidentiality, do  
4 you?

5 A. Yes, I do.

6 Q. And, in fact, you were willing to post names of  
7 children who were in programs who might have had difficulty  
8 in programs, names of parents without any authority from  
9 them in order to promote your agenda World Wide is bad and  
10 PURE is good; right?

11 A. That is absolutely false. He is talking about  
12 one instance that I gave to a very private friend.

13 Q. Turn to page 83, please. Now, I want to look at  
14 the first paragraph. Would you expand that for us? This  
15 says in this newsletter February of '02 which we were  
16 actually able to download in February of '03. It says, "Our  
17 staff is unique," do you see that?

18 A. Yes.

19 Q. "In the fact that they have all been in their  
20 shoes at one time. Along with our Mental Health  
21 Professionals and Juvenile Criminal Attorney, we find that  
22 parents are truly comforted by other parents that have been  
23 there." You did not have -- PURE did not have Mental Health  
24 Professionals and a Juvenile Criminal Attorney, whatever  
25 that is?

1           A.    We worked with them very closely.  If we did have  
2           them as our, they probably would have been on the bio page.  
3           But we worked with all of them.  They were our friends and  
4           our colleagues.

5           Q.    Turn to Exhibit 20, please.  I think you recall a  
6           few minutes ago mentioning that we had to get your computers  
7           in order to find information that we had asked for in  
8           discovery.  You recall that?

9           A.    Yes, sir, and I handed over my computer.

10          Q.    Exhibit 20, if you will look at that, we can look  
11          at the top and it shows at the top Rhonda@helpyourteens.com.  
12          It shows that later on Rhonda@helpyourteens.com.  That was  
13          Rhonda Nemechek who was working with you in December of 2001  
14          for PURE, correct?

15          A.    She was a parent helping parents.  Her daughter  
16          was abused at Tranquility Bay.

17          Q.    You keep doing that.  You have no evidence that  
18          Rhonda Nemechek's daughter was abused at Tranquility Bay,  
19          correct?

20          A.    I met with her daughter.


21          Q.    That is not my question.  Do you know of any  
22          police reports, any prosecutions, any determinations by an  
23          official government agency?

24          A.    Child abuse is very difficult to prove, but it  
25          doesn't mean it didn't exist.

1           Q.    I assume that was a no.  You don't know of any  
2 adjudication, any investigation by a governmental entity,  
3 you don't know anything about what happened at Tranquility  
4 Bay other than what a child told you?

5           A.    Other than what a child has told me and the news  
6 reports have stated.

7           Q.    Let me ask you about this Rhonda Nemechek thing.  
8 Have you ever seen the document that she filled out about  
9 whether or not her daughter was truthful?

10          A.  I wouldn't see a confidential document like that.

11          Q.    Right.  But you filled one out for your daughter  
12 saying, you know, kids get in this much trouble, they  
13 probably stretch the truth?

14          A.    We all had problems with our teens and we called  
15 out for help with these people.

16          Q.    Let's go back to this exhibit.  Rhonda Nemechek  
17 was working out of your office, you got her the web -- the  
18 E-Mail address of Rhonda@helpyourteens.com?

19          A.    That is correct.

20          Q.    Now I would like to go to -- it is really hard to  
21 follow this stuff because of the way it comes off your  
22 computer.  But I want to go to this paragraph right here  
23 (indicating).  This paragraph in response to parents  
24 inquiries says, "A qualified educational consultant will  
25 evaluate your needs and e-mail you information swiftly.  Our

1 consultants are also parents of "once" troubled teens. With  
2 this we not only offer professionalism, we also have first  
3 hand experience." You had no qualified educational  
4 consultants working for PURE in December of 2001; isn't that  
5 correct?

6 A. We offered professionalism in the way we helped  
7 parents.

8 Q. You understand that there is an organization that  
9 certifies educational consultants, correct?


10 A. Once I understood that there is an IECA which is  
11 an independent educational organization, a self-made  
12 organization, you have to pay to be in it, schools donate to  
13 them, it is extremely political, I removed that as soon as I  
14 understood that that is what an educational consultant was.

15 Q. You didn't remove it from the e-mail that went to  
16 this parent, did you?

17 A. It was about a year -- this is a whole -- this  
18 was a whole learning experience for me. What year is that,  
19 sir?

20 Q. I thought you were a professional? Why were you  
21 having to learn what an educational consultant was? You  
22 already knew in December of 2001 because you were posting on  
23 the Woodbury Reports and you had looked at the bio of Lon  
24 Woodbury and you knew that somebody with a master's degree  
25 in education was an educational consultant?

1           A.    Sir, I was not familiar at that point with how  
2           deeply rooted the EC's were. I didn't understand it. It  
3           took time and working in this field to understand what they  
4           were all about. And it was extremely political and not in  
5           the best interest of a child. It was a learning experience  
6           and I believe that I am -- I feel I am a professional in  
7           what I do in helping parents.

8           Q.  Let's go to Exhibit 21, which is on page 85. Do  
9           you remember sending e-mails to a group that called  
10          themselves the Trekkers, correct?

11          A.    The Trekkers was a private ListServ.

12          Q.    Right. And you remember sending e-mails?

13          A.    Yes, sir.

14          Q.    And Exhibit 21 is an e-mail you sent to that  
15          group on October 12th of 2002; correct?

16          A.    That is correct, sir.

17          Q.    I want to read you something out of that e-mail.  
18          In the first, excuse me, in the second paragraph. It says,  
19          "I have been in this industry, going on four years now, and  
20          placed over 100 children successfully, as well as visited  
21          over 15 schools. That is what qualifies me as a CEP.  
22          Certified Educational Planner." You hadn't been in the  
23          industry four years in October 2002, had you?

24          A.    I had been working, yes. I had been working with  
25          kids and my children. Yes, I had.

1 Q. I thought PURE was established in February of  
2 2001?

3 A. Right. But prior to that I was working with  
4 WWASP in the referrals.

5 Q. I thought [REDACTED] went into Carolina Springs in  
6 August of 2000?

7 A. Yes, sir.

8 Q. But you just exaggerated a little, right?

9 A. I'm not sure if I exaggerated a little or if that  
10 is what I felt at the time. Maybe that is a little bit of  
11 an exaggeration. It is not a huge issue.

12 Q. Then it goes on to say, "Steve Bozak, an IECA  
13 member, actually told me personally, I am a more qualified  
14 CEP than many of the IECA members!" That wasn't a true  
15 statement, was it?

16 A. It was a true statement. Steve had led me to  
17 believe that I could be a CEP and this is when I was  
18 starting to really find out what the educational consultants  
19 were all about. We were like a threat to them. Parents  
20 were calling us to help them rather than hiring them. He  
21 told me Sue, even put CEP on your name and put it on your  
22 business cards. And what happened is I did put it up for  
23 one week it was on my website, I'm surprised you didn't  
24 catch it, sir, and I talked to Don Williams who is the  
25 president of the CEP's and I was not qualified to be a CEP

1 and I had it all removed immediately.

2 Q. Let's go to Exhibit 22, please. This is your  
3 March 2003 newsletter, Ms. Scheff. And I want to draw your  
4 attention to this paragraph (indicating). It talks about  
5 being a member of the Better Business Bureau and reputations  
6 to uphold. It says, "PURE cannot accept some schools and  
7 programs that are incident related." Now your use of the  
8 term "incident related" means that they had some serious  
9 injury in the program; isn't it?

10 A. Again, it depends on the injury, on the incident.  
11 If it was something that was of abuse and neglect of the  
12 program's fault, right, that would be an incident related  
13 program. If it was they were in fault of negligence.

14 Q. Such as allowing one of your family members to  
15 work with kids when he is a convicted felon. That might be  
16 incident related?

17 A. That is not -- I don't know of one school that  
18 has that, sir.

19 Q. How about Sorenson Ranch?

20 A. Shane Sorenson does not work with the children.

21 Q. But he did?

22 A. At all.

23 Q. He did at the time you were referring?

24 A. No, he did not, sir.

25 Q. Haven't you read the Utah Supreme Court case on

1       licensing that says the licensing authority in the State of  
2       Utah is allowed to keep Shane Sorenson away from the kids?

3               THE COURT:   Hang on a second.

4               MR. HENRIKSEN:  I would object to him trying to call  
5       the Utah Supreme Court decision that is not relevant at this  
6       time.

7               THE COURT:  I'm going to overrule that.  He is asking  
8       her whether she read that.  That might go to what she is  
9       putting on the website here.  Go ahead, Ms. Scheff.

10              THE WITNESS:  You're speaking of Shawn Sorenson not  
11       Shane Sorenson.

12              Q.     (By Mr. Silvester) Shawn Sorenson.  Have you read  
13       that Supreme Court --

14              A.     No, I have not read the Supreme but I have spoken  
15       to both Shane Sorenson and Burnell Sorenson and I know about  
16       the complete incident.  And again, it is a school of  
17       48 years.

18              Q.     Goes on to say, talking about incident related  
19       programs, "misrepresent themselves, and promote deception."  
20       Do you think that Cedar Mountain Academy at the time Mr. and  
21       Mrs. Farrow were at the academy were misrepresenting  
22       themselves?

23              A.     Not at all.

24              Q.     Okay.  Goes on to say, "Amazingly, many of these  
25       schools and programs have offered PURE an outrageous amount

1 of money to refer to them. However with PURE's high  
2 standards, we put a child in front of financial gain." That  
3 wasn't true, was it?

4 A. No, that was absolutely true. We were offered  
5 some very high amounts of money including from your client  
6 if we would refer to them.

7 Q. Ms. Scheff, in August of 2001, Teen Help, not  
8 World Wide but Teen Help stopped paying you referral fees  
9 because of the subterfuge you had going with Diane  
10 Lucchetti; isn't that correct?

11 A. That is a completely false statement. That is a  
12 misstatement that --

13 Q. You never --

14 A. -- you are trying to use that as a defense. I  
15 stopped --

16 Q. You never corrected?

17 A. -- I stopped referring to them.

18 Q. You never collected a fee after July of 2001?

19 A. I will explain why the fees came in.

20 Q. That wasn't my question.

21 A. Well, I think you --

22 Q. You never collected a fee after July of 2001?

23 A. Past due fees that they had owed us from when we  
24 were referring to them.

25 Q. You were never offered exorbitant fees by Teen

1 Help or any of the marketing organizations for World Wide,  
2 correct?

3 A. Narvin Lichfield was offering to pay me what Lynn  
4 Crestfield gets down in Miami. Down in Miami, Lynn  
5 Crestfield is the leading recruiter for WWASP and no.

6 Q. Excuse me. You were not offered by Teen Help or  
7 any other marketing group through World Wide Programs to pay  
8 an exorbitant amount of money after you started PURE, were  
9 you?

10 A. Narvin Lichfield had offered me that money, yes.

11 Q. After you started PURE?

12 A. After I started PURE.

13 Q. After you started saying that the program that he  
14 owned abused your child?


15 A. It was in the spring of that year and that is  
16 when I was first starting to find out. And that is why I  
17 could not give him a yes or no because things were going on  
18 that I was finding out including watching 48 Hours, Dateline  
19 and Prime Time.

20 Q. And not believing any of the kids that said they  
21 had good experiences in World Wide programs?

22 A. I didn't say I didn't believe the kids that had  
23 good experiences, but I think the bad experiences were so  
24 outrageous that I wouldn't risk trying to have a good  
25 experience.

1 Q. You're a firm believer that what you read in the  
2 newspapers and what you see on TV you should firmly believe?

3 A. I didn't say that.

4 Q. Okay. Let's turn to page 88, please. I would  
5 like you to bring up the bottom paragraph. Now this is your  
6 newsletter where you're talking about  escort services that  
7 work with PURE, correct?

8 A. That is correct.

9 Q. And an escort service sometimes when these out of  
10 control children go to specialty schools their parents don't  
11 want to take them, correct?

12 A. That is correct.

13 Q. And, in fact, there are organizations out there  
14 that will provide transportation?

15 A. That is correct.

16 Q. These are the guys that show up in the middle of  
17 the night and take people to schools, right?

18 A. I am not going to define them as big guys, but  
19 they're people.

20 Q. Okay. And here you're talking about escort  
21 services that you deal with at PURE, correct?

22 A. That we worked with, yes, sir.

23 Q. And at the bottom it says, "All PURE approved  
24 transporters have a high level of education with degrees in  
25 mental health and psychology." That was an untrue

1 statement?

2 A. No, that was a true statement, sir.

3 Q. Let's go to the next page, please. And this  
4 paragraph right here (indicating) indicates that one of your  
5 approved transporters was Lorraine Colpitts from Safe and  
6 Sound Transportation in Maine, right?

7 A. That is correct. Well, that is her company.

8 Q. Go to Exhibit 23, please. And in fact Safe and  
9 Sound Transport does have a bio that it provided to you of  
10 its employees, correct?

11 A. Yes, Lorraine is the owner of Safe and Sound.

12 Q. I just asked you if it happened, okay?

13 A. Yes, sir.

14 Q. Now, I would like to go down to the paragraph  
15 that says from the late 80's, that is the paragraph talking  
16 about this Ms. Colpitts; isn't it?

17 A. Yes.

18 Q. It says, "Although Lorraine did not obtain a  
19 formal degree in mental health, she has taken many relevant  
20 courses" and it goes on to say, "she has several years  
21 experience as a school bus driver." That is what it says?

22 A. That is working with children. That is correct,  
23 sir. But Lorraine didn't transport.

24 Q. That is fine. You answered my question. Let's  
25 go to Exhibit 24. Exhibit 24 is another one of those

1 documents that we pulled off your computer, Ms. Scheff. And  
2 if you'll see up in the top it is actually from Marie to Sue  
3 at Helpyourteens.com. That was your e-mail; correct?

4 A. That was my e-mail.

5 Q. And it was Marie Peart's procedure when she was  
6 replying to parents to send you a copy of the reply to  
7 parents inquiries that came to PURE; correct?

8 A. No, she didn't do that always, no. That wasn't  
9 -- sometimes she did.

10 Q. This is dated June 26th of 2003 and you were  
11 using Marie Peart who lived in Utah as one of the sales  
12 agents for PURE, correct?

13 A. She is one of the consultants.

14 Q. And you were in fact sending her leads that came  
15 off your website, she would follow up with them and try to  
16 get children placed in programs?

17 A. She would help the parents, yes.

18 Q. And if the child was placed in the program, the  
19 program would pay half of the referral fee to you and half  
20 of the referral fee to her, correct?

21 A. Sometimes that would happen and sometimes Marie  
22 would get the complete fee.

23 Q. And you were allowing her to call herself Pure's  
24 admission director?

25 A. Yes, sir, that is correct.

1 Q. She didn't work for you though? She wasn't an  
2 employee of PURE.

3 A. She is an independent contractor.

4 Q. What does that mean?

5 A. That means that she is not on my payroll.

6 Q. What was the contract?

7 A. It was a verbal contract that she -- I would send  
8 her leads. I would get the leads off of the advertising on  
9 the internet and she would be the one working with some of  
10 the parents and I would be working with some of the parents.  
11 And depending on which ones she placed, is where she would  
12 be paid by the program.

13 Q. Verbal?

14 A. It was a verbal. We did write something out last  
15 year saying that it was just a verbal agreement.

16 Q. It was a verbal contract very much like the  
17 verbal contract that you had with Arlene Farrow at Cedar  
18 Mountain Academy?

19 A. As far as referrals I would say, yes.

20 Q. Okay. It was very much like the verbal contract  
21 that you had with Sorenson Ranch?

22 A. You're using the word contract, but it was more  
23 of an agreement. I didn't have any formal contracts.

24 Q. You had a verbal contract?

25 A. Verbal contract agreement. There was nothing

1 legal in this.

2 Q. Let's go to the next page. Page 93.

3 THE COURT: Would this be a convenient spot to --

4 MR. SILVESTER: It would be, Your Honor.

5 THE COURT: Let's take our break, ladies and  
6 gentlemen. Why don't we take our first morning break at  
7 this time and remember not to discuss the case amongst  
8 yourselves while you're back enjoying your bagels. Let's  
9 take a short break at this time.

10 THE CLERK: All rise for the jury, please.

11 (Whereupon, the jury left the courtroom.)

12 THE COURT: Everyone may be seated. And I have got a  
13 question. When do we want to do these challenges to the  
14 depositions? Sooner better than later so that you can start  
15 editing and so forth. Is that --

16 MR. SIEBERS: Your Honor, let me have a moment to  
17 consult with Mr. Silvester.

18 THE COURT: All right. And I have had a chance to  
19 read through some of these. There are a number of relevancy  
20 objections. Those don't seem to me to be well-founded.  
21 There are a few objections here and there that may need some  
22 attention. But maybe you can consult and consult with the  
23 other side and see if some of those things could be  
24 resolved. Let's take a short break at this time.

25 (Recess.)

1 THE COURT: All right. Is there anything we can do on  
2 these?

3 MR. SIEBERS: Yes, Your Honor. We can address those  
4 objections.

5 THE COURT: All right. Which one am I -- this is  
6 Farrow. Is that the one we want to look at?

7 MR. SILVESTER: I don't think we have a problem with  
8 those.

9 MR. FLATER: Yes, Your Honor, we can look at those.

10 THE COURT: The objection about whether he was dirty.  
11 Objection foundation from Mr. Siebers.

12 MR. SIEBERS: Your Honor, everyone was under pressure  
13 to get the deposition done including the court reporter.

14 THE COURT: It seems to me that in that event the  
15 foundational objection would be valid because as I'm reading  
16 this --

17 MR. FLATER: Let me short circuit that. We agreed to  
18 just take that out of there. We have no problem taking that  
19 out.

20 THE COURT: Excellent. This document -- let's see, I  
21 didn't get it. Is that the objection, that it has never  
22 been presented to the defendants?

23 MR. FLATER: Yes, Your Honor. The document -- they  
24 attempted -- the document they introduced at the deposition  
25 has never been identified as an exhibit, never produced in

1 discovery and the --

2 THE COURT: I understand the objection. What is the  
3 response to that?

4 MR. SIEBERS: That is true. Your Honor, I told you we  
5 would get these -- try to get these documents. They were  
6 rebuttal documents for Mr. Bernie Farrow's testimony as he  
7 was designated as a witness. When he came up with a medical  
8 emergency, we scrambled and got the documents. They were  
9 presented as soon as we had them.

10 THE COURT: I'm going to overrule the objection. I  
11 think it is not that big of a deal one way or the other so  
12 it sounds like --

13 MR. FLATER: Your Honor, if you do in fact overrule  
14 that, I guess I would have to -- I would have to ask the  
15 Court's permission to also provide some documents in  
16 rebuttal to what they're attempting to do with his -- with  
17 his diploma and the related testimony.

18 THE COURT: Fair enough. If you have some rebuttal  
19 documents that are appropriate, we can take that up. So  
20 what about the other one? Now this is Tuttle; is that  
21 right?

22 MR. SIEBERS: Yes, Your Honor.

23 THE COURT: All right. I have got -- I am on page  
24 six. There is a relevancy objection. Let's make sure we're  
25 all on the same script here.

1 MR. FLATER: Yes, Your Honor.

2 THE COURT: I'm going to overrule the relevancy  
3 objection on page six. Page ten has a hearsay objection.  
4 Sorry, I think it is page ten.

5 MR. FLATER: That is what it looks like to me, Your  
6 Honor. There is a hearsay objection on page ten.

7 THE COURT: All right. What about that?

8 MR. SIEBERS: Your Honor, I agree it is hearsay. I  
9 think we're going to establish this with Ms. Scheff in a few  
10 moments here. I don't think it is going to be an issue and  
11 I thought if that was the only objection we left standing  
12 that wasn't worth editing the copy. But that is where we  
13 stand. It is hearsay, but I don't see any problem with  
14 leaving it in.

15 THE COURT: It is hard for me to read. I think I have  
16 only got an edited part of the transcript here. Is it -- it  
17 is just asking Ms. Tuttle if she knew who had posted the  
18 Mark D.W. post? I have got another one so he told me they  
19 were outdoors a lot and the food was not something or other.

20 MR. SIEBERS: That is on page 11, Your Honor.

21 THE COURT: Sorry, okay. Maybe I'm not -- I see these  
22 go across. I'm on page ten. I'm going to overrule the  
23 objection on page ten. I think that is going to be  
24 undisputed. Page 11 hearsay, that is something about some  
25 food or something.

1 MR. SIEBERS: Your Honor, the only truth being  
2 asserted is Ms. Tuttle actually spoke with Josh Jennings.  
3 Josh Jennings doesn't go to the hearsay factor of the  
4 objection.

5 MR. FLATER: That is exactly what we're objecting to  
6 is what he told her. They have established on the bottom of  
7 the page that she did speak with Josh Jennings. If that is  
8 all they're trying to establish then they have got that  
9 there. They have no -- they have no need to interject  
10 hearsay of what he told her at that time.

11 THE COURT: How hard is it to edit these things?

12 MR. SIEBERS: I have spoken with Mark and Associates.  
13 They don't have any ability to do it quickly. We could try  
14 to go and take it to her and get it done.

15 MR. HENRIKSEN: It is very easy. My secretary does it  
16 on her home computer.

17 MR. SIEBERS: We're not at home.

18 MR. HENRIKSEN: We gave this to them on Saturday.  
19 They're easy to do, Your Honor. We are not going to even  
20 get to it today.

21 THE COURT: All right. All right. Well, I think out  
22 of abundance of caution I'm going to strike that as hearsay.  
23 And take that out. Over on page 13, I'm going to overrule  
24 it. It is not proper 404 objection so I'm going to overrule  
25 the objection on page 13. Page 16 on relevancy I'm going to

1       overrule the objection, find it is relevant. Page 17  
2       something to do with some exhibit that has not been  
3       presented. Is that the same exhibit we were talking about a  
4       moment ago?

5             MR. SIEBERS: It is a resume, Your Honor.

6             MR. FLATER: It is a different exhibit, Your Honor,  
7       yes.

8             THE COURT: All right.

9             MR. FLATER: It is also one that we have never -- we  
10       have never had previous and it has never been previously  
11       identified as an exhibit.

12            THE COURT: All right. Is this Ms. Tuttle's resume?

13            MR. SIEBERS: No, it is a resume of Mr. Bernie Farrow  
14       where he represents himself as a psychologist at Cedar  
15       Mountain.

16            MR. FLATER: And Mr. Farrow is not a witness in this  
17       case. He is not anybody that is being called by either side  
18       as a witness, Your Honor.

19            MR. SIEBERS: But Ms. Scheff has expressly relied on  
20       his credential's ability to fairly --

21            THE COURT: I'm going to sustain the objection and if  
22       there is some something Ms. Scheff has relied on you can  
23       explore that through testimony with her.

24            MR. SIEBERS: We did this morning where she said she  
25       had reviewed the credentials of Bernie Farrow calling him a

1 doctor and relying on him as now a psychologist to pass  
2 along information to parents. That was the foundation for  
3 the Mark D.W. story.

4 THE COURT: Well, I mean that is where it is relevant.  
5 You can explore that with her. I don't think Ms. Tuttle can  
6 shed much light on that situation one way or the other. It  
7 looks like there is something on page 18. Let's see, this  
8 is a relevancy objection. I'm going to overrule that. And  
9 page 20, there is a relevancy objection. I'm going to  
10 overrule that. So sorry that --

11 MR. FLATER: Let me -- let me clarify here on page --  
12 on page 17 over onto page 18 the entire portion dealt with  
13 the relevancy argument. Are you talking about the bottom of  
14 page 18?

15 THE COURT: Yeah, yes. I guess actually the -- all  
16 right. I'm going to -- the objection to the exhibit back on  
17 page 17 so I think what I'm going to do is just strike it.  
18 I'm going to strike through page 17 where it says and does  
19 it say from where Columbia Pacific University and then I'm  
20 going to allow the plaintiffs to use that after did you ever  
21 come to learn whether or not he had a PhD in psychology so  
22 on and so forth because there the objection is relevancy and  
23 I'm going to overrule that finding that it is relevant. But  
24 with respect to that document, all right, let's try that.  
25 This may not be a perfect solution but hopefully reasonable.

1 All right. So that takes care of those depositions  
2 and let's see if we can get the jury in and take some more  
3 testimony.

4 MR. SIEBERS: We did want to bring up one -- could we  
5 put Mr. Richey on? The defendants have no objection and he  
6 is sitting out in the hall. We want to get him on his way.

7 THE COURT: I appreciate the cooperation of defense on  
8 that. I'll be glad, if you have got some more witnesses,  
9 we'll be glad to try to work things out.

10 MR. HENRIKSEN: We will too.

11 MR. FLATER: Thank you, Your Honor.

12 THE COURT: All right. Oh, yes and then we're going  
13 to have Ms. Scheff again some more. Let's see if we can  
14 avoid talking over each other, why don't you.

15 MR. SILVESTER: I'm sorry, Your Honor.

16 THE COURT: You make sure that you ask simple  
17 questions and Ms. Scheff, you need -- I know you have got a  
18 lot to say and you are going to have your time here to do  
19 that, but I'm trying not to weigh in while the jury is here,  
20 we're doing this outside of the presence of the jury.

21 MR. HENRIKSEN: The only time I'm trying to object is  
22 when he does ask her a broad question I think she needs to  
23 finish the answer. That is the only time I have been trying  
24 to object when he asks her something broad, something narrow  
25 I agree I have told her you have got to just answer it.

1 Does this document say something? Does it say this? Did I  
2 properly read it? Just say yes. That is all you can do.  
3 Does it say that just say yes.

4 THE COURT: I mean my assessment is that more of the  
5 problem is coming from you, Ms. Scheff. You need to -- some  
6 of the problem is coming from over there. More of it is.  
7 Let's both see --

8 MR. SILVESTER: I do apologize to the court reporter,  
9 too. I think I have this chess clock going in my head,  
10 Judge.

11 THE COURT: That is good. It is having a valued  
12 effect. All right. Let's get our jury in here and we'll go  
13 from there. It's the attorneys who don't have a chess clock  
14 in their head that I'm worried about.

15 MR. SILVESTER: Never had one before.

16 THE COURT: Is this unusual?

17 MR. HENRIKSEN: Yes.

18 MR. SILVESTER: Yes.

19 THE COURT: Not around the country. I'm told that 25  
20 percent of the federal judges around the country do this.  
21 And I think that the trend is increasing. So it is not --

22 MR. SILVESTER: I must be limited to the intermountain  
23 west in Montana, Idaho, Colorado and Utah where they don't  
24 do it.

25 THE COURT: It is big, for example, in Pennsylvania

1 and I don't know, maybe it is more --

2 THE CLERK: All rise for the jury, please.

3 (Whereupon, the jury returned to the courtroom.)

4 THE COURT: All right. Ladies and gentlemen, I just  
5 wanted to tell you what we're going to do now. We're going  
6 to take a witness out of order here. Obviously you can see  
7 we have got people some in the courtroom and most of them  
8 are waiting outside of the courtroom that are here to  
9 testify at different times. And plaintiffs have someone who  
10 if we can take a little bit of time to get his testimony in  
11 now he can return to his home. And defendants have  
12 graciously agreed to allow that to happen then.

13 So we're going to interrupt Ms. Scheff's testimony for  
14 a minute here to take some other testimony. So go ahead,  
15 Mr. Siebers.

16 THE CLERK: If you'll come forward up here, sir, by  
17 the witness stand, I'll swear you in up here. It is a  
18 maneuver.

19 THE COURT: Small courtroom here.

20 THE CLERK: Raise your right hand, please.

21 **KEVIN RICHEY,**

22 Having been first duly sworn,

23 was examined and testified as follows:

24 THE CLERK: Have a seat right there, sir. If you  
25 would state your name and spell it for the record please and

1 please speak into the microphone.

2 THE WITNESS: Kevin Richey, K-E-V-I-N R-I-C-H-E-Y.

3 THE CLERK: Thank you.

4 **DIRECT EXAMINATION**

5 BY MR. SIEBERS:

6 Q. Mr. Richey, did you formally work for Teen Help?

7 A. Yes.

8 Q. For how long?

9 A. About seven years.

10 Q. And what did you do for Teen Help?

11 A. I worked in the admissions department.

12 Q. What did you do there?

13 A. I spoke with parents that were interested in  
14 placing their children in the various programs.

15 Q. Did you ever refer parents to programs that Teen  
16 Help represented?

17 A. Yes.

18 Q. And as a Teen Help representative, did it matter  
19 to you what kind of programs you were referring parents to?

20 A. Yes.

21 Q. Why is that?

22 A. I felt it was important to represent programs  
23 that were not going to be harmful to kids.

24 Q. Did you feel that schools that you were referring  
25 to were not harmful to kids?

1           A.    I did not feel that they were harmful.

2           Q.    Now at one time did you stop referring to a  
3 member school Tranquility Bay?

4           A.    Yes.

5           Q.    Why is that?

6           A.    It was recently after the girl died there, I  
7 don't know if it was a suicide or how they decided to rule  
8 on it, but at that point I was concerned about what was  
9 going on down there. And so at that point I stopped  
10 referring kids there.

11          Q.    So if you had a concern about a school, you would  
12 stop referring?

13          A.    Basically, yes.

14          Q.    Did you ever believe that the World Wide member  
15 schools posed a risk to children?

16          A.    No.

17          Q.    Did you ever hear complaints from parents who had  
18 their children in World Wide member schools?

19          A.    From time to time.

20          Q.    What was the source of those complaints?

21          A.    The source? The parents themselves or possibly  
22 somebody who had taken their children out of the program or  
23 various places they would come from.

24          Q.    What would you do when you would hear those  
25 complaints?

1           A.    Whenever I heard there was a problem or a concern  
2 with the program, I would try to contact the program  
3 director directly and get his take on what had happened.

4           Q.    And were you able to resolve those concerns?

5           A.    To make myself feel good, yes, I felt like I was  
6 still representing programs that were not harmful to the  
7 kids from the input that I got from the directors.

8           Q.    How did you first become familiar with  
9 Ms. Scheff?

10          A.    She was a referring parent to the programs and  
11 worked with an associate Randall Hinton. And Randall left  
12 to go work at one of the programs, and at that point I  
13 started to try to help Sue Scheff.

14          Q.    Tried to help Sue Scheff do what?

15          A.    Well, she would have a lot of referring parents  
16 that were coming into the program. And I tried to do my  
17 best to help her to get paid on the referrals. Basically  
18 would be the help that I was offering her.

19          Q.    Do you recall an arrangement between Ms. Scheff  
20 and Diane Lucchetti?

21          A.    Yes.

22          Q.    What was that arrangement?

23          A.    I believe, and I'm not totally clear on this, but  
24 I believe the way it was set up was that Sue and Diane were  
25 working together and at some point I believe they were

1 sharing referrals, to some degree. I think that is how it  
2 was.

3 Q. Did Ms. Scheff ask for your assistance in getting  
4 paid for those referrals?

5 A. I believe she did, uh-huh.

6 Q. How long did Ms. Scheff continue to send  
7 referrals through Teen Help to World Wide member schools?

8 A. I think until about August of the year I left and  
9 that is '99. I can't remember very well. It was -- I left  
10 in December. I can't remember, but it was -- I left in  
11 December and I think up until about August of the year that  
12 I left.

13 Q. Prior to the time that you left Teen Help, do you  
14 recall Ms. Scheff explaining to you about her daughter's  
15 treatment at Carolina Springs?

16 A. I don't remember that.

17 Q. Prior to that time, do you recall Ms. Scheff  
18 complaining of any complaints of World Wide schools?

19 A. I don't remember any.

20 Q. Mr. Richey, I'll show you what has been marked as  
21 Exhibit 53. Do you recognize that as an e-mail you wrote to  
22 Ken Kay?

23 A. Yes.

24 Q. Does that refresh your recollection as to what  
25 year you left Teen Help?

A. Yeah. Not even close was I. Yes, 2001, would be the year that I left, sorry.

Q. So you left in December of 2001?

A. Yes.

Q. And prior to that time, Ms. Scheff had not complained to you about World Wide schools?

A. Not that I remember.

Q. As you recall, she was still referring parents up through August of 2001?

A. I believe so.

MR. SIEBERS: Thank you, Mr. Richey.

THE COURT: All right. Thank you, Mr. Siebers.

Questions from the defendant then, Mr. Flater?

**CROSS EXAMINATION**

BY MR. FLATER:

Q. Good morning, Mr. Richey.

A. Good morning.

Q. I just have a couple of questions as follow-up on some of the things that Mr. Siebers asked you about. Could you tell me a little bit more about why you were uncomfortable referring to Tranquility Bay, one of the WWASP programs?

A. I guess the biggest concern that I had was that shortly after the accident where the girl died in the program, we were instructed not to tell parents what had

1 happened or it seems like what had happened more than  
2 anything. And I did not feel comfortable not letting people  
3 know that hey, there has been a tragedy down there, you  
4 know, if your child goes now they're going to be right in  
5 the middle of it. So rather than not doing what I was told,  
6 I opted not to send the kids there because I felt like it  
7 was, you know, at that point I didn't feel like it was a  
8 good thing to do.

9 Q. In fact, you very much wanted to tell parents  
10 about this?

11 A. I actually did if they were interested in going  
12 and they were adamant about going that direction I would let  
13 them know that is what had happened and break company policy  
14 to do that.

15 Q. But you were told not to tell any parents about  
16 it?

17 A. Right.

18 Q. You were hired by Teen Help to market and refer  
19 parents to World Wide member programs; weren't you?

20 A. Yes.

21 Q. And you didn't have any training in psychology  
22 before you did that, did you?

23 A. No.

24 Q. And you hadn't had any training in the juvenile  
25 justice system, did you?

1           A.    No.

2           Q.    You didn't have any medical training before you  
3 did those referrals, did you?

4           A.    No.

5           Q.    Now Mr. Richey, can you tell me a little bit  
6 about how the referrals system at Teen Help worked? Was it  
7 -- did it ever change?

8           A.    Yes. It was kind of a work in progress. I think  
9 it changed quite a bit and that is part of my difficulty.  
10 I'm trying to remember what happened before or after each of  
11 the incidences. But it was designed to help parents that  
12 had children in the program be able to refer other parents  
13 and help pay for their own children's program while they  
14 were going through it, if that makes any sense, to defer the  
15 cost basically. But the policies did change from time to  
16 time on how that was administered.

17          Q.    And some things that were allowed by Teen Help at  
18 one time, maybe a month or two later were against company  
19 policy; isn't that correct?

20          A.    Yes, they did change quite often or not quite  
21 often but kind of on a continuing basis.

22          Q.    And then is it your understanding that Ms. Scheff  
23 had worked out a system or, excuse me, allow me to rephrase  
24 my question. Wasn't it your understanding that Randall  
25 Hinton was another Teen Help representative who was working

1 with Ms. Scheff on referrals?

2 A. Yes.

3 Q. Can you tell me what you understood Mr. Hinton's  
4 arrangements to be with Ms. Scheff?

5 A. I don't know for sure what he had arranged with  
6 her other than he was working with her as kind of her  
7 contact person at Teen Help and was able to -- he was quite  
8 liberal with the referral system in allowing her to use  
9 that. I think, again I don't know for sure because I wasn't  
10 right there so I don't know what I could say for sure.

11 Q. And you don't believe -- you don't believe that  
12 Ms. Scheff knew that the referral system that she was  
13 working on with Randall Hinton was against company policy,  
14 do you?

15 A. I don't know for sure if she would know that.

16 Q. She didn't ever ask you to break or she didn't  
17 ever ask you to violate Teen Help company policy, did she?

18 A. The policy, like I was saying, was changing quite  
19 a bit. And what Sue asked me to do one time was ask me to  
20 get a referral I believe one of Diane Lucchetti's that had  
21 been referred. And I don't know that it is company policy  
22 but I didn't feel like it was right. So I didn't do it  
23 again because of the change in policies. I'm not sure.

24 Q. So you're not even sure if it was wrong or not;  
25 is that right?

1           A.    I can't remember exactly when the rules were set  
2           and how they were set, to be honest with you.  At the time,  
3           again I said I didn't feel like it was the right thing to do  
4           and whether that was because it was company policy or just  
5           my own internal belief system I don't know.  I can't  
6           remember.

7           Q.    Didn't you have a conversation with Sue Scheff  
8           where you told her you didn't believe she was making enough  
9           money from the programs and she should charge more money?

10          MR. SIEBERS:  Objection, beyond the scope.

11          THE COURT:  Overruled.  I'll allow limited testimony  
12          here.

13          THE WITNESS:  Answer?

14          THE COURT:  Yes.

15          THE WITNESS:  Yes.  In her business that she started  
16          after I left, I think it was after I left Teen Help, she was  
17          doing -- referring business also and I did, I felt like she  
18          could charge more for her services than she was charging,  
19          yes.

20          MR. FLATER:  Thank you, Mr. Richey, I have no further  
21          questions.

22          THE COURT:  All right.  Thank you, Mr. Flater.

23          Brief follow-up, Mr. Siebers?

24          //

25          //



1           A.    Still what?

2           Q.    We're both still under oath.  Let's see if we can  
3 do this one at a time.

4           A.    Okay.

5           Q.    We keep getting in trouble with not only the  
6 court reporter but with the Judge.  Let's turn to page 93 in  
7 Exhibit 24 which was the exhibit that we were looking at  
8 before we took the break.

9           And I would like you to look at this section right  
10 there, (indicating).  In that section, part of the way down,  
11 it says, "My name is Marie Peart and I have spent the past  
12 11 years counseling with parents on selecting the best  
13 available treatment for their teens."  Now this is dated  
14 June 26th of 2003 and you understood that Ms. Peart, at that  
15 time, had spent several years counseling parents on  
16 selecting the best available treatment for their teens,  
17 correct?

18          A.    Yes.

19          Q.    That is why you wanted to use her because you  
20 thought she had that expertise, correct?

21          A.    And other reasons.

22          Q.    And, in fact, the best available programs that  
23 she had referred to prior to the ones that you recruited for  
24 PURE were World Wide schools.  You understood that?

25          A.    I know where she worked previously, yes.

1           Q.    She worked at Cross Creek for Mr. Farnsworth in  
2 his admissions department, didn't she?

3           A.    I believe she did.

4           Q.    And she referred to World Wide schools?

5           A.    Yes, she did.

6           Q.    Which at the time she was making referrals she  
7 was placing the parents at the best available treatment for  
8 their teens, correct?

9           A.    At the time that is what she believed.

10          Q.    Well, that is -- that is what you said three  
11 years later she was doing?

12          A.    Yes.

13          Q.    So in 2003, you were willing to take credit for  
14 Ms. Peart's experience referring to World Wide programs when  
15 you were talking with parents because you believed she had  
16 referred to the best available treatment programs when she  
17 was working for Mr. Farnsworth?

18          A.    The same as I believed I was referring to the  
19 best when I was doing it, correct.

20          Q.    So in 2003, when this kind of information was  
21 being sent to parents, you still believed that the World  
22 Wide programs had been good programs when Marie referred to  
23 them, but now that she was referring to your programs, World  
24 Wide programs were terrible programs; is that right?

25          A.    I believe at the time we believed they were good

1 programs.

2 Q. But in 2003, you're still telling parents Marie  
3 Peart referred to the best programs over the last 11 or  
4 15 years?

5 A. I am not sure if I understand the question  
6 because in 2001 I felt Sue Scheff, me, I did the same thing  
7 as I do in 2003.

8 Q. Let's go to Exhibit 27 which is page 97 for those  
9 keeping score.

10 The top of that, it looks like it is from Marie to  
11 you. It is dated Friday the 7th of November of 2003.  
12 Again, this is her sending you a copy of information she is  
13 sending to parents. And if you'll turn to page 101, please,  
14 top of the page, now this says, "sincerely, Sue Scheff" at  
15 the top of the page, and then if you will highlight that  
16 upper portion, it has a crossed out name because we didn't  
17 need that in here, but it says something about the best fit  
18 for his needs. Then it goes on in the next line, it gives  
19 Marie's toll free number, correct?

20 A. I'm not with you yet. Up on the top?

21 Q. Yes.

22 A. Yes.

23 Q. That is her toll free number?

24 A. That is correct.

25 Q. It says, "Marie has over 15 years experience in

1 placing teens and children into the most appropriate  
2 schooling." Now, you were sending that information to  
3 parents in 2003?

4 A. I'm not sure. I think we were. I don't really  
5 recall. These are form letters that were created and you  
6 pulled them off of a drive that was deleted.

7 Q. So --

8 A. It looks like it is bits and pieces.

9 Q. You have form letters that you were sending out  
10 to parents when they would request information?

11 A. There were form letters from PURE.

12 Q. Because you were making certain that the programs  
13 that they were referred to were tailored to their individual  
14 needs, right?

15 A. We did our best.

16 Q. Okay. Let's turn to Exhibit Number 29, please.  
17 That is page 108. The first page of Exhibit 29 is a summary  
18 of what we have attached here, Ms. Scheff. And I want to  
19 make sure that we understand the timing of the PURE program.  
20 As we looked at information that we received from Frank  
21 Cavivian at Red Rock, he indicates that the first payment  
22 made to you was made in June of 2001 in the amount of  
23 \$5,000. That comports with your recollection, correct?

24 A. I believe so.

25 Q. And that he was paying you -- he paid you \$8,000

1 in July of 2001; correct?

2 A. I would have to check my records but it looks  
3 correct.

4 Q. Well, you can look at the very next page. I  
5 think it is pretty clear that even though we have blanked  
6 out the names of the people, you were actually referring  
7 people from June through December to Red Rock?

8 A. Yes, that is correct, we definitely were. I just  
9 didn't remember the amounts.

10 Q. And if you were to look at page -- you don't need  
11 to go to this one, page 121 is actually referrals to Oak  
12 Ridge Military Academy and the final page is referrals to  
13 Sorenson Ranch. And so by the end of the year 2001 you had  
14 collected just from these programs \$61,154 for referrals to  
15 those programs, correct?

16 A. That sounds correct.

17 Q. Let's go to Exhibit 30, please. Exhibit 30 is an  
18 e-mail, actually it is a series of e-mails that goes on for  
19 about three pages starting at page 115 and ending at page  
20 118. It starts out from this person to Sue at  
21 Helpyourteen.com, this is the 10th of September 2001. This  
22 is a professor and we blanked out her name from Northern  
23 Illinois University College of Law, DeKalb, Illinois. Do  
24 you remember receiving this report?

25 A. I don't remember receiving it, no.


1           Q.    This professor of law from the Northern Illinois  
2           University College of Law indicated she has a new crisis  
3           with her 15-year old who was pregnant. I want to draw your  
4           attention to some response to her which is at the bottom of  
5           the page starting approximately right there (indicating).

6           This is part of the form letter that you would send  
7           back to parents. You commended them for taking steps to  
8           help their child with the help they need, right?

9           A.    That does look like part of our form letters,  
10          yes.

11          Q.    Then it goes on in the next paragraph and it says  
12          near the end, drawing your attention to it, "yes we have  
13          consultants visit the places we recommend. We are not a  
14          referral paid organization. We do accept private donations  
15          and grants through the state." This was the 10th of  
16          September 2001. That is what it says?

17          A.    Yes, that is correct.

18          Q.    Now, if we go to page 117, and if we go to  
19          another reply that you made to this professor in the first  
20          paragraph and you wrote, "I understand your stress and  
21          frustration very well.  Please know we are not funded  
22          through any schools or programs, and we are simply parents  
23          helping parents." That is what it says?

24          A.    That is what it says.

25          Q.    Then if we will go to the paragraph that starts,

1 "I did." "I did forward your information on to Gayle  
2 DeGraff who should be contacting you." Gayle DeGraff again  
3 was the admissions director at Red Rock?

4 A. Yes.

5 Q. Let's go to the next page, please. Now the  
6 professor from Northern Illinois asked you a question, look  
7 at this section right here (indicating). "And is it true  
8 that PURE gets no financial incentives from any schools or  
9 programs? I desperately want to be able to trust someone  
10 with my most precious gift." Do you remember reading that  
11 question from the professor from Northern Illinois  
12 University College of Law?

13 A. I personally don't remember this e-mail at all,  
14 but I will agree with you that it is.

15 Q. Okay. Now let's look at the last paragraph on  
16 the last set of paragraphs on that page. "We are not a  
17 referral paid organization. We do accept private donations  
18 and grants through the state." So in September 2001 that  
19 was an untrue statement?

20 A. I am not --

21 Q. From one of your customers?

22 A. I'm not going to say that because this came off  
23 of one of the original computers of PURE that you restored.  
24 It was an old one and originally PURE was set up to run  
25 grants and that is what I had Sandra for. So it must have

1       been an old form letter that got pulled down by mistake. It  
2       is a mistake.

3           Q.     So you were just sending an old form letter in  
4       response to this professor's request to you as a parent to  
5       assure her that you didn't have any financial motivation to  
6       recommending the schools just a form letter?

7           A.     It was probably an older form letter, yes. And I  
8       don't recall this professor or any of this e-mail. This was  
9       grabbed off an old computer. I'm not sure if it is bits and  
10      pieces together.

11          Q.     Exhibit 32, please, we're at page 121. You're  
12      familiar with Bridge to Understanding, the website run by  
13      Tom Croke, who was an educational consultant, correct?

14          A.     Yes, I am.

15          Q.     And, in fact, in 2001 and 2002, you were actually  
16      following that website pretty closely, weren't you?

17          A.     Not closely, but I was following it.

18          Q.     You actually posted with fictitious names on  
19      Bridge to Understanding website as well as Woodbury Reports?

20          A.     No, not on -- not on Tom Croke's board, no.

21          Q.     This particular posting was done by Tom Croke and  
22      I want to draw your attention to the section where one of  
23      his readers asked some questions. It says, "Hi, I am new on  
24      this posting information. Are you suggesting that Sue  
25      Scheff tried to mislead me with her postings and the

1 military school her son attends to draw me in as a client?"

2 You actually read that when it came out, didn't you?

3 A. I'm sure I did.

4 Q. People brought that to your attention, didn't  
5 they?

6 A. Someone must have.

7 Q. Now, let's go to the next full paragraph. This  
8 is Mr. Croke's posting which you also read, correct?

9 A. Yes.

10 Q. It says, "I do not know whether or not the story  
11 Sue tells about her son is true, and I have no specific  
12 information to contradict it. However, in addition to what  
13 Lon reports in the posts we copied, we have verbal reports  
14 from multiple sources that Ms. Scheff has made referrals to  
15 a number of schools and perhaps other programs that were  
16 "free" referrals, then approached those schools asking for  
17 money to "defray expenses." That, in fact, was the way you  
18 were operating PURE in 2002, correct?

19 A. Absolutely not. And Tom Croke had nothing to  
20 substantiate that. He is a competitor to PURE.

21 Q. You are not an educational consultant?

22 A. No, but we work with the same clientele that he  
23 would work with.

24 Q. Go to Exhibit 34, please. Exhibit 34 is another  
25 e-mail that we got off your website and you'll see here that

1       it is --

2           A.    Off my computer, sir?

3           Q.    Off your computer, sorry.  It is from Marie to  
4   you.  I want to draw your attention to page 127 which is  
5   your reply to Marie.  Look right at the top here in that  
6   whole section.

7           A.    Okay.

8           Q.    BTW, that is a shorthand that you used in the  
9   e-mails that means "by the way," correct?

10          A.    I use that.

11          Q.    Okay.  And in this one you say to Sue or excuse  
12   me, you said to Marie, "By the way:  Did you speak with  
13   Turning Point?"  Do you remember this, when you were having  
14   trouble with Turning Point, one of the programs you referred  
15   to?

16          A.    I'm not seeing it on the screen.

17          Q.    I didn't read it all.  It says, "Did you speak to  
18   Turning Point?"

19          A.    By the way, up there at the top, I'm sorry.  What  
20   was your question?

21          Q.    Did you remember the difficulty you had with  
22   Turning Point?

23          A.    We did have difficulty with Turning Point, yes.

24          Q.    This goes on to say, "Well, I faxed her that I  
25   need the 36 names.  If she doesn't send them by the end of

1 the day, she is off our list. She sent me a fax saying that  
2 only one kid was ours on the 238 that Svetlana sent. BS is  
3 what I say. I am over her big time, and as soon as I get a  
4 check, even for one, she is off." You wrote that, correct?

5 A. I did write that. But that is not about Turning  
6 Point.

7 Q. Let's go to Exhibit 35, please. Exhibit 35  
8 appears to be your newsletter of November of 2002; correct?

9 A. That is correct.

10 Q. And in that newsletter you're advertising Reality  
11 Ranch, a positive boot camp, correct?

12 A. That is correct.

13 Q. And Reality Ranch, as I recall, was located in  
14 Arizona, right?

15 A. Yes, sir.

16 Q. And the bottom it says, "Reality Ranch has had no  
17 injuries or accidents to date. There haven't been any  
18 runaways, either." You actually didn't know that, did you?

19 A. That was written by the owner of the -- it was a  
20 summer camp.

21 Q. Is there somewhere on here that I can see that it  
22 was written by the owner?

23 A. I thought Ginger Denton's name was on there. But  
24 I realized when I looked at it that it wasn't but that was  
25 written by Ginger Denton.

1           Q.    Okay.  Let's go to Exhibit 36, please.  Now this  
2 one is a little hard to figure out because it is from you  
3 down in this area to Marie Peart and it is regarding Ginger  
4 at Reality Ranch.  Ginger was your contact at Reality Ranch?

5           A.    She was the owner, yes.

6           Q.    Now up above, in the first couple of paragraphs  
7 you talk about your contact with Reality Ranch.  Referring  
8 to Ginger, "she said she needs a list from us of who we  
9 referred.  Svetlana will get her what we have here, but you  
10 may have others.  I swear, I won't do this again next  
11 summer.  It is not worth the little money we get.....I had  
12 to call her!  She claims she tried e-mailing us and it was  
13 sent back.....weird.  So I finally called her!  Very strange  
14 person, this I will tell you!"

15           Do you recall that in fact you took Reality Ranch off  
16 your list of what were these called newsletters because they  
17 didn't pay you?

18           A.    I didn't take her off because she didn't pay us,  
19 I took her off because she was very unresponsive to the  
20 parents that we were referring to her.

21           Q.    Let's turn to Plaintiff's Exhibit Number 37.

22           A.    And she did pay.

23           Q.    Exhibit 37 actually is a listing from your web  
24 site that shows the newsletters that you have on your  
25 website.  And if you'll turn to the second page, 133, you'll

1 notice that there is no November 2002 newsletter there.

2 A. We did miss months. I didn't do one every single  
3 month.

4 Q. We just looked at the November 2002 newsletter  
5 where you were advertising the boot camp, the friendly boot  
6 camp?

7 A. It was removed.

8 Q. Because you had trouble getting paid?

9 A. No, because she was unresponsive to the parents  
10 that we were sending her way.

11 Q. Exhibit 38, please. Now, Ms. Scheff, you  
12 remember at one point in 2002 that Summit Achievement, a  
13 program that you referred to in May, I believe, actually  
14 posted a letter or sent a letter to Lon Woodbury saying that  
15 they were not going to be one of your approved programs. Do  
16 you remember that?

17 A. They asked to be removed from our approved  
18 programs and then wrote some defamatory statements.

19 Q. They wrote some statements saying that they  
20 didn't think you were qualified to be referring to programs,  
21 didn't they?

22 A. I don't recall that those were the statements.

23 Q. Well, you said they were defamatory. What do you  
24 mean?

25 A. They were untrue about PURE and myself.

1 Q. What were they?

2 A. I don't recall what they were. I wanted to find  
3 the letter there was a couple of letters.

4 Q. So you had the impression that if someone put  
5 information out about your program that was untrue, that it  
6 would in fact have an effect on the reputation of your  
7 program?

8 A. If it was untrue.

9 Q. So you called Mr. Robitzek who was a lawyer in  
10 Lewiston, Maine to threaten litigation against Summit  
11 Achievement, right?

12 A. I had him write a letter to them.

13 Q. Threatening litigation, correct?

14 A. Most lawyers write a letter in regards to that,  
15 but we didn't litigate the case.

16 Q. And it was because you thought you might lose  
17 money because you thought Summit Achievement made defamatory  
18 statements about your program?

19 A. I was concerned with the statements that Chris  
20 Maze made.

21 Q. And they were so important that you don't  
22 remember them today?

23 A. No, I don't. They were hurtful and painful and I  
24 did remove it from my memory, sorry.

25 Q. Like saying you weren't qualified to be referring

1 kids to programs, right?

2 A. He did not state that I wasn't qualified. He had  
3 some terms that he had used that Mr. Woodbury had asked him  
4 to write this letter and in it he said I mailed it to Sue  
5 Scheff, it was supposed to be a confidential letter that was  
6 posted on the internet and I never received the letter.  
7 That was the main wrongdoing is stating that he sent me the  
8 letter and he never had.

9 Q. So it wasn't the content of the letter that was  
10 false, it was the fact that he said he had sent it to you  
11 and you didn't get it?

12 A. I think you are making up my words. There was  
13 some error in the content also.

14 Q. It said --

15 A. I don't remember.

16 Q. He didn't think you were qualified to be  
17 referring to children's --

18 A. I wish I had the letter. I don't. Do you have  
19 the letter, sir? Maybe we could --

20 Q. I want to turn to Exhibit 39. Exhibit 39 is  
21 another document that comes off your computer. It shows  
22 that it is from Marie to you. It is again reporting on a  
23 contact with a parent. And I want to -- you have got the  
24 area I want to emphasize this section it says, "Director of  
25 quality assurance has done a complete and thorough



1 background investigation on the schools and programs we  
2 recommend. This assures you that the schools and programs  
3 are fully accredited, licensed, insured and have been  
4 researched for incidents." Now this is dated July 29th,  
5 2003. You were still referring to Red Rock at that time?

6 A. Not the ranch. The ranch was closed. Red Rock  
7 Canyon School, there are two separate schools.

8 Q. And you were still referring to Sorenson Ranch?

9 A. Yes, absolutely.

10 Q. You did refer to Sorenson Ranch?

11 A. Yes, I do.

12 Q. I want to go to Exhibit 40. On Exhibit 40 this  
13 appears to be a posting that has your name on it at Bridges  
14 to Understanding and it is dated September 22nd, 2001. You  
15 made this posting, right?

16 A. Yes, I did.

17 Q. Talks about Skyline Journey's challenge. It  
18 says, "I was recently introduced to Lee Ann Fielding and  
19 must say they offer a dynamic self growth journey for teens  
20 that are losing their path in life. Lee Ann is part of a  
21 caring and loving family that brings Skyline into a class of  
22 their own. I highly recommend Skyline Journey to my  
23 families daily and feel that it is a place I would place my  
24 own child. Skyline Journey is part of The PURE Foundation  
25 that helps families find healthy and safe programs." You

1 wrote that?

2 A. I did write that.

3 Q. In December of 2001 there was no PURE foundation?

4 A. I believe there still was. It was supposed to be  
5 dissolved and didn't get dissolved until '02, March of '02.

6 Q. And you recommend many families to Skyline  
7 Journey; correct?

8 A. At that time we were going to start and I hadn't  
9 really done it. Donna Headrick had done all of the research  
10 and asked me to place this on there for her.

11 Q. Nobody had done any research on Skyline Journey,  
12 had they, it was just opening up?

13 A. No, that is not true. Lee Wardel had worked for  
14 Second Nature for many and Donna Headricks did a complete  
15 background research on Lee and Mark Wardel.

16 Q. Wasn't very good research, was it?

17 A. It was excellent research.

18 Q. They actually had a child die in the program and  
19 the program was shut down because it didn't meet Utah  
20 licensing requirements. You knew that?

21 A. That was well after she had approved it.

22 Q. Which means it wasn't a very good quality  
23 assurance investigation, was it?

24 A. No, I don't believe that at all.

25 Q. Let's go to Exhibit 43, please. Exhibit 43,

1 Ms. Scheff, appears to be a letter from Norma Hallmann. It  
2 shows right there Norma at Helpyourteen.com and Norma  
3 Hallmann worked in your office on your computer to reply to  
4 parents inquiries; correct?

5 A. She actually worked for PURE. She was paid. She  
6 was a parent, and she was an RN.

7 Q. Okay. If you will look at the paragraph that  
8 starts, "We only recommend." It says, "We only recommend  
9 schools and programs that we have first hand experience  
10 with" and that wasn't true in March of 2002; was it?

11 A. That was absolutely true.

12 Q. The next paragraph identifies Red Rock Canyon  
13 Academy and or ranch located in Utah. In March of 2002, I  
14 didn't think you had personal firsthand experience with Red  
15 Rock Canyon Academy?

16 A. In 2002 I believe we did have experience with  
17 that, extensive experience. My good friend's son graduated  
18 from that ranch.

19 Q. And Sorenson Ranch is located in Utah and you had  
20 firsthand experience with?

21 A. With Sorenson's Ranch -- Sorenson's Ranch school  
22 I did have firsthand experience with, yes, I met with Shane  
23 Sorenson, Jill Sorenson, Dr. L. Sorenson in my offices in  
24 March of '02 before I referred to them, as well as my next  
25 door neighbor's daughter graduated from their school.

1 Q. And on the next page it says, and you don't need  
2 to highlight this, it says the "Academy at Cedar Mountain  
3 Cedar City you had no firsthand experience with the academy  
4 in Cedar Ranch in Cedar City?

5 A. Gayle DeGraff had gone down and researched it for  
6 us.

7 Q. And all of those you had verbal contracts to  
8 receive referral fees from?

9 A. Cedar Mountain did not pay, there was no really  
10 set contract. If they didn't pay us there was no way we  
11 could ever go after them. It wasn't -- it wasn't as set up  
12 to be paid situation like that.

13 Q. Let's turn to page 20, exhibit 45, which is on  
14 page 150. Now this is dated the 26th of March. If you look  
15 at the section down here in the first paragraph, this is off  
16 your computer, it says, "Our military school is extremely  
17 unique since they do accept students that require a second  
18 chance." So you were actually referring the same kinds of  
19 students to Oak Ridge Academy that you were referring to Red  
20 Rock Cedar Mountain, Glacier Mountain and Sorenson; right?

21 A. No, that is not true, sir. What happens is a  
22 parent --

23 Q. Let's look at that then. This particular letter  
24 appears to have in it Red Rock Canyon Academy as the very  
25 next school that you refer to on the first page, 150,

1 correct?

2 A. Well that is correct, sir, as a form letter,  
3 correct.

4 Q. It is a form letter. If you look at the next  
5 page, I know I'm going too fast for this, so if you look at  
6 the next page we have got Sorenson's Ranch, Cedar Mountain  
7 Academy, Glacier Mountain Academy, Oak Ridge Military  
8 Academy, your form letter said if you have got troubled  
9 teens, let the PURE, Parents Helping Parents Foundation  
10 established, to help you, you can go to all these schools  
11 including this military academy?

12 A. No, that is not true at all.

13 Q. Let's go to Exhibit 46. Let's not. I'm trying  
14 to move on as fast as I can. Let's go to Exhibit 40 -- page  
15 157. I think it is 48. This particular letter, again  
16 written to a parent from your computer on the 9th of  
17 December of 2001 says right there, "We only recommend  
18 schools and programs that we have firsthand experience with  
19 and that are fully licensed and accredited." You  
20 understood, however, that at that time that Oak Ridge  
21 Military Academy was not licensed?

22 A. That is absolutely false.

23 Q. And you indicated in the last paragraph, you have  
24 this part, "My son currently attends Oak Ridge and I have  
25 been more than satisfied. He has a totally different -- he

1 has been a totally different child with a positive outlook  
2 on life. They keep them busy from 6 a.m. to 8 p.m." That  
3 is what you wrote as part of your sales pitch in your form  
4 letters on Oak Ridge Military?

5 A. In regards to military schools because my son  
6 attends them.

7 Q. And your son had a completely different outlook  
8 on life because of this military school?

9 A. Yes, he enjoys it tremendously.

10 Q. And the military school had taken him because he  
11 had major difficulties prior to going there, correct?

12 A. He didn't have any difficulties. He was ADHD on  
13 Ritalin and the structure has been excellent for him.

14 Q. You hadn't had problems with him from the time he  
15 entered puberty?

16 A. No, sir. He is a typical teenager with ADHD. He  
17 is defiant, but nothing major.

18 Q. Exhibit 50, please. Exhibit 50 is another  
19 response to a parent. And in the next to the last  
20 paragraph, in this area right here (indicating), it says  
21 "This is one of the few military schools that accept  
22 underachievers and students that lack motivation." That is  
23 what your son was, correct?

24 A. Yes.

25 Q. Now, if we return to page 163 in Exhibit 51 and

1 start with the paragraph I will share with you, this is  
2 another response from PURE Inc. to a parent. I will share  
3 with you that your son sounds exactly like my son [REDACTED]. My  
4 son is now 14 years old and is extremely, I think the  
5 initials stand for attention deficit hyperactivity disorder?

6 A. That is correct.

7 Q. As the puberty years set in, the ODD, which  
8 stands for oppositional defiant disorder comes out. Not  
9 fun. I knew when [REDACTED] was 13 and in the seventh grade at a  
10 prep school here in Florida that I would need to find a more  
11 structured setting for him. Then it goes on and says,  
12 [REDACTED] is very intelligent but an underachiever and a  
13 student that never worked to his potential. He is in his  
14 second year at the boarding school in North Carolina and  
15 loves it." Then it goes on later on and says, "He is not in  
16 a therapeutic school as we had had enough of that and it  
17 became stale." He never had been in a therapeutic boarding  
18 school, had he?

19 A. Yes, it does say that. I never said my son was  
20 in a therapeutic boarding school.

21 Q. He is not in a therapeutic school as he has had  
22 enough of that and it became stale.

23 A. Okay. That should have said he is not in therapy  
24 in school. They don't have therapy there. He had had  
25 enough of therapy when he was in his younger years dealing



1 with ADHD.

2 Q. Let's go to Plaintiff's Exhibit 52 -- Exhibit 57.  
3 Mrs. Scheff, Exhibit 57 is a posting you made August 23rd,  
4 2001 on Woodbury Reports. Do you recall that?

5 A. Yes.

6 Q. This is what you call a parent's true story. I  
7 actually looked in the archives of your website and I found  
8 an August 4, 2001 version of that that you posted on the  
9 PURE website. Do you remember that?

10 A. I don't know the dates but --

11 Q. You posted it on the PURE website before you  
12 posted it at Woodbury?

13 A. Again, I don't know the dates but it could be  
14 possibly right.

15 Q. In July of 2001 you were still calling your  
16 program Parents Universal Referral Experts, right?

17 A. I'm not exactly sure of when I changed from  
18 resource to referral or referral to resource.

19 Q. By the time your September posting comes out, it  
20 is changed to resource, isn't it?

21 A. I don't know the dates or the significance of it.

22 Q. In this posting that you made on -- now let's  
23 talk about this. Lon Woodbury is a well-recognized  
24 educational consultant in this country that runs a website,  
25 right?

1           A.    That is your opinion.

2           Q.    It is not your opinion?

3           A.    He is an educational consultant but it is an  
4 opinion on how good he is.

5           Q.    You don't like educational consultants?

6           A.    Um, I'm not -- I don't really have an opinion  
7 either way.

8           Q.    Okay. I want to go to the second page, 174.  
9 This is talking about your daughter's experience and your  
10 experience at Carolina Springs, correct?

11          A.    Yes. It is my story.

12          Q.    If we look at the area right down here  
13 (indicating) we are talking about Carolina Springs. First  
14 you say that cost was reasonable, so I thought, until she  
15 was admitted. The hidden costs added up like a grocery  
16 bill. It was not a true statement, was it, about Carolina  
17 Springs?

18          A.    That was an absolute true statement.

19          Q.    What costs added up like a grocery bill that you  
20 paid Carolina Springs that weren't in the contract?

21          A.    The costs were if your child gets categories or  
22 does wrong they start charging your account different fees.

23          Q.    That never happened to you?

24          A.    Yes it did, sir.

25          Q.    Let's go to the next section. It says, "I called

1 the parent's references that they gave me and thought I felt  
2 comfortable." And you did that, correct?

3 A. Yes.

4 Q. Before you placed [REDACTED] in Carolina Springs you  
5 called the references?

6 A. Yes, I did.

7 Q. Let's go to page 175. Talks about the seminars  
8 in the third paragraph and it says, "I realized I had made a  
9 big mistake. I wrote my withdrawal letter immediately after  
10 the second seminar." That of course was two days after you  
11 had written to your referral parents telling them how to get  
12 more referrals, right?

13 A. It was when I was starting to wake up in the  
14 cloudy experience.

15 Q. This says actually -- cloudy experience?

16 A. Uh-huh (affirmative).

17 Q. Actually in retrospect I should have written it  
18 right after I dropped her off when they asked where is the  
19 uniform fee. I had never been told anything. That is a  
20 false statement about Carolina Springs; isn't it?

21 A. No, that is an absolutely true statement. I was  
22 not told.

23 Q. Ms. Scheff, we saw the contract you signed. It  
24 made it very clear you had to write a separate check for  
25 [REDACTED] uniform?

1 A. I don't recall that being in the contract.

2 Q. Okay. Now, below that it says, "I thought --  
3 excuse me, "and then I asked who her psychologist would be  
4 and guess what, there was none unless I paid extra." You  
5 weren't misled about a psychologist because you had a  
6 contract that said any additional therapy would cost you  
7 money, this is not a therapeutic school; didn't you?

8 A. I was completely misled. I do not recall that  
9 being in the contract and all their sales representatives  
10 and people that were selling me the program never ever  
11 shared that with me. And even Shirley, when I was at the  
12 school, never said that to me. She said we would get in  
13 touch with you this week of who was going to be working with



14  
15 Q. So what you put down here below is I thought or I  
16 was misled that there was a licensed therapist on staff.  
17 which means you didn't believe the document that you had  
18 signed, correct?

19 A. I didn't read the document, I guess, that I  
20 signed very well, or it was altered, I'm not sure. I don't  
21 have the original document.

22 Q. I want to go to Exhibit 58 here real quickly. It  
23 is a rather substantial document and I want to make sure we  
24 agree on some things. If you look at the first page Debbie  
25 C. the posting October 31, 2001 is you posting?

1           A.    It is my posting.

2           Q.    Okay.  The next page SusanneLisa at the top of  
3 the page November 24th, that is you posting?

4           A.    Yes, sir.

5           Q.    November 24th, 5:44 a.m. at the bottom of that  
6 page Deb C. that is you posting?

7           A.    Yes, sir.

8           Q.    Let's go to the page 180, top of the page, Lara,  
9 November 26th, 2001.  That is you posting?

10          A.    Yes, sir.

11          Q.    November 27 on that page 7:32 p.m. Lara that is  
12 you Debbie who is saying she agrees with Lara, they're both  
13 you posting?

14          A.    Yes, sir.

15          Q.    It says, "Oh, by the way Lara e-mail me because  
16 we're both in Florida.  Maybe we can get together."  It was  
17 deceptive, they're both you?

18          A.    I had my reasons.

19          Q.    Okay.  We go to the next page, page 181, Deb C.  
20 posts November 28 at 4:15 a.m. and that posting isn't true,  
21 correct?

22          A.    Deb C. is myself.

23          Q.    Okay.  Then, Mary Golly comes on this website.  
24 She says, now just hold it just a second.  I have experience  
25 with World Wide programs and my daughter is doing well.  You

1 remember Mary Golly, don't you?

2 A. I really don't.

3 Q. You don't?

4 A. No.

5 Q. You don't remember that that is someone that you  
6 decided she is getting in the middle of my marketing so I  
7 need to bad mouth her?

8 A. No, sir, I don't remember that.

9 Q. Well, November 30th Deb C. at 7:42 p.m. goes  
10 after Mary. Lara supports her on November 30th at 7:52, and  
11 Lara says on page 183, "Common goal: Not to let Valerie's  
12 death go in vain."

13 A. That is correct.

14 Q. Okay. So by the October/November time period,  
15 you had found out that that poor young woman had committed  
16 suicide at Tranquility Bay; correct?

17 A. I don't believe it was ruled a suicide at that  
18 time.

19 Q. You don't know, do you?


20 A. No, I don't.

21 Q. But you felt it was so important that you used  
22 her actual name, her full name on a public website because  
23 after you posted your August 23rd true story, you started  
24 getting hits like crazy on your website; right?

25 A. That is not true. Valerie --

1           Q.    So the more controversy you could create on the  
2           Woodbury site, the better chance you could increase your  
3           business over on the PURE site?

4           A.    Absolutely not true.

5            Q.    Well, we have got what, 287 posts by Lara, Deb  
6           C., Hilda, Lara, Deb C., Lara, Tracy Brittany Reese, those  
7           are all you?

8           A.    Yes.   They are to try to let parents know about  
9           abuse.

10          Q.    Page 218 at the bottom Louise really rains on  
11          your parade here, doesn't she?

12          A.    Sorry?

13          Q.    Louise caused you major difficulty on this  
14          particular forum with this posting, didn't she?

15          A.    I don't believe she did, no.

16          Q.    It says, "I'm very baffled at your story!  I can  
17          recall a time when you were e-mailing me daily because I was  
18          getting a support group together for the Tampa Bay area  
19          parents.  You had a person in this area that you wanted to  
20          attend.  I still have all your e-mails claiming what a  
21          wonderful program this was for your daughter and how you  
22          pretty much afforded her care in the program from the  
23          numerous referrals!  Actually, you even sent me a large  
24          envelope with standard letters that you sent to different  
25          schools, police departments, et cetera, to get their

1 attention. You even asked me to share them with the support  
2 group! I am very sad that I trusted you then. I am also  
3 very confused! Did you find a better program to promote?  
4 Why the sudden change? Just curious? P.S. you also praised  
5 the seminars. Hmmm, is this the same Sue that started the  
6 PURE Foundation?"

7 That really bothered you, didn't it?

8 A. No, it didn't bother me.

9 Q. Why did you come on the very next thing on  
10 December 5th at 11:30 a.m. and say, "Well, hi Louise. I  
11 know Sue personally." This is Deb C. posting, and you know  
12 "her foundation is one of the most respected in our  
13 community." It wasn't the most respected. You just barely  
14 started, correct?

15 A. No, we were very well respected in our community.

16 Q. So for a substantial period of time you continued  
17 to post on the Woodbury website, correct?

18 A. Yes, I did.

19 Q. Until December 24th when your posting privileges  
20 were turned off by Lon Woodbury, right?

21 A. That is correct.

22 Q. Then you came on with a new identity at that  
23 point for a period of time over Christmas, didn't you?

24 A. No, I did not.

25 Q. And on December 27th, Lon Woodbury came out and

1       said, I have done research and guess what? My people find  
2       that all of these names are being posted from the same  
3       computer. Do you remember that?

4             A.    I do remember that.

5             Q.    Now, let's go to Exhibit 59. This is a posting  
6       on the Bridge to Understanding posting initially it is by  
7       Tom Croke and in the second paragraph of Exhibit 59, page  
8       287, I'm sorry in paragraph starting whether Sue is totally  
9       well meaning or naive or something less admiral is not  
10      something I'm attempting to judge. In either case, no  
11      matter how she spins it, there is a clear acknowledgment  
12      here that she is receiving financial support from at least  
13      some schools and programs to which she makes referrals. You  
14      read that, didn't you?

15            A.    Yes.

16            Q.    On the next page, 288, he says "Steve Bozak  
17      denies any connection with Sue Scheff apart from having  
18      spoken with her on several occasions." Then you write a  
19      response to being found out about by Woodbury and Tom Croke,  
20      don't you?

21            A.    I did write a letter to Tom.

22            Q.    And you say, "I don't have any hidden fees. I  
23      have received monies from some programs they are put back  
24      into the PURE Foundation for the need of many families.  
25      These are not referral fees or hidden costs to parents, it

1 is simply to assist the foundation to continue to operate."  
2 That wasn't a true statement at the time, was it?

3 A. That was a true statement.

4 Q. At the bottom of the page it says, "The ideal  
5 situation is so easily explained. If you called and asked  
6 us I don't condone what my associates did but I don't  
7 condemn them either." Well your associates didn't do this  
8 either?

9 A. No, I did it.

10 Q. Did you it?

11 A. Yes, I did.

12 MR. SILVESTER: Let me have just a minute, Your Honor.  
13 I'll try to wrap this up.

14 Q. (By Mr. Silvester) Let's go to Exhibit 77.  
15 Ms. Scheff, I have indicated to the judge I have this chess  
16 clock going around in my head that I'm trying to keep up  
17 with it.

18 Exhibit 77 is an e-mail that came off -- actually came  
19 from Mr. Delong who is your -- no it didn't come from your  
20 computer, you can see at the bottom it is from you. Is that  
21 correct?

22 A. Yes.

23 Q. And this is to Ms. Burgess, it says?

24 A. To who?

25 Q. "Ms. Burgess, I was forwarded your request

1        regarding your petition from several concerned parents and  
2        professionals." She was actually petitioning her  
3        legislature to try to get financial support to put a child  
4        in a World Wide program. Do you remember that?

5            A. I don't remember this letter at all.

6            Q. You wrote her, you said you created your site,  
7        this site and your foundation as a result of traumatic  
8        experiences your daughter and you had with World Wide. You  
9        wrote that?

10          A. Yes. I believe I -- this is -- it looks like  
11        what I would write but I don't remember this Mrs. Burgess.

12          Q. Then it goes on to say, "World Wide will give you  
13        stories that I am a disgruntled parent. Well, I am. If  
14        someone hog-tied your child, placed her into a hospital with  
15        undescribed food poisoning (never notifying me), had the  
16        I.V. ripped from her before the hospital staff could contact  
17        me, as well as other grim details, you would be disgruntled  
18        also."

19                Here is a parent that is trying to get support for her  
20        child who is in a program where she thinks it is helping and  
21        you're contacting her directly which you did over and over  
22        and over again to try to convince her to take her child out  
23        of the World Wide School, correct.

24            A. That is not correct. She obviously contacted me.  
25        I did not go out and contact them and then I do tell them --

1 I share my story. I feel it would only be right to share  
2 what I experienced.

3 Q. Ms. Scheff, do you remember on a number of  
4 occasions that you sent e-mails to Trekker saying that you  
5 had information that came off the private bulletin board of  
6 World Wide that you didn't think you could contact the  
7 parents but you wanted somebody else to contact the parents?

8 A. What you're saying, sir, is that someone had  
9 forwarded me copies of the requests from parents and I  
10 posted them on our private support group bulletin board. It  
11 wasn't a bulletin board listserv.

12 Q. On that listserv you told your friends on that  
13 listserv I want you to go out and contact, my lawyers told  
14 me I can't do it?

15 A. I don't believe I ever instructed them to do  
16 anything. They take it upon themselves to do whatever they  
17 want to do.

18 Q. You haven't told them just send them to my  
19 website. Once they find my true story they will always  
20 contact me?

21 A. I have told people to refer to my website for my  
22 story as well as newsletter stories.

23 Q. You don't remember going directly to people who  
24 had posted positive things on the BBS, the World Wide  
25 bulletin board service and said go to those people and send

1       them to my website?

2               A.    Oh, no, absolutely not.  If someone was posting  
3 something positive like what you just said, we would never  
4 do something like that.

5               Q.    You have had numerous contacts with the press  
6 about World Wide programs, haven't you?

7               A.    I wouldn't say numerous, but I have talked to a  
8 good handful of the press, yes.

9               Q.    In fact, you spent a year, didn't you, working  
10 with John Dahlberg at the L.A. Times trying to get negative  
11 information in the L.A. Times about World Wide programs?

12              A.    I worked with John for a little bit over a year  
13 and we were just trying to expose the truth.

14              Q.    Well, one of the truths that you exposed was that  
15 Mr. Winder, who was the director of the Majestic Ranch  
16 Academy in Rich County was charged with sexually molesting  
17 children; didn't you?

18              A.    And he was charged with that, sir.

19              Q.    And one of the things that you didn't manage to  
20 do is you didn't manage to make sure that on your website  
21 and to John Dahlberg the information was sent that those  
22 charges were dismissed?

23              A.    I don't believe that they were all dismissed.

24              Q.    You don't know, do you?

25              A.    I don't recall, but I don't believe they were all

1 dismissed. And I did talk to a boy that was there.

2 Q. And you do know that -- you do know that there  
3 was one misdemeanor charge that remained about a year and a  
4 half ago, wasn't there?

5 A. I believe there was still a misdemeanor charge.  
6 I'm really not certain.

7 Q. That misdemeanor charge had nothing to do with  
8 sexual abuse of children; did it?

9 A. It was sexual misconduct, from what I recall.

10 Q. You don't recall then, do you?

11 A. That is what I recall, sir.

12 Q. So you were willing to ruin a man's life, if you  
13 possibly could, to make your point against World Wide,  
14 right?

15 A. That is not true. I was --

16 Q. But you weren't willing to send out information  
17 that he was dismissed?

18 THE COURT: Let's make sure we get a question and  
19 answer.

20 Q. (By Mr. Silvester) I apologize, Your Honor.

21 A. Sorry. Repeat that.

22 Q. Where, on your website, can I find that the  
23 charges against Wayne Winder are presently dismissed?

24 A. You won't even find the story on my website about  
25 Wayne Winder.

1           Q.    Which media person that you spread all of this  
2   poison to did you contact and ask to retract that story?

3           A.    First of all John Dahlberg went through the  
4   Attorney's General Office here in Utah with Craig Barlow and  
5   got his information.  It was not from Sue Scheff regarding  
6   Majestic Ranch.

7           Q.    Who did you contact with your -- all of your  
8   media sources to tell them that those charges had been  
9   dismissed?

10          A.    The answer to that is I don't recall.  I don't  
11   recall ever talking about Wayne Winder.  It was the Salt  
12   Lake Tribune that wrote an article about Wayne Winder, not  
13   Sue Scheff.

14          MR. SILVESTER:  That is all I have.

15          THE COURT:  All right.  Thank you, Mr. Silvester.  I  
16   think what we might do is to stretch for a second.  I think  
17   Mr. Henriksen might want to get organized.  I think we  
18   should go ahead and start.  It has been about an hour and  
19   15 minutes.  Are you thinking now is a --

20          MR. HENRIKSEN:  Could we take a recess now at this  
21   time?

22          THE COURT:  All right.  Why don't we go ahead -- let  
23   me make sure we have our sandwiches.  I wouldn't want to  
24   send 12 hungry people back there and have them be  
25   disappointed.

1 THE CLERK: The food is back there.

2 THE COURT: All right. Well, what are we waiting for?  
3 Let's take a break at this point.

4 THE CLERK: All rise for the jury, please.

5 (Whereupon, the jury left the courtroom.)

6 THE COURT: All right, everyone may be seated. And  
7 Ms. Scheff, if you want to step down that is fine. I just  
8 had one question for Mr. Henriksen. Are you planning to do  
9 all of your things with Ms. Scheff at this point or did you  
10 want to recall her in your case in chief or how are you  
11 planning to handle that?

12 MR. HENRIKSEN: I didn't know how. I figured counsel  
13 may object to that but it would be nice to try to cover all  
14 of that at one time.

15 THE COURT: Let me just say I'll be glad to do  
16 whatever you think would be most effective for your case on  
17 that.

18 MR. HENRIKSEN: I'm looking at my time clock and maybe  
19 I can do that so I can -- I'll have to talk and see if we  
20 can squeeze that in.

21 THE COURT: You know, obviously you can if we need to  
22 go over but I'm -- you know one option for you would be  
23 cross now and recall her later. Another option would be to  
24 do it all now. I'm just saying you should feel free to do  
25 whatever you think would be most effective. If you want to

1 cover it all now, I'll give you latitude to ask questions  
2 that go beyond the direct.

3 MR. HENRIKSEN: I appreciate the court bringing that  
4 up and we'll probably do that, if we can, so I can finish in  
5 time.

6 THE COURT: The one question I did have also --

7 MR. SILVESTER: Tell me what --

8 THE COURT: You have got about three hours, a little  
9 under three hours remaining. So --

10 MR. SILVESTER: That is all I have used?

11 THE COURT: That is how much you have left.

12 MR. SILVESTER: Okay, thank you.

13 MR. HENRIKSEN: What is ours?

14 THE COURT: You have quite a bit of time left, six and  
15 a half hours. So all right, we'll take about a 15 minute  
16 break.

17 (Recess.)

18 THE COURT: All right. Is everyone ready to go?  
19 We'll get the jury in.

20 THE CLERK: All rise for the jury, please.

21 (Whereupon, the jury returned to the courtroom.)

22 THE COURT: All right, ladies and gentlemen. I hope  
23 you had a good set of refreshments there and I think what  
24 we'll do at this time is turn the time over to Mr. Henriksen  
25 to ask some more questions of Ms. Scheff.

1 MR. HENRIKSEN: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. HENRICKSEN:

4 Q. Sue, good afternoon.

5 A. Good afternoon.

6 Q. Are you all right?

7 A. Yup.

8 Q. Let's talk about a couple of things that haven't  
9 been brought out yet. Before you stopped referring to WWASP  
10 and you began to refer to other schools, I want to talk  
11 about what you had read, who you had talked to, and what you  
12 had seen and heard. I would like first to have you turn to  
13 page W1-1, Exhibit W-1 page one. The question I'm going to  
14 ask you have to deal with what did you hear in that time,  
15 who did you talk to, what information had you received and  
16 looked at? And so the first question I have is we have  
17 Exhibit W1-1 and this is a statement that is written by  
18 Karen Lyle. Did you have this statement prior to  
19 December '01?

20 A. Yes, I did.

21 Q. I would like to -- go down and see if I can use  
22 this, too. Just one minute. That doesn't even help. Just  
23 above paragraph one, I would like to have you highlight from  
24 the primary reasons down to listed below, all of paragraph  
25 one. Thank you. Now, this is a story that you had read

1 from Karen Lyle?

2 A. Yes, I read that in approximately the spring of  
3 2001.

4 Q. And in this paragraph, everybody has probably  
5 read it by now, it does talk about the reason that her  
6 daughter was taken out of Tranquility Bay. It says that the  
7 primary reasons that we took our daughter home from  
8 Tranquility Bay and then later began speaking up about our  
9 concerns can be summarized as follows. And they have got  
10 several paragraphs that go on for several pages. The first  
11 one is we discovered that we had been deliberately misled  
12 and deceived when the program was marketed to us initially.  
13 This prevented us from making an informed decision about the  
14 safety, welfare and well-being of our child. Many things we  
15 had been told to sell us on the program we later found out  
16 were untrue. Some of them are listed as follows. And then  
17 highlight the rest of that page there.

18 In April 1990 prior to the signing of a contract, we  
19 were told that the school at Tranquility Bay was currently  
20 accredited at that time. Later, when checking on this with  
21 the Northwest Association of Schools and Colleges, we found  
22 out this was not true. Because the school was later  
23 accredited, some feel this should not matter, but it showed  
24 us that Teen Help Family of Services was willing to  
25 misrepresent the truth to us and then later claim this was

1           unimportant.

2           MR. SILVESTER: Your Honor, I'm going to object to  
3           this. All Mr. Henriksen is doing is reading hearsay into  
4           the record. The jury needs to be cautioned that it is not  
5           assumed to be true. This is simply what she based some sort  
6           of a story on. And I think it is improper to just continue  
7           to read this hearsay into the record.

8           THE COURT: Well, we let you read a lot of documents  
9           into the record. I'm going to let Mr. Henriksen do the  
10          same. Although I will -- this information is coming in,  
11          ladies and gentlemen, to show what was in the state -- what  
12          was in the mind of Ms. Scheff at the time she was acting.  
13          That is going to be one of the issues you have to sort out.  
14          That is what Mr. Henriksen is exploring here.

15          MR. HENRIKSEN: Thank you, Your Honor.

16          Q.     (By Mr. Henriksen) This we found was a pattern of  
17          behavior that, go to page two, please, and completes that  
18          top sentence. Could you finish that top sentence for us,  
19          "was repeated enough to cause us grave concern."

20          And this letter goes on for another one, two, three  
21          pages. You read this entire report from the Lyle's before  
22          December of '01.

23          A.     Yes. And I also read it. It was -- I believe it  
24          was in the newspaper also, The Rocky Mountain News.

25          Q.     Did this change your opinion of WWASP?

1           A.    It started to.  This is when I started realizing  
2 what was happening, what was going on and numerous other  
3 articles combined with 48 Hours, Dateline and Prime Time.

4           Q.    And did you talk to Karen Lyle?

5           A.    Yes, I have talked to Karen Lyle.

6           Q.    Did you talk to John France before December '01?

7           A.    Yes, I spoke with John France.

8           Q.    Did you speak with Phil Greenbarg before?

9           A.    Yes, I spoke with Dr. Phil Greenbarg.

10          Q.    What did Phil Greenbarg tell you about his  
11 experience?

12          A.    He was --

13          MR. SILVESTER:  Objection, Your Honor, hearsay.

14          THE COURT:  Overruled, go ahead.

15          THE WITNESS:  Dr. Phil Greenbarg had placed his son in  
16 Tranquility Bay and Spring Creek Lodge, two WWASP programs,  
17 and he had some grave concerns.  And he hired a  
18 psychiatrist, Dr. Shaff from the University of Miami to go  
19 down and visit Tranquility Bay with Dr. Greenbarg and what  
20 he saw was just horrifying.  The kids were eating pork with  
21 hair still on it.  There was constant screams, and the  
22 screams were coming from the kids in OP that are being sat  
23 on by Jamaican staff members.  And how do I know that really  
24 is Aaron said to his father well I can scream much louder  
25 than that and Phil looked at him and I'm paraphrasing

1 because I heard this story, it is just heart wrenching. He  
2 said when they put me in OP, put Aaron in OP, they twisted  
3 his arm up and back so hard it popped his elbow. And since  
4 he has had a dislocated elbow and has a hard time  
5 straightening it and they did not get him medical care until  
6 months later.

7 Q. Did you receive a -- turn to W1 page five. Did  
8 you receive what is referred to as a diary of a visit to  
9 Tranquility Bay, we have taken off the name, this is Phil  
10 Greenbarg.

11 A. That is Dr. Phil Greenbarg's diary of the  
12 experiences of his son.

13 Q. And you had read this story. So not only had you  
14 spoken with him, but you also had read his story that is  
15 contained in this exhibit?

16 A. Yes.

17 Q. Would you highlight the bottom paragraph on this  
18 page? "We looked briefly around together. There were  
19 approximately 136 male and 50 female students in this  
20 facility. They are grouped in families and a family has 24  
21 kids. There are several family fathers who are staff  
22 members. Joan Davis is the family representative and there  
23 are apparently several teachers, also. The facility does  
24 not appear to be able to accommodate the number of students  
25 who are living there. For example, someone's bedroom which

1 was perhaps ten or 12 by 15 with one bathroom, seven  
2 students and one staff member slept in there. The beds are  
3 set up as foldable bunk beds that fold down from the wall  
4 with posts that go up and support an upper bunk with a thin  
5 mattress in a wood box. Six children slept that way each  
6 with his own bed. Another child sleeps on a mattress on the  
7 floor and staff members slept on a mattress on the floor all  
8 in this room. The room is dirty and smells like urine. I  
9 took some photos." This story goes on for one, two, three,  
10 four, five, six, seven, eight, nine additional pages. And  
11 had you read this account by Phil Greenbarg and spoke to him  
12 before December '01?

13 A. Yes. And I spoke with his mother also.

14 Q. And was this part of the reason that you felt the  
15 way you did about WWASP in December '01?

16 A. Absolutely. It contributed to it, yes.

17 Q. Prior to December '01, had you seen the 48 Hours  
18 video?

19 A. Yes, sir, I had.

20 Q. I would like to go to something we have not shown  
21 which is clip number two. It is a very short clip. While  
22 she is doing that, let me ask a question or keep going here.  
23 In addition, to Dr. Phil Greenbarg you also spoke with --  
24 you also read the story of Brian Rose; is that correct?

25 A. That is correct and Marjorie Rose.

1 Q. And did you speak with them by telephone before  
2 December '01?

3 A. I spoke with them both by telephone and read  
4 their story.

5 Q. And so not only had you spoken with them and  
6 asked them the details, did you actually have their story  
7 that they put together for you?

8 A. That is correct.

9 Q. Let's go on to Exhibit W-2. If we go to Exhibit  
10 W-2, I would like to identify for the record let me --  
11 Trish, can I just bring this exhibit up to her?

12 A. Yes.

13 THE CLERK: Sure.

14 MR. HENRIKSEN: Okay.

15 THE CLERK: I'm not sure W-2 is in yet. Did we not  
16 decide --

17 MR. HENRIKSEN: That is why I wanted to have her look  
18 at it.

19 THE CLERK: I think we need to --

20 THE COURT: He is going to try to see whether he can  
21 get it in now, I think. What page does that start on? My  
22 book has the page numbers in it.

23 MR. HENRIKSEN: Did we get you a tab for the W-2.

24 THE COURT: We don't have tabs. I have tabs but they  
25 -- just tell me the page number and I should be able to find

1       it.

2               MR. HENRIKSEN: Page 356 is the first one we looked  
3 at. I apologize I thought we got those all taken care of.

4               THE COURT: That is all right. What do you want to  
5 do, 48 Hours or do this?

6               MR. HENRIKSEN: Yeah, it is hard. We're sort of doing  
7 this disjointed but that is how it is. So did you see -- we  
8 talked about the 48 Hours which was a show called Trouble in  
9 Paradise that was broadcast 10-15-98 that you have seen  
10 before. You saw it before December '01?

11              THE WITNESS: I saw it in the spring time of  
12 December '01.

13              MR. HENRIKSEN: I would like to play clip two.  
14 (Whereupon, a clip was played from the video  
15 but was not transcribed.)

16              MR. HENRIKSEN: Would you play clip three.  
17 (Whereupon, clip three was played but  
18 was not transcribed.)

19              Q. (By Mr. Henriksen) And in that clip Sergio talked  
20 about having dreams still about being hog-tied and being put  
21 in isolation. Is that something that you have heard from  
22 other individuals?

23              A. I have heard it from hundreds of former students  
24 of WWASP programs including my daughter still has  
25 nightmares. She was still having nightmares for two years

1 after her experience at Carolina Springs. And that iso box  
2 -- that really scared me because my daughter told me that  
3 she was put in iso. So when I saw that it was -- it was  
4 scary.

5 Q. Going now to Exhibit W-2 and the page numbers  
6 356, and for you it is page one. Now on page -- on this  
7 exhibit this is a letter that is dated September 2001 and it  
8 is from a Charlotte Greenbarg and did you read this letter  
9 before December 2001?

10 A. I not only read this letter before December 2001,  
11 I had spoken with Charlotte Greenbarg on the phone in the  
12 Spring of 2001 when she told me about Aaron's experience and  
13 how they were eating the pork fat with the skin and the hair  
14 still attached and what her son had experienced at  
15 Tranquillity Bay.

16 THE COURT: All right. Shouldn't I admit W-2 then?  
17 Is that correct?

18 MR. HENRIKSEN: There is another exhibit contained in  
19 there, Your Honor. So perhaps I should move admission of  
20 all of those at that time. I would like to move the  
21 admission then of the first story in that exhibit which is  
22 of Charlotte Greenbarg.

23 THE COURT: Three pages 356.

24 MR. HENRIKSEN: 357, 358.

25 THE COURT: Any objection?

1           MR. SILVESTER: I have the same objections to this one  
2 and the other.

3           THE COURT: I'm going to admit those three pages.

4           (Whereupon, Plaintiff's Exhibit Number W-2  
5 was received for identification.)

6           THE COURT: I don't have the tabs in front of me. I  
7 just admitted pages 356, 357 and 358.

8           MR. HENRIKSEN: Thank you, Your Honor.

9           Your Honor, we have an easier copy. We just have that  
10 pulled out and handed up to you.

11          THE COURT: Okay, great. Thank you. Maybe I should  
12 tell you, ladies and gentlemen of the jury, we spent a lot  
13 of time last week figuring out which exhibits could come in  
14 and which ones couldn't. There were a few that we needed  
15 some more testimony on and that is what is going on right  
16 now. But the lawyers worked hard to get a lot of these  
17 exhibits taken care of last week, but there were a few where  
18 we needed some more testimony.

19          Q. (By Mr. Henriksen) And turning now to again  
20 Exhibit W-2, pages 384, 385, 386, 387, 388, all the way  
21 through 391, is a story written by Paul Richards. Did you  
22 read this story prior to December 2001?

23          A. I not only read his story, I spoke with his  
24 adopted mom regarding his story and the experiences that  
25 Paul had.

1           Q.   And did you rely upon this story in formulating  
2 your beliefs concerning WWASP?

3           A.   Yes, it was just leading to the consistency of  
4 the abuse, lack of food, he was placed in iso, he was  
5 beaten, he was there for over two years with no  
6 communication and he had asked the embassy several times to  
7 leave and they wouldn't let him leave.

8           MR. HENRIKSEN: I would move for admission of pages  
9 384 to pages 391, the story of Paul Richards.

10          MR. SILVESTER: May I voir dire the witness for a  
11 foundation objection, Your Honor?

12          THE COURT: Just what do you want to know.

13          MR. SILVESTER: I don't see anything that shows that  
14 it was transmitted to her before that date so I wanted to  
15 know when she actually --

16          THE COURT: When did -- did you look at this before  
17 December of '01?

18          THE WITNESS: It was in the Spring of '01.

19          THE COURT: I'm going to admit it.

20          (Whereupon, Plaintiff's Exhibit Number W-2 pages 384  
21 to 391 were received into evidence.)

22          THE COURT: We have got questions of course you can  
23 feel free to explore those.

24          MR. SILVESTER: Thank you.

25          Q.    (By Mr. Henriksen) I would like you to bring up

1 page nine and highlight the first two starred paragraphs.

2 MR. SILVESTER: I don't know about you, but I don't  
3 have pages nine or pages six.

4 MR. HENRIKSEN: That is just her page number, Fred.

5 MR. SILVESTER: I need to know --

6 MR. HENRIKSEN: It is page -- I'll tell you the  
7 numbers.

8 THE COURT: 389.

9 MR. HENRIKSEN: It is page 389. This statement says,  
10 "I was forced to drink a mixture of water loaded down with a  
11 lots of salt and Tobasco sauce. When I was unable to finish  
12 it and started to throw up, I was given a consequence. I  
13 have personally witnessed many kids being beaten by the  
14 staff leading to cuts, bruises, lumps, blood being drawn,  
15 scars, and hurt to the point where they could not use their  
16 body parts. These many incidents made me fear for my  
17 personal safety as a child in the program."

18 I would like you to go down now about four more stars.  
19 "Due to my experiences in Isolation and watching kids being  
20 beat, I now have flash backs; the feeling in my stomach  
21 drops, makes me feel queasy, I feel sick to my stomach, my  
22 hands become clammy, and my body slightly trembles." This  
23 is what you read before December '01.

24 THE WITNESS: Yes. And spoke with his adopted mother.

25 Q. (By Mr. Henriksen) I would like to turn now to

1 W-2 pages 413 through 416 which is a statement or posting by  
2 Christine Moisan and ask you whether or not you have read  
3 that story before December '01?

4 A. I also -- I not only read -- I read this story,  
5 not only read her story but I spoke with her on the phone  
6 regarding her experiences at Cross Creek where she was fed  
7 very little, she witnessed other girls being beat, she was  
8 -- she was a victim of rape and they made fun of her and  
9 told her that it was her fault that she was raped. Her  
10 story is just -- it hurt.

11 MR. HENRIKSEN: I would like to move that pages 413 to  
12 416 to be admitted, Your Honor.

13 THE COURT: Any objection?

14 MR. SILVESTER: Same objection I have had all along,  
15 Your Honor, just going to be reading unsupported hearsay and  
16 I don't have the opportunity to cross examine.

17 THE COURT: All right. And I'm going to overrule that  
18 objection. The reason is that one of the issues in this  
19 case is what information did Ms. Scheff have and what was  
20 she relying on. And the jury can sort out -- it is coming  
21 in for that purpose. We don't know -- I guess what  
22 Mr. Silvester is saying is we don't know for sure whether  
23 this is true or not, but it is certainly all admissible. So  
24 you can know what information Ms. Scheff had when she was  
25 putting her website together and so forth. I'm accepting

1        what, 413 through 416, is that right?

2                MR. HENRIKSEN: 416, yes. Thank you.

3                (Whereupon, Plaintiff's Exhibit W-2 Page Numbers  
4                413-416 were received into evidence.)

5                Q.     (By Mr. Henriksen) I would like to turn to page  
6                415. I would like to read the top two paragraphs. "When I  
7                admitted in therapy that I was raped -- when I admitted in  
8                therapy that I was raped," they didn't put the comma in the  
9                right place, "I was made to feel that it was my fault  
10               because of my behavior. In what they called Physical  
11               Education I was forced to run around the yard many times. I  
12               wasn't allowed to stop even though my lungs were shot from  
13               smoking and I had borderline asthma or I would receive a cat  
14               (which is a punishment where you have to sit and listen to  
15               tapes for hours on end until you got enough questions right  
16               to equal the amount of points of the cat. Each tape was  
17               half an hour long with a possibility of receiving 15 points  
18               while cats started at, if I remember correctly, 50 points (I  
19               could be mistaken on that exact number). Cats are  
20               considered the degree of points, like in a prison system."

21               Highlight the next two paragraphs. "I was forced to  
22               be on silence for a period of about three weeks. Teachers  
23               did not teach "school". I was given a textbook for each  
24               subject and answered the questions for each chapter and then  
25               given a test on each chapter."

1 Another question on W-2 pages 417 to 422, did you read  
2 the story of Clayton Everett Bowman before December 2001?

3 A. Yes, I read this statement. It was in -- it was  
4 again in the spring of 2001 when I was finding out all these  
5 horrible stories. And his was given to me by Donna  
6 Headricks and Paul Richards adopted mother and this is under  
7 penalty and perjury of law. This is an affidavit of Clayton  
8 Everett Bowman. And he was -- he was beaten incredibly and  
9 duct taped and he was dragged.

10 Q. And did you read this statement and did it form a  
11 basis for your beliefs concerning WWASP?

12 A. Yeah, it was just consistent. The consistency.

13 THE COURT: I'm going to accept pages 417 to 420  
14 subject to the objection noted previously.

15 (Whereupon, Defendant's Exhibit W-2 pages number 417  
16 to 420 were received into evidence.)

17 MR. HENRIKSEN: Thank you, Your Honor.

18 Q. (By Mr. Henriksen) Would you bring up page 419,  
19 the first two paragraphs -- the second two paragraphs. "I  
20 was put into isolation for not following the rules. I was  
21 screaming. So a Samoan wrapped a towel around his fist and  
22 punched my face. From impact, my head flew back and hit the  
23 hardwood wall. The towel just made it a stronger blow.  
24 From that punch I screamed louder, then Moan (the shift  
25 leader at that time) took duct tape and wrapped it around my

1 head to where my jaw had locked. I could only breathe out  
2 of my nose. I was also hog-tied with handcuffs and chains."

3 And again all of the stories that are contained in W-1  
4 and W-2 you received those in the spring of 2001?

5 A. I have read them and I have also spoken with most  
6 of them except for Clayton.

7 Q. Did you talk to Chris Goodwin before  
8 December '01?

9 A. Yes, I did.

10 Q. Did you talk with Jillian Chirinsky before  
11 December '01?

12 A. I spoke with Jillian's mother Marilyn Chirinsky.

13 Q. What did they tell you?

14 A. Jillian was the child. Her mother said that she  
15 went down to Tranquility Bay and experienced, you know,  
16 looked at the lack of food, the living conditions, the girls  
17 that were screaming, that constant screaming at the top of  
18 the lungs from OP. Jillian herself was placed in OP for  
19 over, I think it was two weeks. She was only there 26 days  
20 and they wouldn't let the mother speak with the child so the  
21 mother I guess was a lot smarter than I was, she went down  
22 and pulled her out because she -- she was told like I was  
23 that we were going to be able to speak with our child and  
24 you're not -- you're not allowed to talk to your child.

25 Q. Did you talk to Christina Alonso during the

1 Summer of '01?

2 A. I spoke with Susie Alonso, who is Christina's  
3 mother, and also Christina had spoken to regarding her time  
4 at Cross Creek Manor where she was humiliated and degraded  
5 and it was bad. Her father had died and they turned around  
6 and tried to blame the death of her father on her.  
7 Emotional torment Christina went through in Cross Creek  
8 Manor.

9 Q. Now, I want to talk about Debbie Saens who is  
10 she?

11 A. Debbie Saens is a neighbor that lives near me.  
12 Her daughter Kari Patrick was at Tranquility Bay when  
13 Valerie Heron died and jumped off the balcony. Her daughter  
14 Kari was also in the room with Valerie Heron when there was  
15 only one staff member there to over -- I believe Kari said  
16 it was 30 or 40 kids.

17 MR. SILVESTER: I'm going to move to strike. This  
18 clearly is hearsay and clearly doesn't go to her state of  
19 mind. She is clearly trying to get in testimony that  
20 otherwise she can't get in.

21 MR. HENRIKSEN: My question to her, Your Honor, is  
22 this: If she -- has she talked to Deb Saens in the Summer  
23 of '01 and what did she say and did she rely upon that for  
24 her opinion of loss?

25 THE COURT: And so as long as we get the date set I'm

1 going to overrule the objection.

2 Q. (By Mr. Henriksen) When did you talk to Debbie  
3 Saens?

4 A. I spoke -- well I speak with Debbie almost  
5 everyday. We're friends, we're neighbors. And when Valerie  
6 died, when Valerie jumped from the balcony, we realized that  
7 Kari was in the room with her --

8 Q. When did you talk to Debbie about this?

9 A. The same -- the moment we found out about  
10 Valerie's death.

11 Q. Was that before December '01?

12 A. Oh, months before. It was in August of -- August  
13 of '01.

14 Q. All right. What did Debbie Saens tell you?

15 A. She said that she tried calling Tranquility Bay  
16 and no one would give her any information, Ms. Gordan  
17 wouldn't call her back. Finally, a week later, after  
18 desperation and call after call they let her speak with  
19 Kari. And they promised Debbie that there was going to be  
20 therapy brought in for these girls that witnessed this  
21 tragic death. And there wasn't. They gave them sleeping  
22 pills instead. And Kari was sick from the sleeping pills  
23 and Debbie withdrew her daughter right that week and brought  
24 her home and got her into therapy.

25 Q. Did you speak with -- who is Bernadette Cabrael?

1           A.    Bernadette Cabrael is a mother. Her daughter  
2 Erica was at Carolina Springs with my daughter.

3           Q.    Did you speak with her before December '01?

4           A.    Oh, yes, in the Spring of '01.

5           Q.    Who is Jody Kast?

6           A.    Jody Kast had a daughter at Cross Creek Manor  
7 who --

8           Q.    When did you speak with her?

9           A.    I don't recall. It was in the Summer of '01, I  
10 believe, I don't recall. Maybe it was in the fall of '01.  
11 I don't recall the exact date on Jody.

12          Q.    Was it before December '01?

13          A.    Oh, yes, it was '01.

14          Q.    What did Jody Kast tell you?

15          A.    Jody Kast told me that her daughter -- she was in  
16 she was in Cross Creek Manor again being humiliated. She  
17 wasn't able to speak with her. She wasn't given the right  
18 amount of food. She was held in isolation for a long period  
19 of time. And Jody finally flew out, I think it was after  
20 three weeks, and picked up her daughter. After looking at  
21 the conditions that she was living in she went out and  
22 inspected it.

23          Q.    And who is Terry Anderson.

24          A.    Terry Anderson is the father, his son Travis was  
25 at Casa by the Sea.

1 Q. When did you talk to him?

2 A. I talked to him in November '01.

3 Q. And what did he tell you?

4 A. He had just placed his son at Casa by the Sea so  
5 I didn't talk to him a lot. But he was -- he was calling me  
6 and he was also calling Donna Headricks. He had seen the  
7 Intrepid Net Reporter.

8 Q. What did he tell you?

9 A. He told me he was having a terrible time getting  
10 communication to his son. They wouldn't let him speak with  
11 his son. His son wrote something about his eyes that they  
12 wouldn't give him his contact lenses and he asked me did I  
13 experience this lack of communication also? And I said yes,  
14 I did. I had to tell them my experience, but I couldn't  
15 tell him to take his child out.

16 Q. Did you talk with Clay Bowman?

17 A. Clayton Bowman we just went through --

18 Q. Sorry. Had you spoke with Arlene Farrow before  
19 December '01?

20 A. Yes, I did.

21 Q. There was a Dateline show on April 13th of 1999.  
22 And did you see that show during the Summer of '01?

23 A. Yes. It was on the tape and it kind of concluded  
24 another story I had heard from another source.

25 Q. And did that tape change your opinion of WWASP?

1           A.    Yes, absolutely, it scared me to death.

2           Q.    I would like to bring up the clip Lords of  
3 Discipline clip two.

4           (Whereupon, Lords of Discipline two was played  
5 but not transcribed.)

6           MR. HENRIKSEN: Go to clip seven.

7           (Whereupon, Dateline clip seven was played  
8 but was not transcribed.)

9           Q.    (By Mr. Henriksen) Did you repeat in some of the  
10 e-mails that you felt that Brightway had been closed and  
11 they were connected in some way with the World Wide  
12 Association?

13          A.    Yes, I did. In my opinion it --

14          Q.    Did you get that information from this video and  
15 other articles?

16          A.    From exactly -- yeah, from that video and other  
17 various news articles.

18          Q.    All right. Excuse me just one minute, Your  
19 Honor. All right. Now, when Mr. Silvester was asking you  
20 questions you were asked about sex abuse at Majestic Ranch  
21 and that you had put that in one of your e-mails to someone.  
22 Did you read an article in the Salt Lake Tribune about that?

23          A.    Yes, I read the article Wayne Winder and the  
24 allegations and the titty-twisting and what was going on at  
25 Majestic Ranch.

1           Q.    Can you bring up Q-80, paragraph two.  And maybe  
2 bring up that date so we can read it.  It is in the top  
3 right hand corner.  Do you see that this is an article  
4 Saturday, June 15th, 2002, which is before the time that you  
5 had written that in your e-mail.  And I would like to go  
6 down now to paragraph two please.  Talking about Winder he  
7 is the director, faces felony charge of aggravated sexual  
8 abuse dealing with material harmful to a minor as well as  
9 three misdemeanor counts of child abuse.

10           Now go down to paragraph three, four and five if you  
11 can put all those on.  "Winder, who is the director and  
12 staff supervisor of Majestic Ranch was affiliated with a  
13 group of similar treatment centers located around the  
14 country and overseas.  The World Wide Association of  
15 Specialty Programs and schools, WWASPS run by a St. George  
16 based group has facilities in South Carolina, California,  
17 Montana, Jamaica, and LaVerkin.  The centers charge up to  
18 \$3,000 a month for care.

19           The Utah Assistant Attorney General, Craig Barlow,  
20 said Friday that the State Officials were alerted to the  
21 alleged abuse of children at Majestic Ranch several weeks  
22 ago by a former employee.  The ensuing investigation  
23 involved interviews with 41 children.  Barlow indicated more  
24 charges may be forthcoming.  There are five kids involved,  
25 he said, we're looking at other charges against former staff

1 and possibly against current staff."

2 Then do the next paragraph, the next three paragraphs.

3 "In interviews, children at the ranch told investigators  
4 about sexual abuse and physical abuse and said that Winder  
5 displayed pornographic pictures. The children are ages 10  
6 to 14. According to the complaint, one child said that  
7 Winder grabbed her breast and twisted it, and another said  
8 that the defendant threw him to the floor and pinned his  
9 arms back over his head while lying face down. A third  
10 child told investigators that Winder threatened to kill him,  
11 and another said the staff supervisor showed him a picture  
12 of a nude woman, the complaint alleges." And you had read  
13 that before you put anything in the e-mail to anyone?

14 A. Not only had I read that, I spoke with a  
15 grandmother who had custody of a young boy that was at  
16 Majestic Ranch during all of this. And he was supposed to  
17 testify against Wayne Winder. And in the middle of the  
18 night they transferred that young boy to Jamaica to  
19 Tranquility Bay so he didn't have to testify. They called  
20 the grandmother the next morning to let her know, oh, by the  
21 way, we couldn't control Mathew any more, we had to send him  
22 out. Within seven days she went and picked him up at  
23 Tranquility Bay. She had spoken with Attorney General Craig  
24 Barlow also.

25 Q. Would you highlight the second page? Just that,

1        yeah. Thanks. "However, the state classifies the ranch as  
2        a residential treatment center. The office of licensing has  
3        sent a letter notifying the owners they need a human  
4        services license to operate. As of Friday, the facility  
5        remained open. This is not the first time a treatment  
6        center affiliated with WWASP has been investigated. In  
7        1998, a treatment center in Samoa came under fire and was  
8        eventually closed. Another association facility in the  
9        Czech Republic was closed by Czech authorities. And in 1999  
10       a suit was filed against LaVerkin's Cross Creek Academy  
11       alleging mistreatment." That is what you had read before  
12       you sent out an e-mail concerning Mr. Winder to somebody?

13            A. Winder, yes, sir. That combined with my  
14       telephone conversations.

15            Q. Had you read an article in the Denver Rocky  
16       Mountain News before December 2001?

17            A. I read many articles that Lou Kilzer wrote called  
18       Desperate Measures out of the Denver Rocky Mountain News,  
19       yes.

20            Q. And in that article, did they quote Ken Kay who  
21       was the -- who had left the WWASP organization?

22            A. They did quote him, and he was quoted that people  
23       should be aware, I'll paraphrase, be aware of these  
24       programs, they're a bunch of untrained people, and they have  
25       no clue, they're not prudential. And to substantiate that

1 Donna Headricks who -- who helped well worked with Lou  
2 Kilzer on this project of this series of desperate measures  
3 spoke with Ken Kay when he had quit WWASP and she audiotaped  
4 it and I actually heard Ken stating, you know, about Bob  
5 Lichfield's business and the offshore bank accounts and all  
6 of the yachts that he has and how he is making money off of  
7 parents. So I did hear pieces of that audio.

8 Q. And that --

9 A. And I knew Ken Kay's voice because I had met him  
10 at an, I don't know, it was a gala.

11 Q. Would you bring up Q-34. Going down to where it  
12 starts if these allegations, those four paragraphs. Third  
13 paragraph down, go down to four.

14 A. Thank you.

15 Q. "If these are the allegations, then we have no  
16 problem with accusations. If the -- I'm taking that out  
17 of context. The next paragraph, "in a 1999 interview with  
18 Rocky Mountain News, however, Kay who at that time had left  
19 the WWASP organization, criticized its programs and staff.  
20 The staff was a bunch of untrained people, he said,  
21 according to the newspaper. They don't have credentials of  
22 any kind. We could be leading these kids to long term  
23 problems that we don't have a clue about because we are not  
24 going about it in a proper way, he said. How in the hell  
25 can you call yourself a behavior modification program and

1 that is one of the ways it is marketed when nobody has the  
2 experience to determine is this good, is this bad." And  
3 this is what you had read of Ken Kay who is currently the  
4 president of WWASP?

5 A. He was the president when my daughter was in the  
6 program, and I had met him. So I was -- this just mortified  
7 me because -- I mean he thought this and he went back and  
8 worked for people like this and my daughter was one of the  
9 victims. It was -- it was outrageous.

10 Q. Now let's talk a little bit about Carolina  
11 Springs and what you read about Carolina Springs after your  
12 daughter came out but before December '01. I would like to  
13 turn to Q-96. There is a consent order by the State of  
14 South Carolina. And had you -- had you read that order in  
15 the Summer of '01?

16 A. Yes, I had read all those orders. They were --  
17 they were Intrepid Net Reporter.

18 MR. SILVESTER: What page are you on?

19 Q. (By Mr. Henriksen) I'm on -- I'm on page -- it  
20 should be Q-96. You're way ahead of me. Would you enlarge  
21 the first two paragraphs. This is a consent order, South  
22 Carolina Department of Social Services versus Carolina  
23 Springs Academy and Richard Byars, the director. Paragraph  
24 one, "That the parties are working cooperatively to resolve  
25 the issues which have prevented the plaintiff (hereinafter

1 referred to as "SCDSS") from licensing the defendant,  
2 Carolina Springs Academy (hereinafter referred to as "CSA")  
3 as a residential child caring facility."

4 Two, "That Richard Byars is not qualified under state  
5 regulations to work as the director of CSA, and that Richard  
6 Byars is no longer the director of that facility.  
7 Accordingly, Mr. Byars was dismissed as an individual from  
8 this action."

9 Paragraph six, "That the defendants agree immediately  
10 to house children at CSA only in the "barn" building, which  
11 has been inspected and approved by the local Fire Marshal.  
12 Defendants agree to house no more than fifty-eight children  
13 in the "barn" building (as the structure currently exists)  
14 pursuant to SCDSS square footage regulation requirements."

15 Do paragraph seven. "That defendants agree not to  
16 house children in any other buildings or structures until  
17 such locations are inspected and approved by the local Fire  
18 Marshal, inspected and approved by the Abbeville County  
19 Health Department, and measured and approved by the  
20 plaintiff."

21 Paragraph 16, "That effective immediately, no child,  
22 regardless of his/her "level" in CSA's program, will perform  
23 staff functions, including discipline and control of other  
24 children."

25 Now, when you read this consent order concerning the

1 director of -- the former director and read about the  
2 different buildings that they could use, what other  
3 information did you have or did you learn concerning  
4 Carolina Springs Academy?

5 A. I had read that as well as there was a cease and  
6 desist order issued and I believe it was issued during the  
7 time my daughter was there. I didn't realize it, due to the  
8 sewage problems. And it started to make sense because she  
9 did complain of sleeping in the dripping sewage, as well as  
10 the lack of food and those pictures of the refrigeration,  
11 the food wasn't refrigerated right, the food that there was.

12 The other thing, as far as staff functions, the kids  
13 were made to clean, spend literally days up until one, two,  
14 three in the morning cleaning the facility for when  
15 perspective parents were coming in. And I'm not saying that  
16 a child shouldn't clean, because I think they should, but to  
17 do what the staff should be doing to prepare, I mean to me  
18 the school should be prepared any time you walk in, not just  
19 when parents are coming. And I think it should be noted  
20 that they don't like parents coming to the school unless it  
21 is prearranged, they meet you due west a little town near  
22 there. Because when I went to pick up my daughter, they all  
23 but they were begging me we'll bring her to you, we'll bring  
24 her to you. And later now in reflection I am finding out  
25 why.

1           Q.    Let me ask you a couple of other questions.  In  
2   Exhibit Q is a list of articles and they're identified by  
3   date.  These are articles that you have become aware of  
4   through your whole experience in dealing with WWASP after  
5   you started researching and investigating WWASP in the  
6   spring and Summer of '01; is that correct?

7           A.    That is correct.  I see the list.  I know what  
8   list you're speaking of.

9           Q.    And there are other articles that you read that  
10  are not currently included on that list; is that correct?

11          A.    Yes, there is literally probably 100 plus more  
12  articles that are not on that list.

13          Q.    And if we look at articles that you read prior to  
14  the summer or during the Summer of '01, there are many other  
15  articles that we have not put as this exhibit is that what  
16  you're telling me?

17          A.    That is exactly what I'm telling you.

18          Q.    And are there other parents and children that you  
19  spoke to, you started to investigate this situation in  
20  August '01 and continuing forward, so other people we have  
21  not mentioned?

22          A.    There was quite a lot.  Donna Headricks, Barbie  
23  Stampe.

24          Q.    What I'm saying --

25          A.    Ashley Newman.

1           Q.    We're not taking the time to list all of the  
2           other parents and children you have spoken to, but there are  
3           many others?

4           A.    Many, many, many others that we can't even begin.

5           Q.    Let's talk just a little bit about a website.  
6           And we talked about it as the Woodbury Reports.  It is the  
7           website we have been talking about from the beginning of  
8           Mr. Silvester's opening statement, and my opening statement,  
9           and a lot of questions that you put a pseudonym instead of  
10          writing your own name you wrote in a pseudonym; is that  
11          correct?

12          A.    That is correct.

13          Q.    And you used those pseudonyms to tell the story  
14          of whom?  Tell us who the pseudonym is for Deb C.?

15          A.    It is Debbie Saens, my neighbor.

16          Q.    And you told her story on the Woodbury Reports?

17          A.    I told her story and the experience of her  
18          daughter.

19          Q.    And did you tell anybody that you were posting  
20          under Deb C. for Deb Saens?

21          A.    No.  I -- I didn't share that with anybody.

22          Q.    Did you tell anyone that you were the one using  
23          the name of Deb?

24          A.    No, I didn't.

25          Q.    All right.  But you did tell her story?

1           A.    I did tell her true story.

2           Q.    And you did tell it accurately?

3           A.    I told it accurately, yes.

4           Q.    And you did use another name, Tracy Brittany  
5 Reese and who was that?

6           A.    That was Bernadette Cabrael, the mother whose  
7 daughter was in the school with my daughter.

8           Q.    How do you know Bernadette?

9           A.    Because our children were at Carolina Springs  
10 together.

11          Q.    Did you tell her story using the name of Tracy  
12 Reese?

13          A.    Yes, to protect identity of all of the people.

14          Q.    Did you accurately tell the story that she told  
15 to you?

16          A.    Yes, I did. I spoke with her many times.

17          Q.    Did you tell the story of Hilda?

18          A.    Yes, I spoke -- I told the story of Hilda. She  
19 was a lady in my office.

20          Q.    And you also gave a story that you told in the  
21 eyes of Mark D.W. which is a story describing what happened  
22 to Josh Jennings at High Impact?

23          A.    I created the pseudonym Mark D.W. That was to  
24 tell the story of a tragic story of a young boy that came  
25 out of a WWASP program and the way he was treated.

1           Q.    What I want you to tell me is who did you talk to  
2           at any point in time concerning Josh Jennings and his  
3           treatment at High Impact?

4           A.    Concerning --

5           Q.    Before December of '01?

6           A.    Right.  I spoke with Arlene Farrow, Bernie  
7           Farrow, Chris Goodwin, Lou Kilzer, and Duane Reichert.  
8           Duane Reichert's son, Evan Reichert, was actually in the  
9           cage, like dog cages these kids were in next to Josh  
10          Jennings and witnessed what they did to Josh Jennings.

11          Q.    And from the -- from what these individuals told  
12          you, did you tell the story of Mark D.W. accurately?

13          A.    I told the story, the concept of what happened to  
14          Josh Jennings accurately.  I made up the name of Mark D.W.  
15          and that he had a daughter at the school because I just  
16          wanted a way for the public to see what was going on and  
17          what happened to this child.

18          Q.    So you used a different name, pseudonym, to tell  
19          the story that happened to Josh Jennings?

20          A.    That is correct.

21          Q.    And Josh Jennings you described him as being in a  
22          cage.  Where did you get that information from?

23          A.    I got that information from Duane Reichert whose  
24          son, like I said, was in a cage next to Josh Jennings.

25          Q.    What did Duane tell you?

1           A.    Duane told me that Evan told him, Evan is his  
2           son, that you have to understand they're laying in these  
3           cages, his hands were spread out. Our chins had scars under  
4           his chins. They had to urinate and they were in their feces  
5           and urinations. They weren't allowed to take bathroom  
6           breaks. And they were freezing cold. At night, the staff  
7           members as a joke they were just in their boxer shorts as a  
8           joke would come and pour buckets of ice cold water on these  
9           kids just to hear them scream.

10           And also I mean they all had scabies and skin  
11           diseases. And I guess when Josh Jennings came into Cedar  
12           Mountain where Arlene Farrow and Dr. Bernie Farrow saw him,  
13           that he was totally his -- his feet were skin deceased. He  
14           looked like death from what they had said to me. He was in  
15           very poor condition. And I concluded with Duane Reichert  
16           whose son was there and saw him in the cage.

17           Q.    And when you told the story of Mark D.W. were you  
18           trying to be accurate?

19           A.    I was trying to be --

20           Q.    And trying to talk about Josh Jennings?

21           A.    I was trying to be as accurate as I could because  
22           it was so far worse. They actually had a dog collar on him  
23           and they used a cattle prod. And at first it just sounds so  
24           outrageous until you hear the story of Chris Goodwin who I  
25           also relied upon. They did the same thing to his son. So

1 it is consistency. And I just felt I needed -- I mean I was  
2 just becoming more and more outraged. First, at what they  
3 did to my daughter; and then hearing these stories, these  
4 shows, so I felt I needed to tell the public.

5 Q. I would like to talk a little bit now about how  
6 you went about picking a school to recommend to parents.  
7 And I would first like to talk and have you tell us about  
8 Donna Headrick and how you became acquainted with her and  
9 why she was part of your PURE Associates and doing that  
10 investigation. So tell us about Donna Headrick, would you  
11 please?

12 A. Donna Headrick held two masters degrees, one in  
13 social work. She worked for the Juvenile Justice System for  
14 many years. She did lots of research, lots of reports on  
15 it. Donna Headricks took an interest in the private the  
16 private side of getting teens help and she --

17 MR. SILVESTER: Your Honor, I'm going to object to  
18 this. I think there needs to be some foundation that shows  
19 Ms. Scheff has any reason to know any of this information.

20 MR. HENRIKSEN: I'll lay more foundation.

21 MR. SILVESTER: We asked her in her deposition and she  
22 didn't.

23 MR. HENRIKSEN: I'll lay more foundation, Your Honor.

24 THE COURT: Okay.

25 Q. (By Mr. Henriksen) Donna Headrick became an

1 individual that associated with PURE, that did research in  
2 the program; is that true?

3 A. We were -- yes, she did. I contacted Donna. I  
4 believe I contacted her first after reading her article on  
5 Intrepid Net. She was a writer/reporter on different types  
6 of private facilities like this.

7 Q. And at any point did you call her your quality  
8 assurance person or director or something?

9 A. Yes. Donna wanted to become part of PURE as  
10 director of quality. She had done extensive research in the  
11 juvenile justice system on backgrounds and schools. She  
12 visits schools, she did research reports, a lot of intense  
13 investigation is what Donna had always done.

14 Q. And you relied upon her in her research  
15 concerning the schools?

16 A. Yes, I did.

17 Q. And so you discussed these things with her by  
18 telephone, by e-mail?

19 A. Mostly by telephone. We spoke on the phone very  
20 often.

21 Q. What was her background as far as her education?

22 A. She had a master's degree --

23 MR. SILVESTER: Objection, lack of foundation.

24 THE COURT: Well, what I'll do is allow Ms. Scheff to  
25 describe what she understood the situation to be. Because

1 again, ladies and gentlemen, we're putting in a lot of  
2 information this afternoon and today that we don't know for  
3 sure whether it is true or not. One of the issues you have  
4 to decide what was the state of mind of Ms. Scheff when she  
5 was doing different things. She is entitled to describe the  
6 kind of information that she was relying on, what her belief  
7 was and it is for that limited purpose that this information  
8 is coming in.

9 MR. SILVESTER: My objection is I don't think she can  
10 vouch for something unless she has seen some document, she  
11 has seen some transcript, unless there is something to  
12 verify.

13 THE COURT: Well, she can describe what. I'm going to  
14 overrule that. She doesn't have to have a document if  
15 somebody tells her **X** or **Y** or **Z** or something along those  
16 lines that would be a reason for her to believe that and I  
17 think that is what Mr. Henriksen is doing.

18 Q. (By Mr. Henriksen) Thank you, Your Honor. And  
19 just so the record -- or just so our testimony is clear,  
20 Donna Headrick has passed away; isn't that correct?

21 A. That is correct.

22 Q. And tell us what you understand her educational  
23 background was?

24 A. I spoke with Donna. Donna had shared with me she  
25 had two master degrees, one in social work. I may not have

1 remembered it in my deposition due to the fact I had so much  
2 on my mind, but I have pictures of Donna that I had and I  
3 had a little bit of her background her daughter also shared  
4 with me. She had a surviving daughter. She had two  
5 master's degrees, one in social work. She did extensive  
6 research for the juvenile justice system. She worked with  
7 the juvenile justice system and she also worked with a law  
8 firm in Maine as a -- like a researcher, paralegal that was  
9 her duties.

10 Q. What did she do in PURE?

11 A. She would interview, look at different programs.  
12 She is the one that looked at, you know, there was I am  
13 trying to think different programs she talked to admissions,  
14 talked to the counselors, she would actually call Utah  
15 licensing, talk to Kelly Husbands. She would get foyer  
16 reports, grammar reports, whatever they were called. Donna  
17 did extensive backgrounds on programs.

18 Q. And after she did the research, you would discuss  
19 that with her?

20 A. I would discuss it with her. And what I would do  
21 is I would go out there and find parents and students. I --  
22 I am just parents helping parents. I want to hear from a  
23 parent. I mean I think it is great to have textbook  
24 information, but I think more importantly it is to hear what  
25 a parent or a student has to say of their experience not

1 just what the government says. How did that program affect  
2 them, where could they have improved. So I made hundreds of  
3 phone calls to parents, students. I was on the phone most  
4 of the time.

5 Q. What were you talking to the parents for if you  
6 were investigating schools?

7 A. Because I believe parents can give me better  
8 information than a book. I want to hear and I want to hear  
9 good, the bad, and the ugly. I want to hear everything  
10 about a program. You get different -- different --  
11 different ideas and different stories from every child and  
12 you want to make sure if there was an abuse, what -- if  
13 something -- if there was an incident what really happened  
14 around that incident? And again I'm going to repeat there  
15 is no perfect programs but when you have the high  
16 consistency that is the problem. But if there was something  
17 I would call and find out, like the death of Katie. I  
18 wanted to find out. I talked to the kids, I talked to the  
19 parents.

20 Q. Once you talked to the parents and after Donna  
21 did research, who else helped you do research? If we look  
22 at the period of time in the first part of 2002, is there  
23 anyone else that helped you do research?

24 A. No. Donna died in, I believe, it was July '02.  
25 And after that, it was a shock for me. I really didn't do

1 too much. And then Marie Peart came on working with me I  
2 think in November of '02 or '03. I don't remember if it was  
3 '02 or '03 actually.

4 Q. All right. And then if we -- if we talk about --

5 A. '03.

6 Q. If we talk about several of the programs and you  
7 told Mr. Silvester and the jury about what you -- who you  
8 talked to about Cedar Mountain, who you talked to about  
9 Sorenson's and who did you talk to about the various schools  
10 and academies that you referred to? Did you do research and  
11 investigation on all of the schools that you would refer to?

12 A. Yes, myself or Donna had done that.

13 MR. HENRIKSEN: Your Honor, let me take just a short  
14 break and I guess I need to ask the Court if the Court -- I  
15 do have several issues we haven't discussed yet with her, if  
16 you want to spend some more time this afternoon so we can  
17 finish up with her I could sort of estimate that time.

18 THE COURT: How much more time do you think?

19 MR. HENRIKSEN: I'm estimating about 15, 20 minutes,  
20 somewhere in that neighborhood, but I have got to talk with  
21 Aaron here for just a minute, if I could do that?

22 THE COURT: What would the jury like to do? Would you  
23 like to -- it is about 1:23 now. Do you want to -- we need  
24 to do it sometime either do it now or would you rather knock  
25 off now, I guess or does it make any difference? All right.

1       Why don't we see if we can finish this up. We had some good  
2       sandwiches and we're good for another few minutes.

3               MR. HENRIKSEN: Could we have just a minute standing  
4       up break?

5               THE COURT: That sounds like a good idea.

6               (Whereupon, there was a brief pause  
7       in the proceedings.)

8               THE COURT: All right. Are you ready to proceed,  
9       Mr. Henriksen?

10              MR. HENRIKSEN: Yes, Your Honor.

11              THE COURT: All right, if everyone will be seated  
12       then.

13              Q.     (By Mr. Henriksen) I would like to look at  
14       Exhibit E -- Exhibit C, Your Honor.

15              Showing you what has been marked as and received as  
16       Exhibit C which shows listed payments that PURE received  
17       from page 32 on Exhibit C. This shows the payments for  
18       referral fees that you received from Oak Ridge Military  
19       Academy; is that correct?

20              A.     Over three years, yes.

21              Q.     And I would like you to tell me what is the  
22       difference between a boys or girls that would get referred  
23       to Oak Ridge Military Academy, and boys and girls that would  
24       go into a behavior modification program such as one by WWASP  
25       or other programs that you refer to that are called behavior

1       modification programs?

2           A.     Military schools are a privilege and an honor to  
3       attend. They are for children, possibly like my son who is  
4       an underachiever and lacks motivation. But some military  
5       schools like Valley Forge or Admiral Fair wouldn't take my  
6       son because you have to have a certain GPA or 4.0. A school  
7       like Oak Ridge will take a child with 3.0 or above and also  
8       give a child a second chance academically and even if they  
9       are acting out ever so slightly, got a suspension from  
10      school, there is that zero tolerance at school. There is a  
11      zero tolerance at Oak Ridge. But they found that when a  
12      child is in a structured positive environment, it is for  
13      good kids. And these are -- I have my uncles and my cousins  
14      all graduated from a New York military growing up. They're  
15      doctors and lawyers today. It is a privilege and honor.

16           It is not for bad children, it is not for troubled  
17      children. And a lot of parents have that misconception.  
18      When parents would write into PURE, my organization, they  
19      would all click military thinking that military school is  
20      what is going to help their child. Not knowing that, not  
21      only is it a privilege and honor to attend, your child has  
22      to have a desire to go. My son went reluctantly. He went.  
23      He was okay with it and he interviewed and found out wow  
24      this isn't so bad. But you have to get the child on campus.  
25      The children that would go to behavioral modification

1 schools you wouldn't even get them on a campus defined hard  
2 core, adjudicated, et cetera. Military schools are  
3 completely different and parents are under a huge  
4 misconception. So when they would write us and say they're  
5 looking for a military school, I would automatically send  
6 them a brochure of Oak Ridge. And they would soon learn if  
7 their child was caught smoking pot or breaking the rules, he  
8 would be expelled and they would lose their \$20,000 tuition.  
9 And that is about the only time we would wake up a parent  
10 that military schools are not for troubled kids. And you  
11 will lose your tuition. Whereas at behavioral modification  
12 schools they take those type of kids. That is what their  
13 specialty is. That is not military schools.

14 Q. I would like to have you bring up Exhibit V, the  
15 third page. Let's go first to the second page of V, the  
16 paragraph right over that way and right underneath where you  
17 have got it. You're good at that. Thanks. Admissions  
18 information. This is a brochure that has been from Oak  
19 Ridge Military academy; is that correct, Sue?

20 A. That is correct.

21 Q. And it says admissions information. Oak Ridge  
22 Military Academy seeks students of average to above average  
23 academic abilities who have the motivation to succeed in a  
24 college preparatory environment. Then you go over to page  
25 three, the last complete sentence of the third paragraph,

1 just do the whole paragraph, it is easier, "general  
2 information. Oak Ridge Military Academy seeks to enroll  
3 those students who have the greatest potential to  
4 successfully complete and benefit from a college preparatory  
5 education in a structured environment. The admissions  
6 process attempts to identify those students who have  
7 qualified, willing to attend Oak Ridge Military Academy, and  
8 meet our academic requirements and standards for enrollment.  
9 Enrollment decision is based on academic potential as  
10 indicated by standardized testing, academic transcripts and  
11 evaluation of character references and recommendations,  
12 personal abilities and attitudes and talents.

13 I want to ask you about this last sentence, Sue. It  
14 says, "the Academy is unable to personalize, customize, or  
15 individualize academic curriculum or behavioral standards  
16 for young people with special needs." And from your  
17 referring to this school for several years, is this what  
18 you're trying to describe to us with regards to behavioral  
19 problem students?

20 A. Yes.

21 Q. Tell us what your understanding is as to what Oak  
22 Ridge Academy will accept?

23 A. Oak Ridge Academy will accept the lack of  
24 motivation, like it was saying. How do I -- I'm not sure  
25 how to describe it.

1           Q.    Can a young man who has behavioral problems go to  
2   Oak Ridge Military Academy?

3           A.    Not severe, not even moderate.  I mean, very  
4   light.  I mean the parents should understand that if they  
5   have a really defiant teen that doesn't want to go there, he  
6   is going to get himself expelled and lose his tuition.  It  
7   will not take behavioral problems.  There is no therapy at  
8   military schools.

9           Q.    All right.  We have looked at -- Mr. Silvester  
10  showed several of the letters that went back to parents and  
11  you put down Oak Ridge Military Academy and a couple of  
12  other schools there.  Why would you include Oak Ridge  
13  Academy on the same form?

14          A.    Like I said, a lot of these parents are under the  
15  misconception that military school is what is going to  
16  straighten their child out and it is a misconception.  They  
17  usually need therapeutic boarding school at that extent, but  
18  they usually don't believe us until they see a brochure.

19          Q.    So if they ask for the military information you  
20  send it to them even though you don't think they would  
21  qualify?

22          A.    Absolutely.  Because when they fill out a form,  
23  they check out what they would like us to send them.  And  
24  most of them, I would say 80 percent of the intake, everyone  
25  is putting military not realizing that military is not for

1 at risk teens.

2 Q. Okay.

3 A. Troubled teens.

4 Q. The boys -- is it a boys or boys and girls?

5 A. It is co-ed.

6 Q. The boys and girls that you have placed in Oak  
7 Ridge Military Academy, would they have qualified to fit  
8 into a WWASP program?

9 MR. SILVESTER: Objection, Your Honor, lack of  
10 foundation.

11 THE WITNESS: No.

12 THE COURT: All right. We'll see if you can set  
13 foundation here.

14 Q. (By Mr. Henriksen) When you did your  
15 investigation of World Wide Schools when you were putting  
16 [REDACTED] in, and afterwards, investigating the type of  
17 students they accept into those programs, did you formulate  
18 an opinion as to whether or not the boys that you were  
19 placing and girls in Oak Ridge Military Academy or the boys  
20 that were going into WWASP or to the other behavior  
21 modification schools, would they have qualified for Oak  
22 Ridge?

23 MR. SILVESTER: Objection, Your Honor, she has  
24 experience with one child placed in one World Wide program.  
25 That is insufficient. She lacks foundation.

1           THE COURT: Well, this is -- why don't ask her some  
2 questions about how you know, what kind of background she  
3 has in this area.

4           Q.     (By Mr. Henriksen) Have you reviewed the type of  
5 students that different WWASP schools accept?

6           A.     Yes, I have. I have looked at -- I have  
7 interviewed how many of the different WWASP students and saw  
8 the problems they were having going in. Some of them  
9 actually maybe didn't even belong at a WWASP program.

10          Q.     Have you looked at the criteria that WWASP puts  
11 out that shows what type of students they will accept?

12          A.     Yes, I have.

13          THE COURT: All right. I'm going to overrule the  
14 objection. That is enough foundation.

15          Q.     (By Mr. Henriksen) Thank you, Your Honor. And  
16 would the students that go to WWASP schools, would they  
17 qualify for Oak Ridge Military academy?

18          A.     No, they would not.

19          Q.     Why?

20          A.     Because they are not troubled kids. They can't  
21 be kids -- the kids have to want to stay there. They have  
22 to want to go there. They can't be in any trouble with the  
23 law. They can't have any violence, suicidal thoughts,  
24 suicidal thoughts in any way. There is absolutely no  
25 therapy at a military school especially with adopted kids

1       that act out.

2               Q.     When you have been involved in referring children  
3       to a behavior modification school versus a military school,  
4       have you -- I don't know where that question was going.  
5       I'll start over. It is getting late in the day.

6               I would like you to turn now to Exhibit C-30.  
7       Bringing up the tax return for PURE and a cover sheet to  
8       that. That makes it a lot easier than reading the whole  
9       return. I want to ask you some questions with regards to  
10      your tax returns and reasonable business expenses that you  
11      have. And I'm looking at Exhibit C, page 61. That shows  
12      from your tax return that you had \$67,407 in income. Is  
13      that correct?

14              A.     That would be correct. It is probably about 65  
15      or 70 percent Oak Ridge.

16              Q.     And on the expenses, those expenses are detailed  
17      in your tax return and brought forward and put on this cover  
18      sheet. And are each one of these expenses listed starting  
19      with repairs and maintenance down to outside service, were  
20      they reasonably necessary in the running of your business?

21              MR. SILVESTER: Objection, Your Honor. I think that  
22      is overly broad and lacks foundation. We should go through  
23      them one at a time.

24              THE COURT: I'm going to overrule that. Go ahead.

25              THE WITNESS: I lost your question, I'm sorry.

1 Q. (By Mr. Henriksen) If you look at that list from  
2 repairs and maintenance, thanks for blowing that up, down to  
3 outside services, and you have reviewed these previous to  
4 coming here today, right?

5 A. Yes, I have reviewed them and also with my  
6 accountant I review everything closely.

7 Q. And are they the reasonable and necessary  
8 expenses that you have in running the business of PURE in  
9 2001?

10 A. In 2001, that was accurate.

11 Q. And the net profit that you show for 2001 was  
12 \$26,095; is that right?

13 A. That would be correct.

14 Q. I would like to turn to Exhibit C-47 in our  
15 exhibits. And I'm going to show what you has been marked as  
16 PURE's 2002 tax return. And again, we have got the tax  
17 return and on top of that is a cover sheet. It is C-16.  
18 And again, I want to ask you some questions on that tax  
19 return. It shows you had gross profits of \$208,381; is that  
20 correct?

21 A. \$208,381. That is correct with most of it being  
22 Oak Ridge.

23 Q. If we look through -- what percent of your income  
24 in those three years is Oak Ridge?

25 A. I would say between 65 and 75 percent is Oak

1 Ridge.

2 Q. And in looking at the expenses that you show from  
3 commissions all the way down to Section 179 Expense, have  
4 you reviewed those and did you go over those with your  
5 accountant at the time you filed your tax return?

6 A. Yes, we went over each individual line item.

7 Q. Are each of those expenses shown on that exhibit  
8 reasonable and necessary expenses that you incurred in  
9 running your business?

10 MR. SILVESTER: Objection, lack of foundation.

11 THE COURT: Overruled.

12 THE WITNESS: Yes, they were.

13 MR. HENRIKSEN: I would like to turn now to Exhibit C  
14 and Fred it is 33.

15 MR. SILVESTER: Thank you.

16 Q. (By Mr. Henriksen) Let's look at the 2003 Tax  
17 Return and it is the same way we put the exhibit underneath  
18 it and then put a cover sheet on top again. And on this tax  
19 return you show gross profits of \$203,798. And again we  
20 have listed the expenses starting with costs of goods sold,  
21 your commissions down to a Section 179 Expenses. And did  
22 you review those with your accountant and put these together  
23 with him as far as your expenses?

24 A. Yes. As you can see in 2003 and 2002 is when we  
25 became the escrow. Yes, I did review each line with my CPA.

1           Q.    With regard to the expenses shown on that page,  
2           were those reasonable and necessary expenses that you  
3           incurred in running PURE that year?

4           MR. SILVESTER:  Objection, lack of foundation.

5           THE COURT:  Overruled.

6           THE WITNESS:  Yes, they were.

7           Q.    (By Mr. Henriksen)  And then does it show a net  
8           profit of \$11,297; is that correct?

9           A.    That is correct.

10          Q.    I would like you to turn to Exhibit B.  And if  
11          you could just highlight the -- it says original message  
12          down to me.  Now at some time did you -- just shut that off  
13          for a minute.  Now at some time you had given your resume or  
14          your bio information to the person who helped put together  
15          your website?

16          A.    I gave it to Sandra who was working on the grant  
17          writing and she was writing the website, yes.

18          Q.    And with regards to everything that you put on  
19          this PURE website, you had someone put together a bio,  
20          people who put together information.  The information came  
21          from different sources other than just you; is that correct?

22          A.    That is correct.

23          Q.    But since you're the main person in PURE, you're  
24          responsible for it?

25          A.    I am responsible for it.

1 Q. And were there mistakes on your website?

2 A. Yes, I have made mistakes.

3 Q. For example, did you learn on your website that  
4 someone had indicated that you actually had a college degree  
5 instead of just some years in college?

6 A. Right, she assumed I had a college degree because  
7 she knew where I went to school and then she knew I came  
8 back and went to Nova University. She assumed that and I  
9 didn't. I just put my classes attended.

10 Q. And did you ask your web person to fix that in  
11 your bio?

12 A. Yes, as soon as it was brought to my attention.

13 Q. It says, "I did give you some part of the bio's  
14 to add to the page for Marie and Svetlana." These are two  
15 other people that were associated with your company?

16 A. That is correct.

17 Q. Now some of the years you actually had employees.  
18 Svetlana and I forget the other name in your office?

19 A. Norma Hallmann.

20 Q. And then some of the years you had other outside  
21 people that had come in and helped you do secretarial work?

22 A. I had parents that came in and answered phones.

23 Q. From time to time you had different people that  
24 associated with your business and you had their bios on your  
25 website?

1           A.    Yes, I still have a couple of them.

2           Q.    And Marie Peart, I say her name wrong, did she  
3 have a bio on your website?

4           A.    Yes, she still does.

5           Q.    And then it says, "I will add the pictures later.  
6 Don't forget to remove degree and replace with "background"  
7 in my bio." And did she fix it?

8           A.    Eugene did fix it and I obviously, since I said  
9 "don't forget" I must have told her previously and I just  
10 never went back and checked that page.

11          Q.    As soon as you realized that there was that  
12 mistake, did you correct it?

13          A.    Yes, I did immediately.

14          Q.    All right. Now on that same bio, it says that  
15 you had some years of experience in the medical field. I  
16 would like you to tell me what it is you did in the medical  
17 field?

18          A.    What I did is I did referrals, a lot of what I'm  
19 doing now. I was trained in Louisville, Kentucky to take  
20 patient intakes. And what they would do is call us with  
21 different problems, whether it was skin or rheumatologist,  
22 and I would tell them what type of doctor that they would  
23 need and I would connect it through. It was through human  
24 resources. So I would actually have to listen to what they  
25 had to say and determine what doctor I believed they needed,

1 and what type of referral they would get to get. So that is  
2 where the medical training and they trained us for that.  
3 And I didn't do any medical treating of patients, but we did  
4 just give referrals to the medical doctors.

5 Q. So a patient or prospective patient would call in  
6 and say I have got this kind of problem, can you help find a  
7 doctor for me?

8 A. Right. What kind of doctor do you think I need.  
9 And then they would say can you refer us to a doctor. We  
10 had names in the computer bank that they would tell us who  
11 to refer these people to.

12 Q. Did you ever claim to have training in the  
13 medical treatment of an individual?

14 A. No.

15 MR. HENRIKSEN: One other clip I want to show you from  
16 the Dateline video of 4-13-99 so I can ask you some  
17 additional questions after you view that.

18 (Whereupon, the Lords of Discipline clip four  
19 was played but was not written by the reporter.)

20 MR. HENRIKSEN: Thank you.

21 Q. (By Mr. Henriksen) When you saw this video of Dr.  
22 Skepka did you believe it?

23 A. Yes, he is a medical doctor. I would imagine he  
24 knows scabies and the conditions. Absolutely I believed it.

25 Q. And Aaron reminds me of one more question I need

1 to ask. Let me ask that now. You talked about Donna  
2 Headrick in that she passed away in the Summer of '02, July  
3 '02?

4 A. Yes, that is correct.

5 Q. And who, after Donna, had assisted you in  
6 evaluating programs?

7 A. Like I said, Marie Peart came on and was doing a  
8 lot of it and has been doing still today.

9 Q. And how many programs have you visited?

10 A. Have I visited?

11 Q. Yeah?

12 A. I have visited many at this point. I don't know  
13 exactly how many.

14 Q. What is the estimate of the number of programs  
15 that you have visited?

16 A. I would say about 10, 10 to 15, maybe more.

17 Q. But you personally have been to?

18 A. That I have personally been to.

19 Q. At first Donna did it and Marie did it?

20 A. And there is -- Marie is still doing it. Marie  
21 just visited a couple of other schools I believe last week  
22 or two weeks ago or something.

23 MR. HENRIKSEN: Your Honor, at this time I have over  
24 done my 15 minutes and I may need to ask some additional  
25 questions later on in the case, but I think this wraps up

1       where we go. But I do reserve the right to recall her if I  
2       think it is necessary.

3               THE COURT: All right. Ladies and gentlemen, why  
4       don't we take our break for the day and we will see you  
5       tomorrow again at 8:15 and start up sharply at 8:30. Don't  
6       discuss the case with folks at home and do not read anything  
7       in the newspaper or watch TV if there is anything out there  
8       about in case. We'll see everybody tomorrow morning.

9               THE CLERK: All rise for the jury.

10              (Whereupon, the jury left the courtroom.)

11              THE COURT: All right, everyone may be seated. Is  
12       there anything else we need to discuss today?

13              MR. SILVESTER: Your Honor, I should have pointed this  
14       out earlier, and I don't know if it matters at this point.  
15       I didn't read the paper this morning but my wife called me  
16       while I was still at the office and there was an article  
17       about this trial in this morning's Tribune.

18              THE COURT: I saw that as well, which is why I just  
19       admonished the jury not to read it.

20              MR. HENRIKSEN: I wanted the Court to know that we  
21       tried to stay away from them.

22              THE COURT: My law clerk reminds me we're still  
23       expecting a special verdict form from the plaintiffs. Have  
24       you submitted one?

25              MR. SILVESTER: We submitted that.

1           THE CLERK: I'll track it down. I haven't gotten the  
2 copies yet.

3           MR. HENRIKSEN: That does remind me we actually have a  
4 couple of other instructions that we are going to proffer  
5 and --

6           THE COURT: I'll tell you what, my court reporter has  
7 been going a long time so let's take a recess now. If you  
8 have got additional information, that can be provided to the  
9 law clerk.

10          All right. We'll see everyone tomorrow. Plan to be  
11 here at 8:15 in case there are any details we need to wrap  
12 up before we start at 8:30.

13          MR. HENRIKSEN: Thank you, Your Honor.

14          (Whereupon, the hearing concluded at 1:55 p.m.)  
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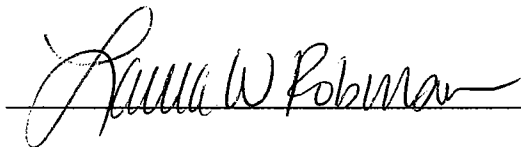
1       STATE OF UTAH                               )  
2   )ss  
3       COUNTY OF SALT LAKE                    )

4  
5                       I, Laura W. Robinson, Certified Shorthand  
6       Reporter, Registered Professional Reporter and Notary Public  
7       within and for the COUNTY OF SALT LAKE, STATE OF UTAH, do  
8       hereby certify:

9                       That the foregoing proceedings were taken before  
10       me at the time and place set forth herein and were taken  
11       down by me in shorthand and thereafter transcribed into  
12       typewriting under my direction and supervision;

13                      That the foregoing pages contain a true and  
14       correct transcription of my said shorthand notes so taken.

15                      In witness whereof I have subscribed my name and  
16       affixed my seal this 22nd day of October, 2004.

17  
18     
19   \_\_\_\_\_  
20   Laura W. Robinson, CSR, RPR, CP  
21   and Notary Public

22       MY COMMISSION EXPIRES:  
23       December 1, 2004  
24  
25



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Defendant's Exhibit Y

328

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1                   Salt Lake City, Utah, August 4th, 2004

2                   \* \* \* \* \*

3           THE COURT: We're here this morning to continue  
4 working on the World Wide matter. It looks like everybody  
5 is here. And can I do something for folks before we dive  
6 into the jury today? I have a couple of things on my agenda  
7 but I want to hear from you all as well.

8           MR. FLATER: Good morning, Your Honor.

9           THE COURT: Good morning.

10          MR. FLATER: We discussed yesterday morning the issue  
11 regarding the depositions that were taken last week. And  
12 the document that was just introduced at that deposition.  
13 We have copies of a document to rebut what they're doing  
14 with that document. We would like to offer those now to be  
15 admitted. I have given counsel a copy.

16          THE COURT: Any problems with that?

17          MR. SILVESTER: Yeah. I don't know how he is going to  
18 lay foundation for that.

19          THE COURT: What is it?

20          MR. SILVESTER: It is off some website. I don't know  
21 where it came from.

22          THE COURT: Is there any dispute that it is a  
23 legitimate document off the website?

24          MR. SILVESTER: Yeah, I have a dispute.

25          THE COURT: I have been trying to kind of press both

1 sides not to wrangle over authenticity. If you pulled it  
2 off a website this morning and if you need a little time to  
3 look at it, I'll give you that.

4 MR. SILVESTER: As I understand the document, it is to  
5 try and establish that Columbia Pacific University in  
6 California what was only posed for part of its reasons and  
7 that is the issue about Bernie Farrow's PhD. I think we  
8 have direct testimony from Jody Tuttle who is the owner of  
9 that system that they went ahead and did an investigation  
10 and found out that he didn't have a valid PhD.

11 MR. HENRIKSEN: That is exactly, Your Honor, that is  
12 exactly why we need to introduce this document. It is  
13 actually a printout from the State of California's website,  
14 the Department of Consumer Affairs, and it indicates that  
15 any degrees received prior to 1997 should not be affected  
16 and the school had legal approval to operate. The school  
17 later had problems and apparently Ms. Tuttle's investigation  
18 turned up these later problems but Mr. Farrow's degree, the  
19 website indicates, that degrees received before that time  
20 period were authorized.

21 THE COURT: All right. I don't -- I cut the plaintiff  
22 some slack to put some things in here and at the same time  
23 the understanding was that the defendant was going to get a  
24 chance to, you know, to respond to this as well. This is  
25 from the California government website. I don't understand

1       why there would be a problem with letting that in. Folks  
2       can argue out the significance of all of that. I'm going to  
3       go ahead and receive that. This will be accepted as  
4       Defendant's Exhibit -- where are we now?

5               MR. HENRIKSEN: Y.

6               THE CLERK: It would be Y.

7               MR. FLATER: Would you like a copy of that as well?

8               THE CLERK: Did you mark? Are they all going to be Y?

9               MR. FLATER: These are just -- yes, this is exhibit Y.  
10       These are extra copies.

11              THE CLERK: Do you have a sticker?

12              MR. FLATER: I do not.

13              MR. SILVESTER: While we're doing that, I would like  
14       to mention one thing to the Court.

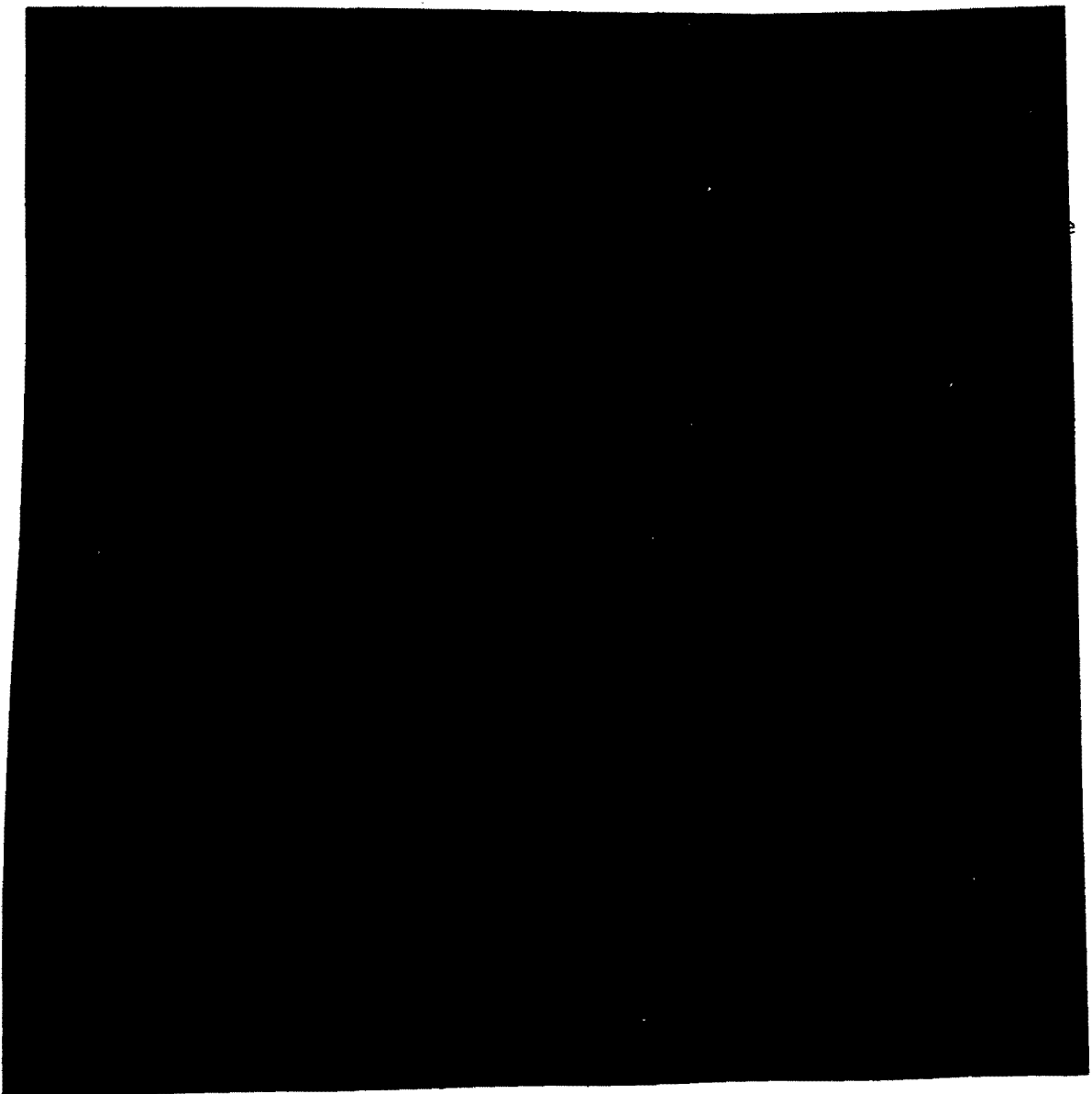
15                       (Whereupon, Defendant's Exhibit Y was received  
16                       into evidence.)

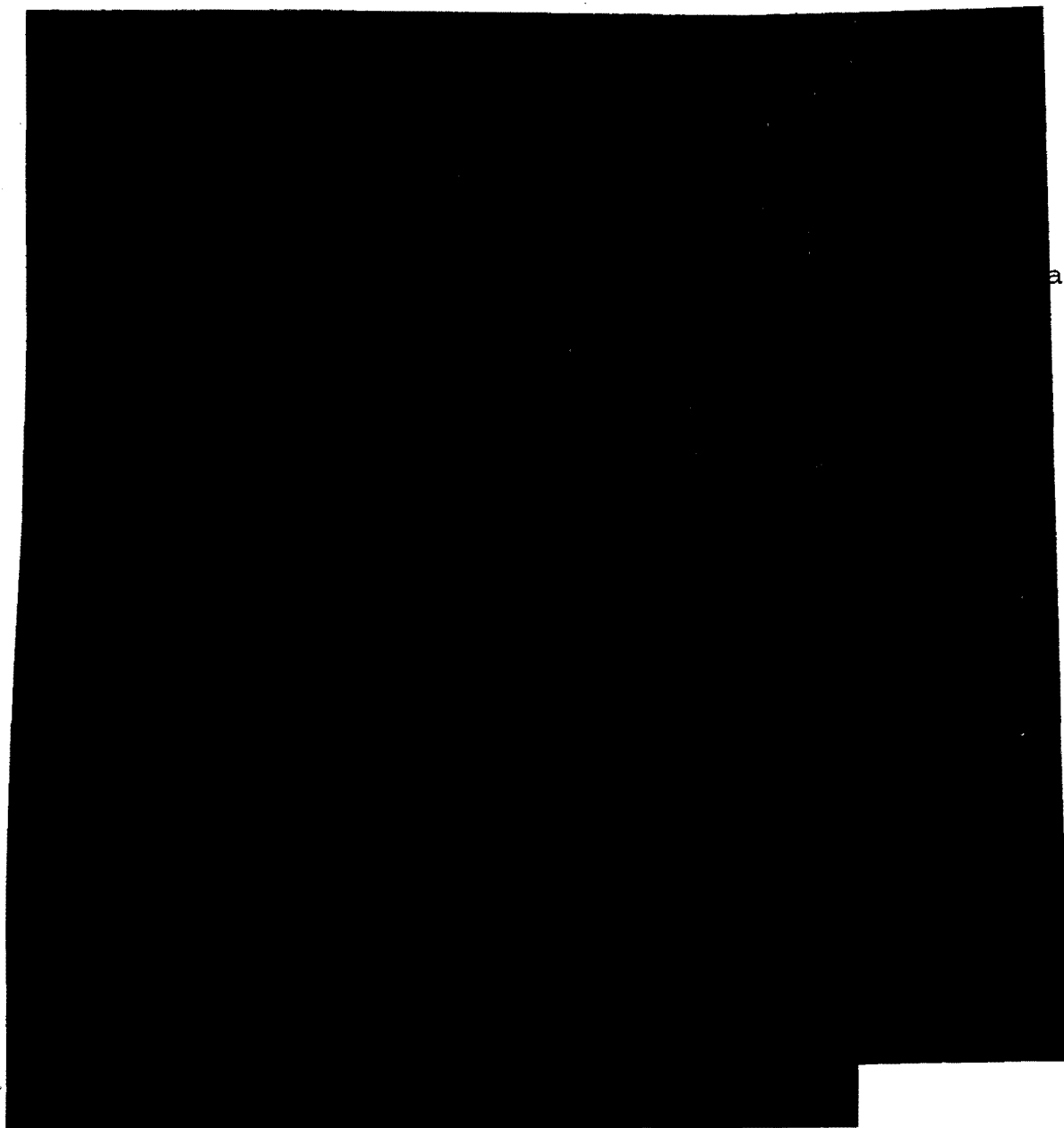
17              THE COURT: Sure.

18              MR. SILVESTER: In the last couple of days, a couple  
19       of young men who kind of had wild long hair and T-shirts and  
20       that didn't bother us while we were in the courtroom. But  
21       for the last few days, me and my colleagues have found them  
22       showing up several places, the hotel where some people are  
23       staying, they followed Mr. Kay down the street and back the  
24       other day. So we have an investigator, Mr. Richards, who I  
25       don't know if the Court is aware is a former FBI agent who

1 we have asked to kind of take care of these folks. Because  
2 we're not sure if they have any relationship to the  
3 plaintiff. They haven't introduced themselves. But when  
4 they start following my clients up and down the street, I  
5 just wanted the Court to be aware of that because  
6 Mr. Richards will probably be in and out.

7 THE COURT: All right. That is fine. Here is what is  
8 on my agenda.





19 THE COURT: Is the plaintiff planning to use that?

20 MR. SILVESTER: No, Your Honor.

21 THE COURT: All right. So that will be excluded.

22 MR. FLATER: Thank you, Your Honor.

23 THE COURT: All right. Here is where we are.

24 MR. SIEBERS: Your Honor, we have one issue, I  
25 apologize.

1 THE COURT: Sure.

2 MR. SIEBERS: In preparing last night, I found a post  
3 that we had listed in our 11 issues from the Woodbury  
4 Reports post. It is not included in our exhibit book. I  
5 asked counsel this morning if they objected to its inclusion  
6 and they do. I was wondering if I could get a ruling from  
7 the Court.

8 THE COURT: How big is the document?

9 MR. SIEBERS: Two page post of Tracy Brittany Reese  
10 concerning credentials.

11 THE COURT: The only problem is it wasn't in the book?

12 MR. SIEBERS: Correct.

13 MR. HENRIKSEN: And also we had concluded what we  
14 wanted to do with our witness, Your Honor.

15 THE COURT: All right. I'm going to go ahead and  
16 accept the exhibit. If you want to call Ms. Scheff to  
17 address that particular exhibit, I'll allow that first thing  
18 this morning.

19 MR. HENRIKSEN: Can you give us a copy? We don't even  
20 know what the exhibit is. We haven't seen it.

21 THE CLERK: Does this Exhibit have a number or is it  
22 in something else?

23 MR. SIEBERS: It would be included in Exhibit 58.

24 THE COURT: I'll give --

25 MR. SIEBERS: May I approach, Your Honor?

1           THE COURT:   Sure.  I'll give the defense similar  
2           latitude.  I know folks have been scrambling around to pull  
3           books together, one or two pages missed on the defense side  
4           that you need to add in at some point I'll certainly let you  
5           do that.

6           MR. HENRIKSEN:  Thank you.

7           THE CLERK:  We need one on the witness stand.  I'll  
8           give this one to the Judge if you put one on the witness  
9           stand.

10          THE COURT:  Here is my question.  We're anticipating  
11          that the plaintiffs are going to rest this morning.  I don't  
12          know when that is going to happen.  Could we just agree that  
13          the defendant's motions that might then follow can be taken  
14          up at our jury instruction conference this afternoon so that  
15          we can --

16          MR. SILVESTER:  That is fine.

17          THE COURT:  Treat it as if they were made at that  
18          point in time, it is just more convenient to take advantage  
19          of our jury.

20          MR. HENRIKSEN:  Yes, Your Honor.

21          THE COURT:  All right.  What about Ms. Hawley and  
22          whether her statements about customers that had read the  
23          PURE website and then decided to go elsewhere, whether that  
24          creates a hearsay problem?  Does anybody have any further  
25          thoughts on that?

1 MR. SIEBERS: Ms. Hawley will not testify, Your Honor.

2 THE COURT: She is not going to testify.

3 MR. SIEBERS: We're out of time.

4 THE COURT: All right. Well that simplifies that.

5 MR. HENRIKSEN: Your Honor --

6 THE COURT: Just for the record, you have got, you  
7 know, you have got two hours and 50 minutes so maybe she is  
8 just not that important.

9 MR. SIEBERS: I won't go that far, Ms. Hawley, but we  
10 have made a decision to not use her.

11 THE COURT: Obviously there are questions. You spent  
12 a long time covering with Ms. Scheff on some matters clearly  
13 central and some matters that were peripheral. That is what  
14 time limits do, I guess, as far as prioritizing.

15 Anything further from the defense? One question I had  
16 for the plaintiff, I'm working on jury instructions. When  
17 you get to the damages section of the jury instructions you  
18 have a conspiracy claim, a Lanham Act Claim and defamation  
19 claim. It seems to me that the damages on defamation and  
20 conspiracy collapse into each other so that we should do a  
21 set of -- I'll be glad to hear from the defendant on this as  
22 well, it seems to me we should do instructions on defamation  
23 and instructions on -- sorry instructions on Lanham Act and  
24 instructions on defamation and conspiracy.

25 And, you know, if they come back on either one of

1       those, conspiracy or defamation, then you have certain  
2       instructions to follow. Is that the way you all understand  
3       your case?

4               MR. SIEBERS: I understand that the same group that is  
5       used in conspiring to defame World Wide is also the same  
6       group that Ms. Scheff false advertising. So I would agree  
7       that the civil conspiracy claim is a subset of those two  
8       major torts, two primary torts, but that justifies the  
9       defamation claim.

10              THE COURT: Is it -- so you think there is a  
11       conspiracy to violate the Lanham Act or something?

12              MR. SIEBERS: Yes, Your Honor.

13              THE COURT: All right. Well, I certainly want to hear  
14       from the defendant on all of that. I'm just thinking maybe  
15       we should bring our jury in.

16              MR. HENRIKSEN: We can do that this afternoon, Your  
17       Honor.

18              THE COURT: All right. Let's do that.

19              MR. FLATER: All right.

20              THE COURT: Let's get our jury in and we'll continue  
21       with the case.

22              MR. FLATER: Your Honor, we don't have any water  
23       today. Is there any way we can get some of that?

24              THE COURT: That is part of our new strategy to move  
25       the case along. Deprive you of food and water until the

1 case is dissolved.

2 THE CLERK: Just a minute. They're lining up.

3 THE COURT: See --

4 THE CLERK: We'll blame it on them, they are lining  
5 up.

6 THE COURT: If Ms. Little is slightly less than 100  
7 percent efficiency today, I hope you won't mind me sharing  
8 this, we're anticipating her becoming a grandmother today.

9 THE CLERK: For the first time.

10 MR. SILVESTER: Wonderful.

11 THE COURT: If she suddenly leaves the courtroom,  
12 we'll all hold off on admitting exhibits.

13 MR. HENRIKSEN: Wish her the best.

14 THE CLERK: All rise for the jury.

15 (Whereupon, the jury returned to the courtroom.)

16 THE COURT: Good morning, everyone. Good to see  
17 everybody back here. And I just thought you would want to  
18 know that I have been working with the lawyers. It looks  
19 like everything is moving along smoothly in terms of  
20 bringing this case to an appropriate conclusion. So I think  
21 we're anticipating maybe the plaintiff finishing up their  
22 case at some point today, and then, of course, hearing some  
23 more from the defendant today and tomorrow. And then we  
24 should be in good shape to get you the case on Friday for  
25 your deliberations to reach an appropriate verdict.

Obviously, we'll fine tune things as we move forward, but I did want you to know that things seem to be very much on track here thanks to the hard work of the attorneys on both sides.

So I think without further adieu, I should ask Mr. Henriksen is there anything further that you would like to cover with Ms. Scheff at this time?

MR. HENRIKSEN: Not at this time, Your Honor.

THE COURT: All right. Why don't -- is this redirect?

MR. HENRIKSEN: There is something I would like to do because we still have an exhibit we need to get in. I would like to cover for a few minutes.

THE COURT: All right, sure. Let's go ahead and take care of that.

MR. HENRIKSEN: Thank you.

(Whereupon, Ms. Scheff resumed the witness stand.)

CROSS EXAMINATION

BY MR. HENRIKSEN:

Q. Good morning, Sue.

A. Good morning.

Q. I'm going to refer you to Exhibit W-3 and ask you some questions relative to some statements that you obtained that were in your possession from two individuals, and the date that you received that information from them. First I would like to talk about Terry Anderson's statement in that

1 exhibit from Terry Anderson. It has a date of February 11,  
2 2002. When did you receive that from Terry Anderson?

3 A. I received the statement in 2002, but I spoke  
4 with them in 2001.

5 Q. And there is a statement from Jillian Chirinsky?

6 A. Chirinsky.

7 Q. When did you receive that? There is a fax date  
8 on that of February 12, '03?

9 A. We received her written statement and I spoke  
10 with Marilyn, her mother, in November of '01.

11 Q. And there is a statement here from Jody Kast, it  
12 has a date on it of February '02. When did you receive  
13 that?

14 A. I received the statement in '02 but I spoke with  
15 Jody in the fall of '01.

16 Q. There is a statement here Blanche Hardy with a  
17 date of February '02. When did you receive that?

18 A. I received -- Blanche's statement?

19 Q. Yes?

20 A. I probably received it much earlier on Blanche.  
21 I know I spoke with her earlier.

22 Q. But this particular document is dated February 6,  
23 '02. When did you get it?

24 A. I would have received it February 6, '02.

25 Q. There is a statement in here from Chris Goodwin

1 of 2-7-02. When did you receive that?

2 A. Most likely on 2-7-02, I would imagine, but I  
3 have spoken with her earlier.

4 Q. And there is a statement here from Marion  
5 Hauptert. When did you receive that statement?

6 A. With Marion I think it was in the fall of '01  
7 also. I'm not exactly sure of the date.

8 Q. Did you receive it by February '02?

9 A. Most likely I did.

10 Q. All right. There is a statement here by Debbie  
11 Saenz dated February '02 addressed to whom it may concern.  
12 When did you receive this?

13 A. It would have been February of '02.

14 Q. There is a statement here from Alex Jewel?

15 A. Jewell.

16 Q. And when did you receive this document?

17 A. That would have been in February of '02 also.

18 Q. And there is a date that has been handwritten on  
19 this one. I'm not sure who wrote that, but it says  
20 March '02. Is that maybe the date you got it?

21 A. It might have been. February and March we were  
22 receiving them.

23 Q. There is a statement in here from Susan Alonso  
24 with a March '02 date written on that, when it is dated at  
25 the bottom February 3rd, '03, there is a notary. When did

1       you receive this from Bernadette?

2               A.     You mean Suzie Alonso?

3               Q.     Wait a minute this one needs to come out.

4       Bernadette, Bernadette Cabrael you spoke to before  
5       December '01?

6               A.     Yes, I actually spoke to her in 2000 and 2001 and  
7       2002.

8               Q.     All right. And then you had a statement in here  
9       that is from Susan Alonso and has a date on it of March '02.  
10      When did you receive that?

11              A.     Susan Alonso and Christina Alonso wrote them in  
12      March, I mean in February, and I received them in March, I  
13      believe, '02.

14              Q.     And J.C. France, there is an e-mail in here that  
15      is dated 3-19-02 from John France to you. Did you receive  
16      it on that date?

17              A.     I did receive it on that date and I spoke with  
18      them the year before.

19              Q.     And there is a statement in here from Aaron  
20      Kravig dated 6-19-02?

21              A.     Yes.

22              Q.     When did you receive that?

23              A.     Most likely 6-19-02.

24              Q.     There is a statement in here from Lindsay Wise  
25      with a handwritten date of 6-02 on it. When did you receive

1 this?

2 A. It was probably in June of '02, I would think.

3 Q. And Amberly Ingerman, there is a statement that  
4 she has written here that was dated 6-02 on it. When did  
5 you receive it?

6 A. Most likely 6-02.

7 MR. HENRIKSEN: We would move, Your Honor, for the  
8 admission of W-3 as modified.

9 MR. SILVESTER: I don't know if he is offering those  
10 documents, but I think the Court has already made a ruling  
11 on post complaint documents. They're not relevant.

12 THE COURT: No, I -- I don't think I ruled on that. I  
13 think I said that we would take that up at trial to see  
14 whether there was a sufficient foundation. I think what  
15 I'll do is maybe we could discuss this issue a little more  
16 when the jury is having bagels or something. But I think  
17 you have laid appropriate foundation, subject to the issues  
18 we need to talk about, so I'm going to take that under  
19 advisement now and we can we can take care of that so we can  
20 get some more testimony to the jury.

21 And if there is anything else you need to cover with  
22 Ms. Scheff, I'll certainly give you a chance to call her  
23 should that prove to be necessary after some further  
24 discussions. But why don't we take this under advisement so  
25 we can discuss this when the jury is out.

1 MR. HENRIKSEN: All right. Thank you, Your Honor.

2 THE COURT: Anything further you wanted to cover with  
3 Ms. Scheff?

4 MR. HENRIKSEN: That is it at this moment. Thank you.

5 THE COURT: Thank you, Mr. Henriksen. Follow-up on  
6 those exhibits then, Mr. Silvester?

7 MR. SILVESTER: Thank you, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MR. SILVESTER:

10 Q. Good morning, Ms. Scheff.

11 A. Good morning.

12 Q. Let me see if I understand what you told us  
13 yesterday when your counsel was questioning you.

14 Sometime in the spring of 2001, after your daughter  
15 was out of Carolina Springs Academy you began researching  
16 World Wide schools?

17 A. Yes, it was brought to my attention.

18 Q. You began watching 1997 and 1998 magazine shows  
19 that had been shown, 48 Hours, those kinds of things?

20 A. They were all sent to me by Donna Headricks after  
21 I found her articles on the internet, The Trekker Net  
22 Reporter. I contacted her and she mailed me the videos.

23 Q. Okay. You began getting statements from children  
24 who had been in World Wide Programs?

25 A. Most of those statements were already prepared

1 from, I don't know if they were prior lawsuits or where I  
2 received them from, but they were previously prepared either  
3 by Donna or that person had sent them to me.

4 Q. Of course all of the statements that you gathered  
5 after January of 2002, you have claimed you gathered those  
6 for this litigation, right?

7 A. Yes, mostly.

8 Q. And, in fact, those were withheld from the  
9 plaintiff's in this case because they were considered  
10 privileged, right?

11 MR. HENRIKSEN: Objection, Your Honor.

12 THE COURT: I'm going to --

13 MR. HENRIKSEN: Ask to strike and instruct the jury.

14 THE COURT: I'm going to strike that information.

15 There were -- there were some legal issues that the lawyers  
16 were working through and that doesn't have anything to do  
17 with Ms. Scheff. The Court took care of that.

18 Q. (By Mr. Silvester) You went to people like  
19 Blanche Harding who you found out about and asked them to  
20 write you statements, correct?

21 A. That is not correct, sir.

22 Q. Okay. And you read, between the spring and the  
23 fall of 2001, you read those numerous news articles, right?

24 A. Yes, and probably many more.

25 Q. In fact, you were so conscientious in looking at

1 news articles that might be negative about any World Wide  
2 schools that you actually read the St. George Spectrum?

3 A. I believe -- I don't remember the Spectrum but  
4 the Deseret News is what I remember.

5 Q. So you're in Florida and you actually are able to  
6 follow the Deseret News, the Salt Lake Tribune, the St.  
7 George Spectrum, any time an article comes out about World  
8 Wide Programs?

9 A. Yes, because on my computer it is set up  
10 automatically to bring up any newspaper articles with  
11 certain key words that I have put in. So yes, I get them  
12 all the time.

13 Q. So I suppose you got the May 27th, 1997, Miami  
14 Herald Article about World Wide?

15 A. I probably have, but I don't remember the date.

16 Q. Not one that you mentioned yesterday, but it is  
17 one where there are several parents that talk about what  
18 wonderful success their children have had at Paradise Cove.  
19 You don't recall that?

20 A. I probably have read it, but the -- the tortures  
21 were more outrageous than a couple of the good ones. If  
22 they're true, I hope they are true, since it was in the  
23 paper.

24 Q. Well, have you ever talked to Dr. Peter Mangraph,  
25 an adolescent psychiatrist that worked for Grant Center of

1 Dearing Hospital, a day residential treatment center?

2 A. I have never even heard of it.

3 Q. Well, if you read the May 27, 1997 Miami Herald  
4 article you might find out that he is a strong supporter of  
5 World Wide Programs but you didn't read that?

6 A. I probably did. I just don't recall it.

7 Q. Because you don't recall anything that might have  
8 been positive about World Wide Programs, do you?

9 A. No. During my time with World Wide I read a lot  
10 of positive things especially on the bulletin board and in  
11 the source magazine.

12 Q. And you didn't rely on any of those for the false  
13 postings you made on Woodbury?

14 A. I relied on the true stories of the children  
15 themselves and the parents themselves.

16 Q. Such as Sergio Alva's true story?

17 A. Yes, sir.

18 Q. You relied on that?

19 A. Yes, sir.

20 Q. Stanley Goold's true story?

21 A. Yes, I did.

22 Q. You relied on that?

23 A. Yes, I did.

24 Q. You didn't read the pleadings in the lawsuits in  
25 Utah, you just relied on what you saw on 48 Hours?

1           A.    I am not sure how you can perceive handcuffs and  
2 duct tape any way but handcuffs and duct tape.

3           Q.    I appreciate that you understand that is what  
4 they said on the video. But you didn't go to the trouble to  
5 find out what they said under oath in the State of Utah in  
6 the lawsuit, did you?

7           A.    I did read some of the court papers that Donna  
8 gave me and I don't remember the details. I do remember  
9 what I saw.

10          Q.    You don't remember the details because it would  
11 be opposite to the way you were marketing PURE to point out  
12 on either your website or in the false identities you put on  
13 Woodbury's website, that those cases were dismissed because  
14 they couldn't make a claim?

15          A.    It is my belief that those cases were dismissed  
16 not on the merit of the case, but on technicalities from the  
17 attorney.

18          Q.    Technicalities. That means they had a bad  
19 attorney?

20          A.    I believe that he didn't file things on deadline.  
21 I'm not an attorney so I don't know the exact words, but  
22 they were dismissed not on the merit of the case.

23          Q.    You never read the deposition of Sergio Alva  
24 taken in the lawsuit in Utah?

25          A.    No, I haven't.

1           Q.    So you don't know that his story might have been  
2 substantially different than what he put on the 48 Hours, do  
3 you?

4           A.    I wouldn't know that.

5           Q.    Um, by I way, do you know where Sergio Alva is  
6 today?

7           A.    I don't think I do, no.

8           Q.    Do you know that he is married?  Has a child?  
9 Going to college?  No longer in a gang?  No longer has a  
10 drug program?  No longer has an alcohol problem?  Do you  
11 know that?

12           MR. HENRIKSEN:  Your Honor, objection as to relevancy.

13           THE COURT:  Overruled.  Go ahead.

14           THE WITNESS:  I'm sure he got help after the program.

15           Q.    (By Mr. Silvester)  How are you sure of that?

16           A.    Because most of them have.  The majority of the  
17 kids have, including my daughter, two years of it.

18           Q.    So I suppose we're going to see Sergio Alva in  
19 the -- in this case to say that he gave you the information,  
20 the true information that you could post on the Woodbury  
21 reports, right?

22           A.    I didn't post any of Sergio's stories.

23           Q.    No, but you said you relied on his story to make  
24 your posts, right?

25           A.    I relied on the torture that the kids went

1 through.

2 Q. Because you believed what you saw on the TV?

3 A. Yes, I did.

4 Q. You believed kids?

5 A. I believed the consistency of the stories.

6 Q. [REDACTED]

7 [REDACTED]  
8 A. [REDACTED]

9 [REDACTED]  
10 [REDACTED]  
11 Q. [REDACTED]

12 [REDACTED]  
13 A. [REDACTED]

14 Q. [REDACTED]

15 A. [REDACTED]  
16 [REDACTED]

17 Q. So basically, you don't believe that kids even in  
18 trouble will lie?

19 A. I am not saying that kids don't lie, I believe  
20 kids do lie.

21 Q. You don't believe kids would lie if they thought  
22 they were going to get money out of a lawsuit?

23 A. No, I don't. I know a lot of these kids just  
24 want vindication for what had been done to them.

25 Q. Well, I assume when you were doing your extensive

1 research and you had your computer set to look at various  
2 news articles from around the country, you saw the Columbus,  
3 Ohio Dispatch, October 31, 1998?

4 A. I never did see that one. I never saw that one.

5 Q. In fact, you didn't see it when it did a  
6 follow-up March 3rd, 1999, did you?

7 A. No, I haven't.

8 Q. You didn't know that Justin Goen was at  
9 Tranquility Bay?

10 A. No, I didn't.

11 Q. You didn't know that the Franklin County Child  
12 Services Department from Columbus, Ohio, went to Tranquility  
13 Bay because some intermeddling neighbor said that Justin was  
14 being abused. You don't know that?

15 A. I don't know the case.

16 Q. You don't know that the Franklin County Child  
17 Services Investigators found that the facility in Jamaica,  
18 Tranquility Bay, was clean, it met U.S. standards for child  
19 care. You don't know that, do you?

20 A. I don't know that and I'm not sure that I believe  
21 it because I know many other people that have been there and  
22 found different.

23 Q. Because you wouldn't believe anything that was  
24 positive about World Wide Programs, would you?

25 A. I wouldn't -- I would not say that. At the time

1 I picked a lot of --

2 Q. It was absolutely --

3 THE COURT: You needed to give her a chance to answer.  
4 Go ahead, Ms. Scheff, and finish your answer though.

5 THE WITNESS: I don't remember the question.

6 THE COURT: All right. Why don't you re-ask the  
7 question.

8 THE WITNESS: What was the question?

9 Q. (By Mr. Silvester) It is absolutely contrary to  
10 your marketing to say anything positive about a single World  
11 Wide program?

12 MR. HENRIKSEN: That wasn't the question, Your Honor.

13 THE COURT: Well, what was it? Do you remember what  
14 the question was?

15 MR. HENRIKSEN: He asked her she won't believe  
16 anything that is positive about World Wide.

17 THE COURT: All right. Ms. Scheff, what is your  
18 answer on that?

19 THE WITNESS: My thought to that is I would like to  
20 believe positive things. I would only hope that there is  
21 some positive stories and they're not all like the stories  
22 that I have heard.

23 Q. (By Mr. Silvester) What about the story of  
24 Justin Goen after he returned home? Have you read that?  
25 Where his father and Justin both talk about the fact that he

1       learned respect for authority, that he is going on to  
2       school? You didn't read that?

3           A.    I already said I did not read the story.

4           Q.    Did you read the story in the Booth Bay Maine  
5       Register of April 16th of 1998? I'll give you the names, it  
6       might help. The names of the parents are Louise and Johnny  
7       Rioux, R-I -- R-I-O-U-X.

8           A.    No, I have not heard of them.

9           Q.    You don't know that they felt like Casa by the  
10      Sea saved their son?

11          A.    I am not sure. We have to speak to the son  
12      personally because I have heard of a lot of parents that  
13      think that but it is years later they find out differently.

14          Q.    Did you ever see the letter to the editor from  
15      Jody Mangu, a parent and social worker that has written to  
16      the Denver Rocky Mountain News in response to Mr. Kilzer's  
17      articles that you relied on?

18          A.    I would not have seen a letter to an editor, no.

19          Q.    You didn't follow up to see if any parents had  
20      said, Mr. Kilzer you got it wrong, we have got kids there?

21          A.    No, Lou Kilzer did say they had some positive  
22      notes, but most of them were parents applauding his article.  
23      But there were some positive as in every type of article.

24          Q.    So basically you have to agree, don't you, that  
25      the media cuts both ways, it said both?

1           A.    The media does cut both ways.  However, the  
2           substantial number of negatives way over power the positive.

3           Q.    Now you have checked that out with which one of  
4           the polling agencies that you rely on?

5           A.    Just with my own -- what I have been reading  
6           myself and talking to parents.

7           Q.    Because you're a professional poller; is that  
8           right?

9           A.    I don't believe I said that.

10          Q.    You're a professional media evaluator?

11          A.    No, I am just a parent that is out there to help  
12          children and care about kids.

13          Q.    Just a parent that knows a true story in the  
14          paper from a false story in the paper?

15          A.    I know when a child has been harmed, when a child  
16          has not been harmed.

17          Q.    A true story on 48 Hours versus a false story on  
18          48 Hours.  You have the expertise as a professional to make  
19          that determination?

20          A.    As a parent, I know an iso box when I see an iso  
21          box, and I know a handcuff when I see a handcuff and duct  
22          tape -- what duct tape is.

23          Q.    When you saw the 48 Hours Show, did you also  
24          happen to see the Honolulu -- I'm not sure the name of the  
25          Honolulu paper, that said that some West Hawaii teens were

1 included in that program?

2 A. As a matter of fact, I did see that article and I  
3 do have that article.

4 Q. In fact, that article says here are some loving  
5 parents who sent their children to Samoa and believe that  
6 their children were saved?

7 A. They believed that but I'm not sure that the kids  
8 were home yet.

9 Q. Right. The parents don't know either, do they?

10 A. Well, there is no communication. So I'm not sure  
11 how the parents would know.

12 Q. Now, I suppose since your only interest is to  
13 make sure that parents are properly informed about dangers  
14 in programs, that you would put on your website that Red  
15 Rock Ranch was sued two weeks ago?

16 A. Red Rock Ranch was closed, sir.

17 Q. I don't think so. You think it is?

18 A. Yes, I do. The ranch? It closed last October, I  
19 believe.

20 Q. I said Red Rock Canyon School. That is  
21 different, right?

22 A. It is different.

23 Q. Mr. Cavivian runs Red Rock Canyon School that you  
24 refer to?

25 A. We did refer to them. I haven't referred to them

1 in a long time.

2 Q. It is located on St. George Boulevard in St.  
3 George in an old hotel, correct?

4 A. That is correct.

5 Q. No. Now since it is your interest to make sure  
6 that parents are properly informed of dangers in schools,  
7 did you post somewhere on the internet that that school was  
8 sued?

9 MR. HENRIKSEN: Your Honor, I'm going to object as to  
10 relevancy.

11 THE COURT: Because --

12 MR. HENRIKSEN: He is talking about something that  
13 happened apparently two weeks ago that we have never heard  
14 of.

15 MR. SILVESTER: It clearly goes to her credibility,  
16 Your Honor.

17 MR. HENRIKSEN: Not talking about whether or not she  
18 has posted something. You can ask her even if she heard of  
19 it, it goes beyond the scope of my direct examination with  
20 her whether there is a lawsuit that is pending that is  
21 outside of this courtroom. I don't see how that is relevant  
22 and I think it goes beyond the scope of the redirect or  
23 cross, however we want to refer to that.

24 THE COURT: We have been focusing on events from 2002  
25 and 2003.

1 MR. SILVESTER: I am focusing on the fact that  
2 Ms. Scheff believes that she can post on the internet  
3 anything that she reads in a newspaper, anything that she  
4 sees on the TV.

5 THE COURT: All right. I'm going to sustain that  
6 objection. I think we're getting too far afield here.

7 Q. (By Mr. Silvester) Have you done any postings,  
8 at any time, to warn parents that the school you referred to  
9 in St. George is a dangerous school?

10 A. I didn't even know it is a dangerous school.

11 Q. So with the information that you have got from  
12 Sergio Alva, by watching them on the TV and by talking to  
13 them, and from Stanley Goold and from these statements that  
14 you collected, you believe that you had license then to  
15 defame World Wide Programs, correct?

16 A. That is not correct.

17 Q. Could we go to Exhibit 55 which is in evidence,  
18 please. Exhibit 55, Ms. Scheff, is a document that -- well  
19 it is an e-mail from you to your Trekkers group. It is an  
20 alert that says Bob Lichfield sent out April 28th of '03.  
21 And the purpose for it is so that your Trekkers people can  
22 send information out to parents who were thinking of putting  
23 their children in World Wide, correct?

24 A. That is not correct. If you want to read the  
25 e-mail.

1           Q.    And one of the things that you said here in the  
2 e-mail is, "I am not sure many of you are familiar with  
3 this, but back in approximately 1992 to 1994, Bob Lichfield,  
4 Robert Browning Lichfield, was convicted of sexual  
5 misconduct with a female student in Utah." Now you knew  
6 that was a false statement, correct?

7           A.    Absolutely not. I fully believed it was a true  
8 statement and if you put --

9           Q.    So you formed that because --

10          THE COURT: Hang on. I think you did cut her off.  
11 You need to -- sometimes Ms. Scheff wants to give  
12 multi-sentence answers but she is certainly entitled to give  
13 at least a one sentence answer. Go ahead and finish your  
14 answer.

15          THE WITNESS: I relied on people that worked at Cross  
16 Creek Manor such as Marie Peart, Randall Hinton, Lisa Irving  
17 and then I later spoke to Donna Headricks knew about this  
18 and later spoke with Paula Reeves who is an attorney who did  
19 research on this, who spoke with another employer from Cross  
20 Creek, Tammy Prince. All of them concluded that Robert  
21 Lichfield was not allowed on the campus of Cross Creek Manor  
22 for a period of time.

23          We have yet to find the criminal -- I think my wording  
24 may be a little bit off, but it was due to sexual  
25 misconduct, I believe, with a 14-year old student that was

1 on the campus. I have heard many, many stories.

2 MR. SILVESTER: Ms. Scheff --

3 THE COURT: You need to make -- I'm giving you a  
4 chance to finish the answers, but let's try to focus in on  
5 the questions being asked. It is a balance here. So let's  
6 try to keep a reasonable balance on both sides.

7 Q. (By Mr. Silvester) Tell me what court documents  
8 you have in your possession that support that claim in that  
9 e-mail?

10 A. The e-mail states we're looking for court  
11 documents.

12 Q. My question is, do you have any court documents  
13 in your possession?

14 A. No, but I had reasonable belief.

15 Q. It is reason to put out on the internet to a  
16 group of people who you know are going to spread this  
17 garbage to parents who might be considering WWASP, that one  
18 of the directors, Board of Directors of World Wide, has been  
19 convicted of sexual abuse just because you heard it as a  
20 rumor? That is what you think is reasonable?

21 A. First of all, this was not on the internet, this  
22 went to a private listserv of several friends not on the  
23 internet.

24 Q. These are --

25 A. I wanted to find out.

1           Q.    These are the people, Ms. Scheff, that you agreed  
2 would go out and would contact World Wide parents and  
3 convince them not to put children in World Wide schools,  
4 right?

5           A.    We have never agreed on anything.

6           Q.    Schools that --

7           A.    We had not agreed to do that.

8           THE COURT:  There she didn't get a chance for one  
9 sentence.  It is a balancing act.  But make sure she has a  
10 chance to at least give a full answer to your questions.

11          MR. SILVESTER:  I apologize.

12          THE COURT:  All right.  Did you get a chance to finish  
13 your answer then?

14          THE WITNESS:  Yes, sir.

15          Q.    (By Mr. Silvester)  Could we go to page 184 in  
16 Exhibit 58.  I will indicate to you, Ms. Scheff, this is  
17 Woodbury postings on the World Wide forum that you were  
18 posting on, and this is November 30 of 2001.  I want you to  
19 look at the posting by Ron.  Ron says, "Our story probably  
20 isn't much different than any other parent that has  
21 frequented these forums looking for help for their  
22 children."  And then he goes on to describe some real  
23 difficulty that he had with the daughter.  A daughter that  
24 became addicted to methamphetamines.  "Carren was introduced  
25 to methamphetamines at her workplace.  Within five months

1 her personality had changed drastically. She had new  
2 friends, was failing in school, and her criminal behavior  
3 had attracted the attention of local law enforcement. I am  
4 retired from law enforcement, with narcotics experience, and  
5 I recognized the pattern." Now you read this, right?

6 A. I probably did.

7 Q. Okay. And he goes on to say, "We hired an  
8 educational consultant that recommended a Wilderness  
9 Survival Experience" and then he says they placed their  
10 daughter in Southern Idaho. Go to the next page.

11 At the top of the page he talks about transporting the  
12 daughter to Southern Idaho, and then it says, in about the  
13 middle of that paragraph, "We worked with our educational  
14 consultant and started with approximately 30 facilities.  
15 They were located all over the North American Continent and  
16 the prices varied from \$10,000 a month to \$1,500 a month.  
17 For the 21 days our daughter was in SUWS we pursued multiple  
18 programs."

19 Then later at the end of that paragraph it says, "Our  
20 educational consultant finally suggested Tranquility Bay,  
21 Jamaica. It was associated with a program called WWASP.  
22 She advised us that the school is not inexpensive, there  
23 would be additional expenses associated with treatment as  
24 well as travel cost. We were told to expect \$3,000 per  
25 month and that the treatment would require at least a year."

1           You read that part, too?

2           A.    I vaguely remember this.  I don't remember the  
3 whole thing.

4           Q.    Okay.  The next paragraph says, "We checked into  
5 the program in Jamaica.  Our educational consultant gave us  
6 several websites to research including strugglingleens.com."  
7 That is Mr. Woodbury's website, right?

8           A.    That is correct.

9           Q.    "There were rumors and wild stories, of all  
10 kinds, circulating about the facility by disgruntled  
11 parents.  We finally contacted the American Embassy in  
12 Kingston and were informed that the facility was relatively  
13 new and was sanctioned by and monitored by the Jamaican  
14 government.  We wanted more information so we finally  
15 contacted a Missionary Pastor associated with our Lutheran  
16 Church serving in Kingston, Jamaica.  He researched and  
17 visited the facility for us and advised us it was clean,  
18 safe and professional."

19           You talked yesterday about parents doing due  
20 diligence.  That is quite wonderful due diligence, wouldn't  
21 you agree with me?

22           A.    That is very good of one parent, yes.

23           Q.    But you think the parents are not telling the  
24 truth, don't you?

25           A.    I didn't say the parent wasn't telling the truth.

1           Q.    Let's go to the bottom.  It says, "Our daughter  
2           is recovering and has her life back.  She thanks God daily  
3           for the second chance.  We have been to Tranquility Bay  
4           twice and the facility is clean and professional.  The  
5           staff, mostly Jamaicans, are remarkable not only in their  
6           way of life, but in the love and dedication they share with  
7           our children.  The Jamaican people are moral, faith based  
8           (many denominations as it turns out) and provide our  
9           children and supporting families with an environment to  
10          recover their lives without abuse, abundance or excesses."  
11        You read that, correct?

12           A.    I read it but it is false.

13           Q.    You read that, correct?

14           A.    That is correct.  The kids have to clean the  
15          facility before arranged parent visits.

16           Q.    You have never been to Tranquility Bay, have you?

17           A.    No, I haven't.

18           Q.    This is actually signed by people from Kalispell,  
19          Montana, Ron and Karyl Clem.  They gave full names,  
20          telephone numbers, right?

21           A.    Yes.

22           Q.    Immediately following on page 186 is a post by  
23          Bill and Allison Lockwood.  It says, "Ron and Karyl, what a  
24          beautiful posting.  Our daughter was also an abuser of  
25          methamphetamine.  She went from a beautiful, intelligent,

1 and humorous girl, to a nasty monster that refused any sort  
2 of help. Fortunately we found WWASP. She has now been at  
3 Casa by the Sea in Ensenada, Mexico for six months. She  
4 thanks us for sending her there. Like Jamaica, she also has  
5 the added benefit of getting a wonderful cultural  
6 experience."

7 Now, you were on this website. You read those two  
8 postings and they didn't fit your approach to this website,  
9 did they?

10 A. I will share with you that that child wasn't home  
11 yet and the kids have to write those letters.

12 Q. That wasn't my question.

13 A. I know but --

14 Q. You didn't like these postings, did you?

15 A. These postings were directed from Ken Kay off of  
16 the private bulletin board. He asked both the parents to  
17 write those.

18 Q. You don't know that?

19 A. We do know that. We know that. We have a copy  
20 of the e-mail.

21 Q. You talked to the people?

22 A. No, I didn't talk to those people, but I saw what  
23 happened.

24 Q. So these people lied on the postings?

25 A. They're not lying at all. This is what they

1 believe. That is the scary part.

2 Q. Ms. Scheff, you don't know that. You never  
3 talked to these people?

4 A. I lived it.

5 Q. Your due diligence involves watching 48 Hours,  
6 right? Reading the newspapers? Not talking to people who  
7 actually say positive things about the program?

8 A. Sorry, sir, but I have interviewed personally and  
9 met children and seen the scars on these children and --

10 Q. That isn't true, is it?

11 A. Yes it is true, sir.

12 Q. Let's go to the next page, page 187, because  
13 suddenly appears Deb C, right?

14 A. That is correct.

15 Q. That is you?

16 A. That is me.

17 Q. That is you using a false name that I think you  
18 said yesterday you invented so you could protect the privacy  
19 of your neighbor?

20 A. That is correct.

21 Q. Okay. Let's see what Deb C. says to Ron. Ron is  
22 this parent who had a good experience at Tranquility Bay.  
23 Instead of saying what a wonderful post, I'm glad to hear it  
24 works for some people, what does Deb C. say? "I'm very  
25 curious, "What Educational Consultant did you use that

1 referred you to WWASP?" I have been researching and never  
2 found one that referred to them. If you don't want to post  
3 publicly, (which I wouldn't understand why), please e-mail  
4 me privately." No information there that you were  
5 protecting, is there? You are bad mouthing somebody. You  
6 didn't have to post that as Deb C. you could have easily  
7 said I'm Sue Scheff and I don't believe you.

8 A. I could have but I didn't. That is what I chose  
9 to do. Maybe that is poor judgment but that is what I chose  
10 to do.

11 Q. No, it wasn't poor judgment. You were trying to  
12 create an impression on this website that there were a group  
13 of parents who had the same opinion you did and so you  
14 created all these parents, correct?

15 A. No. The parents are real, sir.

16 Q. Like Hilda, the very next poster who is you,  
17 right?

18 A. Yes.

19 Q. And you're protecting her privacy, right, by  
20 saying, "Hey, Debbie, I am a curious mind, did Ron ever  
21 respond to who the EC was?" The educational consultant.  
22 Now, you could have said that as Sue Scheff, couldn't you?

23 A. I could have but I didn't.

24 Q. Because you were trying to create the  
25 misimpression on this website that there were a whole bunch

1 of people supporting each other and saying World Wide  
2 Programs abuse children. That was your approach?

3 A. No, not at all. Not at all.

4 Q. Let's go to the next page then, page 188, Lara.  
5 Now Lara seems to be the nastiest of your personalities,  
6 correct?

7 A. These are all true stories, sir. They're not  
8 personalities, they're true stories.

9 Q. Well, when we asked you in your deposition who  
10 Lara was, you said I can't remember, it may be a couple of  
11 people. I can't remember if it was a real person.

12 A. And I also said in one of my depositions I  
13 believed it was a woman out of California named Brenda.

14 Q. So you don't know, you just made it up?

15 A. I know the story, I don't recall her last name.  
16 I spoke with her many times. I just don't recall her last  
17 name. It was several years ago.

18 Q. What was it that you saw in 48 Hours, and what  
19 was it that you saw in these statements that you got that  
20 gave you the right to post this as Lara? "I think we are  
21 all waiting for the educational consultant's name. I did  
22 e-mail Deb privately and she said he had not answered."  
23 Well Lara -- you didn't e-mail Deb, you're the same person  
24 with the same computer, right?

25 A. Correct. That is correct. I wanted to --

1 Q. It is a lie?

2 A. It is not a lie, sir.

3 Q. Well, you didn't e-mail yourself, it is false?

4 A. It is really not false. It was poor judgment on  
5 my behalf. I just needed to get the word out about these  
6 children.

7 Q. Just poor judgment?

8 A. Yes, sir, very poor judgment.

9 Q. Okay. Because Ron comes back on and says, "Thank  
10 you for your response and inquiries." He thinks it is real  
11 people. "I have contacted our educational consultant and  
12 she has asked that all serious inquiries provide their  
13 personal contact information, either by mail or e-mail to  
14 me." Then Lara comes back, right, that is you?

15 A. Yes, sir.

16 Q. And the answer to Ron is, "Yeah right!" You  
17 tried to --

18 A. I was very upset.

19 Q. You were trying to convince people that were  
20 reading this website that there were a bunch of you out  
21 there that absolutely had done your research and knew there  
22 were no educational consultants that referred to World Wide  
23 Programs but that was false?

24 A. There were a bunch of us out there, that is  
25 absolutely true, and it still is today.

1 Q. Absolutely spreading trash, correct?

2 A. Absolutely spreading the truth about these kids.

3 Q. I would like to move on now to page 193. Page  
4 193 at the bottom is Deb C. responding to Holly Wise. Now  
5 you knew Holly Wise, correct?

6 A. Yes, I know Holly.

7 Q. She was the mother of a child who was in a World  
8 Wide Program and she was posting on this site and very  
9 supportive of the program?

10 A. Yes, she was.

11 Q. And, in fact, you ended up in the long run  
12 getting between she and her daughter and making that  
13 relationship almost untenable, right?

14 A. That is absolutely false. As a matter of fact,  
15 Holly and I still speak today.

16 Q. Let's go to Deb C. Deb C. says, you say, "Holly,  
17 you are one program parent that has truly gone over the  
18 edge. Almost three years. Everyone knows you live for the  
19 program. You live on the FSL and the BBS with your  
20 journaling?" Those are private World Wide websites?

21 A. Yes.

22 Q. "How would you feel if Lindsay was in Valerie's  
23 spot? For those that need clarification, Lindsay is Holly's  
24 daughter, a WWASP student for almost three years, and  
25 Valerie is a young 17 year old girl that is no longer with

1 us. She lost her life at TB in Jamaica. Poor girl was only  
2 there one to two days. Thank you staff." You posted that?

3 A. Yes, I absolutely did.

4 Q. And you posted that because you at PURE have this  
5 strong commitment to confidentiality?

6 A. Valerie Heron's name was posted in the Jamaican  
7 Observer within a week of her death. That was public  
8 record, Valerie Heron's name.

9 Q. You thought it would be good to continue to post  
10 it on the internet for weeks and weeks?

11 A. It wasn't weeks and weeks.

12 Q. The reason it was good when you were doing this,  
13 is because you couldn't stay off the phone with parents  
14 calling you asking to place children in programs?

15 A. They were calling about information that they had  
16 read regarding the stories.

17 Q. I want to go to page 206 of this exhibit right  
18 now. And on 206 Hilda shows up. Now the false person that  
19 you created as Hilda you said throughout your postings had  
20 no experience with World Wide, right? Didn't have a kid in  
21 World Wide?

22 A. She attended one of the support groups.

23 Q. She did?

24 A. Yes, she did.

25 Q. And she was a person in your office?

1           A.    She stopped in my office because she was using  
2 the attorney that is in our office building.

3           Q.    Oh, really?

4           A.    Yes, sir.

5           Q.    So you sent her to the website to post?

6           A.    No, I used her story. I told her story.

7           Q.    Right. Which you have in writing somewhere?

8           A.    I don't have her story in writing. I never  
9 claimed to have her story in writing. She also lives near  
10 me.

11          Q.    Oh, I'm sure you know her today, right?

12          A.    If I wanted to look her up I'm sure I could  
13 contact the attorney and find out.

14          Q.    Okay. Hilda is now talking on this website and  
15 at the bottom it says, "Have you thought about your  
16 daughter's tombstone? Oops, she is still with us. It was  
17 Valerie Heron that died at age 17 in the hands of WWASP in  
18 Jamaica in August of 2001." You posted that, didn't you?

19          A.    I thought it was very important for these --

20          Q.    You posted that?

21          A.    Yes, I absolutely posted it.

22          Q.    And you posted it with no authority from Valerie  
23 Heron's parents?

24          A.    No, I didn't have any authority. I did speak  
25 with her neighbor, Valerie Heron's neighbor, but I did not

1 speak with Valerie Heron's parents but I thought --

2 Q. It was very sensitive of you to put that in an  
3 open web forum without talking to the parents, wasn't it?

4 A. If you had seen the earlier threats, the neighbor  
5 actually started the threat, her name was Tonya.

6 Q. Sure.

7 A. I don't know and I responded to her. That is how  
8 I found her.

9 Q. Let's go to page 247. Mark D.W. that is you,  
10 right?

11 A. Yes, it is, like I said yesterday.

12 Q. December 17th, 2001, you say, "As I posted on the  
13 General discussion forum" which is another forum on  
14 Woodbury, correct?

15 A. Correct.

16 Q. "I am new to posting." Then it goes on to say,  
17 "This past summer my wife and I had enough of our 14 year  
18 old daughter's behavior." There was no Mark D.W., was  
19 there?

20 A. No. I told you that yesterday. I made up the  
21 story of him and his daughter to tell the story.

22 Q. There was no 14 year old daughter?

23 MR. HENRIKSEN: Your Honor, she is trying to give an  
24 answer. She is not finishing her sentence.

25 THE COURT: Let's make sure she gets a full chance

1 here. Go ahead. Do you want to answer that question more  
2 fully, Ms. Scheff?

3 THE WITNESS: I said yesterday I created his entire  
4 story about the family in New York and the daughter to tell  
5 the tragic story of the young boy that was left in a cage at  
6 one of the WWASP programs.

7 Q. (By Mr. Silvester) Now, when we took your  
8 deposition we asked you who you based Mark D.W. on. And you  
9 said you relied on information that you got from Bernie and  
10 Arlene Farrow. Do you remember that?

11 A. Yes. And at the end of the deposition I did also  
12 say I recalled that I heard it from Duane Reichert and Lou  
13 Kilzer --

14 Q. You didn't say that in the deposition?

15 A. No, I said I did hear it from other sources  
16 though and I couldn't remember the name because I couldn't  
17 remember Duane's name at the time. Duane's son was in the  
18 cage next to Josh.

19 THE COURT: Again she is -- you need to make sure she  
20 gets at least one sentence in, Mr. Silvester.

21 MR. SILVESTER: It seems so long.

22 THE COURT: I'm sorry.

23 MR. SILVESTER: The sentence seems so long. I don't  
24 know that we should let her ramble.

25 THE COURT: I don't think you're entitled to jump in

1 and end the sentence. If she goes on for more than one  
2 sentence, then I think the balancing act would allow you to  
3 jump in. She gets at least one sentence.

4 Q. (By Mr. Silvester) You actually invented the fact  
5 that you talked to some other people about the Josh Jennings  
6 situation yesterday when you were on the stand, correct?

7 A. In my deposition I clearly stated I spoke with  
8 other people. It is at the end of the deposition.

9 MR. SILVESTER: Your Honor, could we have her  
10 deposition published?

11 THE COURT: Sure.

12 MR. SILVESTER: Would you like it published at this  
13 point or just go to it?

14 THE COURT: Go to it, whatever is convenient for  
15 counsel without objection.

16 MR. HENRIKSEN: Your Honor, with regards to that  
17 publishing in the deposition, there was a continued  
18 deposition, so actually two depositions continued into two  
19 days. I want to make sure we're doing both depositions.

20 THE COURT: Both will be published but let's --  
21 however is most expeditious for counsel to get to the point  
22 here.

23 MR. HENRIKSEN: Thank you.

24 Q. (By Mr. Silvester) Let's start on page 394.  
25 Actually we'll start on 393 so we have some foundation. Do

1       you remember in March -- on March 31st of this year when  
2       your deposition was taken at my office?

3             A.    This year or 2000?

4             Q.    This year?

5             A.    In March? I thought it was in May.

6             Q.    March 31, 2004?

7             A.    Okay, it was in March.

8             Q.    And you were placed under oath then?

9             A.    Yes.

10            Q.    To tell the truth?

11            A.    Yes.

12            Q.    Now on page 393 you were asked the question, we  
13       have to go back one more page to 392. Who was the real  
14       person being protected by this use of the pseudonym Mark  
15       D.W.? Do you see that question?

16            A.    Yes. And we went over this. I have --

17            Q.    And I just asked you if you saw the question?

18            A.    I see the question.

19            Q.    And the answer, the witness says, that would be  
20       Josh Jennings. Mr. Siebers says, so Josh Jennings was the  
21       source of your information for Mark D.W.? Answer, on the  
22       next page, Josh was not the source, he was the victim.  
23       Question, so you thought by using a pseudonym, you could  
24       protect the privacy of the victim? Answer, yes. Question,  
25       couldn't you just change the name of the victim? Answer,

1 no. Question, why not? Answer, I felt the urgency to tell  
2 it this way so people would read it. Question, you thought  
3 if it were coming at least allegedly coming from a parent,  
4 that parent would be more interested in reading the story?  
5 Answer, yes. Then if you go down to line 21 on page 394,  
6 the last paragraph is a description of the boy that came  
7 from High Impact. Do you see that description? Answer,  
8 yes. Question, did you make that description up? Answer,  
9 no.

10 Next page. Question, where did that come from?  
11 Answer, Bernie Farrow and Arlene Farrow. Question, have you  
12 seen their affidavits filed in this case? Answer, no, I  
13 haven't. Question, would you have any explanation for why  
14 the descriptions they gave of the child in their affidavits  
15 differs from your description in the post? Answer, I have  
16 any what? Question, explanation for that difference?  
17 Answer, I wrote exactly what Arlene had told me about.  
18 Question, so you didn't create or embellish any portion of  
19 this description from the boy from High Impact, correct?  
20 Answer, no, I don't believe I did. Question, that strictly  
21 came from Arlene? Answer, and Bernie. And that was your  
22 testimony on March 31st of this year, correct.

23 A. There is more but that is it, but there is more  
24 at the end of that deposition.

25 MR. HENRIKSEN: Your Honor, since we read that part of

1 the deposition I would request that they go on because it  
2 goes on to page 402 and it asks if there is any other basis  
3 for your statement that the child was abused?

4 THE COURT: All right. I'll allow the next maybe ten  
5 lines or so to come in at this time.

6 MR. HENRIKSEN: On page 402, starting at the line two.  
7 You can pick it up sooner I mean on go on 401 we know we're  
8 talking about the same Mark line 20.

9 Q. (By Mr. Henriksen) Line 20 the question is, it's  
10 just the last sentence of Mark's post. Oh, okay. Can you  
11 tell me what your basis was for that statement? The fact  
12 that the child came from High Impact that is a fact. Do you  
13 have a basis for your statement that the child was abused?  
14 Yes. And we're on line four now. Yes. From what Bernie  
15 and Arlene had stated to me. Question, anything else?  
16 Answer, there was another parent that was there that saw  
17 this child, and I'm trying to think of the name. Might have  
18 been Terry Anderson and also I think Donna Watson was there.  
19 Her son was that boy, came out of High Impact. And they go  
20 on again on the next page, if you go to lines 11 through 17,  
21 is this information you had in December of 2001? Answer,  
22 2001, for Donna? Question, yes. Answer, I have to think.  
23 Yes, because I talked to her husband Duane Reichert before  
24 they pulled their son from WWASP?

25 THE COURT: All right. All right. You can continue,

1 Mr. Silvester.

2 MR. SILVESTER: Thank you, Your Honor.

3 Q. (By Mr. Silvester) You said in your testimony  
4 what you typed about what happened to the boy was exactly  
5 what Arlene had told you, correct?

6 A. It is a lot of what Arlene had told me, yes.

7 Q. And the additional information about whether or  
8 not World Wide had any ownership interest in High Impact you  
9 got from Duane Reichert and the Donna Watson person, right?

10 A. I also received it from Chris Goodwin, Lou  
11 Kilzer, Donna Headricks, Barbie Stampe. There is several  
12 parents, I'm trying to think of the parents name who had  
13 children at a World Wide Program, another World Wide into  
14 the WWASP High Impact program. They actually have contracts  
15 that say Carolina Springs High Impact, the same contract.

16 Q. My question was, the other people gave you  
17 information that you believed indicated High Impact was a  
18 World Wide school?

19 A. It absolutely is a World Wide school in my  
20 opinion.

21 Q. Your opinion doesn't really matter. It isn't a  
22 World Wide member, is it? Never has been?

23 A. In my belief it absolutely is a World Wide  
24 school. It is advertised in their information.

25 Q. Go to what to Mark D.W. said on the bottom of

1 page 247, the exhibit that we were looking at. Mark D.W.,  
2 which is you, says "High Impact was shut down by  
3 authorities. And guess what, one of the young boys that was  
4 in cage in High Impact was at my daughter's school! Are you  
5 ready for this description." Of course there was no  
6 daughter that you had at any school?

7 A. I already said there is no Mark D.W. and there is  
8 no daughter. It is the way I presented the story of Josh  
9 Jennings.

10 Q. Says, "The young boy was treated like an animal,  
11 sat in a cage in his own urine and bowels, had dirt so  
12 embedded into his skin that they couldn't tell what  
13 nationality he was, the vomiting and diarrhea" I think you  
14 mean diarrhea, "was non-stop, the smell was gross, and the  
15 boy looked near death. My daughter cried with sorrow for  
16 this boy." That is what you published, correct?

17 A. Yes. Because really in my heart I was crying for  
18 this boy.

19 THE COURT: Hang on. That was clearly the -- we're  
20 trying to work on a one sentence. You limit your answer to  
21 one sentence, Ms. Scheff. Make sure she gets the chance to  
22 answer. That go ahead.

23 THE WITNESS: Okay.

24 Q. (By Mr. Silvester) You had no permission from  
25 Josh Jennings or his parents to post that?

1           A.    No, but I didn't put his name in there.

2           Q.    Let's go to page 249.  After Mr. Woodbury posts  
3 and says you can't verify this story, you come back on as  
4 Mark D.W. and say the fact is the boy is at my daughter's  
5 program in Utah.  That wasn't a fact, that was false?

6           A.    The fact that the boy was at that program is  
7 true.  Again, the Mark D.W. is a false person, yes.

8           Q.    It says, "As a professional and a parent, I urge  
9 parents not to wait until there are so many lawsuits and  
10 then decide to rescue your child.  The smoke is really thick  
11 here and the distress in my daughter's voice says it all to  
12 me."  So you're trying to encourage parents to go to your  
13 website to find Sue Scheff, find PURE and to take kids out  
14 of any World Wide Program?

15          A.    I don't read that there at all.

16          Q.    Okay.  Let's go to the next page.  After Ron Clem  
17 posts again, now he is the father that had success at  
18 Tranquility Bay and says hold it just a minute, there is  
19 going to be an investigation, let's not put all of this on  
20 the web, you come back as Lara, don't you, and respond to  
21 him, that is you, right?

22          A.    Yes, it is.

23          Q.    "Wow, Ron, you are a typical WWASP character.  I  
24 didn't see any rumor here!  I read a father telling what his  
25 daughter experienced.  Certainly not rumor.  The truth hurts

1 and so are those poor children hurting." It was a rumor.

2 A. What was a rumor?

3 Q. Everything that you put on this website about  
4 Josh Jennings was a rumor?

5 A. No, it absolutely was not a rumor.

6 Q. Just a second. Do you know what a rumor is?

7 A. Something that is made up.

8 Q. When I tell you something and you spread it  
9 right?

10 A. Okay, then I'm sorry I misunderstood. I'm  
11 thinking of gossip. But this was true.

12 Q. No, this is gossip, wasn't it?

13 A. No, it was not, sir.

14 Q. It was gossip that was helping your marketing  
15 ploy, right?

16 A. I don't even know how that could begin to help my  
17 marketing.

18 Q. You go on as Lara to say, "The young boy that is  
19 as sick as Mark described is nothing to wait for a jury for.  
20 Except for the followers, they don't care if a child dies at  
21 the hands of WWASP, they stand by their program! Those  
22 seminars serve their purpose. Guess the kool-aid is getting  
23 stronger."

24 You were trying to equate any parent that put their  
25 child in a World Wide program with the followers of Jim

1 Jones who committed mass suicide in Guyana?

2 A. That is true. I attended the seminars. They're  
3 all on thought reform and cult like experiences.

4 Q. Let's go to the next page, page 251, which is  
5 another posting by Mark D.W., another posting by you. And  
6 start out by saying, "This forum of World Wide parents is  
7 absolutely disgusting, just like what happened to the young  
8 boy. Are you calling me a liar? Are you calling my  
9 daughter a liar? Are you calling the director of my  
10 daughter's program who is an M.D. a liar?" You wrote that?

11 A. I did write that.

12 Q. Bernie Farrow isn't an M.D.?

13 A. He is a PhD, a doctor. At the time I thought it  
14 was a doctor M.D. That is just a mistake that I made. But  
15 he is Dr. Bernie Farrow.

16 Q. That was a mistake you made about the director of  
17 a program you were referring to?

18 A. Yes. I thought that doctor -- I just assumed  
19 doctor was M.D. even though I knew it was a PhD.

20 Q. This is one of those programs in your approved  
21 network, Cedar Ridge Academy?

22 A. Cedar Mountain.

23 Q. Cedar Mountain Academy. That you had done all of  
24 this investigation with your quality assurance director, and  
25 you didn't know the director was not a doctor M.D.?

1           A.    I believed it was one in the same at the time.  
2           That is my error.

3           Q.    Then it says, "The doctor said one more week in  
4           the hills, and he probably wouldn't be here today!  Shame on  
5           you both."  The doctor didn't say that, did he?

6           A.    Dr. Bernie Farrow did say something along that  
7           probably paraphrasing it.

8           Q.    Probably made it up, right?

9           A.    No, sir, I didn't make it up.

10          Q.    Okay.  Let's go to page 252.  There is another  
11          Debra who comes on and kind of questions this story and you  
12          as Mark D.W. have to answer it, correct?  This is on  
13          December 17, 4:47 p.m. "Have I personally reported it?  No."  
14          Excuse me, "Yes, the school reported it, they also have the  
15          hospital reports where the boy stayed a short time in  
16          Mexico, prior to arriving in Utah."  You didn't know that,  
17          did you?

18          A.    Yes, I heard it from Chris Goodwin.

19          Q.    "Have I personally reported it, no.  The doctor  
20          did in Utah and that is part of what the authorities are  
21          working on."  You didn't know if there were any authorities  
22          working on anything in the State of Utah, did you?

23          A.    That is not true.  I was speaking to different  
24          people that gave me these sources such as --

25          Q.    Arlene Farrow?

1           A.    No, Barbie Stampe, Arlene Farrow, Donna  
2           Headricks.

3           Q.    But you know that Arlene Farrow's deposition was  
4           taken just before this trial, don't you?

5           A.    Yes.

6           Q.    And you looked at it?

7           A.    No, I haven't seen it.

8           Q.    You have been told what is in it?

9           A.    Only bits and pieces of it, not all of it.

10          Q.    You have been told that she says she didn't give  
11          this description to you?

12          A.    I just said I believed Bernie may have given it  
13          to me not Arlene.

14          Q.    You have been told that at her deposition taken a  
15          few days ago she did not describe a person that was in a  
16          cage, in their own bowels and urine, you were told that,  
17          right?

18          A.    The cage with the bowels and urine came from  
19          Duane Reichert, the father of the young boy that was in the  
20          cage next to Josh Jennings.

21          Q.    That came in this trial because the day before,  
22          two days before this trial started, Ms. Farrow said she  
23          never gave that description to you? That is why suddenly it  
24          is from somebody else, right?

25          A.    No, it has always been that way. Evan lives near

1 me. I have known this for, I would say, two years.

2 Q. Did you also find out that Ms. Farrow in her  
3 deposition said this was never reported? Nobody thought  
4 this kid was abused?

5 A. Dr. Bernie Farrow told me he took the boy to a  
6 young doctor who also told Donna Headricks this and Barbie  
7 Stampe this.

8 Q. I must be making my questions really unclear.  
9 I'm going to ask it again and see if you can listen. Arlene  
10 Farrow in her deposition said nobody reported this to the  
11 authorities because nobody believed that Josh Jennings was  
12 abused. You were told that is what she said in her  
13 deposition?

14 A. I was not told about that part of her deposition.

15 Q. You weren't?

16 A. I don't believe so.

17 Q. It goes on to say child protective services --  
18 let's see, when I first heard the story I did tell many  
19 people about it. However, I didn't report it to Child  
20 Protective Services since I wanted to talk to the director  
21 first. That is why I talked to the doctor today to confirm  
22 all reports and be sure it was reported. I have never met  
23 the young boy but my daughter has. Then it goes on, your  
24 posting, Mark D.W., to say, "At least the mothers have a  
25 heart on this board. The guys are giving us a bad name as

1 fathers. Child abuse is child abuse, report or no report,  
2 investigation or no investigation. A child was abused."

3 Now you know several years later there was never a  
4 child abuse report made to the State of Utah on Josh  
5 Jennings; correct.

6 A. I know for a fact this child was abused, for a  
7 fact. I am not sure.

8 Q. You know for a fact that Jody Tuttle says it is  
9 the policy of Cedar Mountain that any suspected abuse or  
10 neglect must be reported to the authorities; correct?

11 A. I would say that is correct.

12 Q. And you also know that the director of the  
13 program and the admissions director of the program were  
14 Mr. and Mrs. Farrow, your friends?

15 A. They were my friends and Jody Tuttle is WWASP's  
16 friend. So I'm sure there is something done so that she  
17 wouldn't report it. Ken Kay, the president of WWASP, and  
18 Jody Tuttle are very good friends. He is the one that  
19 arranged the move of this young man to Jody Tuttle's  
20 program.

21 Q. And Jody Tuttle broke the law in the State of  
22 Utah by not allowing Dr. and Mrs. Farrow to report abuse?  
23 That is what you're saying?

24 A. I would probably say that because she also fired  
25 them for wanting to try to clean up the school.

1           Q.    So everybody who disagrees with you are liars,  
2 cheats or criminals; correct?

3           A.    I didn't say that.

4           Q.    Now I would like to go to page 280 of the same  
5 exhibit.

6           MR. SILVESTER:  Could I have just a moment, Your  
7 Honor.

8           THE COURT:  Sure.

9           Q.    (By Mr. Silvester) You recognize page 280 of this  
10 exhibit as a posting that Lon Woodbury made when he figured  
11 out all of these people, at least most of these people that  
12 he had seen, were you?  You have seen that post before,  
13 haven't you?

14          A.    I have seen that post.

15          Q.    And he talks about why he started getting  
16 suspicious.  In the fourth paragraph it says, "The first  
17 step is having serious doubts about Mark's story about the  
18 High Impact child placed in another program indicating the  
19 child had been abused.  My concerns were primarily because  
20 it was doubtful if a medical doctor and director of a  
21 program would risk the sanction of professional colleagues  
22 and state agencies by releasing confidential information  
23 about a child through the parent of another student to post  
24 anonymously on an internet discussion board."  You read  
25 that, didn't you?

1           A.    I did read that.

2           Q.    At least it illustrates to us that you don't  
3 understand professional ethics in this business, do you?

4           A.    Extremely well. Mr. Woodbury is extremely  
5 biased. Both Cedar Mountain and WWASP pay him. I mean  
6 those are his clients for advertising. They pay him  
7 substantially.

8           Q.    So when he found out about you, you think he was  
9 paid off by World Wide?

10          A.    No, I am thinking that he is going to have a  
11 biased comment about that.

12          Q.    Kind of like Jody Tuttle, he is going to lie for  
13 World Wide, right?

14          A.    Unfortunately it is a very political industry and  
15 that is why I have PURE, which is Parents Helping Parents.

16          Q.    I want to now go to Exhibit 61 and cover a couple  
17 of things because these were all contemporaneous with your  
18 filings on the other Woodbury site. This is the Woodbury  
19 Reports general section. I want to start on on page 311.  
20 311 is a post by Linda S53 talking about problems she is  
21 having with her son. If you go to the next page, page 312,  
22 it is a posting by Boxerlover talking about trouble he is  
23 having with his two young sons. If you go to the very next  
24 -- yeah, the very next page, 313, you see there is a posting  
25 by Hilda. And Hilda is responding to these people by saying

1 "I was made aware of the programs that my child was in  
2 through PURE." Isn't that what it says?

3 A. Yes, it does.

4 Q. Now, if you go to page 315, 315 starts out with a  
5 post by Valerie. She says she is having a problem with her  
6 16 year old. She has been through programs, wilderness  
7 programs, residential schools and SusanneLisa responds to  
8 it. That is you?

9 A. Yes, it is.

10 Q. She says don't send your child to World Wide,  
11 right?

12 A. Does it say that?

13 Q. The third paragraph says, "Stay clear from the  
14 "boot camps" such as World Wide/Teen Help Programs" exactly  
15 what it says, right?

16 A. In those words, yes.

17 Q. On page 316 Linda S53 shows up again. Hilda  
18 writes to Linda. Linda is still the one that has problems  
19 with an out of control 15 year old, 16 year old. Hilda  
20 writes to Linda and on page 317 guess what Hilda refers  
21 Linda to? She refers Linda to WWW helpyourteens.com?

22 A. Yes. I wanted to see if I could help her.

23 Q. That is your website?

24 A. Yes, it is.

25 Q. That is your website using a false name referring

1 to somebody on this website who is in a desperate situation  
2 and having a troubled child?

3 A. Yes, I wanted to help parents, absolutely.

4 Q. And you want to help parents by spreading  
5 information that you get off 48 Hours and out of the  
6 newspaper, correct?

7 A. I didn't say that.

8 Q. Now, if we go to page 319 --

9 THE COURT: Mr. Silvester, are you about to the end of  
10 this?

11 MR. SILVESTER: I am, Your Honor.

12 THE COURT: All right. We have gone over some of this  
13 terrain pretty thoroughly here.

14 MR. SILVESTER: Judge, has chastened me well.

15 Q. (By Mr. Silvester) Well, you go through this  
16 general forum and Hilda continually picks out parents who  
17 are having trouble with kids and says go to  
18 Helpyourteens.com; doesn't she?

19 A. I think she did it several times just helping  
20 parents.

21 Q. She did it because she was protecting somebody's  
22 confidentiality, right?

23 A. I am not sure I understand that question.

24 Q. If we go to Exhibit 80, it is the last one -- no,  
25 it isn't, it is two. Typical lawyer last question but I got

1 two.

2 Exhibit 80 is a posting that shows that you're sending  
3 an e-mail to Toquerbell, that is Jeff Berryman, right?

4 A. That is correct.

5 Q. And in the next to the last paragraph, first of  
6 all you're thanking him for contact people to work against  
7 World Wide, and you say, "I stopped nine more families." So  
8 you actually had nine families, and this is in August of  
9 2002, that you stopped from going to World Wide programs,  
10 right?

11 A. I am not sure if I stopped them. I spoke with  
12 them on the phone. I gave them my story and my experience.  
13 I can only pray they made the right decision.

14 Q. Were you lying to Jeff?

15 A. No, I definitely spoke with nine more families  
16 and that is the way I worded it.

17 MR. SILVESTER: That is all I have, Your Honor.

18 THE COURT: All right. Thank you, Mr. Silvester. And  
19 thank you for your testimony, Ms. Scheff. You can step  
20 down. All right. Who is the plaintiff's next witness?

21 MR. HENRIKSEN: Your Honor, I do have some other  
22 additional questions for her.

23 THE COURT: Is that -- is that necessary? Usually we  
24 just do one --

25 MR. HENRIKSEN: Well, he brought up some subjects that

1 were not delved into in his direct examination.

2 THE COURT: All right. I'll give you some latitude to  
3 explore this.

4 MR. HENRIKSEN: Thank you.

5 THE COURT: I wonder if the jury wants to stretch for  
6 just a second. We have been going for a long time here.  
7 How long do you anticipate this follow-up is going to be  
8 here?

9 MR. HENRIKSEN: Not long, Your Honor.

10 THE COURT: Okay.

11 **REDIRECT EXAMINATION**

12 BY MR. HENRIKSEN:

13 Q. Let's be very clear, Sue, that the deposition was  
14 taken in March of '04?

15 A. March of '04, yes.

16 Q. At that time you were asked questions like you  
17 were asked today. So where did you get the information  
18 about Josh Jennings and the abuse? And look at that  
19 deposition pages 402, lines 2 through 11. Can we read the  
20 question and answers. Do you have any basis for your  
21 statement that the child was abused? Yes, from what Bernie  
22 and Arlene had stated. Anything else? There was another  
23 parent that was there that saw this child, and I'm trying to  
24 think of the name. It might have been Terry Anderson and  
25 also I think Donna Watson was also there. Her son, with

1       that boy, came out of High Impact. Is that what you said in  
2       March of '04?

3             A.     Yes. Donna Watson was the Duane Reichert.

4             Q.     That was before the deposition that Arlene Farrow  
5       and Jody Tuttle have given in this case?

6             A.     Yes, months before.

7             MR. HENRIKSEN: All right. That is all of the  
8       questions I have of this witness at this time. And as you  
9       know, I reserve the right to recall her in my direct or in  
10      my case.

11            THE COURT: That is fine.

12            MR. HENRIKSEN: Thank you.

13            THE COURT: All right. Thank you, Mr. Henriksen. You  
14      may step down, Ms. Scheff. Who is your next witness?

15            MR. SIEBERS: Your Honor, the next witness will be the  
16      video deposition of Arlene Farrow.

17            THE COURT: How long does that run?

18            MR. SIEBERS: It is about 15 minutes but Mr. Flater is  
19      going to look for the redacted DVD.

20            THE COURT: All right. Well in light of Mr. Flater's  
21      absence, maybe this would be a good time to take our first  
22      morning break. So we'll take about a 15-minute break at  
23      this time.

24            THE CLERK: All rise for the jury please.

25            (Whereupon, the jury left the courtroom.)

1           THE COURT: All right. Everyone may be seated. And I  
2 think maybe this would be a good time to chat about those  
3 exhibits that Mr. Henriksen wants in the W-3 and so forth.  
4 It seems to me I should let all those exhibits in for this  
5 reason. The plaintiff seemed to be arguing that Ms. Scheff  
6 has continued to act with actual malice even up to as  
7 recently as two weeks ago.

8           In light of that information that she has gathered all  
9 through the period of time, it would seem to me to be  
10 relevant to the issue of whether she is acting in good faith  
11 or with actual malice. Would I be making a mistake if I let  
12 them all in on that ground?

13          MR. SILVESTER: Yes, Your Honor. The only areas that  
14 I covered in my redirect slash cross examination had to do  
15 with her credibility of being a person who is only out there  
16 to tell the truth about the programs. I asked her about a  
17 program she referred to not about our program, and what she  
18 said about our programs to show that when she gets negative  
19 information about them, even recent negative information,  
20 she doesn't give it to patients. The only negative  
21 information she is giving to parents that we have introduced  
22 so far is on the Woodbury site that all predated the filing  
23 of the complaint.

24          THE COURT: So are you willing to stipulate that the  
25 only issue is any defamation that occurred on or about

1 before the date of the complaint?

2 MR. SILVESTER: The false advertising and defamation  
3 that we have presented in evidence here in all of the  
4 documents pre-date the complaint.

5 THE COURT: Well, that was a different -- my question  
6 was whether you would be willing to stipulate that the jury  
7 is only to consider allegedly defamatory statements made  
8 before the date of the complaint and alleged false  
9 advertising made before the date of the complaint.

10 MR. SILVESTER: You always put lawyers on the spot  
11 when you ask them to stipulate. I think so, Your Honor.

12 THE COURT: Conspiracy because what about the  
13 Trekkers? All of that happened in '03. You're not willing  
14 to stipulate -- this is the problem. I think you want to  
15 box Mr. Henriksen in on the one handshake we're looking over  
16 here but when it serves your purpose, but, you know, when it  
17 serves his purpose you want to say well, no.

18 I think you're arguing that she defamed people, she  
19 conspired and she did false advertising through a broad  
20 period of time. Fair enough. You can make those  
21 allegations, but then Mr. Henriksen is entitled to respond  
22 with evidence throughout that time period and that is what  
23 I'm wondering here. And the conspiracy. And the  
24 conspiracy, remembering that the Trekker postings you made  
25 such a big deal about all occurred in the same time period

1       that Mr. Henriksen wants to introduce documents.

2               MR. SILVESTER: Well, I guess we're going to have to  
3       try a whole bunch of collateral issues then because like the  
4       Ingerman matter. Blanche can say anything she wants. She  
5       has got the information but that case has been tried and  
6       determined.

7               THE COURT: Well, I disagree we have to try collateral  
8       matters. What Mr. Henriksen wants to do is introduce this  
9       evidence to show that she was acting not with actual malice.  
10      And you are certainly entitled and indeed we have tried this  
11      issue, but we're not going to go chasing rabbits through the  
12      field about whether all these other issues were true or not.  
13      They're just coming in for that limited purpose and that is  
14      what I'll instruct the jury.

15              MR. SILVESTER: The difficulty with the limited  
16      purpose, Your Honor, is that Mr. Henriksen in his opening  
17      statement said, we're going to prove to you the way children  
18      are treated in World Wide programs through the articles and  
19      news reports and we caught -- we actually wrote down the  
20      quote. So he is presenting them for the truth.

21              THE COURT: If you objected -- that sounds like an  
22      improper argument. If you had objected I would have  
23      sustained an objection. If he makes that argument in  
24      closing, I'll sustain an objection. But he is entitled to  
25      say look at all this information my client had, she was

1 acting in good faith, and I am going to let in all of the  
2 exhibits in W-3 on that basis.

3 MR. HENRIKSEN: I need to make a record here, Your  
4 Honor. The only ones -- I have had her testify up to June  
5 of '02. There are 15 others that go up to June '03. And  
6 this is the argument that we have been making from the  
7 beginning is they have got all of these statements all the  
8 way up and now they have even presented them in front of the  
9 jury. We would move for exhibit of all of W-3 to be in, and  
10 she had those and relied upon those, and those have dates on  
11 them. I can have her give testimony as to the other 15 on  
12 the date she had them. I did the first 15.

13 THE COURT: Well, at some point there is a question of  
14 whether evidence gets to be cumulative or a waste of time.  
15 And here is what I'm going to do to split the difference. I  
16 think you, in your initial testimony, focused on the ones  
17 that were most critical up to June of '02. And I'm going to  
18 accept all of the exhibits that were covered. I think it  
19 goes roughly from Mr. Goodwin up through Amberly Ingerman in  
20 June of '02. I'm going to accept those. But I find the  
21 later posts should be excluded under Rule 403 because their  
22 probative value would be substantially outweighed by their  
23 prejudicial effect in this sense.

24 At some point, you know, you can only put in so much  
25 evidence of good faith and having put in now just 10 or 11

1 affidavits, you know, the marginal value of 13 and 14 goes  
2 down and I think you would start to waste time. So let's do  
3 that. If you will work with Ms. Little to make the  
4 appropriate logistical arrangements.

5 MR. HENRIKSEN: We'll do that.

6 THE COURT: Thank you, counsel. Let's go ahead and  
7 take our break at this time.

8 (Recess.)

9 THE COURT: All right. Is the video all ready to roll  
10 here?

11 MR. SIEBERS: We're going to show the video deposition  
12 of Arlene Farrow and the video deposition of Jody Tuttle.  
13 We have taken out excerpts where the objections were  
14 sustained. I don't know if you want to give instructions to  
15 the jury that there are objections still on there that we're  
16 just going to move past.

17 THE COURT: I'll do that and tell them there are one  
18 or two gaps where we agreed that certain information  
19 shouldn't come in.

20 MR. SIEBERS: That is fine, Your Honor. Sorry we'll  
21 do those two and Marie Peart and Ken Kay and that will be  
22 our day.

23 MR. HENRIKSEN: I assume the Court doesn't need our  
24 stipulation. We would note for the record that you have got  
25 -- I think you have a copy already marked of the transcript

1 so your reporter doesn't need to do that unless you choose  
2 to or whatever you are going to do.

3 THE COURT: I think our --

4 MR. SILVESTER: Since I'm burning my time I better  
5 check out what we have left.

6 THE COURT: You have one hour and 45 minutes. I mean  
7 I shouldn't -- we're all set.

8 MR. SIEBERS: We're going to put the video on as one  
9 segment, our time on direct or cross, however the --  
10 whichever the deposition we're looking at and their time.

11 THE COURT: So Tuttle goes to you?

12 MR. SIEBERS: Arlene starts with them so it is there  
13 direct examination time and then I have got a few minutes of  
14 cross.

15 THE COURT: We'll just do it the regular way on that.

16 MR. HENRIKSEN: We would stipulate to that, Your  
17 Honor.

18 THE COURT: Great. Okay.

19 THE CLERK: All rise for the jury please.

20 (Whereupon, the jury returned to the courtroom.)

21 THE COURT: All right, ladies and gentlemen, we're  
22 doing the best we can to keep things rolling along here.  
23 And as part of that process, we're now going to hear, I  
24 believe, two videotaped depositions from witnesses. And  
25 basically what has happened here is we had some witnesses

1 who had personal situations in their life, I think one of  
2 them had a serious hospitalization and so forth in their  
3 family where they could not travel to court this week to  
4 testify in person. And so what we have done is we have sent  
5 the lawyers out to take what is called a videotape  
6 deposition where they just videotape the questions and the  
7 answers. And you should treat that testimony just as if  
8 they were testifying here today.

9 Now, there are just one or two little things I should  
10 mention about the videotape. Obviously as the judge I  
11 wasn't there when they were doing this down in I think it  
12 was Cedar City or something, so the lawyers may have made  
13 objections along the way. And I took care of those. So  
14 just kind of ignore any objections you see on the tape.  
15 There were a couple of points where some objections were  
16 well taken and so we have pulled out a couple of pieces of  
17 the tape. And it is not that they're trying to hold  
18 something back from you or hide something, we just took it  
19 out because that wasn't relevant information.

20 So without any further a due, go ahead and present the  
21 video depositions.

22 MR. SIEBERS: Your Honor, this witness will be Arlene  
23 Farrow.

24 THE COURT: All right.

25 (Whereupon, the video deposition of Arlene Farrow

1           was played for the jury.)

2           THE COURT: All right. Then I believe we have another  
3 video deposition at this time. Is that right?

4           MR. SIEBERS: Your Honor, the next deposition will be  
5 of Jody Tuttle.

6           THE COURT: All right. Who is questioning first? Are  
7 you or is --

8           MR. SIEBERS: I am.

9           THE COURT: Okay. Again, we will just handle this as  
10 though she were testifying here in Court. The woman with  
11 the orange glasses is not testifying however.

12           (Whereupon, the video deposition of Jody Tuttle  
13 was played but was not transcribed by the  
14 court reporter.)

15           THE COURT: Who is the plaintiff's next witness at  
16 this point.

17           MR. SIEBERS: Plaintiff's will call Marie Peart.

18           THE COURT: Let's get Ms. Peart. If you want to  
19 stretch, ladies and gentlemen, while we're getting Ms. Peart  
20 in, this would be a good chance. Is she out in the hall?  
21 Is somebody going to get her?

22           THE CLERK: If you'll come forward by the witness  
23 stand I'll swear you in up here. Right up here. Raise your  
24 right hand please.

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**MARIE PEART,**

Having been first duly sworn,

was examined and testified as follows:

THE CLERK: Have a seat right there. If you would state your name, spell it for the record, please, and please speak into the microphone.

THE WITNESS: Marie Peart, M-A-R-I-E P-E-A-R-T.

THE CLERK: Thank you.

**DIRECT EXAMINATION**

BY MR. SIEBERS:

Q. I want to pronounce it correctly. It is Peart?

A. Uh-huh (affirmative).

Q. Ms. Peart, you are PURE's admissions director?

A. Yes.

Q. How long have you been in that position?

A. Since the fall of '02.

Q. What do you get paid for that position?

A. I get paid per admission.

Q. Is that the referral fees that you split with PURE?

A. Yes.

Q. Does your half of the referral fee go directly to you or goes to PURE?

A. It goes to me.

Q. And you're PURE's quality assurance department

1 director?

2 A. Uh-huh (affirmative).

3 Q. How long have you been PURE's quality assurance  
4 department?

5 A. Since I started with Sue.

6 Q. And the programs that you approve for PURE's  
7 network are obligated to pay referral fees to PURE?

8 A. Not all of them.

9 Q. Which ones are not?

10 A. We have probably five or six that are either for  
11 low income parents or for parents who can't pay at all.

12 Q. What are the names of those programs?

13 A. Kids Peace, Safe Harbor, Harbor House for boys,  
14 Harbor House for girls, there is a couple of others I can't  
15 think of at the moment, but there is about five or six.

16 Q. So not Red Rock?

17 A. No.

18 Q. Not Sorenson's?

19 A. No.

20 Q. Not High Top?

21 A. No.

22 Q. Not Oak Ridge Military?

23 A. No.

24 Q. Not Glaiser Mountain?

25 A. No.

1 THE COURT: You're both going to have to speak up a  
2 little bit so we can get all of that. The acoustics aren't  
3 the best so speak right into the microphone, Mr. Siebers.

4 MR. SIEBERS: Bring up Exhibit 33.

5 Q. (By Mr. Siebers) Page 123. Ms. Peart, can you  
6 see that exhibit on your monitor?

7 A. Yes.

8 Q. At the bottom of the page is that an e-mail from  
9 you to admissions at High Top Ranch?

10 A. Yes, it is.

11 Q. Go to the next page, page 124. At the top that  
12 is an e-mail that you sent to High Top Ranch?

13 A. Yes.

14 Q. And then the second paragraph it states, "Also,  
15 could you please let me know about admits I haven't seen a  
16 list of your admits for many months. Sue is starting to  
17 make some noise about not referring to you if we don't get  
18 paid. So if you can send me a list of the admits for the  
19 last four months or so I would appreciate it." Does that  
20 mean High Top was obligated to pay you referral fees if you  
21 referred the students there?

22 A. High Top had agreed to pay a referral fee if we  
23 referred students.

24 Q. So if one of these schools had a marketing  
25 agreement with PURE, then they would have to pay referral

1 fees for the students referred to them?

2 A. Yes.

3 Q. And that would include the Academy at Cedar  
4 Mountain?

5 A. I don't know about the Academy at Cedar Mountain.  
6 I didn't work for Sue at the time that she was referring  
7 there.

8 MR. SIEBERS: That is all of the questions I have,  
9 Ms. Peart. Thank you.

10 THE COURT: Thank you, Mr. Siebers. Questions then  
11 from the defendant, Mr. Flater? Again, if you had some  
12 things you wanted to introduce that went beyond the scope of  
13 direct examination, you should certainly feel free to do  
14 that at this time.

15 MR. FLATER: Thank you, Your Honor, and I will.

16 **CROSS EXAMINATION**

17 BY MR. FLATER:

18 Q. Hello, Marie.

19 A. Hi.

20 Q. I would like to just ask you a couple of  
21 questions about your research into PURE's programs. Can you  
22 tell me what programs you have visited?

23 A. Actually, I have visited all of the programs that  
24 we refer to except for Oak Ridge Military Academy. Do you  
25 want me to name some of them or --

1           Q.    That is okay.  Can you tell me what you do when  
2 you visit a program to investigate it?

3           A.    I will talk with the director, obviously the  
4 therapist, the school teacher, talk with the students, talk  
5 with past parents, parents that have left the program, find  
6 out what, you know, how they felt about the program, whether  
7 they liked it, whether they didn't like it.  Any kind of  
8 problems they may have had.  Get their licensing.  Get a  
9 copy of their **licensing**, their accreditation.  The programs  
10 that we work with all work with nutritionists so the kids  
11 are eating balanced meals so they don't put on 30 or  
12 40 pounds while they're there.

13           I usually get a copy of their menu.  Interview the  
14 kids.  Just make a tour of the facility, make sure -- and I  
15 want to see all of the facility, not just selected bedrooms  
16 or selected areas.  I want to see all of it, because I want  
17 to know that it is safe and secure and what kinds of things  
18 they're offering for the kids.

19           Q.    Do you keep any paperwork about the programs that  
20 PURE refers to?

21           A.    Yes, I keep -- I get copies of all of their  
22 accreditation and licensing and all of that stuff and I have  
23 that in my office at home.

24           Q.    Now you mentioned a little bit -- a little while  
25 ago that you do not -- you have not visited the Oak Ridge

1 Military Academy?

2 A. Right.

3 Q. Can you tell me why?

4 A. I deal with the kids that are going to the  
5 residential facilities, the more -- kids that have got  
6 behavior problems and drug problems and so forth. Oak Ridge  
7 doesn't take that kind of kid. It is an open campus. They  
8 don't have 24-hour staff supervision there. And Sue's son  
9 goes to military school. She knows way more about military  
10 schools than I do and so Sue handles that.

11 Q. Do some of the children that have behavioral  
12 problems, do these parents ever get sent information about  
13 the Oak Ridge Military Academy?

14 A. They do. A lot of parents will click when they  
15 go on our site and what they're looking for, they think that  
16 military school is going to be some commander sitting beside  
17 their child and keeping them on track and so forth. They  
18 don't really understand that that is not the kind of staff  
19 support that they get there. And so they may get the letter  
20 and they may get a packet sent out, and then in reading  
21 their information understand that that is not really the  
22 school for their kids. And then, of course, I always call  
23 and explain to them that that is probably not what they're  
24 looking for, that they're looking for something a little --  
25 if they're using drugs, if they got caught with drugs on an

1 open campus they're going to get expelled and lose their  
2 tuition.

3 Q. Didn't you refer to WWASP programs for many  
4 years?

5 A. I did.

6 Q. Can you tell me if there is any difference  
7 between the types of children accepted by WWASP programs  
8 than would be accepted by the Oak Ridge Military Academy?

9 A. Absolutely. The WWASP programs need -- take kids  
10 that need 24-hour staff supervision, that need to be  
11 directed and controlled at all times, whereas that is not  
12 the kind of kids that go to military school.

13 Q. Now Marie, I would like to ask you, did you --  
14 did you ever share with Sue Scheff information about Robert  
15 Lichfield?

16 A. Yes, I did.

17 Q. Can you tell me what you told Ms. Scheff about  
18 Robert Lichfield?

19 A. I told Sue that I was informed the first day that  
20 I went to work at Cross Creek by Tammy Prince that she told  
21 me that he had been convicted of a sexual misconduct of a  
22 young lady at Cross Creek and therefore could not step on  
23 the premises of Cross Creek. And I was a little bit  
24 surprised because she didn't know me, she didn't know how,  
25 you know, what I thought of Bob Lichfield. I was a little

1 surprised with that. But the same thing happened when I  
2 went to work over at Teen Help. Lisa Irving told me exactly  
3 the same thing in exactly the same words and I did repeat  
4 that to Sue.

5 MR. FLATER: Excuse me one moment, Your Honor. I have  
6 no further questions at this time.

7 THE COURT: Thank you, Mr. Flater. Brief follow-up  
8 limited to that then, Mr. Siebers?

9 **REDIRECT EXAMINATION**

10 BY MR. SIEBERS:

11 Q. This alleged sexual misconduct of Robert  
12 Lichfield, did you ever look into that?

13 A. No.

14 Q. Why did you pass it on to Sue Scheff?

15 A. I don't know.

16 Q. When did you do it?

17 A. Probably when I first went to work for her. I  
18 don't remember for sure but --

19 Q. When you first went to work for her you felt it  
20 was important to pass on a rumor about a sexual misconduct  
21 conviction of Robert Lichfield?

22 A. Yes.

23 Q. Why?

24 A. I don't know.

25 Q. And you know now that that is false?

1           A.    No, I know no such thing.

2           Q.    There is no conviction of Robert Lichfield for  
3 sexual misconduct?

4           A.    I never investigated it. I don't know that. I  
5 don't know that.

6           MR. SIEBERS: Thank you, Ms. Peart.

7           MR. FLATER: One further question.

8           THE COURT: All right, I'll allow one further  
9 question. Is this a lawyer's one question?

10          MR. FLATER: I hope so.

11                               **RECROSS EXAMINATION**

12          BY MR. FLATER:

13           Q.    Marie, how many people told you about this  
14 incident with Robert Lichfield?

15           A.    Two different people told me exactly the same  
16 thing, Lisa Irving and Tammy Prince.

17           THE COURT: All right. Thank you, Ms. Peart, and  
18 thank you for your testimony. Ms. Peart, I take it, can be  
19 excused at --

20           MR. SIEBERS: Yes, Your Honor.

21           THE COURT: -- this time?

22           MR. FLATER: Yes.

23           THE COURT: You're free to watch the proceedings or  
24 leave as you choose. Who is the plaintiff's next witness?

25           MR. SILVESTER: We will call Ken Kay, Your Honor.

1 THE COURT: All right. Mr. Kay?

2 THE CLERK: If you will stand over there I'll swear  
3 you in. Raise your right hand, please.

4 KEN KAY,

5 Having been first duly sworn,

6 was examined and testified as follows:

7 THE CLERK: Have a seat right there. If you would  
8 state your name and spell it for the record, please, and  
9 please speak into the microphone.

10 THE WITNESS: My name is Ken Kay, K-E-N K-A-Y.

11 THE COURT: I want, ladies and gentlemen of the jury,  
12 I want to tell you one thing. Mr. Kay you have seen has  
13 been sitting in the courtroom just as Ms. Scheff has been  
14 sitting in the courtroom. Each side has one person that is  
15 allowed to sit in the courtroom to track what is going on  
16 and help their lawyers. And the other folks we have stay  
17 outside of the courtroom so they're not just listening to  
18 what folks are saying and just spitting it back to you. But  
19 Mr. Kay, by agreement of both sides, has been here as  
20 Ms. Scheff has been here.

21 MR. SILVESTER: Thank you, Your Honor. I have noticed  
22 you haven't asked me to speak up.

23 THE COURT: We don't have that problem with you.

24 MR. SILVESTER: I appreciate that.

25 DIRECT EXAMINATION

1 BY MR. SILVESTER:

2 Q. Mr. Kay, my chess clock is running down quickly,  
3 so I'm going to lead you through some foundational  
4 information so the jury can get to know you a little better.  
5 You started out as a highway patrolman years ago in  
6 California; is that right?

7 A. That is correct.

8 Q. How long did you have that job?

9 A. Four years.

10 Q. And after that you had various business  
11 positions; is that correct?

12 A. Correct.

13 Q. You have owned some of your own businesses; is  
14 that right?

15 A. I was foolish enough to do that, yes.

16 Q. And what kind of businesses have you owned?

17 A. Architectural firms, equipment rental firms, been  
18 a general contractor, realtor.

19 Q. Okay. And at some point in time you kind of got  
20 the baptism by fire into the programs dealing with teens; is  
21 that right?

22 A. Yes, sir.

23 Q. You went to work, I think, as a person on the  
24 night shift at an adolescent hospital; is that right?

25 A. Correct.

1           Q.    That was Brightway Adolescent Hospital in St.  
2   George?

3           A.    That is correct.

4           Q.    And about when was that that you went to work for  
5   Brightway?

6           A.    That was in June of 1993.

7           Q.    And what were your duties at night while you were  
8   working there?

9           A.    It was basically a security position and to be  
10   sure that the facility as well as the patients there were  
11   safe.

12          Q.    When you went to work there, who was the operator  
13   of Brightway Adolescent Hospital?

14          A.    The Utah Alcoholism Foundation.

15          Q.    You worked in that position for some period of  
16   time and then later on you became the director -- the  
17   business director of Brightway Adolescent Hospital, correct?

18          A.    Correct.

19          Q.    And about when was that? I know testing dates is  
20   always hard, but give us your estimate?

21          A.    I believe it was in 1996 or 1997. Early in 1997.

22          Q.    Who hired you for that job?

23          A.    I talked to Brent Facer who was a past director  
24   of Brightway Adolescent Hospital and he offered me that job.

25          Q.    Did you also talk to some folks at the Utah

1 Alcoholism Foundation?

2 A. Absolutely. They were the governing body, George  
3 Demass and Ron Halverson and Scott Gerber.

4 Q. What was your role as the administrator of  
5 Brightway Adolescent Hospital?

6 A. To try to keep track of the business end of  
7 things, of course, and to be sure that the entire facility  
8 was working as a team. Was not a clinical director, we had  
9 a clinical director but to be sure that things were  
10 coordinated amongst the treatment staff, residential staff,  
11 and, of course, the business aspect.

12 Q. And you had professional clinical staff that  
13 worked at the hospital?

14 A. That is correct.

15 Q. Dr. Delbert Goates was a psychiatrist at that  
16 hospital?

17 A. He was one of them, yes, sir.

18 Q. And you had social workers at that hospital?

19 A. That is correct, sir.

20 Q. And was that hospital -- that was an accredited  
21 hospital?

22 A. Yes, sir. It was licensed by the State of Utah  
23 health care as a health care facility and it was also  
24 accredited by the joint commission on accreditation for  
25 health care organizations.

1 Q. And the joint commission has different levels of  
2 accreditation; is that correct?

3 A. I don't know that.

4 Q. I'm going to lead you again. Was there an  
5 accreditation with commendation?

6 A. Yes, sir. We had an accreditation with  
7 commendation from the commonly known as JCHO, J-C-H-O, which  
8 they told us that -- they told me that that was reserved for  
9 the top two percent of health care facilities.

10 Q. At some point in time that facility closed; is  
11 that correct?

12 A. That is correct.

13 Q. And being the administrator of that facility, can  
14 you recall why it was closed?

15 A. Absolutely.

16 Q. Why is that?

17 A. At that time there was a huge movement away to  
18 keeping those HMO's. And insurance companies decided that  
19 health care, psychiatric care, these type of facilities, the  
20 dollar amount and the time allowed was very, very narrow,  
21 and it became it was a money loser.

22 Q. Was the Brightway Adolescent Hospital a member of  
23 the World Wide Association of Specialty Programs?

24 A. No, sir.

25 Q. Did the World Wide Association of Specialty

1 Programs exist at the time Brightway closed?

2 A. Yes, sir.

3 Q. In your role with Brightway Adolescent Hospital,  
4 did you become familiar with what happened to the kids that  
5 you had in that hospital after they left the hospital?

6 A. I was aware of where they went, and to some  
7 extent just out of curiosity and, you know, through the  
8 mill, was aware of some of the things that went on there.

9 Q. And what kind of facilities or where did some of  
10 the kids -- where did the kids go, as far as you know, after  
11 they finished at that hospital?

12 A. Almost all of them, but not all of them, went to  
13 -- the boys frequently went to Paradise Cove, Tranquility  
14 Bay, Spring Creek Lodge, Casa by the Sea. The girls would  
15 go to Casa by the Sea, Tranquility Bay, Cross Creek Manor,  
16 Spring Creek Lodge, I already mentioned that, and Carolina  
17 Springs.

18 Q. Okay. And those particular facilities were in  
19 fact members of World Wide at the time Brightway closed,  
20 correct? The facilities that you just mentioned?

21 A. I believe that they all were, yes.

22 Q. Okay. Now, the clinical staff there was a  
23 treatment team at that hospital; is that correct?

24 A. That is correct.

25 Q. Did you participate in that treatment team in any

1 way?

2 A. Yes, I did.

3 Q. And the treatment team included the clinical  
4 staff, correct?

5 A. Correct.

6 Q. And did you staff the certain conditions of each  
7 of the kids?

8 A. Yes.

9 Q. And, in fact, the kids that came into that  
10 facility, did they receive psychological evaluations from a  
11 licensed clinical psychologist in the State of Utah?

12 A. Some of them did.

13 Q. Did any of the patients in that hospital receive  
14 psychiatric evaluations from Dr. Goates and other licensed  
15 psychiatrists in the State of Utah?

16 A. All of them did.

17 Q. After Brightway closed, then there was a time  
18 that you went to work for the Teen Help Organization; is  
19 that correct?

20 A. That is correct.

21 Q. And the Teen Help Organization had some  
22 relationship with World Wide; is that correct?

23 A. Correct.

24 Q. It was in fact a marketing arm that referred kids  
25 -- referred parents to different World Wide programs?

1           A.    That is correct.  I would like to refer to them  
2 as I mentioned intake offices but they did advertise, yes.

3           Q.    What was your role when you were at Teen Help?

4           A.    I was admissions coordinator.

5           Q.    What does that mean?

6           A.    The person that answers the telephone from  
7 concerned parents or relatives trying to find out what was  
8 available or if their child would -- was suitable for any of  
9 the programs that I represented.

10          Q.    Okay.  And if you had some thought that the child  
11 might be suitable, would you then pass information onto one  
12 of the programs?

13          A.    That is correct, or several of them.

14          Q.    Okay.  And then did the programs have the ability  
15 to accept or not accept the child?

16          A.    It was totally their responsibility, yeah.

17          Q.    You were in that role for about a year; is that  
18 correct?

19          A.    Yes, sir.

20          Q.    You had a little disagreement with people there  
21 and you left for a while; is that right?

22          A.    Yes, sir.

23          Q.    And then you took the role as the president of  
24 the World Wide Association of Specialty Programs, correct?

25          A.    Yes, sir.

1           Q.    You stepped in the seat that Karr Farnsworth had  
2    been in?

3           A.    Correct.

4           Q.    And Karr went back to Cross Creek Manor?

5           A.    Yes, he did.

6           Q.    Okay. Tell us what your role has been since you  
7    became the president of the World Wide Association?

8           A.    The purpose of the World Wide Association is to  
9    serve independently owned and operated schools, kind of a  
10   larger voice. We serve as similar to a trade organization.  
11   And what I mean by that is we provide certain services to  
12   those schools that chances are they wouldn't be capable of  
13   doing on their own to the extent with a nationwide exposure  
14   that being a part of a larger team gives them that  
15   opportunity.

16          Q.    And what is your role in that process?

17          A.    To be sure everything is coordinated. I'm the  
18   president of that, and I serve on one of the three members  
19   of the Board of Directors and were you asking for specific  
20   duties or just overall?

21          Q.    General flavor?

22          A.    General flavor I field concerns from the  
23   programs. Those are actually who our clients are, are our  
24   member programs. I deal a lot with their clients which are  
25   the parents that have kids in their schools. I deal with

1 staff. Try to coordinate things, visit programs, consult  
2 with program directors or staff, program staff.

3 Q. In late 2001 can you tell us who the member  
4 programs were in the World Wide Association?

5 A. Carolina Springs Academy, excuse me, do this in  
6 my mind geographically so I don't miss anybody. Carolina  
7 Springs Academy, Tranquility Bay. Carolina Springs Academy  
8 is in South Carolina, Tranquility Bay is in Jamaica. Casa  
9 by the Sea is in Ensenada, Mexico; Cross Creek programs  
10 which is a group of three separate programs, Cross Creek  
11 Manor, Cross Creek Academy and Cross Creek center for boys;  
12 Spring Creek Lodge; and --

13 Q. Let me help. How about Ivy Ridge?

14 A. Ivy Ridge became a member at a later date.

15 Q. Okay.

16 A. Yes. But I believe that those -- Morova Academy.

17 Q. Casa by the Sea?

18 A. Casa by the Sea.

19 Q. Where is that located?

20 A. Ensenada, Mexico.

21 Q. And do you have occasion in your role, and did  
22 you back then, of working with parents in any way that had  
23 children in the programs? You talked about your clients  
24 clients?

25 A. Dealt with them extensively, yes.

1           Q.    In what -- what particular roles do you deal with  
2 the parents that have kids in the program?

3           A.    Um, starting out kind of a lower level, parents  
4 that had specific concerns, requests or questions who needed  
5 clarification. I visit many, many of the seminars, the  
6 parents seminars. I visit a lot of parent support groups  
7 that are not run by World Wide but they're voluntary parents  
8 around the country. There is approximately 140 parents  
9 support groups around the country. I visited as many of  
10 those as possible. I have a lot of speaking engagements. I  
11 have been asked many times to speak in front of large  
12 groups.

13          Q.    Do you visit the programs?

14          A.    A lot.

15          Q.    Do you visit the programs when parents are there?

16          A.    The program is very -- the size of our programs  
17 are such that almost -- I can say almost always, of course  
18 not 100 percent, but almost always, way more often than not,  
19 there are parents at the facilities always when I arrive  
20 there. Almost on a daily basis the programs are visited by  
21 parents.

22          Q.    Why is that, based on the way that the program is  
23 structured? Why is there almost always parents?

24          A.    Actually one of the parent/child seminars that it  
25 is actually required that the parents visit the programs and

1 attend a seminar there. They are, I wouldn't call them open  
2 campuses for the parents, but the parents are welcome to  
3 visit the program any time that they would like. They are  
4 not -- they're asked not to visit their child unless their  
5 child is actually up to a level for that visit. So the  
6 parents that would like to visit when their child is on an  
7 inappropriate level, you know, they're told, you know, if  
8 you want to see your child you may be asked to take them  
9 home at that time because that is an exception and that is  
10 just negative reinforcement to the kids and negative  
11 reinforcement to the parents.

12 Q. But after a child reaches a certain level, they  
13 can visit at their convenience?

14 A. They can visit at their -- still visit the  
15 program at their convenience, but there may be special  
16 circumstances. That would be up to the staff at the  
17 schools. I don't set that visit policy.

18 Q. All right. But at least you have been to schools  
19 when parents were there?

20 A. Yes, many times.

21 Q. And you have talked with parents when you have  
22 visited the schools?

23 A. Many, many times.

24 Q. You have talked to students who have been to the  
25 schools?

1           A.    Many, many times.

2           Q.    You talked with students in the presence of  
3 school staff?

4           A.    Sometimes, but I always try to make a point to  
5 visit 30 students without anybody from the school present,  
6 and I always have someone with me so it is not a one on one.

7           Q.    Have you done that for a number of years?

8           A.    Yes, I have.

9           Q.    Now, you also collect correspondence that comes  
10 in from parents who have children in the schools?

11          A.    I receive quite a bit, yes.

12          Q.    And does that correspondence provide you  
13 information about what is going on in the schools?

14          A.    Yes, it does.

15          Q.    What kind of information?

16          A.    We get, you know, thousands of appreciation  
17 letters and e-mails. We get hundreds and hundreds of  
18 stories offered for support, offers of people wanting to  
19 know how they can participate. Problems, you know, somebody  
20 has a specific problem, a concern with a program. And maybe  
21 sometimes those problems would graduate up through the  
22 levels where they didn't feel that they had been dealt with  
23 properly. And the other times people would contact me  
24 because they don't know, down the line, who they should deal  
25 with.

1           Q.   Any time that you get any correspondence  
2           indicating that a parent or someone else feels there is a  
3           problem with the school, do you take action?

4           A.   Yes.

5           Q.   What do you do?

6           A.   Well, frequently, basically what I would do is  
7           try to get the story, a clear understanding of what the  
8           parents expectations was and what their real concerns were,  
9           but then turn it back to the school for their resolution and  
10          then ask them of course to communicate the resolution to  
11          them.

12          Q.   Are you familiar with policies that the schools  
13          put in place in terms of their relationship with students  
14          and parents?

15          A.   I think I have a clear understanding, yes.

16          Q.   Okay. Do the schools, as far as you know, have  
17          any policy about reporting abuse if any child reports that  
18          they have been abused?

19          A.   Yes, I do understand that policy. And that is  
20          that any abuse should be immediately reported to  
21          authorities. Authorities being -- you do have an option.  
22          You can call the police or whatever, excuse me, police  
23          agency that would be over that area, or somebody within the  
24          government which would be department of social services or  
25          family services. Either one of those meet the criteria as

1 compliance.

2 Q. And do you, as part of the services that you  
3 provided as an association, did you try to keep track of  
4 complaints that might relate to children who are mistreated  
5 in the program?

6 A. I don't think keep track is how I would define  
7 it, but I am aware of those generally. If I am not -- there  
8 may have been some complaints or some concerns that I am not  
9 aware of, I doubt that, I hope that that is not the case,  
10 and I hope that I'm aware of them when they happen.

11 Q. As part of your work for World Wide, do you ask  
12 programs to give you information if the government officials  
13 are investigating claims of abuse?

14 A. Correct, I do.

15 Q. Have you kept track of that over the years?

16 A. I haven't done a chart or a graph or a form that  
17 tracks every one of those, but I am mentally aware of those  
18 and especially if there is any concerns by governmental  
19 agencies.

20 Q. You pointed at your head. A lot of it is in  
21 there?

22 A. A lot it only holds so much but the hard drive is  
23 old.

24 Q. Okay. Are you aware of any single case at any of  
25 the World Wide Schools where a court of law has found that

1 the World Wide Program has physically abused a child?

2 MR. HENRIKSEN: Objection, as to foundation, Your  
3 Honor. Voir dire the witness?

4 THE COURT: No. I'm going to overrule whether he is  
5 aware of any and either he is or isn't aware. So go ahead.

6 THE WITNESS: Can I get you to ask me that again.

7 MR. SILVESTER: If I can remember.

8 THE WITNESS: I think I remember.

9 Q. (By Mr. Silvester) Based on keeping track of the  
10 information at these schools, are you aware of any  
11 circumstance where a court of law has found that one of the  
12 programs has physically abused a child in therapy?

13 A. I am -- I am not aware if I know one. I don't  
14 think I do. I certainly think I would remember that.

15 Q. Let's talk just a little bit about what the  
16 programs that you visited provide for their students. The  
17 students are there on a 24-hour basis, correct?

18 A. Correct.

19 Q. Some of the campuses, as I was corrected earlier  
20 in this thing, have actually closed, the doors are locked,  
21 right?

22 A. That is correct.

23 Q. And some of them the doors aren't locked?

24 A. Certain areas -- all of the campuses, I think,  
25 have certain controlled access areas and certain

1 uncontrolled access areas.

2 Q. Do the campuses provide food for the children?

3 A. Yes.

4 Q. Ever seen the food service at any of these  
5 campuses?

6 A. I have eaten way too much of it.

7 Q. Have you eaten at all of the campuses?

8 A. Yes, I have.

9 Q. Did you find the food inadequate?

10 A. I found the food very adequate.

11 Q. Have you ever been required to eat pork with hair  
12 sticking out of it?

13 A. I think one time when I was in the United States  
14 Army in 1963.

15 Q. Let me stop you there. I mean at one of the  
16 schools, have you ever been required to eat pork with hair  
17 sticking out of it?

18 A. No, I have never seen it. I have talked to a lot  
19 of kids about the possibility of that.

20 Q. Now, these facilities have a physical place for  
21 people to live in them, correct?

22 A. Correct.

23 Q. They have physical facilities for people to  
24 bathe?

25 A. That is correct.

1 Q. And they have water and sewer?

2 A. Correct.

3 Q. And as with any physical facilities, I assume  
4 occasionally they have problems with those?

5 A. Undoubtedly.

6 Q. And so do you get involved with problems that  
7 might exist in the physical facilities at any of these  
8 schools? Do they tell you anything about them?

9 A. I hear about them. I know Carolina Springs was  
10 doing an extensive septic system, the septic system was  
11 adequate but it was -- it had been determined it was on the  
12 wrong piece of property so they had to do some substantial  
13 work there.

14 Tranquillity Bay, at one time, was at its capacity and  
15 I discussed that with the director of Tranquillity Bay about  
16 what he was going to do because he had reached that  
17 capacity. And so those kinds of things. If there was any  
18 fire codes or if there was any -- there was a time that  
19 there was a squabble between government agencies in South  
20 Carolina about who was going to license the facility, one  
21 gave them a cease and desist order when in fact another one  
22 of the agencies and I was in the court during that process,  
23 so it is firsthand knowledge, determined that they were  
24 going to license Carolina Springs, and so the other  
25 government entity by state statute says if one government

1       entity licenses the other, you know, Department of Social  
2       Service chose to license then there were no other Carolina  
3       agencies that were to assume that role.

4             Q.    Have you ever heard a report from any of the  
5       schools or from any of the parents you have talked about  
6       that children were being required to sleep with sewage  
7       running through their bed or dripping on their bed?

8             A.    Absolutely not.

9             Q.    Now, is clothing provided to the students while  
10       they're in the schools?

11            A.    Some clothing is provided. Of course, if you  
12       show up there with no clothing, your needs would be met.  
13       But very few come with no clothing. But all of our schools  
14       have a uniform requirement and they wear uniforms.

15            Q.    Okay. And are those paid for uniforms by the  
16       parents?

17            A.    I believe that all of the school uniforms are  
18       paid for separately by the parents.

19            Q.    Now, did the schools, those that have these kids  
20       there full-time, do they have to have medical care available  
21       for the children?

22            A.    Yes.

23            Q.    And how do the various schools provide medical  
24       care for the children?

25            A.    They would have a nurse staff there. There are

1 different requirements depending on the state that you're in  
2 and the type of facility. The actual residential treatment  
3 centers are more closely monitored and regulated. Their  
4 staffing requirements for nurses, for example, here at Cross  
5 Creek in the State of Utah, you have to have registered  
6 nurses, you have to have 24-hour staff, other schools, I  
7 think you just have to have an on-call nurse, and I don't  
8 believe that those requirements are always RN's, RN level.  
9 Those are what I am more concerned about is that they don't  
10 have any problems meeting whatever those regulations are.  
11 And I don't know all of the individual state regulations.

12 Q. Okay. Do the various schools provide the  
13 academics for the children that are there?

14 A. Yes, they do.

15 Q. Are there any of the schools that are members of  
16 the association that do not have an accredited academic  
17 program?

18 A. The way that I would have to answer that is the  
19 schools that deal with high school level children are  
20 accredited by the Northwest Association of Accredited  
21 Schools formally called the Northwest Association of  
22 Schools, Colleges and Universities. They have changed their  
23 name recently. The Majestic Ranch Program that we have up  
24 in Randolph, Utah, is for younger children, could be as  
25 young as seven or eight years old up through 13 years old.

1 They may keep a child for a little bit longer into the 14th  
2 year to meet -- if they were close to graduating.

3 They are accredited, to my knowledge, at this time  
4 through an agreement through American Schools or Oak Ridge  
5 Academy. But their accreditation is different because their  
6 requirement is different. And then there are also some  
7 states that require that the state department of education  
8 get involved. So you would have, for example, in South  
9 Carolina you may have the South Carolina Department of  
10 Education involved. You may have CITA which is the  
11 Commission on International and Transregional Accreditation  
12 involved which they do and also the Northwest Association  
13 through an operating agreement with the reciprocity to the  
14 southeast accreditation organization. And it gets  
15 confusing, I think, to a lot of people that don't know the  
16 system and it is very understandable to me because I have  
17 been working with it for years.

18 Q. And, in fact, you have actually participated in  
19 some of the accreditation visits?

20 A. Yes.

21 Q. And when the Northwest Association of whatever it  
22 was that does the accreditation, when they make a visit to  
23 the school, do they generally bring people from other  
24 schools or other programs?

25 A. At times they do. For example, a recent

1 accreditation visit to Spring Creek Lodge in Montana  
2 included the academic or the director, excuse me, from Mount  
3 Bachelor Academy which is actually a competitor to our  
4 schools, but it is -- it is a good relationship.

5 Q. Now, students leave World Wide Programs either  
6 because their parents take them out of the programs before  
7 they complete the programs or because they graduated from  
8 the programs, correct?

9 A. Or they turn 18 years old and choose to stay or  
10 leave, yes.

11 Q. And the World Wide Association for all of these  
12 schools puts on graduations?

13 A. Yes.

14 Q. And you're involved in that process?

15 A. Yes, sir.

16 Q. Do you ever go to those graduations?

17 A. Every one.

18 Q. Where are the graduations held?

19 A. The high school graduations are held at the  
20 individual schools. They have a ceremony. But at the end  
21 of the PC-3 when the kids actually graduate from the program  
22 in San Diego, after that we actually have a formal high  
23 school graduation much like the public school, robes, gowns,  
24 guest speakers, honor grads, you know, photos, class rings,  
25 actual diploma services.

1 Q. How often are those graduations held?

2 A. Every two months.

3 Q. You go to all of them?

4 A. Yes, sir.

5 Q. About how many students graduate every couple of  
6 months?

7 A. High school or program?

8 Q. Program?

9 A. They vary depending upon the time of the year  
10 from -- we just had one that was about 79. However, we have  
11 one on the 15th of this month which is a little early in the  
12 rotation because a lot of public schools start in the middle  
13 of August, so we step that one up a little bit and I would  
14 assume that we may have as many as 130, maybe as many as  
15 150.

16 Q. Okay. Do you ever have contact with the parents  
17 of the students after graduation?

18 A. A lot.

19 Q. Why?

20 A. Because I want to know how they're doing, what is  
21 going on. We're not a perfect system. We only fit one  
22 little niche in the whole spectrum of youth care. And it is  
23 very important for us to know how to continue that we may  
24 improve the system, keeping in context what the parents  
25 expectations are and what their ability to afford those are.

1 That is why we have different types of schools because some  
2 of the costs are quite expensive and some of them don't need  
3 to be very expensive depending on the level of care of the  
4 children.

5 Q. We have got a chart, and I don't have time to go  
6 over it with you, but it indicates the growth over the last  
7 several years. Do you know approximately what the  
8 population of all of the World Wide schools combined is,  
9 student population today? Or do I need to show you that?

10 A. About 2500.

11 Q. If you have about 2500 students in those various  
12 programs, what size of employee base would that be for the  
13 programs?

14 A. Typically the number of employees schools staff  
15 are about -- they work out usually about two-thirds the  
16 amount of students in the program.

17 Q. So if we took Mr. Farnsworth's program over in  
18 LaVerkin, programs over in LaVerkin, do you know about how  
19 many students he has?

20 A. I believe he has in his three programs probably  
21 about 440 students right now.

22 Q. And do you know how many employees he has?

23 A. Last I talked to him, or to his human resources  
24 person, I believe it was 274.

25 Q. Do you know anything about the treatment staff at

1 Cross Creek?

2 A. A little bit, yes.

3 Q. Do you know if he has a treatment staff?

4 A. I know he has a treatment staff.

5 Q. You have been in the courtroom and had a chance  
6 to watch one of your favorite programs, right, the 48 Hours  
7 program?

8 A. Yes, sir.

9 Q. And you recognized Mr. Alva?

10 A. Yes, sir.

11 Q. And you recognized Mr. Goold?

12 A. Yes, sir.

13 Q. You recognized some of the other people, right?

14 A. Yes.

15 Q. Did you ever think you would have to try those  
16 cases twice?

17 A. I'm not 100 percent clear on what you mean, but  
18 no.

19 Q. You knew them because they sued World Wide,  
20 right?

21 A. That is correct.

22 Q. And what was your understanding of the result of  
23 the lawsuit from both Sergio Alva and Stanley Goold?

24 A. The court's ruled. We never settled on any of  
25 those cases. They went through due process through the

1 legal system. And to my knowledge, from you, and other  
2 representation is there are no pending -- no existing  
3 lawsuits that are still active. They were all dismissed.

4 Q. Do you know that Mr. Alva and his parents owe  
5 World Wide Association of Schools and Specialty Programs  
6 money as a result of the dismissal of that case?

7 MR. HENRIKSEN: Your Honor, I haven't objected to any  
8 leading questions, but I think I would like to object to  
9 some of the leading questions since we're getting into some  
10 of these areas.

11 THE COURT: See if you can rephrase that one then,  
12 Mr. Silvester.

13 Q. (By Mr. Silvester) I'll withdraw it, Your Honor.  
14 Mr. Kay, because you're familiar with the 48 Hour program  
15 you're also, I assume, familiar with a lot of media reports  
16 on World Wide Programs?

17 A. Oh, yes, sir.

18 Q. In your role as director of the World Wide  
19 Programs, do you have any responsibility with respect to  
20 those media reports?

21 A. Yes, I do.

22 Q. Tell us what that is?

23 A. Part of the agreement that we have with our  
24 member schools is that at their request we would be involved  
25 in any media programs, news articles, radio talk shows,

1        whatever. That would be just dealing with the media in  
2        general. We assist the schools. Frequently most of the  
3        press want to zero in on more of the World Wide level than  
4        they do the program level. For some reason it seems  
5        backwards to me, but they all seem to call me. I get -- I  
6        stopped counting last year at 590 interviews, 114 TV shows,  
7        and I believe 130 radio talk shows.

8                Q. Do any of those reports have positive information  
9        about the World Wide programs?

10              A. Very, very, very many, many of their extreme --  
11        extreme very few of them that I run across that are all  
12        negative, and there are very few that are all positive  
13        because it is not a negative and positive world that we live  
14        in. So there are always two sides, sometimes three sides to  
15        stories. And basically all we're looking for is to get an  
16        understanding out there that we're not for everybody and,  
17        you know, we're not going to make everybody happy. But the  
18        overwhelming, in my experience dealing with these people  
19        after they get out of the schools, the overwhelming positive  
20        news and effect. That doesn't mean I like the negative  
21        press that is coupled in sometimes with some few positive  
22        mentions.

23              Q. I want to draw your attention to the last part of  
24        2001. Did you become aware of the posts that were on  
25        Woodbury sites?

1           A.    Yes, I did.

2           Q.    How did that occur?

3           A.    Um, I began to hear from a lot of parents,  
4 hundreds of phone calls wanting to know what it was about,  
5 if I could clarify things. Staff members were bringing it  
6 to my attention, several different ways I heard about them.

7           Q.    Did you actually get some negative e-mails and  
8 information on your phones personally?

9           A.    Yes.

10          Q.    Tell us about that?

11          A.    A lot of death threats. Is this what you're  
12 talking to? E-mails, phone messages.

13          MR. HENRIKSEN: Your Honor, I'm going to object as to  
14 hearsay.

15          MR. SILVESTER: I'm just asking what he remembers  
16 getting.

17          THE COURT: Well, I'm going to --

18          MR. HENRIKSEN: He is referring, Your Honor, to what  
19 someone told him.

20          THE COURT: Well, somebody giving him a death threat,  
21 how is that a hearsay problem?

22          MR. HENRIKSEN: Because that is -- someone has to have  
23 said it. Object to --

24          THE COURT: Somebody gives you a death threat, it is  
25 not coming in for the truth of the matter asserted, it is

1 coming in for the fact that he had been threatened.

2 MR. HENRIKSEN: I guess he could testify to that.

3 THE COURT: So I'll overrule that objection.

4 Q. (By Mr. Silvester) After becoming aware that  
5 there were these posts on the Woodbury site, what did you  
6 do?

7 A. Well, my experience with the program was  
8 overwhelmingly positive is what I was hearing as I  
9 interviewed kids. That doesn't mean that I didn't run  
10 across negative, and that didn't mean that I didn't run  
11 across a few very venomous negative or negative people. But  
12 overwhelming, all of the surveys we do, are overwhelmingly  
13 positive, overwhelmingly satisfied customers.

14 So I contacted Lon Woodbury and said Lon, my  
15 experience is that we just don't have this many people out  
16 there that are trying to do us harm and trying to destroy  
17 us. I can't believe that all of these posts keep going and  
18 these people just keep bouncing back and forth and  
19 supporting each others negativity.

20 Q. And did you read his post that we discussed just  
21 a few minutes ago with Ms. Scheff where he indicated that he  
22 had done some research on the internet?

23 A. Yes.

24 Q. At that point did you try to find out something  
25 about Ms. Scheff?

1           A.    Yes.

2           Q.    And how did you do that?

3           A.    Well I talked to some of the seminar people.  I  
4 talked to Elaine Davis.  I talked to Shirley Banister.  Some  
5 of the people, I believe, Tera Simms, you better not quote  
6 that one.  But some people at Carolina Springs.  I had also  
7 had some feedback from persons that attended a lot of  
8 meetings down in Florida named Ken Grossman.

9           Q.    You have to speak up because you are getting to  
10 the point I can't hear you very well.  Somebody in Florida  
11 that --

12          A.    I heard back from a person that attended a lot of  
13 support group meetings down in Florida.  His name was Ken  
14 Grossman who had had a son in the program.

15          Q.    Did part of your investigation involve going and  
16 finding the PURE website?

17          A.    Yes.

18          Q.    And did you review the parent's true story on the  
19 PURE website?

20          A.    Yes.

21          Q.    Did you talk with the director of Carolina  
22 Springs after reviewing that true story?

23          A.    Yes, I did.

24          Q.    Did you find out any information about  
25 Ms. Scheff's experience while her daughter was at Carolina

1 Springs?

2 MR. HENRIKSEN: Objection, Your Honor, to hearsay.  
3 Now he's going to repeat what he found out from Elaine  
4 Davis. That was the question.

5 THE COURT: That may be well founded.

6 Q. (By Mr. Silvester) Let me move a different  
7 direction, Your Honor.

8 Did you or someone on your staff follow the postings  
9 for any period of time that were appearing on the Woodbury  
10 website?

11 A. Yes.

12 Q. Did you then follow the information that was  
13 being posted on Helpyourteens.com, the PURE website?

14 A. Meaning the organization? I had a person do it.

15 Q. Did you have those people report to you and give  
16 you copies of the materials?

17 A. Yes.

18 Q. Based on the experience that you had in the  
19 business, based on the experience you had at Brightway  
20 Adolescent Hospital, based on your experience now several  
21 years working with programs, working with parents, and  
22 working with students, do you believe the reputation -- do  
23 you have an opinion about whether the reputation of the type  
24 of specialty schools that are members of the organization is  
25 important?

1           A.    Yes, sir.

2           Q.    What is your opinion?

3           A.    My opinion is that the reputation is really about  
4 everything when it comes to helping families.

5           Q.    Now, when you had negative news clippings like  
6 your 48 Hour one, did that concern you?

7           A.    Yes, sir.

8           Q.    Did you follow through to make certain that if  
9 any of those stories were true, problems were corrected?

10          A.    Yes.

11          Q.    Does it -- do you have an opinion whether or not  
12 based on that education, experience and training we talked  
13 about, do you have an opinion whether or not making up  
14 stories about physical abuse of a child was detrimental to  
15 World Wide Association's reputation?

16          MR. HENRIKSEN: I object to the foundation for that  
17 opinion. It is not tied to anything specific to this case.  
18 So it is not -- we don't know what his opinion would come to  
19 mean and he has not testified that he has any type of  
20 training, background in economy, economics. Also the  
21 foundational questions that he admits in his deposition that  
22 he doesn't have any basis or foundation to make such an  
23 opinion.

24          THE COURT: I'm going to overrule that objection and  
25 find that the company president, is that right?

1 MR. SILVESTER: Yes, Your Honor.

2 THE COURT: Is in a position to talk about the  
3 reputation of his company.

4 MR. SILVESTER: Do you recall the question?

5 THE WITNESS: The reputation is extremely important.  
6 When I see negative accusations, things that concern me, be  
7 they true or false, they are very concerning. And if those  
8 accusations or allegations are constant and hit you over and  
9 over and over and are just almost to the extent what I would  
10 categorize a vendetta, they are extremely harmful to our  
11 reputation and very hard to deal with and very difficult to  
12 recover from.

13 I have -- I would rather not do a lot of press  
14 interviews, to be quite honest with you, but they come and  
15 they go. I have been on hundreds and hundreds of newspaper  
16 front pages around the country and the stories are done,  
17 they present some negativism but they have contacted  
18 negative people that weren't happy with the services and  
19 they almost always include that there are some people that  
20 were very well served by that. But they go away. They  
21 aren't a weekly show or they aren't a daily pounding,  
22 pounding, pounding. And there have been several reporters  
23 have done a series of those. But then after they receive --  
24 Tim Weiner is a perfect example of the New York Times, once  
25 we got him to come to Phoenix to a parent support group

1 meeting and he got to talk to some ex-students, he backed  
2 off and went away. So there is different kind of negative  
3 attention and where the allegations come from and their  
4 veracity.

5 Q. Let me ask you quickly about two incidents. You  
6 referred Josh Jennings to Cedar Mountain; is that correct?

7 A. Yes, I think that is fair.

8 Q. And how did that occur?

9 A. Josh Jennings -- the Mexican government -- I was  
10 -- I got a call one day I was down in San Diego at a  
11 conference for some continuing education for psychologists  
12 and I don't remember the name of that. And I had just been  
13 speaking to Jody Tuttle who was there representing her  
14 school and we had a booth that was representing the World  
15 Wide Schools there. And I received a call that the Mexican  
16 government was closing High Impact.

17 The reason that I got the call is not because it is a  
18 World Wide School, but it was informational purposes because  
19 we have a zero tolerance policy at our school if a kid gets  
20 physically violent or whatever they are zero tolerated out.  
21 And Mr. Silvester, could I ask you to stand a half a step to  
22 the right? The lady behind you is making a lot of negative  
23 gestures and she is very distracting.

24 THE COURT: Is somebody making negative gestures?

25 THE WITNESS: Yes.

1 THE COURT: Which woman is it?

2 THE WITNESS: That is the lady, judge.

3 LADY IN AUDIENCE: That's because you're not telling  
4 the truth, sir.

5 THE COURT: Ma'am, I am going to have to ask you to  
6 leave the courtroom. That is what the jury is going to  
7 figure out in this case. If you're going to be distracting  
8 to our witnesses that is going to be distracting for them.  
9 Thank you.

10 Go ahead, Mr. Silvester. Ladies and gentlemen, don't  
11 pay any attention to what other folks may or may not think  
12 about this case. We have got witnesses from both sides that  
13 will tell the truth under oath here and you can figure out  
14 who we're -- who is not telling the truth.

15 Q. (By Mr. Silvester) I think you were indicating  
16 you were talking with Jody Tuttle about --

17 A. Thank you. I was talking about the zero  
18 tolerance policy we have. And one of the options that was  
19 offered to parents, and it was the parent's choice. Some of  
20 the parents at times even signed an agreement before they  
21 went to the school that if your child was zero tolerated  
22 out, he would either be transferred to this program or this  
23 program, but they still had to get an agreement from the  
24 parents. I mean they didn't send them there without the  
25 parents having to sign an enrollment agreement to get them

1       into that other school.

2               Q.     Was High Impact one of those schools that World  
3       Wide schools referred to?

4               A.     That was one of the options they gave the parents  
5       because it was more of a boot camp type school that we don't  
6       deal with. We're not -- we're a long term residential care  
7       facility. That was a boot camp. Some of the kids are more  
8       tough for our schools to deal with and that is how I got  
9       involved with Josh Jennings because I talked to the director  
10      at Casa by the Sea and said this Josh Jennings guy, his dad  
11      doesn't want him back, you don't want him back at Casa by  
12      the Sea, but as a public relations gesture and any  
13      perception that we may have errored or in any way been  
14      implicated in some wrongdoing there, I asked Dave Scolding,  
15      the director of Casa by the Sea, if he would mind if I would  
16      assist them in finding some other suitable placement for the  
17      child. And if I could find a placement would he be willing  
18      to pay part of the tuition fee as a public relations gesture  
19      if the parents would be agree to pay the other part.

20              Q.     And Josh had been at Casa by the Sea?

21              A.     Yes, he had.

22              Q.     And --

23              A.     He was expelled.

24              Q.     Had he done something to get out of there?

25              A.     And I'm not positive what that was but he met

1           whatever criteria was for him to be zero tolerated out.

2           Q.     So did you talk to Jody Tuttle?

3           A.     I talked to Jody Tuttle. I can't remember if it  
4           was in person or right there or if I called her on the phone  
5           or if she was right next to me. I talked to her.

6           Q.     Now, you're also familiar with the suicide of  
7           Valerie Heron at Tranquility Bay, correct?

8           A.     Correct.

9           Q.     And, in fact, your son is the director of  
10          Tranquility Bay?

11          A.     That is correct.

12          Q.     And you talked with the parents of Ms. Heron,  
13          correct?

14          A.     Yes, I did. I met with them in person twice.

15          Q.     Was the death of Valerie Heron investigated by  
16          officials, government officials, in Jamaica?

17          A.     Yes.

18          Q.     How do you know that?

19          A.     I know that because I saw reports. I know that  
20          because I went there and the embassy reports had reports and  
21          there were also documents from the medical examiner's  
22          records.

23          Q.     Did Valerie Heron die at the hands of WWASP?

24          A.     Not in my opinion.

25          Q.     Did Valerie Heron die because of the negligence

1 of the staff at Tranquility Bay?

2 A. No government agency or staff member found that  
3 to be the case.

4 Q. Did the parents of Valerie Heron say anything  
5 about keeping the information about that death confidential?

6 A. Yes. We were contacted -- Ms. Heron, who is --  
7 they are a divorced couple. Mrs. Heron was remarried and  
8 actually came to my office. I invited her to come to my  
9 office in St. George.

10 MR. HENRIKSEN: If we're going to get into the  
11 testimony of hearsay again I object to that.

12 THE COURT: That may be well-founded. Again, she is  
13 going to -- he is going to recount what she said. Maybe we  
14 need to hear from her directly.

15 MR. SILVESTER: My only question is were you  
16 instructed in any way by them to keep the information  
17 confidential?

18 MR. HENRIKSEN: Objection, hearsay.

19 THE COURT: No, that is appropriate. I'm going to  
20 overrule that. The question is whether he was given  
21 instructions. Go ahead.

22 THE WITNESS: By two parties, yes.

23 MR. SILVESTER: That is all of the questions I have,  
24 Your Honor.

25 THE COURT: All right. Thank you, Mr. Silvester. And

1 I take it Mr. Henriksen you're going to have questions. I'm  
2 looking at the clock and I'm thinking this might be a  
3 convenient time for our second break. So why don't we go  
4 ahead and take a break at this time.

5 THE CLERK: All rise for the jury, please.

6 (Whereupon, the jury left the courtroom.)

7 THE COURT: All right. Everyone may be seated.  
8 Mr. Kay, if you want to step down, we'll obviously need you  
9 back in a few minutes. Did either side have any suggestions  
10 on the bystander incident we had just a moment ago?

11 MR. SILVESTER: I missed that, Your Honor.

12 THE COURT: Any suggestions about how I should handle  
13 the bystander incident? Are there any additional steps that  
14 need to be taken?

15 MR. SILVESTER: I think it has been handled.

16 MR. HENRIKSEN: I didn't see anything, Your Honor, but  
17 I would assume something happened and I think the Court  
18 handled it appropriately.

19 THE COURT: All right. I had one other question.

20 MR. SILVESTER: So did I, Your Honor. I'm winding  
21 down quickly I need to know what time I have left.

22 THE COURT: I'm sorry?

23 MR. SILVESTER: My time clock?

24 THE COURT: 25 minutes.

25 MR. SILVESTER: Okay.

1           THE COURT: The punitive damages, is the plaintiff --  
2 sometimes we have a bifurcated proceeding, but I'm thinking  
3 in this case you have put in all of the evidence on  
4 punitive, there is no need for a bifurcated proceeding.

5           MR. SILVESTER: That is correct.

6           THE COURT: How much more time -- and then is this the  
7 end of your case in chief?

8           MR. SILVESTER: Yes, Your Honor.

9           THE COURT: How much time is the defendant  
10 anticipating taking to put its case in chief on, including  
11 the cross of Mr. Kay here. Just an estimate?

12          MR. HENRIKSEN: I think we'll probably use the rest of  
13 our time. I'm not sure where we are. Where are we?

14          THE COURT: You have got about four hours and  
15 20 minutes.

16          MR. HENRIKSEN: We may be a little less than that,  
17 Your Honor. I need to just talk with my co-counsel and work  
18 through where we're at at this point, but we may be less  
19 than that.

20          THE COURT: The reason I raise that is I'm wondering  
21 if I should tell the jury when they come back that it is  
22 possible, I wouldn't want to cut you short in any way, but  
23 it is possible that we might be in a position to get the  
24 case to them tomorrow.

25          MR. HENRIKSEN: I would really doubt that, Your Honor,

1 by the time we do closings.

2 THE COURT: It takes about, I think, about an hour a  
3 side for closing and an hour for instructions. That is  
4 three hours. So we would have to get the testimony in by  
5 about 10:30 tomorrow morning.

6 MR. HENRIKSEN: I don't think that is possible, Your  
7 Honor.

8 THE COURT: All right. Just an optimist here.

9 MR. HENRIKSEN: All right.

10 MR. SILVESTER: I do have one last question, Your  
11 Honor. I --

12 THE COURT: Sure.

13 MR. SILVESTER: I probably wasn't paying very good  
14 attention. I thought the 48 Hour video was in. What I  
15 understand that has been submitted to the court are simply  
16 clips out of all these videos.

17 THE COURT: If somebody wants the whole video in I'll  
18 put the whole video in.

19 MR. SILVESTER: I want the whole 48 Hour one. I  
20 haven't seen the other ones that they have, but I want a  
21 clip I wanted to play in closing.

22 THE COURT: If all we have are clips, let's make sure  
23 the jury has the whole thing in case they want to look at  
24 the whole thing.

25 MR. HENRIKSEN: I would like to see their clip with

1 enough forewarning I know what they're doing with it. We  
2 gave them theirs several -- a week before trial and four  
3 days before trial.

4 MR. SILVESTER: I thought it was all in evidence  
5 because you had presented it.

6 THE COURT: I thought the whole thing was in and so  
7 maybe Mr. Silvester you can let him know what piece you're  
8 particularly interested in.

9 MR. SILVESTER: I can do that. It is really unusual  
10 for me to share my closing argument with counsel if it is in  
11 evidence.

12 THE COURT: Right. But I think in view of the  
13 circumstances I'll require that.

14 MR. SILVESTER: I think we have referred to it several  
15 times here about good reports.

16 THE COURT: I don't -- I have a feeling it is not a  
17 mystery but just to eliminate any problem.

18 MR. HENRIKSEN: Thank you.

19 THE COURT: All right. We'll take a short break.  
20 Thank you, counsel.

21 (Recess.)

22 THE COURT: All right. I had just one quick thing I  
23 wanted to go over with defense counsel. I think you have  
24 somebody who has been passing you a number of notes and so  
25 forth. I'm wondering if -- the CSO's, the Court Security

1       Officers are wondering whether to get him up here at the  
2       table trying to minimize any disruption.

3               MR. HENRIKSEN:   It was Dustin Jackson, we have  
4       identified to the court, but we didn't have a pretrial order  
5       he came and pulled that for us.

6               THE COURT:   Somebody handing you yellow notes.

7               MR. HENRIKSEN:   That was Dustin Jackson from our  
8       office.

9               THE COURT:   Would you like -- would you like to have  
10      him sit up here to minimize any disruption with our  
11      audience.

12              MR. HENRIKSEN:   I wasn't aware it was going on.  
13      Apparently Aaron asked him to get something.   I don't think  
14      we're going to need that for the rest of the day.

15              THE COURT:   Okay.   Sorry.   We are just trying to keep  
16      -- make sure that -- we have got folks in the audience are  
17      certainly welcome to watch, but we don't want to have any  
18      disruptions, any distraction of witnesses.   And the Court  
19      Security Officers will be making sure that that is taken  
20      care of.   Call the jury in.

21              THE CLERK:   All rise for the jury, please.

22              (Whereupon, the jury returned to the courtroom.)

23              MR. SILVESTER:   Your Honor, would you like Mr. Kay to  
24      be up there?

25              THE COURT:   Sure, just to expedite matters.   All

1 right, ladies and gentlemen, I hope you had a good lunch and  
2 I'm sure you're remembering that on each of these breaks not  
3 to discuss the case amongst yourself. We'll get that to you  
4 on Friday. Mr. Henriksen, if you would proceed.

5 **CROSS EXAMINATION**

6 BY MR. HENRIKSEN:

7 Q. Thank you, Your Honor. Mr. Kay, how are you  
8 today? We have met a couple of times and a lot of pages of  
9 depositions, right?

10 A. Yes, sir.

11 Q. And I appreciate some of the comments you have  
12 made today. And let's go into more detail into some of  
13 those. You have had no formal training in psychology;  
14 correct?

15 A. That is correct.

16 Q. You have had no formal training in social or  
17 behavioral modifications; is that correct?

18 A. That is correct.

19 Q. You have had about two or three years of junior  
20 college; is that correct?

21 A. That is correct.

22 Q. No degree?

23 A. No degree.

24 Q. When you were at Brightway you had a management  
25 contract with Robert Lichfield's group and other companies

1 to manage the hospital; is that correct?

2 A. I am sorry. Clear it up.

3 Q. Robert Lichfield, one of their companies, had a  
4 management contract to run Brightway Hospital; is that  
5 correct?

6 A. That is correct. We had a management agreement  
7 with Utah Alcoholism Foundation.

8 Q. That is how you came to Brightway is that you  
9 were hired on by that particular management company to help  
10 manage Brightway?

11 A. That is correct.

12 Q. Okay. And you started as a security guard, you  
13 were there for about two years as a security guard?

14 A. No, I was there --

15 Q. About one year?

16 A. No, sir.

17 Q. How long were you there as a night security  
18 guard?

19 A. A couple of weeks.

20 Q. Okay. And then you became a psych tech, correct?

21 A. Correct.

22 Q. As a psych tech, your job was to move patients  
23 from room to room to room to make sure they were where they  
24 were supposed to be?

25 A. Among other things, that is correct.

1           Q.    And then you replaced your son as the  
2 administrator of the hospital over every aspect of the  
3 hospital you had to generally oversee the entire hospital,  
4 correct?

5           A.    Well, I had to oversee with a lot of help.

6           Q.    Right. And, in fact, Jay Kay, your son, I think  
7 he has been here most of the week, he started at Brightway  
8 at the same time you did in 1993 as a security guard,  
9 correct?

10          A.    Correct.

11          Q.    And then he became the administrator of the whole  
12 hospital before you did?

13          A.    Correct.

14          Q.    And then you took his place as the administrator?

15          A.    That is correct.

16          Q.    Okay. All right. Your son has had no training  
17 in formal psychological training, correct?

18          A.    You would have to ask him, sir.

19          Q.    He has had no formal training in social  
20 behavioral modification, correct?

21          A.    You would have to ask him. I don't know.

22          Q.    He has no college degree, correct?

23          A.    He does not have a college degree to my  
24 knowledge.

25          Q.    All right. And yet you acted as -- for Teen

1 Help, as an -- I don't know what you call it, but a  
2 representative or salesman where you would take phone calls  
3 just like Arlene Farrow talked about in her deposition, just  
4 like Jody Tuttle said when she was doing admissions, just  
5 like Sue would do in doing her referrals, you would take  
6 phone calls, find out from the parents what the problems  
7 with their boys were, and you would try to select programs  
8 to refer them to, in the WWASP group when you worked for  
9 Teen Help, correct?

10 A. I think I heard a whole lot of questions in  
11 there.

12 Q. Start with just one. When you worked for Teen  
13 Help, you were a representative that got on the phone and  
14 talked to parents?

15 A. The first question was did I do the same thing  
16 that Sue Scheff does?

17 Q. No, I didn't ask that. I asked you one question.  
18 When you worked at Teen Help, did you pick up a phone and  
19 talk to parents?

20 A. Yes.

21 Q. And when you talked to the parents, you found out  
22 problems with their child and suggested one of the WWASP  
23 schools that they might want to contact to find out if that  
24 would help their son or daughter?

25 A. Generally, it would be one of the WWASP schools,

1 correct.

2 Q. We heard you talk about the fact that you have  
3 the role at WWASP to investigate each and every allegation  
4 of abuse at all of the member schools, all of that  
5 information comes to you and you investigate it, correct?

6 A. Incorrect, sir.

7 Q. You don't want to have all of the information of  
8 any allegation of abuse come to you, the president of WWASP?

9 A. I would like it to be there, yes.

10 Q. Okay. So the assignment is of all of your  
11 directors, Spring Creek, Majestic Ranch, Tranquility Bay,  
12 all of the directors, if they have an allegation of abuse  
13 you want them to tell you about it, correct?

14 A. I want to hear the basics. I don't require a lot  
15 of documentation. I am not a police agency or government  
16 agency that would do the actual investigation. I leave that  
17 to due process.

18 Q. But then you said you would go talk to the  
19 students and find out what happened, you want to find out  
20 what happened because you want to make changes in your  
21 program, if there was a problem. That is what you said,  
22 didn't you?

23 A. I would generally do whatever was in my scope to  
24 try to find out what part of the investigation that I could  
25 do within my scope that would help the organization.

1           Q.   Exhibit D-18 and 19.  Let's do 18 first.  You  
2   have policies in place at each of these schools that you  
3   helped formulate and their standard in the WWASP schools; is  
4   that correct?

5           A.   They're pretty much standard, correct.

6           Q.   This is the one out of the Carolina Springs book,  
7   and it has employee code of conduct at the top.  It says  
8   definition for the purpose of this rule, and why don't you  
9   bring up the whole paragraph one, if we could.  Thank you.  
10  "Abuse to students will include, but is not limited to, a  
11  strike with an open or closed fist."  So if any staff member  
12  did that to a student, that would be abuse under your book,  
13  correct?

14          A.   Dependent on the scope and the severity and the  
15  intent.

16          Q.   "If any staff member took his hand, opened or  
17  closed, and struck a student," does this say that it would  
18  be abuse?

19          A.   Yes, sir.

20          Q.   Thank you.  "To slap them, to tap them, to spank  
21  them, to kick, push or shove them," all would be abuse under  
22  your book, right?

23          A.   I don't agree, sir.

24          Q.   It says, "a strike with an opened, closed fist, a  
25  slap, tap, spank, kick, push and shove," it says abuse to

1 students will include -- are you telling me that it doesn't  
2 include shoving a child?

3 A. I didn't say that.

4 Q. Okay. Is shoving a child abuse?

5 A. It could be.

6 Q. It could be?

7 A. Yeah.

8 Q. But your policy says it is. It says abuse to  
9 students will include but is not limited to A and then lists  
10 those things. So that is what your book says. A shove is  
11 abuse, isn't it?

12 A. Depending on the motive and the instance that  
13 definitely could be.

14 Q. So you think that the student can be smacked with  
15 a closed fist depending on the motive and it is not abuse?

16 A. I didn't.

17 Q. Where does it say motive in A?

18 A. I didn't say, sir, I didn't say anything about  
19 what you just said.

20 Q. Okay. So it is abuse if a student is struck with  
21 a fist, if they're slapped, tapped, spanked, kicked, pushed  
22 or shoved, that is abuse?

23 A. No, sir.

24 Q. It is not?

25 A. Depending on the intent. A tap, I think as

1 parents, I think we all occasionally -- I have more faith in  
2 people that they are going to understand that if you walked  
3 up and tapped a child on his shoulder, like I have done to  
4 my children, that is definitely not abuse. If it is done in  
5 an improper context --

6 Q. So we ought to take "tap" off there if it is not  
7 abuse?

8 A. We have since changed that to mean limiting.

9 Q. Let's go down to B?

10 A. Don't I get to finish my sentences?

11 THE COURT: Same thing here. We're going to use the  
12 same rules we used for Ms. Scheff here. So you get to  
13 direct questions, one sentence.

14 Q. (By Mr. Henriksen) Any type of physical hitting,  
15 or any type of physical punishment inflicted in any manner  
16 upon the body, that is abuse. Is that true or is that  
17 false?

18 A. Physical punishment in the context of fists, slap  
19 or hits that would be -- physical punishment could also be  
20 you're forced to sit in a chair in a different area because  
21 that is a physical act, but I don't think that is abuse.

22 Q. Let's go to page 19 number 3. Would you bring up  
23 paragraph three. Now on this, let's be extremely clear.  
24 This is the second page of this book, Carolina Springs, and  
25 you said that all of the schools have a similar book,

1 correct?

2 A. Correct.

3 Q. And number three says, "sexual abuse and sexual  
4 exploitation will include but is not limited to engaging in  
5 sexual intercourse with any student." That is what your  
6 policy is, correct?

7 A. Correct.

8 Q. So if any staff member engages in sexual  
9 intercourse with any student, that is sexual abuse, correct?

10 A. That is what that says.

11 Q. And you believe that to be the case, sir? Do you  
12 believe that is the case?

13 A. I believe that that -- that although extremely  
14 inappropriate under any circumstances, there may be -- now I  
15 think you're asking me something that may be better asked  
16 some law enforcement specialist or psychologist, but given  
17 the group of people that we deal with, the kids, these  
18 aren't your normal Harvard generally college prep type  
19 schools, these kids are there for severe problems.

20 However inappropriate and distasteful to me, if a,  
21 you know, two month prior student or over 18 year old  
22 student who can still be a student, you know, gets involved  
23 in a voluntary act with a staff, I think that is something  
24 that someone besides me would have to make the judgment.  
25 This is -- we try to help you be very clear.

1           Q.    The only thing I'm asking you is does the policy  
2           at your school say that sexual abuse is if a staff member  
3           engages in sexual intercourse with any student. Was that  
4           the policy of your school?

5           A.    Yes.

6           Q.    And so any staff member who did that would have  
7           committed sexual abuse, correct?

8           A.    I believe that that is possible.

9           Q.    And you would want to investigate that  
10          thoroughly, wouldn't you, sir?

11          A.    Or I would want to have somebody that was -- that  
12          was more capable of doing that but that I felt comfortable  
13          with, constabulary force or ministry of justice.

14          Q.    Isn't it true, that you became aware, by talking  
15          to your son, that a 16 and a half year old girl had had sex  
16          with a staff member? Is that true or false?

17          A.    That is false.

18          Q.    Your son never told you that a 16 and a half year  
19          old girl had had sex with a staff member?

20          A.    That wasn't the first question, but I can answer  
21          yes to that question.

22          Q.    So he did tell you that?

23          A.    He did. But that wasn't the first -- I got a  
24          call from the father of the girl. That was my first --

25          Q.    And you personally spoke to the girl and she said

1       it was consensual sex. A 16 and a half year old girl and  
2       you told us in the deposition that she told you it was  
3       consensual sex. Is that what you told us?

4             A.    If I said it in the deposition -- I can't  
5       actually remember if I spoke to her or if that was the  
6       information that the guy got. If I said that in my  
7       deposition at that time that was definitely my recollection.

8             Q.    So I don't need to read your deposition, do you  
9       believe that you talked to the girl and she told you that  
10      she had had consensual sex with a staff member?

11            A.    At this time I don't remember if I actually  
12      talked to the girl or not.

13            Q.    We'll walk through it then. Let's go to page 59  
14      of the first deposition, lines ten through 14. Now remember  
15      at page 59, "Now you remember I asked you whether or not  
16      your son was the director told you about this sexual abuse  
17      allegation." Okay?

18            A.    Yeah.

19            Q.    Would you highlight ten through 14. This just  
20      says did you become aware of abuse allegations by any  
21      parents or relatives or students at Tranquility Bay? I have  
22      been aware of some allegations. So you admitted that  
23      correct?

24            A.    Correct.

25            Q.    The father called you?

1           A.    Right.

2           Q.    All right.  Let's go down to page 74, line three.  
3           And on this occasion you were under oath on April 16th, of  
4           2004, when you gave us your testimony and you were under  
5           oath also in the first deposition a year before that, you  
6           were under oath and you told the truth, correct?

7           A.    I was under oath definitely.

8           Q.    All right.  Okay.  I gave you the wrong page  
9           number, excuse me.  It is on page 68.  My question was on  
10          line five, and I think that is big enough print.  We're  
11          going to read the whole page.  Can everyone see that?  Line  
12          five.  "And so the information that you received is that  
13          Mr. Collins admitted that this consensual sex took place?  
14          Answer, I don't recall a specific conversation that actually  
15          said that Mr. Collins admitted that that had taken place.  
16          Question, but that's your understanding is that it did take  
17          place?  That's my understanding of the allegation."

18          So your understanding is that there was consensual sex  
19          by Mr. Collins.  Do you agree with that?

20          A.    Yes.

21          Q.    All right.  And then it says, "But your son Jay  
22          would have investigated that.  His indication to you is it  
23          looked like it did happen, but it was consensual?  Answer, I  
24          think you would have to ask Jay that.  The allegation was  
25          that there was -- that there was sexual activity.  And I had

1       talked to the young lady and she's the -- and I talked to  
2       the young lady and she's the one that told me that it was  
3       consensual." And so you did talk to this young lady, 16 and  
4       a half years old, and she told you it was consensual,  
5       correct?

6             A.     That is what it says right there. I don't  
7       remember.

8             Q.     Then it goes on to say, question on line 23, "So  
9       you spoke directly to the young lady? Answer, she called  
10      me. Question, and she told me that there was -- and she  
11      told you that there was consensual sex? And she told me it  
12      was consensual. And she said that it was consensual sex  
13      with Mr. Collins, one of the staff members? Answer, I don't  
14      remember her mentioning Mr. Collins name." What was the age  
15      of this girl? Did I tell you to flip pages? "What was the  
16      age of this girl" on line eight. "16 and a half, I believe  
17      she said."

18            So with this information, did you call Jay and  
19      investigate this? That is the question, did you  
20      investigate?

21            A.     I investigated within my scope.

22            Q.     Did you ever, did you, Ken Kay, the president of  
23      WWASP, ever talk with a staff member that was -- that was  
24      accused of having sex with this girl? Did you ever talk to  
25      him?

1           A.    Mr. Collins, I did not. Did I -- I did prior to  
2 this incident, yes. I have met the man prior to this  
3 incident.

4           Q.    Did you ever talk to him about whether or not the  
5 sexual incident even took place?

6           A.    No, I did not.

7           Q.    Isn't it true that you only do an investigation  
8 if you're asked by the school to do it?

9           A.    No.

10          Q.    Let's turn to page 62 of the deposition, first  
11 deposition, line 19. My understanding is that one of the  
12 roles of WWASP is that you get involved in helping them when  
13 there have been allegations of abuse; is that true? What I  
14 would do is upon their request, upon their recommendation  
15 for a specific assistance on a specific matter, but to  
16 handle the entire case that would not be -- I would only  
17 operate at their direction upon a per request basis. And so  
18 you don't investigate all of the allegations that come in,  
19 just the ones that directors want you to, isn't that true?

20          A.    Not necessarily.

21          Q.    Okay. And in fact, the only role of World Wide  
22 is to be concerned basically from a public relations  
23 standpoint, that is the only reason why you would  
24 investigate; isn't that true?

25          A.    No, sir.

1           Q.    Let's go to page 111, line two.  We're talking  
2           about Dundee Ranch before we had to change that tape, and  
3           take a little bit of break here.  You said there was a young  
4           man that claimed six staff members had held him down.  And I  
5           was asking you who you talked to?  And you said you think  
6           you talked to this young man.  Yes.  And you said you were  
7           not sure if you talked to his parents?  That is correct, I  
8           don't believe the parents were making this allegation.  You  
9           did talk to the six staff members?  No, not all of them.  
10          There were only three there.  These notes and papers would  
11          be in your file.  I think we got to that point.  They would  
12          be.  Did you ever produce even one document of one  
13          investigation that WWASP ever had done on any allegation of  
14          abuse from the beginning of time until now?  Did you give us  
15          one piece of document of any investigation?

16          A.    I don't know if I did.  I gave you whatever  
17          papers I had and whatever --

18          Q.    And there were no files that you had that you  
19          gave us?  There were no documents investigation; isn't that  
20          true?

21          A.    That may be true, yeah.

22          Q.    And then we go on.  "And these have not been  
23          produced, correct?  Correct.  Let's look at what was the  
24          disposition of the allegation of abuse?"  And then you go on  
25          in your answer, listen carefully.  I want to ask you if this

1 is the same answer you give today. "The family  
2 representative would work with the boy, report it to the  
3 parents, follow-up to see if they, as a joint, determined if  
4 there was going to be used -- need to be any therapy  
5 involved, or if there were any substantiations to it. Of  
6 course, because of World Wide's role as only being concerned  
7 in it basically as a -- for a public relations standpoint,  
8 not being part of my duties to clean up the mess, you know,  
9 what my thing is, is to report it -- make sure it is  
10 reported properly, is it some that is habitually continually  
11 reported in the same way, that would send up a red flag, if  
12 its not, then I don't get too involved."

13 Now, sir, didn't you say that your role is being  
14 concerned with the public relations standpoint? Isn't that  
15 what you told us?

16 A. In that context right there that is definitely  
17 what I said.

18 Q. Thank you. Now you're aware of allegations of  
19 abuse made by Amberly Knight down at Dundee who was one of  
20 your directors that sent letters down to them, to the  
21 government officials, to have them investigate abuse.  
22 You're aware of that?

23 MR. SILVESTER: I'm going to object to this. I don't  
24 know what issue in this case this goes to.

25 MR. HENRIKSEN: It goes to damages, Your Honor. And

1 this is one of their directors who wrote a letter to the  
2 government officials that caused some things to happen and  
3 newspaper articles and what not that we're going to get  
4 into.

5 THE COURT: Ladies and gentlemen, again we're having  
6 some testimony that is coming in just on the damages issue.  
7 If it gets into whether some of these events did or did not  
8 happen, you shouldn't consider it on those issues, we're  
9 just focusing now on any damages that may or may not have  
10 been caused to the plaintiff. And on that understanding,  
11 you can go ahead, Mr. Henriksen.

12 MR. HENRIKSEN: Thank you.

13 Q. (By Mr. Henriksen) You were aware Amberly Knight,  
14 the former director of Dundee wrote letters to PANI, the  
15 investigating office down in Costa Rica, complaining about  
16 abuse. Are you aware of that letter?

17 A. I am aware of that letter.

18 Q. All right.

19 A. She did not send it to me.

20 Q. You are aware that the letter was sent down to  
21 the Costa Rican authorities before they raided Dundee,  
22 correct?

23 A. Correct.

24 Q. Thank you. Now, you took some time and we heard  
25 your testimony to say that you think that you have been

1       harmed by negative media. That is correct, isn't it?

2           A.    I think that there has been some negative impact  
3       by media.

4           Q.    And you believe that that negative media has hurt  
5       your reputation, isn't that true?

6           A.    In some instances it has.

7           Q.    And you believe that you said your words to us  
8       earlier here you say it has been -- let me get my notes of  
9       that, hard to recover from, is that what you said?

10          A.    Some things take time, they're hard. Some are  
11       hard to recover from.

12          Q.    Isn't it true that there was article after  
13       article after article in a period of time from May '03 to  
14       maybe the fall, October, November of '03 talking about  
15       Dundee Ranch and its closing and the raid that the  
16       government did down there. Isn't that true?

17          A.    That is correct.

18          Q.    And during that time, your chart shows there is a  
19       little bit of a dip in your chart right during the time of  
20       those newspaper articles; isn't that true?

21          A.    There is always dips because we have graduations.  
22       So I would have to try to relate to a specific article, but  
23       we have graduations so there are dips.

24          Q.    Between May of '03 and October or November of  
25       '03, you have the biggest little dip that you have ever had

1 on your chart; isn't that true?

2 A. I don't -- it may. And I don't have the chart in  
3 front of me, but that is the time of the year also that our  
4 largest graduation is.

5 THE COURT: Should we put the chart up if we're going  
6 to talk about it?

7 MR. HENRIKSEN: One more question, Your Honor.

8 Q. (By Mr. Henriksen) And you have also said that it  
9 is hard to make up what happens in the negative media, but  
10 doesn't your chart show that your enrollment gets back up at  
11 the same level?

12 A. Eventually, yes.

13 Q. Okay. Would you please put up Plaintiff's 3. So  
14 if you -- if you look at the period of time I'm looking at,  
15 and if you look at you are going up and down here, tell me  
16 what the date is clear over here it is '99, January of 1999,  
17 the left-hand side of the chart; is that correct?

18 A. Yeah, the very beginning of that is 1-4 of '99.

19 Q. And you had a little over 900 students, correct?

20 A. Correct.

21 Q. And at the end of the chart you have just over or  
22 right on 2500 students, correct?

23 A. Correct.

24 Q. And you have 2400 students in -- I have to come  
25 over here to see that, July 2003 is when you had 2400

1 students; is that correct?

2 A. July of 2003, yes, there was 2428 if I'm not  
3 mistaken.

4 Q. And between May of '03 until May of '04 you have  
5 now exceeded your enrollment. So in that year your  
6 enrollment has gone up by more than 100 people; is that  
7 correct?

8 A. That is correct.

9 Q. So from right here, May of '03 to May of '04, it  
10 went up another 100 students, correct?

11 A. Yes, that is correct.

12 Q. In fact, Bob Lichfield testified in his  
13 deposition you have got programs that are bursting --

14 MR. SILVESTER: Objection, Your Honor. I don't think  
15 that is proper use of deposition testimony and I don't  
16 particularly believe this counsel can say what Mr. Lichfield  
17 testified in his deposition.

18 THE COURT: He has probably read it and let's see what  
19 the question is. Go ahead.

20 Q. (By Mr. Henriksen) You read Bob Lichfield's  
21 deposition, correct?

22 A. I don't think I did. I was there for part of it.

23 Q. And in his deposition did you hear him testify  
24 concerning -- let's just ask you. You have programs today  
25 that have a waiting list, you have too many students for the

1 beds that you can put them in, correct?

2 A. Today I don't believe that is the case today.

3 Q. As of March '04 when we took the deposition and  
4 Ken and Bob Lichfield's deposition you said that there was a  
5 waiting list for some of your programs, correct?

6 A. Yes. That is not today. That was that date.

7 Q. Okay. On the date of your deposition, the last  
8 time I could speak to you, you told us you had a waiting  
9 list to get into your programs?

10 A. In one program had a -- two programs, excuse me,  
11 had a waiting list.

12 Q. And that means you had more people that wanted to  
13 get in than you had beds?

14 A. It could be interpreted as that. One of the  
15 schools licensure was restricted and we had beds but didn't  
16 have the license. The other one was Spring Creek Lodge,  
17 that is correct.

18 Q. And, in fact, isn't it true that your income has  
19 gone from \$1,000,000 gross income in 2000, do you recall  
20 that?

21 A. You're talking about the dues that we collect?

22 Q. WWASP?

23 A. Okay.

24 Q. World Wide Association had \$1,000,000 of gross  
25 income in the year 2000; is that correct?

1           A.    That could be.  I don't have the figures, but I  
2 believe that.

3           Q.    Let's pull up Exhibit E and just zero in on the  
4 top portion right over here (indicating)?

5           A.    That is over a million dollars.

6           Q.    \$1,044,000, correct?

7           A.    Correct.

8           Q.    And if we go to the tax return of 2001, it says  
9 1.6 million, is that correct?  You have to go look at it?  
10 Exhibit 2, page two, let's go to that same area right up  
11 here (indicating).

12          A.    Correct.

13          Q.    1.6 million, right?  Next year 2002, 1.9 million;  
14 is that correct?

15          A.    That is correct.

16          Q.    And then the next year, the last year we have,  
17 the last years done, you had 2,650,890.96; is that correct?

18          A.    That is correct.

19          Q.    So your income, during this time where you say  
20 that the media has done negative things and Sue Scheff has  
21 done negative things, has gone from 1.1 -- 1.6 million which  
22 is '01 up to 2.6 million, do you agree with that?

23          A.    I agree with that.

24          Q.    Okay.  Thank you.  Now, you have 2500 students.  
25 Let's just put back up that chart, it is Exhibit 3, Exhibit

1 B -- Exhibit A. If you want to use the other one that is  
2 good. So you say that as of right now you have 2500  
3 students; is that correct?

4 A. That is about right, yes.

5 Q. And 2500 students going to these different World  
6 Wide programs, what is the average per month that goes into  
7 these programs? How much does it cost to the parent?

8 A. I would be guessing because I do math like  
9 attorneys. I need to do it --

10 Q. Just tell me approximately about what it costs  
11 the parents to be at Carolina Springs?

12 A. Okay. Do you want it by program? I can give you  
13 the tuition of each program.

14 Q. I just want to know about what the average is?  
15 Is it about \$3,000 a month for the parents or is it higher  
16 than that?

17 A. It could -- could be -- average may be around 31,  
18 3200 a month, yes.

19 Q. Let's say it is less than that. Let's take a  
20 number of 3,000 a month instead of 31 and 32?

21 A. Okay.

22 Q. 2500 students times 3,000 times 12 months a year  
23 is \$90 million?

24 A. Yes.

25 Q. Is that correct?

1           A.    That is correct.

2           Q.    And since your students numbers, if you go back  
3 to '01 when the Woodbury Reports hit, right here,  
4 (indicating), you were at 1700 in the end of '01 right?  
5 Right there (indicating).

6           A.    Yes.

7           Q.    1700 when the Woodbury Reports hit, and since all  
8 of the other newspaper articles that we have talked about  
9 since that day hit, and since Dundee Ranch hit, you have  
10 grown, and all those articles about it, you grew from 1700  
11 to 2500 during that time frame; is that correct?

12          A.    That is below our projections.

13          Q.    So this is 1700 to 2500, more than 800 more per  
14 your group than you had in '01; is that true?

15          A.    That is correct, below our projections.

16          Q.    Thank you. Let's talk for a moment also about  
17 what you get involved with as far as investigations of  
18 allegations of abuse from the parents. You have had parents  
19 that have made claims against World Wide programs and you  
20 have assisted in negotiating with those parents and signing  
21 confidentiality agreements, at least 12 or 13 of them; isn't  
22 that true?

23          A.    Confidentiality agreement as to a refund  
24 agreement.

25          Q.    When a parent has made an allegation against a

1 program, isn't it true there is at least 12 or 13 that you  
2 told us about that you entered into confidentiality  
3 agreements to keep it quiet? That there was an agreement  
4 reached with WWASP and the school and the program; isn't  
5 that true?

6 A. We have on behalf of a school. We don't control  
7 their tuition. We have negotiated on behalf of the schools  
8 to refund tuitions as a public relations gesture only to the  
9 degree that the schools will allow us to. And for that they  
10 have to, of course, sign an agreement that, you know, that  
11 this is the end of it and that is what they're after.

12 Q. All right. And Mr. Kay, isn't it true, that you  
13 were interviewed in 1999 by a reporter by the name of Lou  
14 Kilzer of the Denver Rocky Mountain News?

15 A. Yes.

16 Q. And he quoted you as saying this. I would like  
17 to you bring up -- let me grab that exhibit, Your Honor.  
18 Q-34. And if you would highlight where it starts talking  
19 1999 Denver Rocky Mountain News. Is that the right page?  
20 Right here (indicating). Is this -- is this what you said  
21 to the reporters and you're saying that the reporter  
22 sometimes reports one side of the story, the other side of  
23 the story or they're neutral and review both sides of the  
24 story. I want to know whether or not you told this to the  
25 reporter in 1999. This is during the time that you have

1 left Teen Help and weren't working any more for this group  
2 of companies?

3 A. Right.

4 Q. It says in a 1999 interview with Rocky Mountain  
5 News, however, Kay, who at that time had left the WWASP's  
6 organization, criticized its programs and staff. The staff  
7 was a bunch of untrained people, he said. According to the  
8 newspaper, they don't have credentials of any kind. We  
9 could be leading these kids to long term problems that we  
10 don't have a clue about because we're not going about it in  
11 the proper way, he said. How in the hell can you call  
12 yourself a behavior modification program, and that's one of  
13 the ways it's marketed, when nobody has the experience to  
14 determine is this good, is this bad?" Now, did you say this  
15 at the time you left Teen Help? You weren't working for  
16 WWASP, did you say that to the Denver Rocky Mountain News?

17 A. No, sir.

18 Q. I would like to bring back up, one more time,  
19 Exhibit A. During this dip (indicating) in May of '03 in  
20 that year, isn't it true that Dundee Ranch was raided by the  
21 police and there were all kinds of newspaper articles and TV  
22 programs?

23 A. Correct.

24 Q. All right. We would like to show the Inside  
25 Edition which is dated September '03. And I want to make

1       sure we realize on this chart where that is, September '03  
2       is right here (indicating), right about the lowest part of  
3       that dip. Is that correct, Mr. Kay?

4           A.    It is the next to the lowest part, yeah.

5           Q.    Okay.

6       (Whereupon, the Inside Edition clip was played  
7       but was not written by the court reporter.)

8       MR. HENRIKSEN: That is our star witness again up  
9       there.

10       THE COURT: Can we increase the volume on that?

11       Q.    (By Mr. Henriksen) Mr. Kay, wouldn't you agree  
12       that a parent who watched that video might think a second or  
13       third time about going to a World Wide Program?

14       A.    I can't tell you what is in their mind, but if  
15       they watched it closely enough and really picked up on what  
16       was said there, they could go either way.

17       MR. HENRIKSEN: That is all of the questions I have,  
18       Your Honor.

19       THE COURT: All right. Follow up from the plaintiff  
20       then? Thank you, Mr. Henriksen?

21                           **REDIRECT EXAMINATION**

22       BY MR. SILVESTER:

23       Q.    Just a couple of questions, Your Honor. You have  
24       watched that Inside Edition before, right?

25       A.    Yes.

1           Q.    I guess I was a little confused.  Wasn't that a  
2 hidden camera they went into Casa by the Sea with?

3           A.    Yes.  It was a hidden camera.  They had a hidden  
4 camera they admit it was a hidden camera and then Mr.  
5 Fraidenburgh said this was all set well it wouldn't be set  
6 up because they didn't know they were coming.  And that has  
7 been the problem with Fraidenburgh's story the whole time.

8           Q.    And trying to make a determination of the impact  
9 on business of the World Wide member schools, have you ever  
10 looked at the difference between what the media does and  
11 what somebody who is contacting your parents point of sale  
12 can do?

13          MR. HENRIKSEN:  Objecting, Your Honor, as to  
14 foundation.  Now we're going far afield from what his  
15 business experience would be.  We're talking about media.

16          THE COURT:  I'm going to overrule that.  I think that  
17 is -- you asked him about some media.  I think the plaintiff  
18 can ask him about some media.

19          THE WITNESS:  Media comes and goes.  There were some  
20 things in there that were not too negative to look at it.  
21 They couldn't fake the films and the stories.  They did say  
22 that Mr. Lichfield hadn't been charged.  He had.  He is  
23 now -- I have documentation now that shows that he has been  
24 exonerated of those things.  The government did not close  
25 that school down at all.  They raided it and left.  And that

1 is different than things like this were shown every day and  
2 people were just saturated with this information as  
3 Ms. Scheff does and her group of people, and continually  
4 contacting people and pounding and pounding and pounding.

5 News comes and news goes, some good some bad. I don't  
6 like the bad. That is part of the deal. We're a very  
7 controversial business. Controversy is not bad. Religion  
8 is controversial, public education is controversial, youth  
9 care, legal justice system, this Court. But that doesn't  
10 mean they're bad so we accept the controversy.

11 MR. SILVESTER: Thank you. That is all.

12 THE COURT: All right. Thank you for your testimony,  
13 Mr. Kay.

14 MR. SILVESTER: Plaintiff rests, Your Honor.

15 THE COURT: You may step down. That is the  
16 plaintiff's evidence. Who is the defense's first witness?

17 MR. HENRIKSEN: Your Honor, we do have two short  
18 witnesses, about 15 minutes each. We think we will be about  
19 ten minutes, so it is just the Court's pleasure. We could  
20 use that time and go ahead and do that.

21 THE COURT: Why don't we see if we can get one witness  
22 in today.

23 MR. HENRIKSEN: I just wanted to make sure that the  
24 record is clear that when we discussed some things with the  
25 court earlier that would take place now that we'll do later.

1 THE COURT: That is right, Mr. Henriksen.

2 MR. HENRIKSEN: Thank you, Your Honor.

3 THE COURT: All right. Call your first witness.

4 THE CLERK: If you'll come forward up by the witness  
5 stand I will swear you in over there. Raise your right  
6 hand, please.

7 BERNADETTE CABRAEL,

8 Having been first duly sworn,

9 was examined and testified as follows:

10 THE CLERK: Have a seat right there. If you would  
11 state your name and spell it for the record, please, and  
12 please speak into the microphone.

13 THE WITNESS: It is Bernadette Cabrael. My last name  
14 is spelled C-A-B-R-A-E-L.

15 **DIRECT EXAMINATION**

16 BY MR. FLATER:

17 Q. Thank you. Ms. Cabrael, my name is Aaron Flater  
18 and I represent Ms. Scheff and PURE, Inc. in this case.

19 Ms. Cabrael, I would like to ask you just a few  
20 questions about your experience with the World Wide  
21 Association of Specialty Programs and your communications  
22 with Ms. Scheff. Now you had a daughter at a WWASP program,  
23 didn't you?

24 A. Yes, I did.

25 Q. What program was that?

1           A.    Carolina Springs Academy.

2           Q.    And do you know -- how did you first come in  
3 contact with Ms. Scheff?

4           A.    Um, we had a website for the parents of the kids  
5 that were in the program, which I believe was the BBS. And  
6 I was getting information from my daughter that concerned me  
7 as far as what was going on in there. And I started reading  
8 other parents' concerns and, you know, comments. And Sue  
9 was going to pick up her daughter [REDACTED] who was friends  
10 with my daughter at the school. And I had -- I asked her.--  
11 I sent her an e-mail asking her if she got a chance to talk  
12 to any of the kids to please say hello to my daughter  
13 because we weren't allowed to talk to her and to take some  
14 pictures. Because my daughter had told me she had put on  
15 30 pounds in the few short months she had been there.

16           And our family rep said that absolutely that is not  
17 true. So I figured -- she told me my daughter was lying.  
18 And I wanted to find out for myself. And she did and she  
19 did send us some pictures and it was true.

20           Q.    And when your daughter -- what did -- after your  
21 daughter came home, what did you tell Ms. Scheff about what  
22 your daughter had experienced in that program?

23           A.    I told her about the emotional abuse, the fact  
24 that she was hospitalized twice and we were never contacted  
25 by the school once. We were contacted by the emergency room

1 doctor. And the other time was when they had an incident  
2 there where a lot of kids went to the hospital, and I called  
3 the family rep and asked if my daughter had been one of the  
4 kids taken to the hospital. And she told me no, she was not  
5 on the list. A week later I get a letter from my daughter  
6 stating that she had been in the hospital. And when I  
7 contacted the family rep, their excuse was well, there were  
8 too many kids sick and we didn't have enough time to contact  
9 all of the parents. Which was not acceptable to me.

10 Q. Did you have concerns about the staff at Carolina  
11 Springs Academy?

12 A. Yes, I did.

13 Q. What were your concerns?

14 A. Um, I was concerned that they were not being very  
15 honest with me. I was concerned about the fact that -- that  
16 was a major thing for me that we got to talk to -- we didn't  
17 -- we never got to talk to my daughter. But we would talk  
18 to the family rep once a week for 20 minutes and they wanted  
19 to cut it down to twice a month for 20 minutes because they  
20 didn't have enough time to let us know how our kids were  
21 doing. 20 minutes a week was too much.

22 Q. Did you also have concerns about the teaching at  
23 Carolina Springs Academy?

24 A. Yes, I did.

25 Q. What were your concerns?

1           A.    My concerns were the fact that they were supposed  
2           to have certified teachers on staff and a classroom with  
3           teachers.  And I found out that these kids were basically  
4           teaching themselves.  And my daughter kept telling me that  
5           every time she asked for help from a teacher, that they  
6           would tell her she would be available next week or in a  
7           couple of days and then she would only get an hour of that  
8           teacher and basically she was teaching herself.

9           Q.    Did you also tell this information to Ms. Scheff?

10          A.    Yes, I did.

11          Q.    Do you know when you told Ms. Scheff that?

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

13          Q.    Didn't you become aware that at some later point  
14          Ms. Scheff posted your story on the Woodbury Reports but did  
15          not actually use your name?

16          A.    Yes.

17          MR. SIEBERS:  Objection leading, Your Honor.

18          THE COURT:  Why don't you see if you can rephrase that  
19          question.

20          Q.    (By Mr. Flater)  Ms. Scheff -- Ms. Cabrael, do  
21          you know if Ms. Scheff ever repeated your story to anyone  
22          else?

23          A.    Yes, I believe she did.  And because I had  
24          discussed it with her and it was perfectly fine with me.

25          Q.    And do you know anything else that -- how did you

1       feel about Ms. Scheff using your name on the website to tell  
2       your story?

3             A.    If it was going to help any parent or any other  
4       kids, it didn't make any difference to me. That was  
5       perfectly fine.

6             Q.    And Ms. Cabrael, do you believe that your  
7       daughter was telling you the truth about her experience at  
8       the Carolina Springs Academy?

9             A.    Yes, I do.

10            Q.    And why do you believe that?

11            A.    Because a lot of it I confirmed it myself. And  
12       basically because I got confirmation myself from other  
13       things that she was telling me and from other parents from  
14       the stories that some of their kids have told them. And one  
15       of the stories that did happen was I got confirmation from  
16       the program's director, Elaine Davis, about the fact that  
17       somehow the staff found out I was questioning what their  
18       diet was over there, which is the reason why these girls  
19       were putting on a tremendous amount of weight in such a  
20       short period of time. And my daughter wrote to me and told  
21       me one day she was in line to get her food and they gave her  
22       a piece of lettuce and said your mother wants you to be  
23       anorexic, she is complaining about the food. I called  
24       Elaine Davis and I wanted to know if that was true and she  
25       told me she wasn't aware of it but she would find out and

1 she called me back and told me that it was true and she  
2 apologized.

3 Q. And you also told this information to Ms. Scheff,  
4 didn't you?

5 A. Yes.

6 MR. FLATER: No further questions.

7 THE COURT: All right. Thank you, Mr. Flater. Cross  
8 examination from the plaintiff then, Mr. Siebers?

9 MR. SIEBERS: Thank you, Your Honor.

10 **CROSS EXAMINATION**

11 BY MR. SIEBERS:

12 Q. You believe you confirmed what your daughter told  
13 you about Carolina Springs because of the consistency with  
14 other children's statements?

15 A. Not just so much that, but because of the fact  
16 that I tried to get confirmation myself.

17 Q. And you shared those experiences with Ms. Scheff?

18 A. Yes, I did.

19 Q. Ms. Scheff shared her daughter's experiences with  
20 you?

21 A. Yes.

22 Q. And Ms. Scheff told you that the kids were  
23 starving at Carolina Springs?

24 A. No.

25 Q. Ms. Scheff never told you that Carolina Springs

1           starved the kids there?

2           A.    Not that I can recall.

3           Q.    Was Erika ever hog-tied?

4           A.    Not that I know of.

5           Q.    She slept in sewage?

6           A.    Not that I know of.

7           Q.    So your story isn't necessarily consistent with  
8           that of Ms. Scheff's, is it?

9           A.    I am not aware of what her story is.

10          Q.    As a matter of fact, your husband liked Carolina  
11          Springs, didn't he?

12          A.    My husband was a desperate parent just like  
13          myself and we wanted to do whatever we could to help our  
14          daughter. Did he like it? No.

15          Q.    He was quite taken with the seminars, correct?

16          A.    Yes, he was.

17          Q.    And you and your husband had quite a few disputes  
18          over whether or not Erika was manipulating you and you would  
19          give in?

20          A.    Exactly.

21          Q.    And now, Carolina Springs emotionally abused your  
22          daughter?

23          A.    Yes, I believe so.

24          Q.    Your daughter had some pretty traumatic  
25          experiences before Carolina Springs, correct?

1           A.     That is the reason we sent her there.

2           Q.     And Dr. Stall did a psychological evaluation of  
3     Erika in March of 2000, six months before she went to  
4     Carolina Springs, correct?

5           A.     I believe so.

6           Q.     And he discussed that trauma that she had, that  
7     had been in her life well before Carolina Springs?

8           A.     Exactly.

9           Q.     And the summer before she was enrolled in  
10    Carolina Springs?

11          A.     Uh-huh (affirmative).

12          Q.     So isn't there at least a possibility,  
13    Ms. Cabrael, that behavioral problems that Erika might have  
14    stem from those earlier psychological traumas as opposed to  
15    eight months in a structured disciplinary facility?

16          A.     I don't believe so.

17          MR. SIEBERS: That is all of the questions I have.

18          THE COURT: Thank you for your testimony, ma'am. Any  
19    follow-up, Mr. Flater?

20          MR. FLATER: No, Your Honor.

21          THE COURT: All right. And I take it that this  
22    witness is free to continue -- free to leave, I guess, or to  
23    stay, it is your choice.

24                 I think this would be a convenient time to end our  
25    proceedings for today. Remember not to read anything in the

1 newspaper about this case or watch anything on television  
2 about this case and not to discuss this with folks at home.

3 And we'll see everybody tomorrow on the same plan. If  
4 you could be here by 8:15 we'll get rolling sharply at 8:30.

5 THE CLERK: All rise for the jury, please.

6 (Whereupon, the jury left the courtroom.)

7 THE COURT: All right. Everyone may be seated. Would  
8 it make sense to take those motions up now Mr. Henriksen or  
9 do you want to proceed?

10 MR. HENRIKSEN: I thought we were going to do those at  
11 the time of the jury instructions. Could we do it then?

12 THE COURT: The only other thing that I might add,  
13 working on a few things here, we have been fine tuning the  
14 jury instructions and they are getting close to being  
15 finalized. I believe she has an e-mail address for both  
16 sides. Would it make sense to just have everybody go back  
17 to their office and as soon as she has completed entering my  
18 final changes, she'll e-mail those to you and we'll see  
19 everybody back here at 3:00.

20 MR. HENRIKSEN: Thank you.

21 MR. SILVESTER: 3:00.

22 MR. SIEBERS: 3:00.

23 THE COURT: We moved it up to 3:00. So we'll see  
24 everyone then. Thanks, counsel.

25 (Whereupon, the trial adjourned for the day

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at 1:30 p.m.)

1 STATE OF UTAH )

2 )ss


3 COUNTY OF SALT LAKE )

4  
5 I, Laura W. Robinson, Certified Shorthand  
6 Reporter, Registered Professional Reporter and Notary Public  
7 within and for the County of Salt Lake, State of Utah, do  
8 hereby certify:

9 That the foregoing proceedings were taken before  
10 me at the time and place set forth herein and were taken  
11 down by me in shorthand and thereafter transcribed into  
12 typewriting under my direction and supervision;

13 That the foregoing pages contain a true and  
14 correct transcription of my said shorthand notes so taken.

15 In witness whereof I have subscribed my name and  
16 affixed my seal this 22nd day of October, 2004.

17  
18 

19 Laura W. Robinson, CSR, RPR, CP  
20 and Notary Public

21  
22 MY COMMISSION EXPIRES:

23 December 1, 2004  
24  
25

COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

In re:	)	
	)	
WORLD WIDE ASSOCIATION	)	
have SPECIALTY PROGRAMS,	)	
a Utah Corporation,	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:02-CV-0010
PURE, INC., PURE	)	
FOUNDATION, INC., SUE	)	
SCHEFF, AND DOES I	)	
through 10,	)	
	)	
Defendant.	)	
	)	
	)	

BEFORE THE HONORABLE PAUL G. CASSELL

August 5, 2004

TRIAL

Laura Robinson, CSR, RPR, CP  
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Plaintiff's Exhibit 102	528
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1                   Salt Lake City, Utah, August 5, 2004

2                   \* \* \* \* \*

3           THE COURT: We're here this morning to continue our  
4   World Wide versus PURE trial. It looks like everybody is  
5   here. Anything I can do for folks before we get started  
6   this morning?

7           MR. SILVESTER: Your Honor, I just wanted to cover a  
8   couple of things really quickly. First of all, we have been  
9   -- the Court may remember that we have been quite limited in  
10   what we could do in terms of informal discovery in this  
11   case.

12           The defendants identified 100 and some odd witnesses  
13   in their initial disclosures and then the final witness list  
14   in June they still had about 40 witnesses. So we have been  
15   trying to gather information off these thousands of  
16   documents that came off the computers as well as from some  
17   of our programs.

18           I don't know what they're going to say. The witnesses  
19   that are going on today have not been deposed. But I may  
20   have some additional items of evidence. I am sure that the  
21   objection, which is an objection I have never seen before,  
22   that they weren't produced in discovery is going to be made.  
23   I just wanted the court to be alerted to that, that I have  
24   been trying to gather this stuff in the last few weeks to  
25   get ready for these folks. Some of it is clearly

1 information that they had because I have got lots of Trekker  
2 e-mails but I also now have some letters from Chris Goodwin,  
3 for instance, that were sent to World Wide that we just  
4 found in the file that we just pulled out. There will be  
5 some stuff that we didn't know what they were going to say.  
6 So it may not have ever been produced.

7 THE COURT: All right. What about that from the  
8 defense perspective?

9 MR. HENRIKSEN: Your Honor, we asked them to produce  
10 information that would relate to this case with regards to  
11 communications with these folks. Yesterday, I was going to  
12 object to the questions they asked to Bernadette Cabrael.  
13 They were obviously using her child's personal file from  
14 this program she was in referring to medical records. And  
15 they were, you know, saying wasn't your daughter diagnosed  
16 with this? Wasn't the doctor diagnosing this? Obviously  
17 they got their personal files from those programs. So they  
18 do have a lot of materials.

19 I think that is probably appropriate that they can  
20 question from those and I guess use their personal  
21 confidential records because they're testifying about her  
22 daughter or their son. But to say that now we are going to  
23 put in some records that we have never seen and that they  
24 have never produced when we have asked them to produce  
25 things they destroyed five computers, we wanted all

1 correspondence --

2 THE COURT: Let's not get into that. Let's just focus  
3 on the issue at hand. Who is your first witness today?

4 MR. HENRIKSEN: My first witness today is Heidi Mock.

5 THE COURT: Do you have any documents on Mock that you  
6 want to throw in?

7 MR. SIEBERS: The only document I may use, Your Honor,  
8 has been produced by defendants.

9 THE COURT: Who is the next witness?

10 MR. HENRIKSEN: The next witness is Amberly Knight.

11 THE COURT: Any new documents there?

12 MR. SILVESTER: I do, Your Honor. I have a transcript  
13 of a court proceeding in Colorado that occurred in a custody  
14 case where she testified. And I plan on using that one.

15 THE COURT: You can use it but does it need to go into  
16 evidence?

17 MR. SILVESTER: I don't think that needs to go into  
18 evidence, but I don't know that the defendants have found  
19 that. We found it.

20 THE COURT: You can certainly use whatever you find  
21 and ask questions. Who is the next witness? The only thing  
22 we have got to sort out is whether you're going to put into  
23 evidence any exhibits that they haven't seen before. That  
24 is problematic.

25 MR. HENRIKSEN: We have that. We have that document.

1 We don't -- we object to it going into evidence, but we do  
2 have a copy of it.

3 THE COURT: The only thing I need to sort out this  
4 morning, if folks are trying to put into evidence things you  
5 haven't seen that is troubling. But you can ask questions  
6 about anything under the sun, based on any source under the  
7 sun.

8 MR. SILVESTER: The only -- and that was simply  
9 something that I used to cross examine her with. There are  
10 e-mails on the Trekker site that were actually e-mails that  
11 came off Carey Bock's computer that Ms. Knight sent. You  
12 have those. But I never identified those because I don't  
13 know what she is going to say. I don't know if I'm going to  
14 use them right now.

15 MR. HENRIKSEN: We have two complete boxes of those  
16 e-mails, Your Honor. We weren't aware that they might use a  
17 particular document as an exhibit. We object to them being  
18 used as an exhibit.

19 THE COURT: The only time I have to referee something  
20 is if the plaintiff wants to put into evidence a new exhibit  
21 and plaintiff may be swimming a little bit upstream on that  
22 but I will take that in.

23 MR. SILVESTER: That is why I wanted to bring that to  
24 your attention.

25 THE COURT: Let's see if we have all our jurors here.

1 I'm hoping that at maybe our lunch break we can get our  
2 final sign off on our jury instructions and verdict form so  
3 that we can begin the process of Xeroxing those.

4 MR. HENRIKSEN: I need to advise the Court that after  
5 a little bit of a restless night and thinking about time and  
6 what we have got, we had eight witnesses on the list. This  
7 morning we have eliminated three. We might be done earlier.  
8 We do have five witnesses that we'll be calling.

9 I understand that there are -- and one other thing, I  
10 wasn't clear on the Court's ruling with regards to the full  
11 length videos. I don't have a set at this moment to give to  
12 the Court. We only put in the excerpts, but I can get one  
13 made if the Court was ruling on it. I was unclear whether  
14 the Court wanted a full copy from us of the particular shows  
15 that we used.

16 THE COURT: I did.

17 MR. HENRIKSEN: And so they are available in the  
18 exhibits. We can do that.

19 THE COURT: Yes, I would like a full copy.

20 MR. HENRIKSEN: We just have to do that overnight and  
21 have those available in the morning.

22 THE COURT: All right. I'm sorry to make you do that,  
23 but I think -- presumably you got the highlights from your  
24 side. I think the other side is entitled to the highlights  
25 from their perspective.

1 MR. HENRIKSEN: And I don't know if they're planning  
2 on showing those today.

3 MR. SILVESTER: No. No. The only -- the only other  
4 one that I'm going to show is the one I pointed out to you  
5 yesterday. The segment of 48 Hours and use it in my  
6 closing.

7 MR. HENRIKSEN: All right. We'll get those made.

8 THE COURT: All right.

9 MR. SILVESTER: The one last issue, Your Honor, is I  
10 understand that our side is essentially out of time. We  
11 have tried to limit our cross examination of these people  
12 who we have never deposed and we don't know what they're  
13 going to say to five to ten minutes. We have one rebuttal  
14 witness that is going to take about 15 minutes. That will  
15 put us over probably 20 minutes. And I wanted to alert the  
16 Court to that and I think we need to do that.

17 THE COURT: All right. Well, I want to -- I mean I  
18 guess you have got about -- you're not out of time. You  
19 have got 20 minutes here and some of these witnesses, you  
20 know, I don't think what they said is all that much in  
21 dispute. The other thing is you took four hours with  
22 Ms. Scheff and I didn't interrupt you at all. But I mean  
23 some of that, you know, how many Trekker e-mails can you  
24 spend time looking at? I didn't interrupt you because I  
25 figured you knew how to manage your time. So we'll try to

1 be a little bit flexible, but at the same time, you know,  
2 the folks have to make choices and you made a choice to  
3 spend a great deal of time with Ms. Scheff.

4 MR. HENRIKSEN: Your Honor, I would object to  
5 extending time for a couple of reasons. Number one is I was  
6 concerned this was going to happen. And in discussions with  
7 the Court that we have had, I said I'm going to really limit  
8 my time and try to -- try to be very concise and not spend a  
9 lot of time because we are going to try to stick with our  
10 allotment. I was afraid this would happen. They would run  
11 out of their time and have less time than they would like  
12 and then when I go after this cross examine, they have made  
13 that choice and the Court has been letting them know their  
14 time, several times during the day and I think we need to  
15 stick to those limits where we have them. And we are not --  
16 we're not going to be doing extensive things today either  
17 and they're aware of what these witnesses will say. They  
18 know what they're going to say because they're employees  
19 from their school.

20 THE COURT: All right. Well the time limit has always  
21 been a presumptive one and so we'll continue to presume it  
22 is going to work and we'll see how things go. Let's see if  
23 our jury is ready to come in.

24 THE CLERK: All rise for the jury.

25 (Whereupon, the jury returned to the courtroom.)

1           THE COURT: Good morning, ladies and gentlemen. It is  
2 good to see everyone back. Perfect attendance once again  
3 which, of course, we need to make the system work. And I  
4 have been working with the lawyers. We worked late last  
5 night and if you see me working occasionally on things we're  
6 trying to get jury instructions and so forth all organized.

7           It looks like we're in good shape to conclude the  
8 defense case today, maybe some brief rebuttal testimony from  
9 the plaintiff today, depending on how things work out, and  
10 then tomorrow morning I think we'll be in good shape to have  
11 jury instructions and closing arguments from each side. And  
12 so probably by around noon tomorrow, give or take a little  
13 bit, the case will be yours to begin deliberating on. So I  
14 thought you would want to know how things were looking  
15 overall. But we are on schedule, and I think what I'll do  
16 without further adieu then is turn the time over to  
17 Mr. Henriksen to present some more evidence or Mr. Flater.

18           MR. HENRIKSEN: Mr. Flater is going to do it.

19           MR. FLATER: Thank you, Your Honor. And the defense  
20 calls Heidi Mock.

21           THE COURT: All right.

22           THE CLERK: If you'll just come forward by the witness  
23 stand up front, I'll swear you in over there.

24           THE WITNESS: Okay.

25           THE CLERK: Please raise your right hand.

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**HEIDI MOCK,**

Having been first duly sworn,

was examined and testified as follows:

THE CLERK: If you would have a seat right there. If you would state your name and spell it for the record and please speak into the microphone.

THE WITNESS: H-E-I-D-I M-O-C-K.

THE CLERK: Thank you.

THE COURT: Can you scoot up just a little bit.

THE WITNESS: I can.

THE COURT: Get that microphone close. My courtroom here doesn't have the best acoustics and we want to make sure everyone can hear you.

**DIRECT EXAMINATION**

BY MR. FLATER:

Q. Good morning, Ms. Mock.

A. Good morning.

Q. Can you tell -- can you tell us a little bit about your educational background, please?

A. Um, yes. I worked for a number of years in Granite School District with high risk students and in special ed. I have a degree in elementary education, a degree in special ed and an administrative certificate. I worked as a principal for Granite School District, as an assistant principal, excuse me, and a principal of an

1 elementary school in Dove Creek, Colorado and as  
2 administrator for several long term residential homes.

3 Q. You have a bachelors degree; is that correct?

4 A. I have a bachelors degree in education and a  
5 master's degree in educational psychology.

6 Q. And at some point didn't you also work for the  
7 WWASP World Wide Association?

8 A. Yes, I did. That was my --

9 Q. Can you tell me what period of time you worked  
10 for them?

11 A. I came down to the St. George, Southern Utah area  
12 in 1997 and I worked originally with Browning, which was  
13 part of Cross Creek at that time, and then when World Wide  
14 was established, I worked with them until about 2000 and I  
15 went back to Cross Creek, and then in my position there in  
16 2000 and ended my position there in 2002.

17 Q. Now, during the time that you were employed by  
18 World Wide, what was your -- what was your job and what were  
19 your responsibilities?

20 A. My job was to be an administrative -- academic  
21 administrative -- really a consultant because I wasn't on  
22 site all the time. I traveled to all of the programs, made  
23 recommendations, well when the programs were being set up, I  
24 helped them to look at the standards and follow them so they  
25 could meet accreditation standards. I did special ed

1 consulting, working with some of the students who had  
2 special ed problems and helping them maintain their  
3 accreditation status.

4 Q. And as you worked with the accreditation for the  
5 World Wide member programs, what did you notice about the  
6 accreditation process?

7 A. I had a lot of concerns about the accreditation  
8 process because many of the standards were not being  
9 complied with. For example, there were teachers who were  
10 not certified who were working in the schools. Many of the  
11 teachers who were certified were not working with students  
12 in that area that they were certified. For example, if they  
13 were certified in English, they maybe worked with students  
14 in math. One of my biggest -- well one of several concerns  
15 was the lack of individualization. The standard talks about  
16 meeting the needs of students of the program was  
17 independent, it was not individualized. There were no IEP,  
18 no special education services provided to work with students  
19 who had learning disabilities.

20 No really meeting the students needs was a big -- a  
21 big concern to me. They were giving credit, for example,  
22 for P.E. without a certified teacher. They didn't have  
23 guidance counselors or a comprehensive guidance counseling  
24 program which is part of one of the standards of libraries  
25 were the emphasis on stocking libraries was probably low

1 and, you know. So overall, I felt that there was a lack of  
2 commitment to meeting and complying with the standards. And  
3 when recommendations were made here in Utah by the state or  
4 the other programs, by Northwest or by myself, there was  
5 very little follow through until the program -- the school  
6 per se was put on probation or warning and then there seemed  
7 to be more concern about complying. But overall there just  
8 wasn't an overall progress that I would have hoped to have  
9 seen in these meeting the standards and meeting the needs of  
10 the students.

11 Q. Let me ask you what World Wide Programs did you  
12 see these types of problems with?

13 A. Cross Creek, Tranquility Bay, Carolina Springs,  
14 Morova, let's see, Spring Creek.

15 Q. Did you actually visit these programs?

16 A. And Paradise Cove, excuse me. Yes, I did.

17 Q. And when you visited the programs, what would you  
18 -- what would you review?

19 A. I would review any progress or on meeting  
20 compliances or addressing recommendations that had been made  
21 by myself or Northwest on reports from on-site visits. I  
22 would work -- at first I did some testing with special ed  
23 students and made recommendations, but that was later  
24 changed so that none of the academic staff did any of the  
25 testing for diagnosis or anything. So mainly just

1 overseeing.

2 Q. And you're aware that Ms. Scheff's daughter went  
3 to the Carolina Springs Academy, aren't you?

4 A. Yes.

5 Q. I believe you -- I believe you just stated that  
6 Carolina Springs Academy was one of the programs where you  
7 saw these types of problems; is that correct?

8 A. That is correct.

9 Q. Can you tell me a little more specifically what  
10 problems with the accreditation process you noticed at the  
11 Carolina Springs Academy?

12 A. Um, when Carolina Springs started out they didn't  
13 have a certified teacher, they just had a woman working with  
14 the students. Later they got a certified teacher but they  
15 were not certified in all areas. So there was a lack of  
16 expertise in a variety of fields so that, you know, if she  
17 was taking, for example, if her daughter would be taking  
18 English, she may only see an English certified teacher once  
19 or twice a week for an hour or so. The classrooms were in a  
20 house and the conditions were not extremely conducive.  
21 There was a lot of confusion going on. The library was not  
22 adequate, they didn't have computers. They didn't have a  
23 guidance counselor or special ed teacher. So generally, you  
24 know, just it seemed to be a real compliance with all of the  
25 standards.

1           Q.    When you're talking about standards then that  
2 they were not meeting, what standards are you referring to?

3           A.    I didn't mean to interrupt.

4           Q.    What standards are you referring to?

5           A.    The ones that are listed on the annual report as  
6 put out by the Northwest Association of Schools and  
7 Colleges. It is a regional accreditation association. And  
8 it accredits either here because Utah is in their region and  
9 so is Montana, other places through their international  
10 division, and they have consolidated it all into under one  
11 accrediting agency rather than accrediting the schools  
12 within the region that they live in or are operating in.

13          Q.    Excuse me just for one moment, please. Ms. Mock,  
14 did you ever, in your visits to various programs, did you  
15 ever visit a facility called High Impact?

16          A.    Yes, I did.

17          Q.    Can you tell me who took you there?

18          A.    Ken Kay and Delon Solono which was his assistant,  
19 and Glenda, I'm not sure of what her last name is, but  
20 virtually Ken Kay took me. We had been at Casa and stopped  
21 there on the way back.

22          Q.    And when you -- when you refer to Ken Kay, you're  
23 referring to the president of WWASP; is that correct?

24          A.    Yes, I am.

25          Q.    Okay. What were you told about after you visited

1 -- after you visited High Impact with Ken Kay? What were  
2 you told about your visit?

3 MR. SIEBERS: Objection, hearsay.

4 THE COURT: What about that hearsay issue?

5 MR. FLATER: It is an admission, Your Honor, of a  
6 party deponent.

7 THE COURT: Who did the statement come from then?

8 MR. SIEBERS: He didn't ask. He just said after you  
9 visited with Ken Kay what were you told?

10 THE COURT: Why don't you see if you can link it up to  
11 World Wide.

12 Q. (By Mr. Flater) Did Mr. Kay give you any  
13 instructions after you visited High Impact?

14 A. Yes.

15 Q. What were those instructions?

16 A. I was not to tell anybody that I had been there  
17 or indicate to anyone that World Wide was any part of High  
18 Impact.

19 MR. FLATER: No further questions.

20 THE COURT: All right. Thank you, Mr. Flater.  
21 Follow-up then, Mr. Siebers.

22 **CROSS EXAMINATION**

23 BY MR. SIEBERS:

24 Q. Hello, Ms. Mock.

25 A. Hello.

1 Q. You were a Utah resident in February of 2002?

2 A. Yes.

3 Q. And when did you first speak with Sue Scheff  
4 concerning World Wide Association?

5 A. A couple of days ago when I came to Salt Lake.

6 Q. That is the first time you have ever spoken with  
7 Ms. Scheff?

8 A. Yes.

9 Q. So she hasn't relied on anything you may have  
10 told her to make claims in this action, correct?

11 A. She could have relied on things that I have said  
12 to other people, but not on anything I have said directly to  
13 her.

14 Q. You mentioned that World Wide schools are not  
15 complying with academic standards?

16 A. That is correct. Not complying with the  
17 standards.

18 Q. That is something reviewed by the Northwest  
19 Association of Schools, Colleges and Universities?

20 A. Yes.

21 Q. It is really that organization, NASCU, that  
22 overseas the accreditation of World Wide's academic  
23 programs?

24 A. That is correct.

25 Q. So you're really saying it is NASCU that wasn't

1 doing their job by approving these schools?

2 A. No, I'm not saying that. I'm saying --

3 Q. NASCU was doing the proper oversight in  
4 accrediting these programs?

5 A. NASCU was doing the oversight, they were making  
6 recommendations which were not being addressed and as a  
7 result the schools were being put on probation or warning.

8 Q. They were accredited?

9 A. They were accredited.

10 Q. Now this visit to High Impact --

11 A. Yes.

12 Q. That was one of your official visits to World  
13 Wide Programs?

14 A. No. That was a visit on the way back from Casa.

15 Q. Because it wasn't a World Wide program, was it?

16 A. As far as I knew it was a World Wide program.

17 Q. You visited --

18 A. I was told I was not supposed to talk about the  
19 fact that it was a World Wide program.

20 Q. You visited all of the World Wide Programs?

21 A. Yes, I did.

22 Q. Because you were an academic director and you  
23 were supposed to make referrals and recommendations,  
24 interview students, test students and make recommendations  
25 about their academic programs, correct?

1 A. Yes.

2 Q. And you never did that for High Impact?

3 A. They didn't have a school so that was not  
4 something I could do.

5 Q. Have you seen the contracts for High Impact that  
6 the parents received?

7 A. No.

8 Q. So you don't know that High Impact, when a parent  
9 transferred there, the parents were specifically told that  
10 High Impact is not a World Wide program?

11 A. I have not seen the contracts. I do know -- I  
12 have heard -- I have talked with several parents who have  
13 told me that they have been billed by R&B which is part of  
14 the World Wide Association. And that to their knowledge, it  
15 was part of World Wide.

16 Q. And you worked with World Wide on their academic  
17 matters from about February 1997 through April of 2002?

18 A. Yes.

19 Q. Until your position was eliminated by the  
20 Northwest Association, correct?

21 A. Um, I worked with -- my position was eliminated  
22 with World Wide and then I went to Cross Creek, so yes.

23 Q. And since that time, you claim that World Wide's  
24 Academic Programs are fraudulent?

25 A. Yes. I don't claim they are fraud. I have never

1 made that statement. I have said that I didn't feel they  
2 were beneficial, they did not meet the needs of the students  
3 that they served. And that they very often made promises  
4 which were not carried out in the schools such as providing  
5 special education and help for students with learning  
6 disability and individualizing their programs and making and  
7 having IEP's for students which they did not have.

8 Q. You're aware, aren't you, that the Northwest  
9 Association also accredits schools in Utah such as  
10 Sorenson's Ranch, High Top Academy, Red Rock Canyon School?

11 A. Yes, they accredit everyone in this region.

12 MR. SIEBERS: Thank you, Ms. Mock.

13 THE COURT: All right. Any follow-up, Mr. Flater?

14 MR. FLATER: No, Your Honor.

15 THE COURT: All right. Thank you, ma'am, for your  
16 testimony this morning and you are excused or you can watch  
17 the trial as you choose. Who is the next witness for the  
18 defense?

19 MR. FLATER: Your Honor, we would call Amberly  
20 Chirolla.

21 THE COURT: All right. Ladies and gentlemen, if you  
22 want to stretch while the witnesses are coming in and out  
23 feel free to do that.

24 THE CLERK: If you'll come forward up here by the  
25 witness stand I'll swear you in over there. If you would

1 raise your right hand, please.

2 **AMBERLY CHIROLLA,**

3 Having been first duly sworn,

4 was examined and testified as follows:

5 THE CLERK: Please have a seat right there. If you  
6 would state your name and spell it for the record, please.

7 THE WITNESS: All right. My name is Amberly Chirolla,  
8 A-M-B-E-R-L-Y C-H-I-R-O-L-L-A.

9 **DIRECT EXAMINATION**

10 BY MR. FLATER:

11 Q. Thank you. And I have to apologize, I have  
12 difficulty with your last name. I hope I get that right.  
13 Ms. Chirolla, can you tell us about your educational  
14 background, please?

15 A. Yes. I have a bachelors degree in history and  
16 science education from Brigham Young University and a  
17 master's degree in international and area studies,  
18 international development from Brigham Young University  
19 also. I am certified to teach in the State of Utah.

20 Q. And you formally worked at a World Wide member  
21 program; isn't that true?

22 A. That is true.

23 Q. What were the circumstances that led you to  
24 beginning to work at that program?

25 A. I was working in Washington D.C. and had had a

1 two and a half year friendship with Mr. Joseph Atkin who was  
2 the son of an attorney of WWASP. And he contacted me while  
3 I was in Washington D.C. and let me know that they needed a  
4 teacher down at Dundee Ranch, somebody who was certified,  
5 because they were going to be accredited and they didn't  
6 have any certified teachers. And so I agreed to go down for  
7 about a ten-week period to help with that process.

8 Q. And while you were there, what were the -- what  
9 were the circumstances that led to you becoming the director  
10 of that program?

11 A. Well, when I first arrived there were a lot of  
12 things that were not running well. Children were either not  
13 getting their medication often or --

14 MR. SILVESTER: Objection, Your Honor, I think this is  
15 non-responsive.

16 THE COURT: Overruled. Go ahead.

17 THE WITNESS: They weren't getting their medication or  
18 they were getting the wrong medication. And so I started to  
19 put in a series of changes that were not only focused on the  
20 school, but also on helping the program run in a better way  
21 for the kids. And I made a lot of changes that helped the  
22 kids and they saw that and the owner, Mr. Narvin Lichfield  
23 also saw that and about six weeks later asked me to stay as  
24 the director.

25 Q. (By Mr. Flater) During the time that you were the

1 director, didn't you give sworn trial testimony under oath  
2 regarding a -- regarding a student in one of your programs?

3 A. I did. I was in the State of Colorado and there  
4 was a dispute as to whether the child should stay there.  
5 And I testified that I had seen amazing results. And in  
6 that testimony what that was based on is that there was a  
7 student who had been at Dundee Ranch --

8 MR. SILVESTER: Objection, Your Honor. This is beyond  
9 the question asked. She was just asked if she gave  
10 testimony.

11 THE COURT: Yeah, but we know what the next question  
12 is going to be. I mean is it --

13 MR. SILVESTER: I don't know what it goes to either.  
14 I don't see --

15 THE COURT: That is a different objection but I think  
16 I'm going to overrule that one as well.

17 THE WITNESS: Thank you. So I had based my quote  
18 amazing results on the student who had graduated the program  
19 and come back and had told me that she had had amazing  
20 changes in her life, she was no longer doing drugs. She was  
21 no longer involved in unsafe sexual practices. She was no  
22 longer lying and manipulating. And that is what I based  
23 that statement on.

24 I found out a month after that testimony that she was  
25 -- she was not being truthful the entire time. She was

1 still smoking, drinking alcohol, doing drugs and engaging in  
2 unsafe sex. So I was pretty distraught. The other things  
3 that I said positively about the program were based on for  
4 two and a half years I had been friends with Mr. Atkin and  
5 had been told how WWASP was the best in the industry, they  
6 had the most students, they had so much success and so I  
7 kind of went in with blinders on.

8 And when I saw things that I was concerned about, what  
9 I now consider to be abuse of the children, I would just --  
10 I would bring these up to them and they would say well if we  
11 didn't treat these kids like this, they would be on the  
12 streets doing drugs. We're helping them by mistreating them  
13 basically and I believed that.

14 Q. (By Mr. Flater) You just mentioned something  
15 interesting in your testimony. I think you said you  
16 observed things that you now considered to be abuse. What  
17 made you change your mind or your opinion?

18 A. Um, well, I'll give one example, if that is okay,  
19 of the abuse and then let you know one of --

20 MR. SILVESTER: I'm going to object, Your Honor. I  
21 don't know what this goes to. I don't know where we go to  
22 Dundee Ranch. We haven't established the time but I can  
23 tell you it was in 2002 long after Ms. Scheff made her  
24 postings. I don't think this is relevant to anything.

25 THE COURT: How is it relevant?

1           MR. FLATER: Your Honor, the plaintiff has not limited  
2 its accusations to the time frame of before 2002. They have  
3 accused my client of posting disparaging remarks about all  
4 World Wide member programs even up until 2003 and so this --

5           THE COURT: Up until two weeks ago, up until 2004. So  
6 I'm going to overrule the objection. The plaintiff wanted  
7 to during their case talk about events all the way up two  
8 weeks ago, I certainly think you're entitled to talk about  
9 events in 2002. You can go ahead.

10          THE WITNESS: All right. So one of the things that I  
11 disagreed with originally was that if one form of punishment  
12 is that students would be called -- put in what they called  
13 observational placement. And that meant they would be put  
14 into a small room with several other students. And for  
15 eight to up to 14 hours a day they would be forced to lay on  
16 their stomach on bumpy concrete for half an hour and then  
17 they would be forced to kneel on the bumpy concrete for half  
18 an hour, and then stand with their face to the wall for half  
19 an hour. And they would continue rotating through these  
20 positions, for like I said, eight to 14 hours.

21          And sorry, at the time, again, I was told well this is  
22 the best thing for them because they don't deserve to be  
23 treated well. And what really hit me was about a year ago,  
24 I was listening to the news and I heard about a Michigan  
25 couple who had been put in jail for putting their child in

1       -- at this time the students were not allowed to go to  
2       school, their food they were only given a few little beans  
3       and rice and some fruit if they were lucky, so I heard about  
4       this Michigan couple on the news who had been jailed for  
5       putting their kid in a closet and not allowing him to go to  
6       school and seriously reducing his food.

7               THE COURT: Hang on here. I overruled an objection  
8       about World Wide's school, but now we're talking about  
9       Michigan folks. Is there some connection to these?

10              THE WITNESS: The connection is just this is how I  
11       realized -- well how this was abuse like I hadn't realized.

12              THE COURT: All right. Well what may or may not  
13       happen to some folks in Michigan it doesn't tie into our  
14       lawsuit. Ask another question that ties into it. I'll let  
15       her talk about World Wide Programs over an extended time  
16       period, but some of these things are far afield.

17              THE WITNESS: Okay.

18              THE COURT: Go ahead, Mr. Flater.

19              Q. (By Mr. Flater) Other than the observation  
20       placement that you just described, did you observe any other  
21       problems at the Dundee Ranch Academy?

22              A. Yes. Another problem -- another form of  
23       punishment was that they would take their -- the students  
24       arms and twist them up behind their backs. And it was a way  
25       to intimidate and punish them, not to control them if they

1        were out of control because they usually never were. At one  
2        point a student reported to me that he had been -- his arm  
3        had been dislocated. And so at that point I made a policy  
4        that unless a student was extremely out of control, then  
5        they were not to be restrained. And that policy was  
6        accepted and to my knowledge it did not continue until after  
7        I left.

8                Um, another example of what I considered abuse is the  
9        students were not given adequate education. As a teacher,  
10       this was really important to me. They would be given a book  
11       that they would read through to get a credit. They would  
12       just read through a fourth of the book, take a multiple  
13       choice test, if they didn't pass it with at least 80 percent  
14       they were sent back to the book, they took notes, they would  
15       use notes to take the test. Many of the students told me  
16       they would go take the test first, find out what was on it,  
17       then go read the book, find the answers, put them in their  
18       notes and take the test. This was their progressive  
19       education system. This was especially difficult for many of  
20       the students --

21               MR. SILVESTER: Your Honor, I don't now how to object  
22       to this kind of narrative.

23               THE COURT: All right. I'm going to --

24               MR. SILVESTER: Obviously she knows her story and she  
25       is going to tell it. But I would like to have questions and

1 answers.

2 THE COURT: That seems like a fair point. Mr. Flater,  
3 if you'll ask narrow questions and get some narrow answers  
4 and we can keep a little better track of what is going on.

5 THE WITNESS: Okay.

6 Q. (By Mr. Flater) What were the living conditions  
7 like?

8 A. The living conditions were very scrunched. They  
9 would put up to 15 children in one -- what was formerly a  
10 small hotel room. They had bunks three high that they could  
11 put more students in there because of the sanitation  
12 conditions -- they, all 15 of them, would share one  
13 bathroom. Other students didn't even have a bathroom, they  
14 would be put in a what they called the back cages because  
15 they had three walls, the ventilation was not good. A lot  
16 of students got sick because of the close contact. Um, the  
17 food, they didn't have hot water to wash the dishes, they  
18 just washed them with cold water or rinsed them off.  
19 Sanitation was not up to par.

20 Q. And I recall you were testifying that you were  
21 the director of this program. Why didn't you make the  
22 changes as the director of the program? Why didn't you  
23 correct these problems?

24 A. That is -- I was hired as the director, but I  
25 found out quickly it was in name only. The owner,

1 Mr. Narvin Lichfield, constantly told me when I brought up  
2 concerns that if I didn't like what was going on I could  
3 leave because he was the boss and I couldn't change him.

4 Q. And did you do that?

5 A. I did, in August of 2002.

6 Q. Now some time after you left, did you write a  
7 letter to the Costa Rican government?

8 A. I did. I wrote a letter in March of 2003  
9 describing the conditions and just saying that I felt like  
10 students were emotionally and at physical risk and their  
11 parents were being deceived.

12 Q. And what kind of -- what other kind of  
13 information did put in that letter?

14 A. I believe I described some of the things that I  
15 have been describing here. The unsafe medical practices,  
16 the crowded living conditions, the insufficient school, the  
17 fact that the girls could not talk at all all day, they had  
18 half an hour when they could talk as a group, but other than  
19 that they were not allowed to.

20 Q. In a short time after you wrote this letter to  
21 the government, did you -- what did you learn about what  
22 happened to the Dundee Ranch Academy?

23 A. I learned that from actually from Mr. Joseph  
24 Atkin that the Costa Rican government had gone in and shut  
25 down the academy and jailed the owner, Mr. Narvin Lichfield,

1 on charges of child abuse and human rights violations.

2 Q. Did you ever learn what happened to those  
3 charges?

4 A. Um, to the best of my recollection, the district  
5 attorney in Costa Rica stated that this was an American  
6 problem, these were American kids, this is going on in  
7 America and if the kid -- if the people in America don't  
8 care enough to do something about it, then why should she  
9 spend her resources. And so the charges were never pursued  
10 I guess.

11 Q. Can you tell me when the first time was that you  
12 ever had contact with Ms. Scheff?

13 A. I believe it was about a month after the school I  
14 found out that the school had been shut down.

15 Q. And do you remember -- do you remember why you  
16 had contact with Ms. Scheff?

17 A. Somebody just told me that I should call her and  
18 I don't honestly -- I was talking to so many people at that  
19 time I don't exactly remember, but at some point we talked  
20 she asked me to validate my story or verify my story and I  
21 said yes, that is true, that was about it. We talked maybe  
22 once or maybe twice.

23 Q. Ms. Scheff didn't ask you to write that letter to  
24 the Costa Rican government?

25 A. No, not at all.

1           Q.    She had no other kind of communication with you  
2 before that time, did she?

3           A.    No, she did not. I didn't know who she was.

4           MR. FLATER: No further questions at this time.

5           THE COURT: All right. Thank you, Mr. Flater. Any  
6 follow-up on that, Mr. Silvester?

7           MR. SILVESTER: Thank you, Your Honor.

8                           **CROSS EXAMINATION**

9 BY MR. SILVESTER:

10          Q.    I'm sorry, I missed the last name. I know you as  
11 Amberly.

12          A.    Knight.

13          Q.    Knight, because that is the name we see on all of  
14 the documents. I'm Fred Silvester and I represent the World  
15 Wide Association in this particular proceeding. Now you  
16 never worked for World Wide Association, correct?

17          A.    I worked for Dundee Ranch Academy which was  
18 affiliated.

19          Q.    You never worked for World Wide Association?

20          A.    Well, I was -- not technically, but it was known  
21 that I attended directors meetings, I was told to report  
22 problems to Ken Kay.

23          Q.    I understand that. My only question was you  
24 worked for Dundee Ranch. You didn't work for World Wide  
25 Association?

1           A.    Yes, that is correct.

2           Q.    And at some time, let's see, let's get the time  
3 frames here.  You worked from February of 2002 until August  
4 of 2002?

5           A.    Yes, that is correct.

6           Q.    You observed all of these horrible conditions  
7 then from your temporary duty there which was in January?

8           A.    February, it was in February.

9           Q.    Your position as director from February all the  
10 way through August you observed these horrible conditions?

11          A.    I was the director from March until August.

12          Q.    Okay.

13          A.    And yes, that is correct.

14          Q.    And because you believe you were misled by one  
15 student on July 19, 2002, in the District Court of Boulder  
16 County, State of Colorado, you lied under oath?

17          A.    No, that is not correct.  If you recall my  
18 previous testimony, what I had said is not the amazing  
19 results were based on the student.  But I was -- I had  
20 blinders on in that I had many concerns but I would tell  
21 them to these other people, for example, Mr. Lichfield,  
22 Mr. Atkins, Mr. Kay, and they would say well these kids need  
23 that.  Additionally I was making many positive changes so --

24          Q.    I understand you want to tell your story.  My  
25 only question was you misstated what was going on under

1 oath?

2 A. That is what I believed at the time. The  
3 positive things were things I believed because I saw many  
4 improvements. And I thought the problem was just that  
5 Dundee Ranch was not being operated well. I didn't realize  
6 that this was systemic to all of WWASP. And so I was trying  
7 to --

8 Q. You didn't know it was systemic to all of WWASP?

9 A. I didn't at the time, no.

10 Q. So you were willing, a little less than a month  
11 before you quit your job, to tell the Court that you were  
12 the director of the academy and you were in charge of  
13 day-to-day operations, including medical, academic,  
14 communications, employees, and all of those things with the  
15 kids, you actually told the court that in Colorado?

16 A. I was.

17 Q. Okay. And you actually told the Court that the  
18 best thing for the child of Mr. Chrisler was that she be  
19 ordered back to Dundee, be made to stay there without any  
20 time limit?

21 A. That is what I believed at the time, yes, sir.

22 Q. This is just before you quit, right?

23 A. No, it was about a month before. It hadn't hit  
24 me yet that this was not -- that the things that were  
25 happening at Dundee I thought they were part -- that the

1 program wasn't managed well and I was making changes and I  
2 thought -- I was optimistic. And again I had the blinders  
3 on. I thought they wanted the best things for the kids,  
4 too.

5 Q. And actually the reason you quit in August is  
6 because you had asked for a raise and you were denied a  
7 raise?

8 A. That is absolutely incorrect.

9 Q. Okay. But that was August of 2002?

10 A. Yes.

11 Q. You began corresponding with Carey Bock in early  
12 2003, do you remember that?

13 A. Yes, I do.

14 Q. And Carey Bock indicated to you that she was a  
15 part of a group that was involved with Sue Scheff, didn't  
16 she?

17 A. I don't recall that.

18 Q. Do you recall indicating to Carey Bock, sometime  
19 in early March of 2003, that you were going to write a  
20 letter to PANI, the Costa Rican authority, and you would  
21 appreciate it if she would let Sue know?

22 A. I don't recall that. I could have written it but  
23 I don't recall that. I had never spoken with Sue. You know  
24 I actually do recall. I do recall. And I believe that --  
25 does it say Sue Scheff? I believe that the person that that

1 was referring to was Sue Flowers who was the person who was  
2 requesting the letter.

3 Q. Okay.

4 A. So that did not --

5 Q. So you had contact with the Trekkers group in  
6 March of 2003, and you were being urged to write a letter  
7 against the program you had been the director of?

8 A. It was not the Trekkers Group that I was  
9 receiving the urging from. And I don't even know what the  
10 Trekkers group is. I heard it, but I don't know who it is  
11 involved with. But I mean, like I said, I have many, many,  
12 many contacts and I don't remember all of the details.

13 MR. SILVESTER: May I approach the witness, Your  
14 Honor?

15 THE COURT: Sure. Both sides should feel free to  
16 approach the witness briefly without asking.

17 Q. (By Mr. Silvester) Showing you -- give us that  
18 number please?

19 A. Exhibit 102.

20 Q. Showing you Plaintiff's Exhibit 102. That has  
21 your E-Mail address 89232@hotmail.com; correct?

22 A. That is correct.

23 Q. That is e-mail that you sent to Carey Bock on the  
24 21st of March of 2003; correct?

25 A. Uh-huh.

1 MR. SILVESTER: We would move for admission of 102,  
2 Your Honor.

3 MR. FLATER: Your Honor, we would object, Your Honor.

4 THE COURT: Because --

5 MR. FLATER: This has not been offered or identified  
6 as an exhibit. We had no opportunity to prepare any  
7 rebuttal documents, if any, and it has not been previously  
8 produced.

9 THE COURT: Well, the last point I think is not right.  
10 It has been previously produced, hasn't it?

11 MR. SILVESTER: Yes, it has, Your Honor. This is off  
12 Carey Bock's computer and they have a complete CD of  
13 everything that was on it.

14 THE COURT: So it has been previously produced and I'm  
15 going to accept the exhibit in view of the limitations  
16 placed on the plaintiff during discovery process but of  
17 course I'll allow the plaintiff to introduce any evidence in  
18 rebuttal that they think is necessary to respond to this  
19 particular document.

20 (Whereupon, Plaintiff's Exhibit 102 was received  
21 into evidence.)

22 Q. (By Mr. Silvester) Do you recognize this  
23 document as an e-mail you sent?

24 A. Yes, I did send this.

25 Q. And I want to draw your attention to the top part

1 of it. And I'm sorry we don't have it on the screen for the  
2 jury, but it says, "Hi, Carey, thanks for your letter. I  
3 talked with Ned Burkowitz." I want to ask you, Ned  
4 Burkowitz was someone from Inside Edition?

5 A. That is correct.

6 Q. Because Carey Bock and some of these other people  
7 were trying to get you to go on TV, right?

8 A. That is correct.

9 Q. It says, "I'm very interested in telling my  
10 story. At the same time, I need to know that I am  
11 financially protected. Literally I have no money and am  
12 still trying to pay off my student loans. I can't afford to  
13 pay for a lawsuit on my own and I don't want to incur those  
14 things. I need to know that Inside Edition would indemnify  
15 me, that is pay any lawyers fees or court costs associated  
16 with me speaking out." That is what you wrote Carey?

17 A. That is correct.

18 Q. And then you went on to say, from what I heard  
19 from Sue, it might be a good idea to involve other parents  
20 and focus on the abuse and mistreatment. I was not speaking  
21 to that because I had not witnessed it?

22 A. That is correct.

23 Q. And that is what you wrote?

24 A. I did.

25 Q. In March of '03?

1           A.    If you recall my earlier --

2           Q.    In March of '03?

3           A.    If you recall earlier what I was talking about  
4 when I said that in March or April I heard about this  
5 Michigan teen, this Michigan couple who was jailed. That is  
6 when it really hit me. I still had blinders on. And what I  
7 had observed at Dundee was abuse. And if American parents  
8 can be put in jail for doing the same thing that happens to  
9 WWASP parents every single day, why was it not considered  
10 abuse? Why could these corporations make millions of  
11 dollars --

12           MR. SILVESTER: Excuse me just a minute. I only asked  
13 you a question. This is what you wrote.

14           THE WITNESS: That is what I believed at the time.

15           Q.    (By Mr. Silvester) And you wrote it on the 21st  
16 of March of 2003?

17           A.    That is correct.

18           Q.    During a period of time Sue was encouraging you  
19 to write a letter to the Costa Rican government?

20           A.    It was Su Flowers.

21           Q.    It say S-U-E. Doesn't Su Flowers spell her name  
22 S-U?

23           A.    I don't know. I don't keep track of things.

24           Q.    Why were you asking Carey Bock to talk to Su  
25 Flowers? Wasn't Su Flowers in Costa Rica at the time?

1           A.    She was in e-mail contact with many people.

2           Q.    Okay.  Now, the reason you had contact with Carey  
3 Bock is because Carey Bock had twin boys that were at Dundee  
4 Ranch, correct?

5           A.    That is correct.

6           Q.    And, in fact, Carey Bock had called you a number  
7 of times after you quit down there asking you if her boys  
8 were okay, correct?

9           A.    I don't -- I recall one conversation in January.

10          Q.    And you told her they're doing great?

11          A.    I don't recall that.

12          Q.    But you at least said in March if you're going to  
13 concentrate on abuse and mistreatment, it may be good to  
14 involve other parents because I haven't seen that?

15          A.    Correct.  Because at the time I didn't realize  
16 that what I had seen was abuse.  I now consider it to be  
17 abuse.  I didn't at the time because I had been told by  
18 WWASP that this is the only thing that will help these kids  
19 is to mistreat them.

20          Q.    Now I thought that was the reason you --

21          A.    I was very trusting.

22          Q.    I thought that was the reason you quit prior to  
23 August because you saw abuse and you had to leave?

24          A.    I saw a lot of things that I disagreed with.  
25 They weren't making changes.  I didn't consider them to be

1 abuse, but they were things that I disagreed with.

2 Q. So you testified in Court that it was a good  
3 school and they ought to send their people back. You talked  
4 to Carey Bock after you quit, months after you quit, and  
5 said her kids were doing okay?

6 A. I don't recall that.

7 Q. Just before you quit you went to Teen Help in St.  
8 George and you told all of the sales reps there that you  
9 thought Dundee Ranch was a beautiful, nice place, that the  
10 program was great, and they ought to send more kids there?

11 A. It is a beautiful nice place.

12 Q. You also told the Teen Help representatives in  
13 St. George that they ought to send kids there within weeks  
14 of when you quit?

15 A. Um, I don't recall that.

16 Q. Ms. Knight, do you think maybe you have had  
17 blinders put on you since you quit Dundee Ranch?

18 A. Absolutely not.

19 MR. SILVESTER: That is all I have.

20 THE WITNESS: Absolutely not.

21 THE COURT: Thank you, Mr. Silvester. Follow-up then,  
22 Mr. Flater?

23 MR. FLATER: Thank you, Your Honor.

24 //

25 //



1 team of lawyers. And I received several intimidating  
2 e-mails that I didn't know how to handle that.

3 MR. FLATER: Your Honor, I would -- I would like to  
4 move to admit Defendant's Exhibit I, a letter from  
5 Ms. Chirolla to the Costa Rican government.

6 THE COURT: All right. Any objection?

7 MR. SILVESTER: No, Your Honor.

8 THE COURT: I'll accept that.

9 (Whereupon, Defendant's Exhibit I was received  
10 into evidence.)

11 Q. (By Mr. Flater) Could we pull up Exhibit I,  
12 please. I would like to -- I would like to have you enlarge  
13 just the second paragraph, please.

14 Ms. Knight, it states that "I feel that the Dundee  
15 Ranch Academy should not be allowed to operate because it is  
16 poorly managed, takes financial advantage of parents in  
17 crisis, and puts teens in physical and emotional risk." Did  
18 you write that statement?

19 A. I did.

20 Q. Did you tell the truth?

21 A. I did.

22 Q. Let's look at the third paragraph, please.

23 Dundee Ranch -- now this states that the Dundee Ranch  
24 Academy is poorly managed and this is why so many directors  
25 have left in the short 18 months that the school has been

1 open. Company policies and procedures change daily on the  
2 whims of Mr. Narvin Lichfield, the owner. While I was  
3 there, Mr. Lichfield and his wife, girlfriend at the time,  
4 often made it impossible for me and my staff -- excuse me,  
5 for my staff and myself to do our jobs. For example,  
6 Mr. Lichfield -- "

7 I will not continue reading the rest of that  
8 paragraph. Did you state that in this letter also?

9 A. Yes, I did.

10 Q. And were you telling the truth when you made that  
11 statement?

12 A. Yes, I was.

13 Q. When did you write this letter?

14 A. It was in March of 2003, I believe. It might  
15 have been February. I don't remember. Is there a date on  
16 it?

17 Q. Can we go down to the last paragraph on that  
18 page, please. While I was in the process of resigning from  
19 the Dundee Ranch last August, an American male staff member  
20 assaulted and raped a female staff member at a location of  
21 about 100 meters from where all of the students are housed.

22 MR. SILVESTER: Your Honor, I'm going to object to  
23 this under Rule 403. It goes to nothing in this case. I  
24 would ask that it be stricken from this particular exhibit.  
25 I don't know what staff member to staff member issues have

1 to do within this case.

2 THE COURT: Overruled. Go ahead.

3 MR. FLATER: Did you also make that statement in this  
4 letter?

5 THE WITNESS: Yes, I did.

6 Q. (By Mr. Flater) Let's go to the next page,  
7 please. Excuse me. Let's go to the very bottom paragraph.  
8 When I first arrived, restraints were common. That was when  
9 a staff member would twist a student's arm around their back  
10 and throw them to the ground or against the wall. I know of  
11 at least one case where an arm was dislocated. I insisted  
12 that this stop and I'm fairly --

13 A. Concerned.

14 Q. -- the word is omitted. Do you remember saying  
15 certain? That it did not happen while I was there. Did you  
16 make that statement also?

17 A. I did.

18 Q. So you tried to correct some of these problems  
19 that you saw, didn't you, Ms. Knight -- Ms. Chirolla?

20 A. Yes, I did try and until a week before I decided  
21 to resign I believed that I could make a difference and that  
22 things would -- would start running well. That is why I was  
23 so optimistic about the program.

24 Q. Let's go to the next page, page I-3. It is page  
25 134. The second paragraph beginning with the worst. The

1       worst punishment was OP or observational placement. In  
2       this, the students were required to stand, kneel, sit or lay  
3       on a cement floor without moving for 30 minutes at a time.  
4       They had to do this for eight hours a day until they had  
5       served their time. When some of the kids accepted this, the  
6       staff made them run hundreds of laps around the pool just to  
7       make it miserable enough that the kids would want to comply.  
8       Did you also make that statement?

9           A.    I did. I'm appalled to tell you that I put up  
10       with it for as long as I did. I feel bad.

11          Q.    Did you actually see students at the Dundee Ranch  
12       Academy kneeling on this concrete floor?

13          A.    Yes, I did.

14          Q.    Did you actually see them standing against the  
15       wall with their faces?

16          A.    Yes, I did, on a daily basis.

17          Q.    Did you actually see them laying on their faces  
18       on this concrete floor?

19          A.    Yes, I did.

20          Q.    And for how many hours a day?

21          A.    Eight. It could be up to 14 hours depending on  
22       the person.

23          MR. FLATER: No further questions.

24          THE COURT: All right. Thank you, Mr. Flater.

25          MR. SILVESTER: Your Honor, there is a couple of

1 issues that he covered that I would like to follow-up on.

2 THE COURT: All right, briefly though.

3 **RECROSS EXAMINATION**

4 BY MR. SILVESTER:

5 Q. Exhibit I, could we have that back up, please.  
6 And go to the top, the first page. That is -- May I  
7 approach the witness, Your Honor?

8 THE COURT: Sure.

9 Q. (By Mr. Silvester) Let me show you a document  
10 that appears to be an e-mail from you to PANI. Do you see  
11 that document?

12 A. Uh-huh (affirmative). I do see it.

13 Q. And would you look at the date on the top of that  
14 document and tell us what it is?

15 A. It is March 14, 2003.

16 Q. And that is the same document that we're looking  
17 at in Exhibit I, correct?

18 A. Yes, that is correct.

19 Q. And this is one that you e-mailed to PANI on the  
20 14th of March of 2003?

21 A. That is correct.

22 Q. And that was seven days before you told Carey  
23 Bock you had never witnessed abuse in a program?

24 A. (No audible response from witness.)

25 Q. Correct?

1           A.    Yeah, I mean you're looking at the e-mail. I  
2   said that. What I would like to say --

3           Q.    Isn't it also true that this incident that  
4   occurred between two staff members occurred when you had  
5   taken those staff members out drinking after work?

6           A.    No, that is incorrect. I had left the premises  
7   for the weekend. The assistant director, Mr. Kenneth  
8   Wilson, had taken them drinking. And he was the one that  
9   put her in a coma for a day and a half before she -- and she  
10   almost was half an hour before she died before they got help  
11   because he didn't want to get in trouble for taking them  
12   drink.

13          Q.    You don't remember telling Carey Bock that you  
14   had taken the staff out drinking when that occurred?

15          A.    I did not take the staff out. I was not on the  
16   premises. I have never had a drink in my life.

17          MR. SILVESTER: That is all I have, Your Honor. That  
18   is all I have.

19          THE COURT: Thank you. Any follow-up limited to those  
20   very brief questions, Mr. Flater?

21                   **FURTHER DIRECT EXAMINATION**

22          BY MR. FLATER:

23          Q.    I would like to refer you to the e-mail that  
24   Mr. Silvester handed you. Why did you think it was a good  
25   idea for other parents to discuss the abuse and mistreatment

1 of those children?

2 A. Um, that is an -- honestly it has been a long  
3 time. I have lots of contact with a lot of different people  
4 trying to explain and I wish I, you know, had never been in  
5 the situation in the first place. I don't recall exactly.  
6 What I could say right now is I can only think that I  
7 believe that what goes on in the WWASP facilities is not  
8 what they purport it to be. And so parents need to know so  
9 they can make their own decision. If they believe that that  
10 is how their child --

11 MR. SILVESTER: Objection, Your Honor. That is  
12 non-responsive and I move to strike.

13 THE COURT: Well, why don't you ask a narrower  
14 question and we'll get a narrower answer.

15 Q. (By Mr. Flater) Do you remember what parents you  
16 were referring to when you wrote this e-mail?

17 A. I really don't. I'm sorry.

18 Q. So you don't -- you don't recall which children  
19 then might have been in that, you might have been referring  
20 to either in this e-mail?

21 A. I think that it was just anybody who still had a  
22 child at Dundee Ranch. A lot of the parents trusted me and  
23 for a long time that had weighed on my soul because I felt  
24 like if they knew what I knew then they would --

25 MR. SILVESTER: Objection, Your Honor, non-responsive.

1 THE WITNESS: -- could make a different decision.

2 THE COURT: No, I think that is --

3 THE WITNESS: They would have made a different  
4 decision if they knew what I knew. I just wanted them to  
5 have the information so they could make their own decision.

6 MR. FLATER: Thank you. No further questions.

7 THE COURT: All right. Thank you for your testimony.

8 THE WITNESS: Thank you very much.

9 THE COURT: You're excused or you can watch the  
10 proceedings as you choose. Who is the next witness for the  
11 defense?

12 MR. HENRIKSEN: We would call James Anderson, PhD.

13 THE COURT: All right. Again, ladies and gentlemen of  
14 the jury, if you want to stretch for a second while we get  
15 Dr. Anderson here.

16 THE CLERK: If you will just come forward up there,  
17 sir, I'll just swear you in over there.

18 THE WITNESS: All right.

19 THE CLERK: Raise your right hand.

20 **JAMES ANDERSON,**

21 Having been first duly sworn,

22 was examined and testified as follows:

23 THE CLERK: If you would have a seat there, sir.

24 State your name and special it for the record, please, and  
25 please speak into the microphone.

1 THE WITNESS: My name is James Anderson, J-A-M-E-S  
2 A-N-D-E-R-S-O-N.

3 THE COURT: Thank you.

4 **DIRECT EXAMINATION**

5 BY MR. HENRIKSEN:

6 Q. Now Dr. Anderson, is it appropriate to refer to  
7 you as Dr. Anderson?

8 A. I'm not a physician, I'm a professor, but I do  
9 hold a doctorate, yes.

10 Q. People refer to you as Dr. Anderson?

11 A. Doctor or professor, either one.

12 Q. Which do you prefer today?

13 A. My preference would be professor.

14 Q. All right. Professor Anderson, I would like you  
15 to tell us a little bit about your educational background  
16 but just briefly as to where you have formal education such  
17 as college and above?

18 A. I have a bachelors degree from the University of  
19 Detroit, Detroit, Michigan; master's degree from the  
20 University of Michigan, Ann Arbor; and a PhD from the  
21 University of Iowa in Iowa City. All of those degrees are  
22 in the area of communication studies.

23 Q. And can you tell me what it means that you have a  
24 PhD in communication studies? What does that field  
25 encompass?

1           A.    Communication is a relatively new discipline that  
2   has developed within the last 50 years in relationship to  
3   the technology changes that have occurred within the United  
4   States and elsewhere.  And it looks at the way people get  
5   information, use information, access the media, participate  
6   in media information and those sorts of things.

7           Q.    And you teach classes in this area?

8           A.    I do.

9           Q.    And you do consult in this area?

10          A.    I do.

11          Q.    Who have you consulted in this area of media  
12   attention or media proliferation or media contacts?

13          A.    I ran the Broadcast Research Center at Ohio  
14   University for nine years which was a regular activity that  
15   involved connections with the Federal Communications  
16   Commission, the television information office, the three  
17   national networks.  Since coming here I have consulted with  
18   the local television stations and the newspapers in  
19   relationship to media and audiences.

20          Q.    Which television stations did you consult with?

21          A.    The most recent was KSL.

22          Q.    What would you do for KSL?

23          A.    For KSL, that particular study we were  
24   investigating how people dealt with the news as it is  
25   presented on television.  And so we were investigating

1 family uses of news programs.

2 Q. Now, you have taught as an instructor at the  
3 University of Iowa for three years?

4 A. That is correct.

5 Q. You were an assistant professor at Wisconsin  
6 State University for three years?

7 A. That is correct.

8 Q. You were a professor at the Ohio University for  
9 nine years?

10 A. That is correct.

11 Q. And you had been a professor at the University of  
12 Utah since 1977?

13 A. That is correct.

14 Q. And this is your specialty, communications and  
15 mass media discussions?

16 A. That is right.

17 Q. If I counted it up correctly, since 1962 then  
18 until the present time that is about 32 -- 42 years?

19 A. (Witness nodded.)

20 Q. That you have been specialized in this area?

21 A. That is right. 40 years since 1964, 40 years of  
22 full-time service.

23 Q. You mentioned for nine years at Ohio State  
24 University you were in charge of the Broadcast Research  
25 Center and in that research would you be trying to determine

1        what is the effect of a certain TV show or how many people  
2        would see a TV show versus how many people might see a  
3        newspaper article?

4            A.    We would. That is a relatively low-level  
5        question, but it would be one that we would regularly deal  
6        with. We were more interested in how information  
7        disseminates through an audience, through a population, and  
8        things like that. But the starting point of all of those  
9        questions is what is the audience? What is the audience  
10       size? What is the audience composition and that sort of  
11       thing. It is a starting point.

12           Q.    What you're saying then is this is like counting  
13        to ten for a mathematician, this is just the very basic one  
14        to ten how many people would view a show?

15           A.    Well, maybe one to 20 but yeah, somewhere around  
16        that.

17           Q.    One to 20?

18           A.    Yeah.

19           Q.    Okay. And at the University of Utah you are the  
20        chairman -- you were the chairman of the department of  
21        communications for about six years?

22           A.    Six years.

23           Q.    Been a director of graduate studies for a couple  
24        of about three years and then up to the present time?

25           A.    I am now.

1 Q. About six years?

2 A. Uh-huh (affirmative).

3 Q. And you're the director of the division of  
4 journalism, mass communication, for a couple years?

5 A. I was.

6 Q. And at the University of Utah, you teach, you  
7 have got a list here of about 15 different courses. How  
8 many different courses would you teach about this simple one  
9 to 20 how many people are going to see a TV show, newspaper  
10 article or internet?

11 A. Courses that would involve questions about  
12 audience size and audience composition, I would regularly  
13 teach those at both undergraduate and graduate level. The  
14 course names, course titles change, depending on whether it  
15 is a seminar or whether it is a basic course or whether it  
16 is an advanced course, but this is a regular part of my  
17 service to the university.

18 Q. Okay. And you have authored over 100 books or  
19 chapters; is that correct?

20 A. 100 publications.

21 Q. And in those eight book chapters, 36 articles, 67  
22 presentations, would they involve this one to 20 this basic  
23 step of the audience size?

24 A. They would. Each of those would in some way  
25 touch upon that issue because that is a starting point for

1 the more complex discussions that go on within these  
2 particular texts. So yes, that is a foundational element.

3 Q. All right. You were asked in this particular  
4 case to review the one through 20, the audience size that  
5 might view TV shows, newspapers, or website; is that  
6 correct?

7 A. I was asked to compare and contrast what might be  
8 the effect of materials presented in the media and materials  
9 presented on the internet site.

10 Q. Now, one of the preliminary questions I wanted to  
11 ask you with regard to -- I don't know if I used the right  
12 word, but I'm going to say something like saturation, that  
13 in advertising you have to get to a certain point that for  
14 people to widely spread something and know about it, you  
15 have to have a certain amount of advertising. Is that --  
16 what word would you use for that concept?

17 A. Well, it is a number of -- we really talk about a  
18 critical mass or critical audience size that has to be  
19 reached before information that is presented in the media  
20 begins to disseminate through a population and when you  
21 reach that critical size it begins to feed upon itself and  
22 it develops its own momentum as it moves through a  
23 population.

24 Q. So once something has been put in the media up to  
25 a certain level, then it moves through the population and

1       then what happens?

2           A.    Well, social processes take over.  That is, you  
3       have conversations around the water cooler, you have  
4       conversations at the dinner table, you have conversations in  
5       the work place or you seek out information from other  
6       people.  And so key sources are not simply the media,  
7       they're also other people.  And once you reach that critical  
8       mass, it is kind of like information coming into a  
9       reservoir.  When it is a small amount of information it just  
10      comes in and stops but when that information reaches a  
11      certain critical mass, it flows over that, flows into the  
12      population itself and then builds upon its own activity.

13           Q.    So if I'm understanding that correctly, if you  
14      have a certain amount of advertising, certain number of  
15      people, you reach a certain point where it will spread to  
16      the rest of the population?

17           A.    It becomes a known -- a known factor.  It becomes  
18      a component in people's opinions about things in people's  
19      understanding about something.  So we all know about blue  
20      jeans.  We all know about khaki's and things like that  
21      because those things have flown into -- flowed into the  
22      population in ways that it just becomes like a regular  
23      symbol of clothing and that sort of thing.

24           Q.    All right.

25           A.    Fashion.

1           Q.    What did you review, in this particular case, to  
2 do your -- to prepare your opinion?

3           A.    I have a fairly long laundry list.  It is  
4 actually about two pages of materials that I went over.  I  
5 can read that list to you, if you wish.

6           Q.    Well, I don't need to know every single thing on  
7 the list.  But did you review newspaper articles that were  
8 provided to you?

9           A.    I did.  It looks like either downloads or copies  
10 of articles, somewhere around 35 different articles.  I  
11 reviewed web sites.  I looked at usage statistics for the  
12 two websites in particular strugglingleens and helpyourleens  
13 and I went to a variety of other websites that were relevant  
14 to the top.

15          Q.    All right.  And you chose from those newspaper  
16 articles some representative articles so that you could get  
17 the size of their distribution; is that correct?

18          A.    That is correct.

19          Q.    And what articles did you choose for this size  
20 distribution?

21          A.    What we did -- the issue that was -- that was  
22 involved was what is the relative audience size for the  
23 internet site presentation and presentations in the media.

24          Q.    So you were comparing hits to two different web  
25 sites, Strugglingleens.com, Woodbury and Helpyourleens.com?

1           A.    That is correct.

2           Q.    All right.  You were trying to figure out how  
3 many people would see those sites statistically versus how  
4 many people would see certain newspaper articles?

5           A.    That is correct.

6           Q.    All right.  What did you do to analyze that?

7           A.    The problem that we have in making that analysis  
8 is that the information on the websites continues today even  
9 until today.  And the information that is available in the  
10 media really starts -- the earliest I have is 1990.  So I  
11 have got a 14 year report of media presentations and I have  
12 an ongoing set of presentations in the internet.  So I'm  
13 trying to look at a way to provide an apples to apples  
14 comparison in these two audiences.  And so what we did was  
15 to take composite months for each composite month for the  
16 internet presentation and a composite month for the media  
17 presentation so that I would be somewhere near to a  
18 reasonable comparison of the audiences.

19          Q.    How did you get the statistics for the  
20 Strugglingteens.com and Helpyourteens.com?

21          A.    Both of those usage statistics came from  
22 materials provided by your firm.

23          Q.    And those materials came from those that provide  
24 the statistics or can count those up for both of those  
25 sites?

1           A.    That is correct.

2           Q.    And once you had those materials, what did you do  
3 to make a determination as to this comparative process?

4           A.    What we did was to select a reasonable sample of  
5 12 newspaper -- newspapers that carried materials about this  
6 topic, and the four national television programs that were  
7 on this topic. And that created our composite media  
8 audience basis.

9           Q.    So you only chose 12 of the articles instead of  
10 using 35?

11          A.    And I had available to me over 170 articles.

12          Q.    So what would have happened to your study if you  
13 would have tried to determine what effect 170 articles would  
14 have instead of only 12?

15          A.    The effect would be substantially greater on the  
16 media side of things.

17          Q.    Now, what month statistic did you use for  
18 Strugglingteens.com?

19          A.    I used the month of September of 2001. That was  
20 the period of time when the materials were posted on the  
21 discussion boards as I understand.

22          Q.    I want you to -- I'm looking now at the report  
23 that you gave us.

24          A.    Sorry, December 2001. Yes, I mistook --

25          Q.    Two different websites and maybe I misspoke on

1       which one I asked you about. There are two different ones,  
2       one is the Strugglingteens.com, Woodbury board, what month  
3       did you use that one?

4             A.     The Woodbury report it is December 2001.

5             Q.     What month did you use for Helpyourteens.com?

6             A.     I had seven months of usage data for that, so I  
7       took an average of those seven months and those seven months  
8       were from September 2003 to March 2004.

9             Q.     All right. And with regards to the internet  
10       sites, did you make a determination as to when someone  
11       accessed that site, what part of the site they looked at?

12            A.     No. We took a very liberal definition of  
13       audience in that regard. That is anyone that made a hit to  
14       a site that was an access portal to the information was  
15       counted.

16            Q.     So someone who pulled up on the internet, you put  
17       in Google or one of the search engines and you say  
18       "Struggling Teens" or something and it comes up on the list  
19       and someone hits that, hits the cursor, and so it goes and  
20       pulls up the site, you count that as a hit even if they  
21       might have only been on it five seconds, ten seconds, or it  
22       could be an hour they were on, we don't know?

23            A.     That is correct.

24            Q.     But you treated every single hit as though  
25       someone at least accessed that site?

1           A.    That is right.

2           Q.    All right.  And with regards to the newspaper  
3 articles, now if we go to those, what did you do as far as  
4 coming up with the number of circulation for those?

5           A.    The circulation figures are published in editor  
6 and publisher year book.  It an industry standard for  
7 circulation.  And we took the circulation values for each of  
8 the newspapers for the year that the article appeared.  So  
9 those numbers were developed that way.

10          Q.    So if an article appeared in '98, you took the  
11 number for that year?

12          A.    That is correct.

13          Q.    If it appeared in '03, you did it in that year?

14          A.    That is correct.

15          Q.    If it was in '04, you did it for that year?

16          A.    That is correct.

17          Q.    And as far as those newspaper articles go, you  
18 took the total circulation of those, how did you get those  
19 to compare to an internet site?

20          A.    Okay.  Circulation figures are figures that refer  
21 to the number of newspapers that are delivered, thrown on  
22 the porch or whatever, they come into offices and that sort  
23 of thing.  So it is the actual number of newspapers rather  
24 than the actual number of readers.  The actual number of  
25 readers would be far greater than that.  In my household

1       there are four different people who read the newspaper when  
2       it comes to my house. But we use circulation figures  
3       because we wanted to have a very conservative estimate of  
4       what the audience size would be.

5           Q.     So in other words, the statistics that you used  
6       are much less than if you tried to estimate how many people  
7       actually read that paper that is delivered to like my office  
8       where ten people are or to a building where it might sit in  
9       the lobby or something like that?

10          A.     That is correct.

11          Q.     So the numbers on the newspaper would be higher  
12       than their actual circulation?

13          A.     That is right.

14          Q.     All right. And how big was the audience at least  
15       for the hits to the Woodbury Reports and Helpyourteens.com?

16          A.     We came out with a number that was just slightly  
17       more than 125,000 hits.

18          Q.     And again, that is 125,000 times the site was  
19       accessed you don't know what persons read?

20          A.     That is right.

21          Q.     What did you come up with with regards to the  
22       audience size for the TV, and let's talk first about the TV.  
23       We didn't talk about that. How do you determine the  
24       audience size for a television program such as Inside  
25       Edition?

1           A.    Okay.  Audience measurements are made by the A.C.  
2   Nelson Corporation which uses a survey process as an  
3   audience panel that it collects information from on a  
4   regular basis.  Those measures are published in variety  
5   magazine on a weekly basis so you can access that sort of  
6   information as it comes available.  There are about 108  
7   million television households in the United States and one  
8   rating point equals 1/100th of that or one million point  
9   zero eight households.

10           Q.   And with regards to the Inside Edition, did you  
11   determine that was 3.4 rating points?

12           A.   That is correct.

13           Q.   What does that mean?

14           A.   It means that slightly in excess of three million  
15   people watched that, or three million households had that  
16   television program turned on.

17           Q.   With regards to Prime Time, that 7.9 million?

18           A.   Slightly more than that.  It is slightly more  
19   than a million per rating point.

20           Q.   All right.  When you put the number then together  
21   for Dateline, 48 Hours, Prime Time, Inside Edition, and you  
22   have done Sunset, New York Times, L.A. Times, Observer  
23   Magazine, Denver Rocky Mountain News, Tiko Times, the  
24   Tribune, NewsDay, Des Moines Register, Deseret News and  
25   Miami Herald, you put those numbers together and what do

1 they come up to with regards to this comparable number that  
2 we're going to compare?

3 A. Our estimates came out to over 38 million.

4 Q. And what does that mean? 38.5, 38.5 million you  
5 said?

6 A. That is correct.

7 Q. What does that mean?

8 A. That is a conservative estimate of the number of  
9 people who were in the audience for information available  
10 about this topic.

11 Q. And why do you say that is a conservative  
12 estimate?

13 A. It is a conservative estimate because newspaper  
14 data are circulation numbers and not readership numbers. So  
15 that that number is inflated because of that. And the  
16 television numbers are households. There are what 265  
17 million people in the United States so that means that there  
18 is about 2.5 individuals in every household. But we're only  
19 counting households. So actual viewership might be two and  
20 a half times larger than that. So what we're trying to do  
21 is to provide a comparison in which a reasonable person  
22 would look at this and say yup, that is okay. That is a  
23 reasonable comparison in terms of this.

24 Q. And when you finished putting those numbers  
25 together then, did you come to your opinion as to the

1 comparison between these two websites, the percent of  
2 audience they would have versus the comparison to the  
3 newspapers and television shows?

4 A. Right.

5 Q. And what did you determine?

6 A. Quite clearly the media audience is over 300  
7 times larger than the internet audience. For this -- for  
8 this case. The import of that is not so much the size but  
9 the fact that it -- that the media audience is large enough  
10 that it reaches this critical mass and disseminates itself  
11 throughout the population.

12 Q. Let me ask you about that. So the first step is  
13 we know these two websites have a distribution that is about  
14 one to 300 on at least these 12 newspapers and those four TV  
15 shows?

16 A. Right.

17 Q. That doesn't include all of the 100 articles that  
18 you had?

19 A. That is correct.

20 Q. All right. So we know those numbers are low, as  
21 far as the comparison, but what we're using is one to 300?

22 A. Yeah.

23 Q. Then you're saying that this critical mass,  
24 you're using that word again, can you explain to us why this  
25 38.5 million meet -- reaches some critical mass?

1           A.    The information diffusion process hits somewhere  
2           around 20 million in terms of an audience size. So like the  
3           question of interest to us is not so much the absolute  
4           values of what is the size on the internet audience and what  
5           is the size of the media audience, the question of interest  
6           is do these two audiences hit that level in which you start  
7           a process in which the information feeds upon itself and  
8           reverberates throughout a social process, a population in a  
9           way that it builds into everybody's ideas about what these  
10          things are.

11                 And so once we get to a point in looking at this  
12          comparison then we see that one is remarkably lower, 160  
13          times lower than what is necessary in this critical mass  
14          thing, if my math works quickly this morning, and the other  
15          one is substantially almost double the size that is needed  
16          for this critical mass to occur.

17                 Q.    What you're saying is that the newspaper articles  
18          and TV shows meet the critical mass and that since it meets  
19          that level that the information then spreads out amongst the  
20          population?

21                 A.    That is right. It starts a process in which it  
22          feeds upon itself.

23                 Q.    How do you know that? How do you determine that?

24                 A.    Well, this comes out of extensive studies and  
25          information diffusion. It looks at the way information gets

1       into a population. We're really concerned about when new  
2       ideas come out into a population, how does it get out there.  
3       And how quickly does it move.

4           Q.    And that is what you have been studying over the  
5       last 40 years of your career? This is what you do?

6           A.    This is what I do.

7           Q.    This is what is interesting to you?

8           A.    Yes, that is right. The numbers are not, but  
9       that is.

10          Q.    Okay. Tell us the significance of the fact that  
11       the two websites only have 125,000 hits? What is the  
12       significance of that?

13          A.    Well, it is just to go back to that metaphor  
14       about you have 125,000 and they come into the reservoir and  
15       they basically sit there. So the impact of that is directly  
16       to whatever those 125,000 people that say did with the  
17       information. Some of them might have believed it, some of  
18       them might not. But that is the end of the impact. It ends  
19       right there.

20          Q.    And we don't know what part of those websites  
21       they touched, just if they pulled up a site?

22          A.    That is correct.

23          Q.    So they may have looked at the information on  
24       that site, on one page or another page, you can't tell us  
25       that?

1           A.    I cannot.

2           Q.    And does the -- did the information on the two  
3 websites get anywhere near this critical mass?

4           A.    It doesn't.  If we're looking at 20 million and  
5 they reached 125,000, as I said, doing my mental  
6 calculations it is about 160 times less than what is  
7 necessary to reach the critical mass.

8           Q.    And with regards to the websites, have you done  
9 any studies with regards to individual belief of what they  
10 read on chat rooms on the internet?

11          A.    That is somewhat difficult.  Most people would  
12 approach those with some skepticism.  And certainly that is  
13 what we teach in the schools that you should approach  
14 website information because it has not been reviewed by any  
15 sort of certified process.

16          Q.    How have you determined that in your studies?

17          A.    How did I determine which?

18          Q.    How did you determine whether most people would  
19 rely on information in a chat room or not?  How do you study  
20 that?

21          A.    Mostly this is done through survey methods.  You  
22 basically ask people what it is that they believe and where  
23 they got their information about things.  You probably  
24 bought something on the internet, and in the process you  
25 have gone through a survey that asks you where you got your

1 information, and then how you moved to your decision to buy  
2 that. And that is where that information comes from.

3 Q. And you're saying that you teach on this subject  
4 and what then is your opinion with regards to whether  
5 audience finds chat room information reliable?

6 A. I can't give you an answer to that specifically  
7 because individuals might find it reliable and other  
8 individuals would not. So there is --

9 Q. So the survey shows what?

10 A. The surveys would show that exactly that, that  
11 some people do find it reliable and some people do not. So  
12 it is not an -- it is not a black and white answer that I  
13 can give you.

14 Q. All right. And the information that then would  
15 get put out into this critical mass area, TV articles, TV  
16 and articles reaching this critical mass, you're saying that  
17 the information in those articles would spread throughout  
18 the population?

19 A. That is right. You have -- you have a  
20 circumstance of a consistent message that is provided by all  
21 of these articles and television programs. A consistent  
22 message which is being presented over time to multiple  
23 outlets and credible sources. And reaching a large enough  
24 audience that the information that is provided becomes a  
25 component in what you would call the general population

1 ideas about things.

2 Q. All right. And when you compare the effect of  
3 these two websites to the TV and newspaper articles, could  
4 you describe that maybe in other terms to say one is like a  
5 drop in a big bucket?

6 A. I would say that.

7 Q. You have a bucket of water, you drop a drop of  
8 water into it, and you hardly notice it. Whereas the  
9 newspaper articles and the TV shows is like the bucket of  
10 water?

11 A. Yeah. And I would add to that that the bucket of  
12 water had been filled long before the internet site  
13 appeared.

14 MR. HENRIKSEN: Thank you.

15 THE COURT: All right. Follow up -- thank you,  
16 Mr. Henriksen. Follow up then, Mr. Siebers.

17 MR. SIEBERS: Thank you, Your Honor.

18 **CROSS EXAMINATION**

19 BY MR. SIEBERS:

20 Q. Good morning, Professor Anderson.

21 A. Good morning.

22 Q. When did you first hear about the World Wide  
23 Association of Specialty Programs?

24 A. It was brought to my attention in April of this  
25 year.

1 Q. For this litigation?

2 A. That is correct.

3 Q. So you had never heard about the World Wide  
4 Association around the water cooler?

5 A. Yes, I had heard about camps of that but not  
6 WWASP.

7 Q. And you studied the news?

8 A. Pardon me?

9 Q. And you study the news?

10 A. And I study the news.

11 Q. And its effect on audiences?

12 A. I do.

13 Q. And, in fact, you were called here today to  
14 compare and contrast that effect on the audiences of  
15 publications in the media versus these publications on the  
16 internet?

17 A. That is correct.

18 Q. And in your communication studies, you have made  
19 a specialty of studying the audience for publications and  
20 the effects on those audiences; correct?

21 A. That is correct.

22 Q. And Dr. Anderson, how many parents looking for  
23 programs for troubled teenagers saw the programs that you  
24 reviewed when they aired?

25 A. I have no idea.

1           Q.    How many of these parents saw the articles when  
2 they were published?

3           A.    I would, of course, have no idea of that also.

4           Q.    Dr. Anderson, your first book was called Man in  
5 Communication, correct?

6           A.    That is correct.

7           Q.    Now what if I published, in the New York Times,  
8 to all one million of its subscribers that you had  
9 plagiarized that book. Would that have some effect on your  
10 reputation?

11          A.    It certainly could.

12          Q.    And you studied how this information would be  
13 disseminated through an audience, correct?

14          A.    It would be disseminated through that audience  
15 for the New York Times, yes.

16          Q.    What if I published the same story to just 20  
17 people? Could that have an effect on your reputation?

18          A.    It depends on the 20 people.

19          Q.    It does, doesn't it?

20          A.    Certainly does.

21          Q.    But if these people were the President of the  
22 University of Utah, Department Chair of the Communications  
23 Department and your colleagues and they were sent an e-mail  
24 stating that you had plagiarized Man in Communication that  
25 could have an effect on your reputation?

1           A.    It could.

2           Q.    Probably far more damaging than an article sent  
3 to one million New York Times readers?

4           A.    I don't know that.

5           Q.    So you can do damage to a targeted audience as  
6 opposed to just critical mass, correct?

7           A.    That is correct.

8           Q.    Bring up Exhibit 65.  Professor Anderson, were  
9 you able to review any of the e-mails from the defendant,  
10 Ms. Scheff, that are in evidence in this case?

11          A.    I have not.

12          Q.    Let me show you Plaintiff's Exhibit 65.  This is  
13 an e-mail from Sue at HelpYourTeens.  I'll represent to you  
14 that that is the defendant, Sue Scheff, sent to Loren Moyses  
15 at aol.com.  "Dear Loren, I read your request on ST forum,"  
16 that is the Struggling Teens Forum.  You did review that  
17 website, right?

18          A.    I did not review the content on that website.

19          Q.    You did review the hits for the Struggling Teens  
20 Forum?

21          A.    I did review the hits.

22          Q.    It says, "it was forwarded to me through several  
23 concerned parents.  I'm sure you may have read my story on  
24 my website, WWW Helpyourteens.com.  I created this site and  
25 the PURE Foundation as a result of the traumatic experiences

1 my daughter and myself went through with WWASP." You would  
2 agree with me then this is one of those targeted  
3 communications that do damage regardless of critical mass?

4 A. This appears to be a letter directed to somebody  
5 who has an interest.

6 Q. Directly to a parent who was on this website for  
7 troubled teens that you reviewed the hit?

8 A. It appears to be that.

9 Q. Let's go to Plaintiff's Exhibit 66. And here,  
10 Professor, I just want to draw your attention to the message  
11 at the bottom of the page.

12 This is again an e-mail from Sue Scheff  
13 SLS1262@AOL.com, where she says let's remember her from this  
14 past summer, referring to a parent who inquired of Teen  
15 Help. She came through PURE and when I did a follow-up with  
16 her she told me her son was at TB, that is Tranquility Bay,  
17 a World Wide Program. From there I put her on the list and  
18 many of you wrote her. Again, you would agree with me that  
19 this kind of targeted contact could have an effect on  
20 reputation and opinion regardless of critical mass?

21 A. I am a bit concerned about the word targeted. I  
22 don't see how this message is targeted. It refers -- it  
23 answers a question that was posed to this person but it is  
24 not targeting in the sense that we would use an advertising  
25 where we would go out and identify an audience and say I'm

1 going to send a message to that person. This looks like the  
2 direction comes the other way.

3 Q. You reviewed the PURE website?

4 A. I did not review the PURE website.

5 Q. Do you know what the PURE website is set up to  
6 address? What type of audience?

7 A. No.

8 Q. You don't know that the PURE website is for  
9 parents looking for resources for troubled teenagers?

10 A. I do not know that.

11 Q. If we were to accept that, that PURE's website,  
12 according to Ms. Scheff, is set up for resources for parents  
13 looking for options for their troubled teenagers, that then  
14 a parent who went to PURE would be a parent looking for that  
15 kind of information?

16 A. That would be a reasonable assumption.

17 Q. Let's go to Exhibit 69. This is another e-mail  
18 from Sue Scheff. It says, "I'm sending you this. It yanked  
19 at my heart! The entire thread on the BBS -- we have heard  
20 in evidence that the BBS is a private bulletin board of the  
21 World Wide schools -- is justifying it telling the guy their  
22 kids have been there months, years and not to worry he will  
23 thank you... Not. He has only been at Dundee for about a  
24 month and a half. Use caution if you write and always say  
25 it was just sent to you from another parent that doesn't

1 want their name told." And then she includes the post from  
2 the BBS website from this parent. Again this is a parent  
3 who is specifically interested in information about troubled  
4 teenagers. And so would you agree with me at least on this  
5 parent that we have the target audience for information as  
6 opposed to a broad dissemination of information to persons  
7 who we don't know that he is interested in the information  
8 or not?

9 A. Again, I worry about the word targeted. Again  
10 the direction of this seems to be from the parent to Sue, I  
11 guess, and so the action is one that has been initiated by  
12 the parent as opposed to an action that has been initiated  
13 by the respondent.

14 Q. So it would make a difference to you if Sue  
15 Scheff had actually gone and taken this parents information  
16 from a private bulletin board and then disseminated it  
17 further to other interested parents?

18 A. It would make a difference to me.

19 Q. How so?

20 A. Because I think that the direction of the -- of  
21 the action of the information process then starts with Sue.  
22 That she is deliberately moving to identify individuals who  
23 could be impacted by this information targeting them in a  
24 real way on an individual personal way and that is a  
25 different sort of thing than what we're talking about here.

1           Q.    So that if Ms. Scheff were to go out and look for  
2           parents who were already interested in information for  
3           troubled teens, and then with that audience publish to those  
4           persons negative information about the World Wide, that  
5           could have a damaging effect just as much as some  
6           information that as you say has reached some critical mass?

7           A.    I think that is a different sort of thing.  A  
8           very important sort of thing.  I think if somebody came up  
9           to me and asked me my opinion about something and I gave  
10          them my opinion about that, the person who is asking me the  
11          question has already formed an opinion and is looking for  
12          corroboration or additional information.  If I went to a  
13          person who was standing in line to buy a ticket to a movie  
14          theater and I said don't go to this movie because I am  
15          targeting that individual, then I think the responsibility  
16          shifts.

17          Q.    I agree, Professor, so let's go to the page 391,  
18          the third page of Exhibit 69?

19          THE COURT:  Is this going to be -- I think we covered  
20          this.

21          Q.    (By Mr. Siebers)  This is the last point where  
22          Ms. Scheff tells a parent about the posting we just read to  
23          you, right?  Just use caution.  Don't ever say where you got  
24          it from then delete my e-mail please because this person had  
25          never contacted Ms. Scheff, just posted on World Wide's

1 private bulletin board, and now he is being contacted by  
2 Ms. Scheff and other parents giving him negative information  
3 which he never asked for. That would be damaging, correct?

4 THE WITNESS: If you --

5 MR. HENRIKSEN: Your Honor, my objection is -- it is  
6 an exhibit that we have not identified who this is to, and  
7 cross examination without proper identification this is to  
8 another person who is on that listserv not to some other  
9 parent.

10 THE COURT: Mr. Siebers, why don't you represent what  
11 you think it is and we'll proceed on that basis.

12 MR. SIEBERS: Yes, Your Honor. Page 391 is an e-mail  
13 from SLS 1262 to Carey Bock to one of Trekkers in response  
14 to the Gil LaHosta posting on page 389. That is all of the  
15 questions I have, Your Honor.

16 THE COURT: All right. Thank you, Mr. Siebers.

17 MR. SIEBERS: Thank you, Professor Anderson.

18 THE COURT: Follow up then, Mr. Henriksen.

19 **REDIRECT EXAMINATION**

20 BY MR. HENRIKSEN:

21 Q. Thank you, Your Honor. If a group of individuals  
22 started up a listserv and they are sharing information about  
23 their personal story of what happened to their child in a  
24 program where they think their child was abused, or they  
25 alleged their child was abused, would an e-mail to those --

1 to that group of people affect their -- let me ask this  
2 again.

3 If you have a group of individuals that are sharing  
4 information of their own personal hurtful stories saying  
5 this program hurt my child and you posted another e-mail to  
6 that group and said this group hurt my child, what would be  
7 the effect of the original people who already have that  
8 opinion?

9 A. It would be a corroboration. That is it would --  
10 it would confirm what they already know but it would not  
11 initiate an attitude.

12 Q. What was the last exhibit you had up there? 391?  
13 This is an e-mail from an individual it says Sue Scheff to  
14 Carey Bock. And we have heard evidence in this case that  
15 Carey Bock was a person on the listserv who had removed her  
16 children from one of these programs. And if you told that  
17 person or told another person was removing their children,  
18 that the program was something -- somewhere you ought to  
19 maybe remove your children or I have got a story or I want  
20 to share this story, would it change their opinion that that  
21 person already had.

22 A. Just looking at this particular case, I would say  
23 that decision has already been made.

24 Q. All right. Take that down. With regards to an  
25 internet search, if you type in WWASP on the search engine,

1       how many sites come up?

2             A.     I just did that yesterday. I got 317 on Google.

3             Q.     Do some of the articles that you researched come  
4       up?

5             MR. SIEBERS: Objection, Your Honor. This is beyond  
6       the scope of Professor Anderson's report. We never heard  
7       this information before. That is why he just did it  
8       yesterday.

9             THE COURT: Was there information about this general  
10       subject in the report?

11            MR. HENRIKSEN: Internet postings, what is the effect  
12       of internet sites versus the effect of TV articles.

13            MR. SIEBERS: It is beyond my cross, Your Honor.

14            THE COURT: It is beyond the cross, but I'll tell you  
15       what I'm thinking. We have been going for an hour and  
16       45 minutes here and why don't we take our morning break at  
17       this time and maybe we can sort this out. Let's take our  
18       break at this time.

19            (Whereupon, the jury left the courtroom.)

20            THE COURT: All right. Everyone may be seated. And  
21       let's see so we're trying to sort out two things here.  
22       Mr. Henriksen, how many -- I'll give you a little bit of  
23       latitude. Maybe it is arguably beyond the scope of cross.  
24       How much did you want to explore this subject on what sorts  
25       of things?

1           MR. HENRIKSEN: That was the only question is when you  
2 put it out there the search engine you bring up these  
3 articles, TV shows, and what not are indexed when you put in  
4 these words on search engines. We're talking about the  
5 effect of the internet versus articles. And he is talking  
6 about -- I'm going to talk about the effect of e-mails  
7 versus the internet. And this is an expert in that field.  
8 I think he has opened that up to try to say you're not going  
9 to find this out because you got e-mail to a target  
10 audience. A target audience goes to see about the schools  
11 and you bring up Cross Creek --

12           THE COURT: I think I understand that. I understand  
13 the objection and it is overruled and I'll allow the one  
14 question.

15           MR. SIEBERS: Medtech after this, Your Honor. If  
16 we're going to have an expert testify about how search  
17 engines then we're going to put in our exhibit where  
18 Ms. Scheff has all these -- our school names on her website.

19           MR. HENRIKSEN: My understanding was, Your Honor, is  
20 that they told us that last Friday when we were going over  
21 exhibits they were doing that attack, they were going into  
22 that issue, we left our expert on the list. They have not  
23 gone into it at all and neither am I. We're not going --

24           MR. SIEBERS: He is going there right now.

25           THE COURT: So I -- I think that is right. If you

1 want to say how many times does WWASP come up, that opens  
2 the Meditech issue but then don't you have an exhibit on  
3 that?

4 MR. SIEBERS: Yes, Your Honor.

5 THE COURT: Is that already in evidence.

6 MR. HENRIKSEN: It is already in evidence.

7 MR. SIEBERS: It is. We didn't have time to ask  
8 Ms. Scheff about it, but if Mr. Henriksen wants to go there  
9 I would be happy to walk Dr. Anderson through it.

10 THE COURT: The only question of walking him through  
11 it is you exceeded your time limit already. I have been a  
12 little bit generous.

13 MR. SIEBERS: I understand, Your Honor, and I  
14 appreciate the --

15 THE COURT: I'm going to allow Mr. Henriksen to ask  
16 the one question. I don't think it really gets into  
17 Meditech. I think -- he is not asking about Ms. Scheff's  
18 website and how many times does that trigger things. He is  
19 just saying out there on the web how many World Wide. So I  
20 know folks are excited to talk about Meditech but I'm not.  
21 So I'm telling Mr. Henriksen to ask the question, but I  
22 don't find that is opening the door to any Meditech. Let's  
23 take our break at this time.

24 MR. SILVESTER: Thank you, Your Honor.

25 MR. SIEBERS: Thank you, Your Honor.

1 (Recess.)

2 THE COURT: All right. We'll go ahead and get your  
3 jury and get a little more testimony.

4 THE CLERK: All rise for the jury, please.

5 (Whereupon, the jury returned to the courtroom.)

6 THE COURT: All right. Ladies and gentlemen, I hope  
7 the bagels were up to par this morning and we have got some  
8 more testimony to take at this time. You can go ahead,  
9 Mr. Henriksen.

10 MR. HENRIKSEN: Thank you, Your Honor. Can I request  
11 that the court reporter read back the last question and  
12 answer?

13 THE COURT: Sure.

14 MR. HENRIKSEN: She has been here all week and working  
15 hard. I thought we ought to have that one read back. Let's  
16 test her out here.

17 THE COURT: Put her on the spot.

18 (Whereupon, the requested question and answer  
19 were read back.)

20 Q. (By Mr. Henriksen) 317 on Google. Are any of  
21 those newspaper articles that you did research on?

22 A. I did not look at that -- at that detail. I  
23 looked at what the sites might represent, but I did not go  
24 to each of those sites. I looked at the servers.

25 Q. Does the content of the website matter when

1       you're talking about just distribution and mass, critical  
2       mass?

3           A.    In relationship to critical mass, the content is  
4       not really very important in terms of the scientific issue.

5           Q.    Why is that?

6           A.    What is important is size, is the gross size of  
7       the audience. And so you have to reach a critical size  
8       before the social processes take over and you're not  
9       anywhere near that in terms of any particular internet site  
10      would be my guess but specifically in this case you're not  
11      there.

12          Q.    And what is the -- what is the net effect of the  
13      small targeted communication to a few people in comparison  
14      to what is out there?

15          A.    You know, that effect depends upon a few people.  
16      The initial presumption is that they know nothing about the  
17      topic that is under discussion. Then that initial  
18      communication participates in forming a foundational  
19      attitude about a particular topic.

20                In this particular case, what you have is a consistent  
21      message that has been presented overtime to credible outlets  
22      in the media to a large audience that has allowed this  
23      critical mass to develop. So the expectation is that nearly  
24      everyone in the population will know something about  
25      wilderness camps or whatever term that we have used to

1 describe these sorts of programs. And because the message  
2 in the media has been consistently negative or at least  
3 problematic, you would expect that there would be a  
4 foundational attitude that, you know, there is something  
5 going on here that I need to be aware of and I need to be  
6 weary about. So we're not talking about innocent people  
7 that are being targeted.

8 MR. HENRIKSEN: That is my last question, Your Honor.

9 THE COURT: All right.

10 MR. HENRIKSEN: May this witness be excused?

11 THE COURT: That was the last question? Thank you  
12 very much and this witness can be excused. He probably  
13 needs to get ready for the new semester up there at the  
14 University of Utah. I remember that time well.

15 THE WITNESS: Thank you.

16 MR. SIEBERS: You do that with a certain glee, Your  
17 Honor.

18 THE COURT: All right. Thank you for your testimony,  
19 sir. Now, who is your next witness here?

20 MR. HENRIKSEN: John France, Your Honor.

21 THE CLERK: If you'll come forward up by the witness  
22 stand, sir, I'll swear you in up here. Weave your way  
23 through. Right over there. Just stand over there. We have  
24 a lot of equipment. Raise your right hand.

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**JOHN FRANCE,**

Having been first duly sworn,

was examined and testified as follows:

THE CLERK: Have a seat there, sir. If you would state your name and spell it for the record. And please speak into the microphone.

THE WITNESS: My name is John, J-O-H-N, France, F-R-A-N-C-E.

THE CLERK: Thank you.

**DIRECT EXAMINATION**

BY MR. HENRIKSEN:

Q. Good morning, John.

A. Good morning.

Q. It is true that you have a bachelors degree from California State University in psychology?

A. Yes.

Q. Is it true that you have a master's degree at California -- tell me the name of the University at Berkley?

A. University of California at Berkley, Cal Berkley.

Q. That is in psychology counseling?

A. Counseling psychology.

Q. And what do you do full-time?

A. I work full-time as a school psychologist.

Q. What do you do?

A. I do psychological evaluations to determine

1 whether children are eligible for special education in the  
2 public school system.

3 Q. And what school district do you work for?

4 A. I work for the Mt. Diablo Unified School  
5 District.

6 Q. Where is that?

7 A. It is near San Francisco.

8 Q. And what do you do part time?

9 A. I do several things part time. I have a part  
10 time private practice in Lafayette, California.

11 Q. What do you do in that?

12 A. I do psychological evaluations. I do some  
13 forensic psychology, expert witness work. I do  
14 consultations and I do counseling in psycho-therapy.

15 Q. And you're a licensed educational psychologist,  
16 correct?

17 A. Yes.

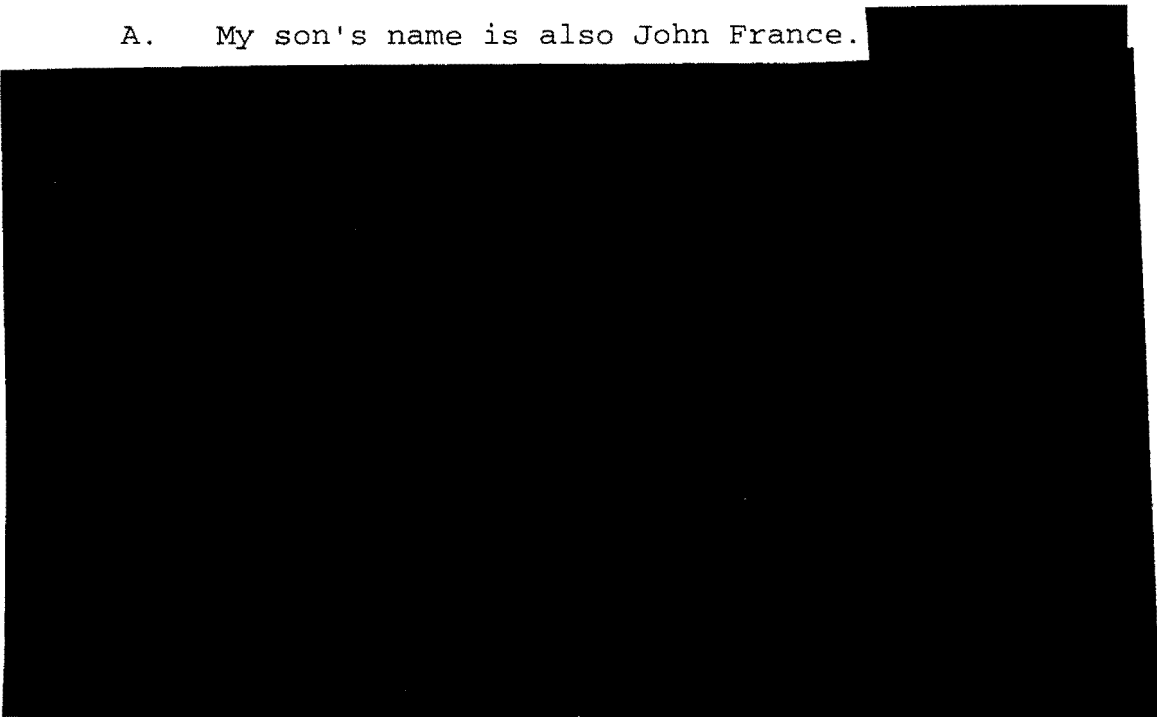
18 Q. And you have been board certified by the county  
19 board of the behavioral science examiner's, have I got that  
20 right?

21 A. Yes. I didn't finish. I'm also a part time  
22 instructor at our local community college. I'm also  
23 president of a California School Psychologist Association.

24 Q. Thank you. And you have a son and I want you to  
25 tell us his name and age and just tell us a little bit about

1        what was going on with him some years ago?

2            A.    My son's name is also John France.



12           Q.    And did there come a point where you determined  
13        that you needed to seek some help with your son?

14           A.    Yes.

15           Q.    What did you do?

16           A.    Well, we discussed it with our son and we talked  
17        about since he had so much anger toward my wife and I we  
18        talked to him about boarding schools and we took him around  
19        the country to visit several boarding schools.

20           Q.    Where did you take him?

21           A.    Um, we went to the Hyde School of Connecticut.  
22        We visited the Pennsylvania Military Academy. We visited  
23        the New Mexico Military Academy in Roswell; we went to  
24        Fountain Valley School in Colorado Springs; we visited the  
25        Army Navy School in San Diego and the Athenian School in

1 Northern California.

2 Q. And after you visited some schools, did you seek  
3 the advice of a psychologist that you were aware of?

4 A. Um, I believe she was an educational --  
5 educational consultant. She was a colleague of mine. And  
6 we are very open with our sons problems with the boarding  
7 schools and he was suited academically and intellectually to  
8 the schools, but since he needed a strong behavioral  
9 component, they wouldn't accept him.

10 Q. So none of those military schools would accept  
11 your son?

12 A. No, he was rejected by all of them.

13 Q. And so then what did you do?

14 A. Well, I talked about it to my colleagues. And  
15 one of my colleagues told me that she was familiar with the  
16 World Wide Association of Specialty Programs and she  
17 referred us to their Teen Help program.

18 Q. And so you called them?

19 A. Yes, we called Teen Help.

20 Q. What did they tell you?

21 A. Well, we described our son's needs to them and  
22 they --

23 MR. SIEBERS: Objection hearsay, Your Honor.

24 MR. HENRIKSEN: I think --

25 THE COURT: Overruled, go ahead.

1           THE WITNESS: We described the type of program that we  
2 felt would meet our son's needs and they told us that they  
3 had several problems that would meet his needs.

4           Q.     (By Mr. Henriksen) Did you tell them about his  
5 reaction to punishment, for example?

6           A.     I believe I did. Before I contacted them, we had  
7 extensive visits to psychiatrists and we had him evaluated.  
8 And I told them that, you know, what he was diagnosed with,  
9 you know, that he had a conduct disorder and he had some  
10 other problems, some mild depression and some problems with  
11 anger management.

12          Q.     And after talking with the Teen Help  
13 representatives, did they refer you to a particular school?

14          A.     Well, they told us that they had a family of  
15 schools. And we told them that we were interested in  
16 schools in the continental United States, but they told us  
17 that all of their programs in the continental United States  
18 were pretty full and that they wanted us to consider  
19 programs out of country.

20          Q.     What did you tell them?

21          A.     Well, my wife and I discussed it and we decided  
22 and we talked to our attorney about it, and we decided that  
23 it wasn't suitable. That we didn't want our son to leave  
24 the country.

25          Q.     And what did they tell you about schools here in

1 the United States?

2 A. Well, after we rejected the out-of-country  
3 schools, they said well, we think we might be able to get  
4 him into one of our programs in Montana, but it is much more  
5 expensive than the out-of-country programs. But, of course,  
6 my wife and I wanted the best for our son so we were just  
7 about willing to do anything. So then they said -- they  
8 called us back shortly after that and they said well there  
9 is space in Montana at the Spring Creek Lodge.

10 Q. What did they tell you about that program?

11 A. Well, you know what, they sent us some brochures,  
12 videotapes, they gave us a list of parents to contact whose  
13 children were successful in the program, who graduated from  
14 the program, and that we reviewed all of the materials they  
15 sent us and the program looked really good, it looked like  
16 just what we needed. And also they told us there was a  
17 family support component through one of their programs  
18 called resource realizations that provided seminars to  
19 support parents while their children were in these programs.  
20 They told us the program had a very strong behavioral  
21 component and that all children were successful in their  
22 programs as long as the parents cooperated and fully  
23 supported the program.

24 Q. What did they tell you about the academic program  
25 your son would participate in?

1           A.    They told us that they had a very strong academic  
2           program, and I'm pretty sure that I sent them his academic  
3           information about where he was academically.  And they told  
4           us that they had a -- that they used, I believe it is called  
5           the Browning method, it is sort of an independent study  
6           program, and that they have people who support the program  
7           and who guide the children through the program.

8           Q.    All right.  Now you made a decision to put your  
9           son into Spring Creek?

10          A.    After we talked to probably three or four other  
11          parents whose children were in that program or were  
12          currently in that program, they gave us really glowing  
13          reports about the program.  It sounded exactly like what we  
14          were interested in.

15          Q.    Those parents had their children in the program  
16          at the time you talked to them?

17          A.    I believe some of them did and some of their  
18          children in one case the person's child already had  
19          completed the program.

20          Q.    All right.  So did you make a decision then to  
21          put your son in the program?

22          A.    Yes.

23          Q.    And --

24          A.    Well no, I called the program and I talked to a  
25          couple of people at Spring Creek Lodge.  I talked to the

1 director, he assigned us to a family rep, I talked to the  
2 family rep and we asked them a lot of questions about the  
3 program and it really sounded exactly like what we were  
4 looking for.

5 Q. All right. And you signed your son up for the  
6 program and you took him to the airport and you said you're  
7 going to go to a boarding school and you didn't tell him  
8 which one, someone picked him up there?

9 A. If I may go back just a little bit, my wife is  
10 also a professional educator, she teaches second grade. And  
11 so she was very interested in the academic program because  
12 we were looking for a school that had a very strong academic  
13 program as well as a strong behavioral component. We really  
14 wanted a program where he had a lot of supervision.

15 Q. Okay.

16 A. And I'm sorry I didn't get --

17 Q. You had told your son you were taking him to a  
18 boarding school. You took him to the airport and then some  
19 other people came and met you there?

20 A. We talked to our son about it. We showed him the  
21 brochures, the videotapes. I believe he even talked to  
22 another boy who was a former student or a former graduate of  
23 the program. And he was -- he looked at it as an adventure.  
24 He was ready to go. And so I made the arrangements and they  
25 didn't want the -- they didn't want --

1           Q.    Let me interrupt.  I'm trying to move this  
2 through a little quicker.

3           A.    Okay.

4           Q.    I'm trying to ask you some narrow questions and  
5 maybe we can get that a little bit quicker.  So your son did  
6 end up in the program?

7           A.    Yes.

8           Q.    And what reports were you getting back from the  
9 school now that he was in the program?

10          A.    We spoke to the family rep who was the case  
11 manager for my son at the program.  And she told us that he  
12 was very resistant and very stubborn and that they were  
13 having difficulty getting him to comply with their rules and  
14 to do academic work.  And we asked her what they did in  
15 situations like that and she said well, we have a time out  
16 room and we put students in the time out room and they're in  
17 there for a while and eventually they come out and they  
18 start cooperating and they start working the program.

19          Q.    And so we --

20          A.    We heard that for about -- until sometime in  
21 October.

22          Q.    Now your son went into the program in  
23 August 1998; is that correct?

24          A.    Yes.

25          Q.    And they continued to tell you that he was doing

1 and in what condition over the next few months?

2 A. Um, they told us that he was in and out of the  
3 time out room. My wife was extremely concerned because we  
4 weren't getting any academic progress reports. We weren't  
5 getting any report cards, we weren't getting any  
6 transcripts, we were very concerned about his education. We  
7 constantly talked to the family rep. We wanted to talk to  
8 our son to encourage him to start doing some work in the  
9 program. They didn't want us to talk to our son.

10 Q. Why is that? Why can't you talk to your son?

11 A. They wanted to work with him. That is a good  
12 question. They wanted to work with him exclusively and use  
13 their strategies and their techniques to help him learn new  
14 behaviors that were more appropriate.

15 Q. Did you question that to them?

16 A. Yes, we did. And they said their strategy was  
17 to, you know, put him -- when he didn't want to work with  
18 other people, they knew he was very social. And that they  
19 said putting him in isolation for brief periods of time  
20 would help him understand that he needs to work the program.  
21 They were trying to set limits for him by giving him time  
22 outs.

23 Q. They told you they would put him in this time out  
24 room for limited periods of time?

25 A. And when we talked to the family rep, once we

1       talked to her he would say he's out of the time out room and  
2       back with -- they called it the family, the peer group that  
3       he was with. Then the next time we talked to her she would  
4       say well, he did this and that, he is back in the time out  
5       room. And we expected him to have some adjustment problems.

6               Q.     Let's go down now a couple more months and what  
7       was the status of your son?

8               A.     Well --

9               Q.     When did your son -- when did your -- how long  
10       was your son there at Spring Creek?

11              A.     I think he was there until sometime in May '99.

12              Q.     So about eight and a half months?

13              A.     Eight and a half or nine months.

14              Q.     What was the progress say around four or five  
15       months they were telling you?

16              A.     They were -- he was spending increasingly more  
17       time in the time out room and it was becoming apparent to my  
18       wife and I that that might not be an appropriate strategy.

19              Q.     And at some point in time did you participate in  
20       some seminars?

21              A.     Yes. My wife and I attended three parent support  
22       seminars that were sponsored by the World Wide Association  
23       of Specialty Programs.

24              Q.     And what did you feel about -- what did think of  
25       the seminars?

1           A.    Well, the seminars were filled with other parents  
2 who had similar experiences to ours. And my wife and I made  
3 a lot of really good friends in the seminars. I had some  
4 questions about some of the events that happened in the  
5 seminars and some concerns.

6           Q.    What kind of concerns?

7           A.    Well, the seminars use a lot of psychological  
8 techniques to help parents or to get parents to continue to  
9 support what was going on in the programs regardless of what  
10 they were hearing from their children or from other people.

11          Q.    So the program was asking you to support them  
12 even though what?

13          A.    The question -- the seminars were teaching us to  
14 support the program unquestionably and they basically -- one  
15 of the components of the seminars was that if we really  
16 wanted our children to change and become productive and  
17 contributive adults and accept our values, that we needed to  
18 support the program 100 percent.

19          Q.    All right. Did there come a time that you  
20 received a call that gave you some concerns?

21          A.    Yes. I believe it was in November when we were  
22 already seeing some little flags with the academic problems  
23 and him being in the time out room so much. Our family rep  
24 called and said he had been -- my son was in an accident and  
25 she said it was purely an accident, he fell down some stairs

1 and he had some abrasions and he was -- the nurse treated  
2 him and he saw that visiting nurse. And my wife -- my wife  
3 and I were very concerned about that and we wanted to talk  
4 to our son. She said no, I don't think it would be a good  
5 idea for you to talk to him. We talked to the director.  
6 They both assured us that there was no major damage, that he  
7 just fell down this flight of stairs on the way to the  
8 bathroom or something. And my wife told the family rep we  
9 wanted photographs and the photographs never came.

10 Q. What did you later find out from your son  
11 happened to his mouth?

12 MR. SIEBERS: Objection hearsay, Your Honor.

13 THE COURT: What about that?

14 MR. HENRIKSEN: I think we already have in the record,  
15 Your Honor, of when he talked to Sue Scheff. I can lay some  
16 more foundation if the Court would like me to do that first.

17 THE COURT: Lay some foundation.

18 Q. (By Mr. Henriksen) We're going to go toward the  
19 end of the story for a moment and then work backwards,  
20 Mr. France. There came a time when you had some  
21 conversations with Sue Scheff concerning the story of your  
22 son; is that correct?

23 A. Yes.

24 Q. And that is approximately in the fall of 2001?

25 A. It was just a few years ago. It was maybe 2001,

1 close to 2002.

2 Q. And did you tell her the things that you have  
3 told us so far in the courtroom?

4 A. Yes.

5 Q. And did you tell her the story of what happened  
6 to your son?

7 A. Yes.

8 MR. SIEBERS: Your Honor, I just ask for a limiting  
9 instruction so I don't need to do a mini retrial on this  
10 story.

11 THE COURT: This information that is coming in again  
12 to show what Ms. Scheff's state of mind may or may not have  
13 been when she was saying certain things. We don't have the  
14 folks that were actually involved in these incidents here  
15 today so we don't know whether that material is true or  
16 false, but it is coming in to show Ms. Scheff's state of  
17 mind.

18 Q. (By Mr. Henriksen) Thank you, Your Honor. Tell  
19 us what your son told you had happened to his mouth?

20 A. Um, for several years he said, well, you need to  
21 know what happened to his mouth. When he came home I  
22 noticed his front teeth were turning brown. And so we took  
23 him to the dentist and he ended up -- we needed to go to a  
24 plastic surgeon. He had to have maxillary surgery done in  
25 the roof of his mouth. He said it was from blunt trauma.

1 His teeth had to be straightened out, he had to have root  
2 canals, and they had to be capped.

3 My son, for several years my son insisted that he  
4 didn't know what happened to his front teeth and he still  
5 maintains that. He still won't tell us what happened to his  
6 front teeth. But it did happen at Spring Creek Lodge.

7 Q. All right. I want to go back to talk about some  
8 other information. Did there come a time when you received  
9 a phone call from a friend in the seminar?

10 A. Yes.

11 Q. And what did they -- what did you talk about with  
12 them?

13 A. Um, we had some friends that we made in the  
14 seminar. He is a physician from Scottsdale, Arizona. And  
15 his daughter was also at Spring Creek Lodge and they were  
16 going up to visit her because they were very concerned about  
17 her progress in the program. While he was in Spring Creek  
18 Lodge, he saw our son in the time out room and he called my  
19 wife and I from Montana and he said I'm taking my daughter  
20 out of this program right now and you need to get your son  
21 out of here right now.

22 Q. And what did you do then?

23 A. We called the program.

24 Q. And who did you talk to?

25 A. We talked to the director, Cameron Pullon, and we

1       talked to our family rep and the director said your son has  
2       been having a rough time here but I feel confident that  
3       we're making progress with him and I want to encourage you  
4       to leave him here a little bit longer and let us try a  
5       little more to see what positive changes we can bring about.

6             Q.     And then what happened?

7             A.     Um, so we agreed to that but we were getting  
8       concerned because we had also before that we had a call from  
9       a social worker from Montana -- from Maine. That call came  
10      in January. And she started telling us all these  
11      unbelievable things about the programs. And she said she  
12      had evidence that our son was being abused in the program,  
13      that she had a former student living with her that witnessed  
14      the abuse, that she had talked to former staff members, she  
15      talked to the superintendent of schools, she made reports to  
16      protective services. And I called the school they said she  
17      is a crazy social worker and we warned you about people like  
18      that who are critical of our program, you can't believe  
19      those people. That is a social worker who is absolutely  
20      crazy.

21            Q.     Did you decide to go ahead and let your son stay  
22      there?

23            A.     Of course. We were very loyal.

24            Q.     Then what happened?

25            A.     Then we had the call from Dr. Ramsey and his

1 wife. That was about a month later.

2 Q. Then what happened?

3 A. Then we kept calling the school and asking, you  
4 know, what was going on. Then we were pretty certain we  
5 wanted to take our son out of the program after that. Then  
6 out of the clear blue sky I got an e-mail from David  
7 Gilchrist who is the director.

8 Q. Who is David Gilchrist?

9 A. He is the president or the director of Resource  
10 Realization, a part of WWASP. And he sent me an e-mail and  
11 he said John, take your son out of the program immediately.  
12 That is basically it.

13 Q. Tell me again what -- how did you know him?

14 A. I met him at the family vision seminar.

15 Q. So was he teaching the seminar?

16 A. Yeah, I believe that he is the administrator who  
17 is in charge of the seminars.

18 Q. So you got an e-mail from this person who taught  
19 the seminars and what did he tell you?

20 A. When I was at family vision my wife and I --

21 Q. What is -- what did he tell you in the e-mail?

22 A. Take your son out of the program right now.

23 Q. That just came out of the blue?

24 A. Yeah. And I think that was in April of '99. So  
25 then the next thing we did, we called the program and

1 demanded to speak to our son. He was very emotional, crying  
2 on the phone, and it was obvious to me that he felt rejected  
3 and abandoned by us. And he said dad you just don't know  
4 what is going on here, you don't know what it is like here,  
5 he was very angry at us. My wife and I were very upset. So  
6 then I recalled the social worker from Maine and I told her.

7 Q. Let me ask you this now. You made a decision to  
8 take your son out, to take him home?

9 A. No. We couldn't bring him home because he was so  
10 disturbed.

11 Q. And you determined that you needed some  
12 additional help for your son?

13 A. We needed to take him somewhere for debriefing to  
14 stabilize him emotionally.

15 Q. Where did you end up taking him?

16 A. We found a licensed therapeutic treatment program  
17 in Koosharem.

18 Q. What is the name of it?

19 A. Sorenson's Ranch School.

20 Q. And I want to have you tell us then how long was  
21 he at Sorenson's Ranch?

22 A. He was at Sorenson's from approximately June  
23 until about -- till after Thanksgiving.

24 Q. Now when your son came home, has he told you what  
25 happened, what other things happened to him at Spring Creek

1 Lodge?

2 A. Over the years he remembers things that went on  
3 and he talked about them to us.

4 Q. What did he tell you about being in the time out  
5 room?

6 A. He told me that he was in the time out room for  
7 a --

8 MR. SIEBERS: Could we ask for at least some  
9 foundation as to the dates since we're going to Ms. Scheff's  
10 state of mind. He is testifying about what period of years.  
11 If we could have foundation as to date, we would appreciate  
12 that.

13 THE COURT: All right. Go ahead and set some  
14 foundation then.

15 Q. (By Mr. Henriksen) We'll do that, Your Honor.  
16 With regards to your son talking about the amount of time  
17 that he spent in the time out room, approximately when did  
18 he tell you about that?

19 A. Um --

20 Q. He came out --

21 A. He continually tells us about the time out room  
22 but he actually started telling us about the time out room  
23 as soon as we met him down at Sorenson's Ranch.

24 Q. Did he tell you how long he was in the time out  
25 room?

1           A.    He told me that he was in the time out room  
2 continuously for eight and a half months.

3           Q.    And what is the size of the time out room?

4           A.    I have a photograph. The time out room is -- it  
5 is called the hobbit. And I have a photograph of it with  
6 me. I would say from looking at the photograph it is  
7 approximately five feet wide by about eight feet deep.

8           Q.    And what does it have in the room?

9           A.    There are two wooden shelves in the back of the  
10 room. Approximately -- one is approximately a foot and a  
11 half above the floor and the other one is about four feet  
12 above the floor and that is it.

13          Q.    I need to bring the easel over here, Your Honor,  
14 if I could.

15          THE COURT: Sure.

16          Q.    (By Mr. Henriksen) John, what I would like you to  
17 do, if you could, is draw a picture of what that room looked  
18 like just if you were looking at the beds. Can you do that?

19          A.    Okay.

20          Q.    Thank you. This is from the photograph?

21          A.    There was -- this is the floor. One wooden --

22          Q.    He says the room goes back like this. I won't  
23 have him talk while he is doing this. I'll wait until he --

24          THE COURT: Okay.

25          Q.    (By Mr. Henriksen) All right. Maybe I can ask

1       you the questions. You have drawn a room as though you were  
2       looking into the room from one direction. This is a window?

3             A.    Yes.

4             Q.    With bars on it. And these are two bunk beds?

5             A.    I wouldn't call them bunk beds, I would call them  
6       wooden shelves.

7             Q.    And the photographs that you have seen, how do  
8       you know that that is a photograph of the room that your son  
9       was in?

10            A.    My son wrote his name in black ink on the front  
11       of the top shelf and it is in the photograph.

12            Q.    So your son's name is right on the shelf, it says  
13       John France?

14            A.    He put it on there, yes. And he also, in the top  
15       of it, he wrote a slogan "Let Freedom Ring." You can see it  
16       in the photograph. I have it.

17            Q.    Where did he write that?

18            A.    That was written in the right hand corner.

19            Q.    And I want you to take your seat again.

20            (Whereupon, a cell phone rang in the courtroom.)

21            THE COURT: Somebody take care of that cell phone,  
22       please.

23            Q.    (By Mr. Henriksen) Your son told you -- your son  
24       told you that he was in this room for eight and a half  
25       months. I would like you to tell us what else he told you

1       about being in this room?

2           A.    He told me that he could see out through cracks  
3       in the wall.  He could see snow outside.  He told me he was  
4       basically kept in there 24 hours a day.  They would let him  
5       go out during the daytime to go to the bathroom.  At night  
6       time they wouldn't let him out of the room so he kept his  
7       water glass.  If he had to urinate he urinated in his water  
8       glass and the next morning he would carry it out to the  
9       outhouse.  He told me that when students were out of control  
10      and angry and violent in the program, that they would  
11      restrain them and then throw them into this room called the  
12      hobbit with him.  And he told me that he was assaulted a  
13      couple of times by other students that were thrown in the  
14      room and one student urinated on him in that room.

15           Q.   How big -- how big is your son?  What is his  
16      height and weight?

17           A.   When we sent him to the program he weighed  
18      approximately 150 pounds, and men in our family are short,  
19      he was probably about five-foot seven.  When he came out of  
20      the program, he was much heavier because of the carbohydrate  
21      diet, probably close to 190.

22           Q.   And did he tell you anything about the academic  
23      work that he did?

24           A.   Also, he told me that if he kept the food in the  
25      room, on one occasion he kept an orange and the next morning

1       it was frozen.

2           Q.     Why would it be frozen?

3           A.     Because there was no heat in the room.

4           Q.     And this is in what state?

5           A.     Montana.

6           Q.     What did he tell you about the academic program?

7           A.     There was no academic program. They would not  
8 allow him to do anything academic. He couldn't read in that  
9 room. They would not give him anything to read. They  
10 couldn't write anything in there. They just had to sit in  
11 there in isolation.

12          Q.     Did your son talk to you about why he wouldn't  
13 comply with what they wanted him to do?

14          A.     Because he didn't agree, basically these are my  
15 words, he is very rebellious and he didn't agree with their  
16 philosophy. It is a very regimented program. It was very  
17 structured, overly structured program. And it wasn't the  
18 type of program that was suited to my son's personality.

19          Q.     Was there any other physical visible damage that  
20 happened to him at Spring Creek?

21          A.     Once the visiting nurse called my wife and I, I  
22 can't remember when it was, it seems to me it was in the  
23 winter sometime, and that she told me that she walked in  
24 once when the staff was restraining my son outside of the  
25 hobbit and that they were -- she felt that they were

1       excessively rough with him. And he had some burns on his  
2       arm from being held up against the heater. When we saw him  
3       down at Sorenson's he still had the burn marks, the  
4       discolorations on his left arm, from where he was pressed up  
5       against the heater. When I asked him about it, he said dad,  
6       the staff up there used to say that they don't properly  
7       restrain kids unless they hurt them.

8               He also had back problems, lower back problems, and he  
9       didn't tell us about it but I heard about it from another  
10      party. The director --

11             Q.    Has your son complained about his back?

12             A.    Yes, he has. He has lower back problems.

13             Q.    And what happened to his back?

14             A.    To make the story short, the director told him to  
15      lay down on his stomach and then he walked on him or walked  
16      on his lower back. And I understand from former staff  
17      member that my son was -- tears were coming out of my son's  
18      eyes because his back hurt so much at the time.

19             MR. HENRIKSEN: Thank you, Mr. France. That is all of  
20      the questions I have, Your Honor.

21             THE COURT: All right. Thank you, Mr. Henriksen.  
22      Follow up from the plaintiff then, Mr. Siebers?

23             MR. SIEBERS: Thank you, Your Honor.

24             //

25             //

**CROSS EXAMINATION**

BY MR. SIEBERS:

Q. Mr. France, I'm going to move this chart so I can see you a little better. Mr. France, where did your son go after Sorenson's Ranch?

A. He came home. He went back to high school.

Q. And then he went on to junior college?

A. Yes.

Q. What information did you provide to Sue Scheff about Valerie Heron?

A. I am not familiar with that name.

Q. Did you provide information to Sue Scheff about Josh Jennings?

MR. HENRIKSEN: Your Honor, that is beyond the scope of direct examination and there is other issues I'm concerned about.

THE COURT: Well, it is beyond the scope. What about that point?

MR. SIEBERS: Your Honor, I'm wondering what the relevance of Mr. France's testimony is.

THE COURT: I'm sorry?

MR. SIEBERS: I'm wondering what the relevance of Mr. France's testimony is? Just now what basis they're going to go into as to Ms. Scheff's statements.

THE COURT: Well, he provided information --

1           MR. SIEBERS: I'm done with the questioning. I can  
2 withdraw the question.

3           THE COURT: All right.

4           Q. (By Mr. Siebers) Mr. France, you're here to tell  
5 us what your son has told you, correct?

6           A. And what I have heard from other people who were  
7 witnesses.

8           Q. And your son filed a physical abuse complaint  
9 against you with the California Protective Services,  
10 correct?

11          A. Yes, that is correct.

12          Q. And that was unfounded?

13          A. That was absolutely unsubstantiated. It was  
14 during a time that we had him in a psychiatric facility.

15          Q. And your son was still having psychiatric  
16 problems when he was at Spring Creek Lodge?

17          A. Absolutely.

18          Q. When was it that this seminar parent called you  
19 and told you to take John out.

20          A. I believe it was April of '99.

21          Q. So just about maybe a couple of weeks before you  
22 actually did take John over to Sorenson's?

23          A. A few months maybe, maybe two months, maybe six  
24 weeks.

25          Q. Okay. So on December 15, 1998, about three

1 months, your son is about three months into the program,  
2 your family rep calls and says you need to find John a new  
3 program, this isn't working?

4 A. Absolutely not.

5 Q. That never happened?

6 A. That never happened.

7 Q. On January 12, you were told you have until  
8 February 14, to make an exit plan because the program is not  
9 working?

10 THE COURT: Question about that?

11 MR. HENRIKSEN: Your Honor, I think there is some  
12 other issues involved. This is beyond the scope of  
13 examination, going into some particular dates. I don't  
14 think they're relevant here and other issues.

15 THE COURT: All right. Overruled. Go ahead.

16 MR. SIEBERS: That is correct, Mr. France.

17 THE WITNESS: I think that is out of context and if I  
18 answer that with a yes or no I would be misleading the jury.

19 Q. (By Mr. Siebers) On May 4, the program again  
20 talked to you, told you you need to find John another  
21 program and your wife was upset because she felt the program  
22 was giving up on him?

23 A. Yes, that is right.

24 Q. So the program worked with this kid for eight  
25 months and told you three different times it is not working

1 we need to find another placement. You certainly didn't  
2 want him home?

3 A. That is not true.

4 Q. That is all of the questions.

5 A. The first part of that is not true.

6 THE COURT: All right. Follow up, Mr. Henriksen?

7 **REDIRECT EXAMINATION**

8 BY MR. HENRIKSEN:

9 Q. When you talked to the facility, did they tell  
10 you your son was progressing?

11 A. Absolutely.

12 Q. Did they encourage you to keep your son in their  
13 program?

14 A. Absolutely.

15 MR. HENRIKSEN: That is all of my questions,  
16 Your Honor.

17 THE COURT: All right. Thank you for your testimony,  
18 sir, and you're welcome to watch the rest of the proceedings  
19 or go back to California. That is your choice.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: All right. Who is your next witness then?

22 MR. HENRIKSEN: Christopher Goodwin.

23 THE COURT: Let's stretch while we're getting  
24 Mr. Goodwin in here.

25 THE CLERK: Sir, if you'll come forward by the witness

1 stand I'll swear you in over there. Raise your right hand,  
2 please.

3 **CHRISTOPHER GOODWIN,**

4 Having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: If you would have a seat right there. If  
7 you would state your name and spell it for the record and  
8 please speak into the microphone.

9 THE WITNESS: Christopher Goodwin, C-H-R-I-S-T-O-P-  
10 H-E-R, Goodwin, G-O-O-D-W-I-N.

11 THE CLERK: Thank you.

12 **DIRECT EXAMINATION**

13 BY MR. HENRIKSEN:

14 Q. Mr. Goodwin, where do you reside?

15 A. In San Francisco.

16 Q. And with regards to this case, did you have  
17 conversations with Sue Scheff in the fall of 2001 with  
18 regards to what happened to your son in a WWASP school?

19 A. Yes, I did.

20 Q. And did you tell her your story of what happened?

21 A. Yes, I did.

22 Q. And what we'll talk about today in your testimony  
23 are things that you explained to her then?

24 A. Okay.

25 Q. Is that true?

1           A.    Yeah.

2           Q.    You had a 15 and a half year old son; is that  
3 correct?

4           A.    That is correct.

5           Q.    And tell me what the situation was with him that  
6 led you to believe that you needed to seek some outside  
7 help?

8           A.    Well, he was in Casa by the Sea and he got  
9 transferred to High Impact. And it is a very long story of  
10 how that happened.

11          Q.    What I wanted to talk to you though is before you  
12 even sent him to the program what it was that -- why did you  
13 seek help with your son? What was going on?

14          A.    Well, I was in a desperate situation. He had  
15 very bad psychological symptoms, behavior problems. I was  
16 seeking professionals. He had a psychologist, he had seen  
17 different family therapists over the years, and he was  
18 seeing a psychiatrist and he was getting worse and not  
19 better. And I went online seeing if there was other help  
20 more than I could do for him than I was already doing  
21 because I didn't feel like I was doing enough. He wasn't  
22 getting better, he was getting worse.

23          Q.    What did you find when you went on the internet?

24          A.    Different words that I punched in led me to the  
25 WWASP sites. I downloaded every bit of information from all

1 of the schools from the different sites that I got and I  
2 read the write-ups on every single school that they had.

3 Q. Did you talk then to somebody at the WWASP  
4 programs?

5 A. Eventually I did. I set this up, all of the  
6 information aside, and waited a few months. And you know  
7 when I first looked at them and saw the cost I thought I  
8 can't afford this. And then a couple of months later, I  
9 said, you know, I have to figure out how to do this. In  
10 their literature it looks like it is everything that my son  
11 needs.

12 Q. And you signed up to have your son go to Casa by  
13 the Sea in October of '99?

14 A. Yeah. I called Teen Help and talked to them.

15 Q. What did you tell them about your son as you  
16 talked to them about the problems that he had?

17 A. This is at Casa by the Sea?

18 Q. When you were making a decision as to whether you  
19 would sign him up?

20 A. Um, the decision to sign him up he had run away  
21 from home and I found him and I called up Teen Help and said  
22 that he has got these problems. I told him a little bit  
23 about some of his symptoms and I said I thought that Casa by  
24 the Sea is where I wanted to send him because they  
25 advertised Casa by the Sea is all of the things that

1 immerses him in the Mexican culture. His mother is Mexican  
2 and a lot of family in Mexico and I thought well, there is  
3 going to be some comfort in that for him there. So that was  
4 one of my decisions for sending him to Casa by the Sea. But  
5 the real in depth conversations I had about my son and his  
6 symptoms was with the people at Casa by the Sea, the  
7 admission nurse, so to speak.

8 Q. Who did you speak to there?

9 A. Her name was Renne. I don't know what her last  
10 name was.

11 Q. And did you tell her that your son reacted to  
12 punishment in a negative way?

13 A. I was concerned about -- if you read their  
14 literature, they talk about category offenses. And I  
15 questioned her about that. I said -- I said are you really  
16 about punishment? Do you punish kids? Is that how -- is  
17 that your main way of going about behavior modification?  
18 And she goes, oh, no, we're a very loving place. That is  
19 not what we do here.

20 I said I really want to be sure about that because my  
21 son does not react normally to punishment. Every time I  
22 have punished him, he has punished himself worse. And I  
23 went through a couple of instances. And so I said I kept  
24 bringing it up throughout the conversation that, you know, I  
25 have got to know that you really are not a penal

1 institution. That is not for my son. I don't want that.  
2 And she repeated over again how loving they were and how I  
3 would talk about the symptoms, this is the place for him.  
4 We have other children like that and we deal with that. We  
5 know how to deal with that. We're very experienced in  
6 specific things that I was questioning about that my son  
7 exhibited.

8 Q. What did she tell you about their teaching and  
9 treatment with regard to self esteem?

10 A. Um, I didn't cover that with her. That is --  
11 they tell parents about that through the seminars.

12 Q. What did they tell you in the seminar about that?

13 A. That is where they really reiterate how loving  
14 the institution is. You're brought through an extreme  
15 emotional and, I guess, psychological experience through the  
16 program. And when you're brought through that, you pretty  
17 much lay yourself wide open emotionally and personally. And  
18 at the end of that, you realize you're accepted and, you  
19 know, quote, unquote loved. That is when they tell you what  
20 the facilitators tell you that is exactly what your kids go  
21 through day in and day out in the program. They have this  
22 wonderful warm-loving experience and all their processes are  
23 about this. This is what happens to them. This is what it  
24 is, what a wonderful gift you're giving your children to  
25 experience on a daily basis what you're experiencing here in

1       this weekend.

2               Q.     When you put your son into Casa by the Sea, you  
3       were not allowed to speak to him for seven months; is that  
4       true?

5               A.     Yeah.  You are told right from the very beginning  
6       to trust the program.  The program knows best.  And when --  
7       when they tell you that you can't speak to your son until  
8       level three, there is reasons for that, trust that.  And  
9       anything you want that is different than that is really  
10      going to hurt your son's individual program.

11              Q.     Now after your son has come home, and we're going  
12      to just talk about some things that he told you and what  
13      happened to your son, what did you find out about your son's  
14      treatment at Casa by the Sea?

15              A.     That shortly after he got there, sometime in the  
16      first three months, he was woken up in the middle of the  
17      night and asked to step out into the hallway.  And he was  
18      tackled by four guys.  He said that one jumped on his back  
19      and at the moment that he hit his back another one had swept  
20      his feet out from underneath him.  He was in mid air for a  
21      moment with this huge guy on his back and he hit the tile  
22      floors and he said he remembers blood going into his mouth  
23      and the taste of blood in his mouth.  And they accused him  
24      of having runaway plans.

25              And then they hauled him up to the R&R room and threw

1 him in there and told the kid who was in there keep your  
2 face to the wall, don't look at this kid. And then he was  
3 kept in there for, he said, the first day he was in there  
4 for 14 hours sitting Indian-style with his face facing the  
5 wall; and that every hour he was allowed to stand up for a  
6 few minutes to get the blood to re-circulate and then he was  
7 told to get back in the position. At night he was told to  
8 sleep on a mattress under bright lights in the hallway and  
9 he did this for a couple of days.

10 And he said that the runaway plans were not even  
11 runaway plans. He was casual, you're not allowed to talk  
12 unless you have permission when you're on level one and he  
13 had not talked to anybody. He had talked to another student  
14 and they were whispering and saying how tightly locked up  
15 the place was and how impossible it would be to run away and  
16 he wouldn't even think about running away because he would  
17 never be able to do it. That was the whole incident of the  
18 runaway plan.

19 Q. So he was not allowed to talk even to other  
20 students?

21 A. No, it is an offense.

22 Q. And in the --

23 A. They didn't tell me about that. I didn't know  
24 what the whole level system was about.

25 Q. In the seminars, did they talk to you about

1 letters that you might receive from your son? What you were  
2 to do with them?

3 A. From the first moments of the seminar they tell  
4 you that your kids are manipulators, they're liars, that is  
5 part of the problem. The kids are famous for writing  
6 outrageous letters about what they're going through, what  
7 they're experiencing in the program and expect them. And it  
8 is almost, they almost joke about letters and things that  
9 kids have written in the past.

10 Q. With regards to Casa by the Sea, did you become  
11 concerned at some point about his experience there, when he  
12 was still there?

13 A. The whole time that he was in Casa our whole  
14 family was in family therapy and Chris was always an  
15 absentee member of the therapy. We would bring his letters  
16 and talk about his letters and kind of watch his progression  
17 from the letters that we got with the family therapist.  
18 This family therapist knew the program, he knew the  
19 facilitators, he was personal friends with a few of them.

20 And so it seemed to me that is like the most  
21 appropriate thing to do is to talk to this specialist about  
22 it. And about seven months into the program, we got some  
23 letters that he was concerned about and he brought up in  
24 therapy that, you know, that Casa by the Sea is not doing  
25 the job they're supposed to be doing. They should have

1 realized that they're not the program for your kid after he  
2 was there two months. You have got to take your kid out of  
3 Casa by the Sea and put him in Cross Creek. There is a  
4 therapist there I know that I have experience with  
5 therapists that really will do the job for your son.

6 Q. This is a private therapist that you hired in  
7 your area?

8 A. Right.

9 Q. And that therapist was familiar with some of the  
10 WWASP programs?

11 A. Yes.

12 Q. And he told you that -- that by two months they  
13 should have realized it is not working?

14 A. Right. That they have this program of reading  
15 letters and moderating -- monitoring them and doing what  
16 they're supposed to do they should be able to figure out in  
17 two months whether that program is right for the kid or not.

18 Q. What did you do?

19 A. So I called up Casa by the Sea and said I want to  
20 move my son to Cross Creek.

21 Q. Who did you talk to?

22 A. Dave Scolding, the director.

23 Q. And what did he tell you?

24 A. Um, eventually he told me he didn't want him to  
25 go to Cross Creek. We had a conversation. But at the same

1 time that I said I wanted to move him, he was calling me  
2 saying your son is doing really bad. Suddenly he was doing  
3 a bad job of working the program. And when I said I wanted  
4 him to go to Cross Creek he said no your son needs a harsh  
5 program like Tranquility Bay but, you know, I prefer that  
6 you send your son to Paradise Cove. I said, Paradise Cove  
7 is not even a WWASP program any more. I'm not going to send  
8 my kid to a non-program. I can't believe you're suggesting  
9 something like that. And he defended that idea. He said,  
10 you know, I know the people at Tranquility Bay, I could  
11 probably work something out there because in my opinion that  
12 is the harsh program that your son needs. And I'm going --  
13 why is this harshness come into it like I send him to a  
14 loving, you know, accepting place where they're going to  
15 build him up not a harsh program.

16 I went and I took this back to the therapist and I  
17 talked to him and he said no you stick to your guns, you  
18 want him to go to Cross Creek, I want him to go to Cross  
19 Creek. You talk to -- you write a letter to Ken Kay and I  
20 know Karr Farnsworth, you write a letter to him, too, and  
21 tell him that I am the one who is recommending this. And he  
22 also said I can't believe that they're evening trying to  
23 interfere with you. I never heard of a program doing  
24 something like that, stopping a parent from putting their  
25 kid into whatever program they want to put him into.

1           Q.    So at some point as you were in contact with the  
2 program they said it is not working for him?

3           A.    Yeah.

4           Q.    You wanted him to be moved to Cross Creek?

5           A.    Yeah.

6           Q.    And they wanted to do something harsher?

7           A.    I got back to him and said, you know, I had  
8 written this letter and I want my son going to Cross Creek.  
9 That is when Dave brought up we have this other new WWASP  
10 program that just started, oh, he brought that up after --  
11 after I called him back and talked to him about, you know, I  
12 have written these letters. He said you know I can't keep  
13 your kid here. If I keep him here I want him in solitary  
14 confinement, but I don't have staff here to watch him in  
15 solitary confinement. But there is this other new WWASP  
16 program that has just opened up. Maybe while you work all  
17 this out with Ken Kay he can go there. And I said well what  
18 is that program? He said it is an -- it is called High  
19 Impact but really basically what it is is a camping  
20 experience. Boys are out in a vast desert wilderness and  
21 they hike from campsite to campsite, set up camp, gather  
22 firewood, make a fire, cook their own dinner, break camp,  
23 hike in the morning to the next camp and do the same thing.  
24 They have reflections. It is everything that the program  
25 is. They have a director, they have the same reflections

1       that they do at night. So it is basically the same thing  
2       but maybe a -- maybe that will do him some good, get him out  
3       of here, get him outside. So it sounded like a good --  
4       sounded a lot better than solitary confinement.

5           Q.    They sent you -- after that discussion you said  
6       that sounded like a good thing to try?

7           A.    They said they would send me a brochure and I  
8       also downloaded a brochure from parent resources, I have  
9       that in my case here.

10          Q.    Did you --

11          A.    But it looked great, the pictures looked great.  
12       You see the vast wilderness, you see kids around a campfire,  
13       you see them talking to an adult who is the director, you  
14       see backpacks and tall trees in the background on these  
15       kids.

16          Q.    And so you had a conversation with him, he says  
17       let's do High Impact and let's transfer your son there?

18          A.    Yeah.

19          Q.    Later what did you find out that had already  
20       happened to your son by that date?

21          A.    He was already there. I signed the papers on May  
22       25th and I found out after a couple of weeks after he was  
23       out there when he wrote me a letter from Cross Creek about  
24       what really went on, all the details, he wrote the letter to  
25       me in left hand because his right hand had been broken and

1 it to be -- his thumb had to be put back in place with a  
2 couple of screws it was broken in three places at High  
3 Impact.

4 Q. You found out the day they were saying we ought  
5 to send him to High Impact, that he was already there?

6 A. Yeah.

7 Q. Did they ever have your permission to move him?

8 A. No. But I have an incident report that shows he  
9 was there on May 15, 16, 17, 18.

10 Q. What kind of incident report?

11 A. It was an incident of -- regarding Paul Brunner  
12 who was given to me by Angel Brunner, because she was -- her  
13 brother, Paul Brunner, was in High Impact with Chris.

14 Q. Who wrote -- who wrote the incident report?

15 A. The new director at that time of High Impact Ally  
16 Hernandez. She was the director at the time when she wrote  
17 the letter this incident report it was probably around the  
18 -- it was weeks after the actual incident occurred and she  
19 was not the director at the time, Effrain Hernandez Garcia  
20 was the director.

21 Q. So they moved your son to High Impact about ten  
22 days or so before they even told you they were going to do  
23 it?

24 A. Yes.

25 Q. All right. And you found this out after he had

1        gone to Cross Creek?

2            A.     Right.

3            Q.     And so you got him into Cross Creek and what  
4        happened there?

5            A.     I got the letter about how he talked in detail  
6        about what happened to him at High Impact and how he was --  
7        how a fight broke out. He was left alone in the horse  
8        corral. And while he was alone, three boys got into a  
9        fight. He had a rock in his hand in the fight, hurt his  
10       thumb, the guards came and broke up the fight. Paul Brunner  
11       was kicked twice in the face by one of the guards. He was  
12       grabbed again by Effrain Hernandez-Garcia. That is the  
13       thing that really makes me angry is that this guy, Effrain  
14       Hernandez, is the one that pounded -- grabbed Chris by his  
15       ears and pounded his head on the floor during that first  
16       restraint incident.

17           And when I got a letter about that from Chris, I  
18        called and talked to Davis about that. Davis goes he may  
19        have received some -- excessive force may have been used,  
20        we're looking at that, but excessive force may have been  
21        used against Chris but that employee is no longer here. He  
22        is no longer here, not related to that fact, but the fact is  
23        that that employee is no longer here and you're not going to  
24        have to worry about any of that happening. Again he told me  
25        at that point that was Effrain Hernandez-Garcia. When I saw

1 the contract saying that that same person was the director  
2 of High Impact I never would have signed the papers.

3 Q. Tell me what your son told you about the days he  
4 was at High Impact. What happened there?

5 A. Um, this fight broke out. And when the guards  
6 broke it up the way that Effrain got him into the cage was  
7 first he grabbed him by the ears, pounded his face into the  
8 dirt until his lower teeth broke through his lower lip, he  
9 still has a scar here today from that, and they threw him in  
10 the cage, told him to lay down, stripped their clothes off  
11 of them, he was down to their boxers, told them not to move.  
12 He was put into a hog-tied position. He wasn't tied but  
13 forced to put his hands behind his back and bend his knees  
14 and bring his ankles up to his rear-end and put his chin out  
15 on the concrete slab and stay in that position and not move.

16 And he said while he was doing that a big pool of  
17 blood built up under his face and he said after a while they  
18 picked him up, pulled him out of the cage, treated the wound  
19 by pouring water and scrubbing it really hard, Effrain was  
20 purposely scrubbing the wound as hard as he could to make it  
21 feel worse and put him back in the cage. He said they  
22 changed the bandages several times because he kept bleeding  
23 through, they would come off and the pool of blood would  
24 collect again. It finally, after a few hours of bleeding,  
25 stopped. He was in that position.

1           Q.    How long --

2           A.    He was in that position throughout the night and  
3 he was told not to move at all or else he would be shocked  
4 with a cattle prod and Effrain took this cattle prod and  
5 banged it against the ground inches from his face so he  
6 could see that it was charged and see the evidence of  
7 discharge. So he didn't move all night.

8           In his letter he said that he prayed. He was like  
9 that for three nights. And he said he prayed each night for  
10 numbness to take over because he was so cold he didn't want  
11 to feel the cold any more. He thought if he could just go  
12 numb he would feel the suffering from the cold. He talked  
13 about he could feel bugs, you know, crawl over him while he  
14 was in that position but he didn't move because he didn't  
15 want to be shocked by that cattle prod. And in that  
16 incident letter Ally wrote she mentioned that Hernandez said  
17 yeah I did threaten him with the cattle prod, I never used  
18 it, but yeah, I did have a cattle prod.

19          Q.    How long was he kept in the cage?

20          A.    He said he was in the cage for eight days. He  
21 said for three days he was in that hog-tied position through  
22 the night, and for about 15 minutes before dawn they get a  
23 sleeping bag to sleep for a few minutes and then they would  
24 -- then at dawn they would be told to put on these thermal  
25 underwear and they would put that on and then after

1 breakfast they were told to put on these woolen Navy  
2 jumpsuits or sweat suits and then they start this marching,  
3 doing these laps, you know.

4 Later I saw that was, you know, basically like it was  
5 a dog run where they just did these laps. But in his letter  
6 he said that he had to do marching in the sun, he didn't  
7 want to wear that Navy suit to march in the sun, so he  
8 refused to put it on. So the guards grabbed his broken  
9 thumb and twisted it until he fell to his knees and he  
10 complied putting the clothes on. He would march until  
11 sunset in the sun. He said every hour he was given a sip of  
12 water, but told to keep marching. He would go back to the  
13 cage. It was on the fourth day when they were allowed to  
14 now sit Indian-style in the cage and he was also fed bread  
15 and water on those first three days.

16 Q. Tell me what your son told you about when he is  
17 laying there in the position where he is not supposed to  
18 move on the stomach with his chin down, his arms behind him,  
19 what did your son have to do with regards to going to the  
20 bathroom?

21 A. He said he couldn't go to the bathroom. He had  
22 to stay there. He wouldn't say if he soiled himself, he  
23 said he had to go to the bathroom and he wasn't allowed. He  
24 just stayed there where he was.

25 Q. And what happened if he had to go to the

1 bathroom?

2 A. He couldn't. He had to stay there. And I said  
3 it sounds to me like you had to soil yourself, talking to  
4 him later, and he just put his head down kind of shamefully.

5 Q. And how did you take that?

6 A. I took that to mean that he just did it right  
7 there in his underwear.

8 Q. He didn't want to tell you that?

9 A. Yeah.

10 Q. So he -- when you quizzed him about it, that is  
11 what he was indicating to you by his action?

12 A. Yeah.

13 Q. Did you go down to talk to the Mexican police  
14 about High Impact?

15 A. Yes, I did.

16 Q. And did you --

17 A. I made a report at the (Spanish spoken) offices  
18 down there. Like their version of the D.A.'s office.

19 Q. You speak and read Spanish?

20 A. Yeah, I do pretty well.

21 Q. And you filed a report with the police?

22 A. Yes, I did.

23 Q. In Mexico?

24 A. Yes, I did.

25 Q. And did you see the film that the Mexican police

1       took of High Impact?

2             A.    Yeah, they sent me a copy.

3             Q.    All right.

4             A.    And that is when I realized it looked nothing  
5       like more than a horse corral attached to a dog kennel with  
6       a little dog running behind the dog cages.

7             Q.    Go back just a little bit so we can see the title  
8       of this. This is back towards where it shows the Mexican --

9             MR. HENRIKSEN: Okay, now go ahead and run this.

10            (Whereupon, a video was played.)

11            THE WITNESS: That is from the police video.

12            Q.    (By Mr. Henriksen) They are forced to march  
13       thousands of laps?

14            A.    That one is from the video again.

15            Q.    Pause that.

16            THE COURT: Sorry, it is going to be hard for our  
17       court reporter to -- do you want to --

18            Q.    (By Mr. Henriksen) What I would like to do is  
19       watch that and then I'm going to ask you some questions and  
20       we'll go back and we'll look at some --

21            A.    Okay.

22            Q.    Go ahead and go back to that.

23            (Whereupon, the Inside Edition video was played.)

24            MR. HENRIKSEN: Go ahead and let's watch that Mexican  
25       police video.

1 THE WITNESS: You can see they created that.

2 MR. HENRIKSEN: Let's go back now.

3 THE COURT: The other possibility here would be to  
4 play it without the sound, but I'll let you handle it in the  
5 way however you would like to.

6 MR. HENRIKSEN: What I would like to do -- let's go  
7 ahead and do that, that is a good suggestion. Go back and  
8 play it without sound. Shut the sound off. What I would  
9 like you to do, maybe if you can -- I have got a pointer  
10 over here, I would like you to point out where the cages  
11 are.

12 MR. SILVESTER: I'm not sure what we're doing here. I  
13 don't think Mr. Goodwin has said he has ever been there. So  
14 the pictures speak for themselves. We don't need him to  
15 interpret those pictures, Your Honor. I think that is  
16 improper.

17 MR. HENRIKSEN: I'm asking him when he saw the Mexican  
18 video that what his son described to him, that the place  
19 looked like and what they were doing and how they described  
20 it so he verifies what his son told him.

21 MR. SILVESTER: The only issue is what he told  
22 Ms. Scheff, Your Honor.

23 MR. HENRIKSEN: We have already laid the foundation  
24 for that, Your Honor, we can do that again.

25 THE COURT: All right. I'm going to allow a limited

1 amount -- let me just remind the jury again this is coming  
2 in to show Ms. Scheff's state of mind when she said certain  
3 things or did not say certain things. And it is for that  
4 limited purpose that we're receiving the evidence. But  
5 let's not spend too much time on this point then,  
6 Mr. Henriksen.

7 MR. HENRIKSEN: I have spent more time than I thought.

8 THE COURT: All right.

9 MR. HENRIKSEN: All right.

10 Q. (By Mr. Henriksen) She is going to play it  
11 without the sound now Chris. If you could, when she starts  
12 that, show us where the cages are?

13 A. How does this work it?

14 Q. It is the yellow button. Go ahead. I would like  
15 you to freeze it when I tell you too.

16 THE COURT: Could I see the lawyers? Mr. Henriksen, I  
17 need to stop. Could I see the lawyers for just a second at  
18 side bar.

19 (Whereupon, a side bar conference was held out  
20 of the presence of the jury.)

21 THE COURT: Sorry to interrupt you. There is a boy  
22 crying in the front row. I didn't know how you wanted me to  
23 handle that?

24 MR. HENRIKSEN: Who is it?

25 THE COURT: On the front row.

1           THE CLERK: He came in with the lady with the black  
2 hair.

3           MR. HENRIKSEN: I don't know who he is, but he is --  
4 the video I think is of one of the boys.

5           MR. SILVESTER: He is -- all of the people Ms. Scheff  
6 has brought into the courtroom.

7           THE COURT: Would you like me to do anything?  
8 Anything you want me to do or just --

9           MR. SILVESTER: I hate to point it out, the jury  
10 seeing it, but if we take a break pretty soon, I think we  
11 ought to caution them. We have got the rules from you  
12 saying we shouldn't be doing this.

13           (Whereupon, the side bar conference concluded.)

14           THE COURT: We're going to take a break now. Ladies  
15 and gentlemen, I think it might be a good point for our  
16 lunch break at this time, so why don't we go ahead and take  
17 a lunch break.

18           THE CLERK: All rise for the jury, please.

19           (Whereupon, the jury left the courtroom.)

20           THE COURT: Everybody can sit down, sir. I don't want  
21 to keep you in the box. If you want -- if you want to step  
22 down here we need more testimony I'm just saying I have a  
23 couple of things to sort out with the lawyers. Don't leave  
24 the -- we're going to take about a 15 minute break here in a  
25 minute and I need you back to testify. All I'm saying is if

1       you're more comfortable stepping down, you can do that or  
2       sit there.

3               THE WITNESS: I'll sit here.

4               THE COURT: The reason I'm taking a break is I see  
5       there is some people here that are watching the proceedings  
6       and you're certainly welcome to do that. But I notice there  
7       is a man seated there who is crying. And you're certainly  
8       welcome to watch the proceedings but if you cannot restrain  
9       your emotions for whatever reason you have to leave the  
10      courtroom. I don't want our jury to be distracted one way  
11      or the other.

12              So I'm going to have to ask you to leave the courtroom  
13      until you can compose yourself. And similarly I'm going to  
14      caution all members of the audience they're welcome to watch  
15      the public proceedings but not do anything in any way to  
16      distract our witnesses or to influence the jury. And our  
17      court security officers will make sure that those rules are  
18      observed.

19              All right. Just one other thing I needed to check  
20      with the lawyers. The jury instructions, they looked good  
21      from my perspective, a couple of small typographical errors.  
22      Other than that --

23              MR. SIEBERS: Your Honor, I did find some errors that  
24      I think are more than typographical. Could we review those?

25              THE COURT: All right. Hang on just one second. I

1 have what should be the final set. Let me hear your  
2 suggestions and I'm glad to hear from Mr. Henriksen. Do we  
3 have the special verdict form? I do not have the special  
4 verdict form. I do have the special verdict form in front  
5 of me.

6 MR. SIEBERS: This is just a typo. I want to make  
7 sure we caught it. Number four it says if you answer yes to  
8 number one, I think that should be number three.

9 MR. HENRIKSEN: Stipulate, Your Honor.

10 THE COURT: All right.

11 MR. SIEBERS: And then I believe you have answered  
12 questions says one or three and I believe they have to  
13 answer one and two as far as false advertising claim and  
14 then three as far as the defamation claim. I don't know how  
15 we want to work that.

16 THE COURT: Isn't it one and three? If they say  
17 answer one, then we have got a Lanham Act situation, we need  
18 damages. If they say three we have got a defamation  
19 situation and we need damages there. Two is not relevant to  
20 that determination.

21 MR. SIEBERS: Okay, Your Honor.

22 THE COURT: Unless somebody sees things differently,  
23 that is the way I'm looking at it.

24 MR. SIEBERS: Then on jury instruction number 29.

25 THE COURT: All right.

1           MR. SIEBERS: We had come to an agreement yesterday  
2           that in the first paragraph there the words "no more than"  
3           would be taken out and it would be our burden to prove by a  
4           preponderance of evidence that --

5           THE COURT: I was wondering about that. I think that  
6           is what we decided yesterday.

7           MR. HENRIKSEN: And you're into the parens one.

8           THE COURT: No, I'm up -- this is on jury instruction  
9           number 21 the second line from the top. Proposed "no more  
10          than," the words "no more than" should be stricken and they  
11          will be stricken.

12          MR. HENRIKSEN: And we also need to correct in the top  
13          line quite a few instructions with that it needs to say  
14          defendant PURE not defendants any more. It should be  
15          defendant PURE.

16          THE COURT: We're in the Lanham Act so that will be  
17          defendant PURE's communications.

18          MR. HENRIKSEN: Then you have got similar -- similar  
19          changes that need to be made to several instructions where  
20          we have got defendant's in those instructions.

21          THE COURT: All right. I'll have my law clerk just  
22          double check that.

23          MR. SIEBERS: Your Honor, we have added the language  
24          in instruction 18 where plaintiff is only pursuing false  
25          advertising against PURE but we have no objection to --

1           MR. HENRIKSEN: Jury instruction 18 parens one, needs  
2 to say that the defendant PURE we have got defendants so  
3 there are several like that.

4           THE COURT: All right. I have got that one on number  
5 18.

6           MR. HENRIKSEN: And my suggestions at the end of  
7 number 18 is we should have, to make this clear, is that it  
8 should say plaintiff is only pursuing a false advertising  
9 claim against defendant PURE and not Ms. Scheff because we  
10 don't ever say not.

11          THE COURT: That seems fair enough against defendant  
12 PURE, Inc. not Ms. Scheff. I'll insert that as well.

13          MR. SIEBERS: Not Ms. Scheff individually.

14          THE COURT: Not Ms. Scheff individually. All right.  
15 Any other substantive changes that need to be made?

16          MR. SIEBERS: Yes, Your Honor, instruction number 41.  
17 We had changed the Lanham Act to false advertisement. Just  
18 to clarify that claim we had taken out the word "net" before  
19 profits.

20          THE COURT: Yes.

21          MR. SIEBERS: And we have changed the word "products"  
22 to "services."

23          THE COURT: All right.

24          MR. SIEBERS: And my last charge, Your Honor, is on  
25 instruction 43 and two mentions of products which I thought

1 we had changed to services or maybe it was just words being  
2 taken out.

3 THE COURT: Services in number 43.

4 MR. SIEBERS: First paragraph and third paragraph.

5 THE COURT: All right. I got those. Anything from  
6 the defendants?

7 MR. HENRIKSEN: In that same instruction, 43 again,  
8 we're saying to defendant it needs to say PURE there in the  
9 first line, and it should say PURE's receipts and PURE's  
10 gross revenue. We need to make that correction throughout  
11 the instruction.

12 THE COURT: I have got those changes.

13 MR. HENRIKSEN: Similar change in instruction number  
14 24 on the Lanham Act. Again, the first line it says same  
15 defendants ought to be PURE and it would seem defendant in  
16 the fourth line and it would need to say defendant in the  
17 fourth line.

18 THE COURT: All right.

19 MR. HENRIKSEN: And with regard to instruction 26 I  
20 believe in the fifth line it should state services and  
21 commercial activities when they're being compared to those  
22 of the defendant for making a conclusion that they are being  
23 compared. It needs to say when they are compared.

24 THE COURT: All right. That seems fair.

25 MR. HENRIKSEN: And other than the objections we

1       advised the court of yesterday, I think that, as far as we  
2       know, would be our changes.

3               THE COURT: All right. We'll go ahead and make those  
4       changes and print the special verdict form. I should just  
5       note for the record we could have a more complicated special  
6       verdict form that asked for individualized verdicts as to  
7       defendant Scheff and defendant PURE, but neither side has  
8       asked for that and I think that is appropriate in light of  
9       the evidence and the circumstances of the case. All right.  
10      We'll take a 15 minute break.

11             (Recess.)

12             THE COURT: You may be seated. The jury is lining up.

13             THE CLERK: It will take a few minutes.

14             THE COURT: Quick one.

15             MR. HENRIKSEN: Hopefully a quick one. I am very  
16       concerned of the fact that I stuck to very strict limits  
17       with my client, with my witnesses, and I stuck to this  
18       schedule and tried to cut wherever I can. And now I know we  
19       have got -- plaintiff must be 30 to 45 minutes over.

20             THE COURT: For the record, they're 12 minutes over at  
21       this point.

22             MR. HENRIKSEN: It was ten minutes over a couple of  
23       witnesses ago. I came and looked during a break after Mr.  
24       -- what's his name.

25             THE COURT: I have been keeping strict score here. If

1       you need a few extra minutes to put on your case I'll be  
2       glad to do that for you.

3               MR. HENRIKSEN: I'm just saying I came and looked at  
4       that clock when the expert was on the stand and we took that  
5       break and it said ten after. We have done now two  
6       witnesses.

7               THE COURT: Actually, I think the clock is accurate  
8       but I accept that I'll reset your time. I think you have  
9       more time so I'll fix that.

10              MR. HENRIKSEN: So I'm concerned and --

11              THE COURT: What are you concerned about?

12              MR. HENRIKSEN: We're told now that they have some  
13       documents that we have never seen, this individual has been  
14       a will call witness for weeks and weeks since he has  
15       designated that way and they're giving letters out of his  
16       personal confidential file at WWASP, he just gave them to  
17       us. And we strenuously object to using documents to cross  
18       examine this witness that they knew about. They have to  
19       claim they have to have some surprise of his testimony or  
20       some of that type even to use it on cross examination. This  
21       is something we have never had, it is not Trekker's, it is  
22       not any other thing other than from their files that they  
23       would have reasonable notice they should have provided this  
24       to us to look at.

25              THE COURT: And how -- why should they have provided

1       it to you? Is there a discovery request that covered it?

2               MR. HENRIKSEN: This is a -- this is a document  
3 involving -- I believe so. I think we have asked them for  
4 all this type of correspondence.

5               THE COURT: Let me hear from the plaintiff on that.

6               MR. HENRIKSEN: We asked them for their exhibits years  
7 ago and followed up with supplemental -- said what are you  
8 using for your exhibits, what are you using for exhibits,  
9 tell us what you use for exhibits.

10              THE COURT: I understand this isn't going to be an  
11 exhibit they are just going to ask questions based on it,  
12 right?

13              MR. HENRIKSEN: They have marked it as an exhibit.

14              MR. SILVESTER: I just marked it as an exhibit. This  
15 is the letter that he just referred to in his direct  
16 examination that he wrote to Ken Kay asking for the transfer  
17 to Cross Creek. I didn't know what he was going to say  
18 about it.

19              THE COURT: So --

20              MR. SILVESTER: This is the letter he just talked  
21 about.

22              THE COURT: Did the defense have it before?

23              MR. SILVESTER: No.

24              THE COURT: All right. Well here is what I'm going to  
25 do. I'm going to allow the plaintiff to ask questions about

1 it, but won't receive it as an exhibit.

2 MR. HENRIKSEN: Thank you, Your Honor.

3 THE COURT: On the time limits, plaintiff has an hour  
4 -- defendant has an hour left. And how many more witnesses  
5 do you have?

6 MR. HENRIKSEN: That will be our last witness, Your  
7 Honor. But I understand they might want to try some  
8 rebuttal. I would have a strenuous objection to that.

9 THE COURT: Well, who is your rebuttal witness?

10 MR. SILVESTER: The director of Carolina Springs  
11 Academy, Elaine Davis.

12 THE COURT: To say what?

13 MR. SILVESTER: To refute Ms. Scheff's claim that  
14 [REDACTED] Scheff slept in sewage. That she went to the  
15 hospital and had an I.V. pulled out of her arm and basically  
16 she is the director that was there at the time and had  
17 direct contact with Ms. Scheff. I don't imagine 10, 15  
18 minutes max.

19 THE COURT: How come that wasn't in your case in chief  
20 because you called Ms. Scheff as one of the very early  
21 witnesses in your case in chief. So, you know, rebuttal  
22 should be something new that came out in the defense case.

23 MR. SILVESTER: I tried to keep all of the extraneous  
24 stuff out of my questioning of her. It was when Mr.  
25 Henriksen put her back on in cross and let her spew her

1 story out here that all that stuff came out.

2 THE COURT: That was cross examination early on in the  
3 plaintiff's case in chief.

4 MR. SILVESTER: It was.

5 THE COURT: So why wouldn't -- this doesn't seem to me  
6 to be a proper rebuttal.

7 MR. SILVESTER: We also had -- since we have now had  
8 Bernadette Cabrael and Heidi Mock who both said, you know,  
9 this was an abusive program and Heidi Mock says it wasn't  
10 accredited they have addressed directly the Carolina Springs  
11 program.

12 THE COURT: Well on that -- that is -- now we're  
13 getting a moving target here. Originally I was told she was  
14 going to be rebuttal to Ms. Scheff.

15 MR. SILVESTER: My brains next to me made me move it,  
16 Your Honor.

17 THE COURT: It seems to me that she should not be able  
18 to rebut Ms. Scheff since you had plenty of chance to do  
19 that in your case in chief. Now as to the -- it seems to me  
20 you could ask two or three questions on whether Carolina  
21 Springs Academy was accredited, I would allow that, that  
22 should take a minute or so okay. What else did you want to  
23 do in rebuttal?

24 MR. SILVESTER: Ms. Cabrael said her child was abused  
25 and supported Ms. Scheff's claim that children are abused at

1 Carolina Springs.

2 THE COURT: All right. That came in to show  
3 Ms. Scheff's state of mind unless you are going to put in a  
4 rebuttal witness to counter Ms. Scheff's state of mind that  
5 is not proper rebuttal testimony. I won't allow that.

6 MR. SILVESTER: Okay.

7 THE COURT: Now then the only remaining question is  
8 how much time should the plaintiff be allowed to cross  
9 examine this witness. This witness has been a strong  
10 witness for the defense and I'm going to give the plaintiff  
11 a reasonable chance to cross examine on that. But I think  
12 you can probably get it done in five or ten minutes the way  
13 the previous witness was done. And again I want to be  
14 even-handed. If the defendant needs more time to cover  
15 points I'll be glad to do that.

16 All right. So again I remind everyone in the audience  
17 that we're not going to have any more distractions from  
18 anyone and our court security officers will make sure that  
19 is the case. Why don't we get our jury in.

20 THE CLERK: All rise for the jury, please.

21 (Whereupon, the jury returned to the courtroom.)

22 THE COURT: All right. Ladies and gentlemen, I am  
23 sorry we took a little bit longer break than normal. We  
24 were sorting out a few things with the lawyers but I think  
25 we're zeroing in on the conclusion of the testimony in this

1 case and obviously sometimes we have to meet with them to do  
2 a couple of things on that. So I think we were going to  
3 continue then with Mr. Henriksen.

4 Q. (By Mr. Henriksen) Thank you, Your Honor.  
5 Mr. Goodwin, eventually your son was transferred to Cross  
6 Creek?

7 A. Yes, he was.

8 Q. And at Cross Creek, you eventually went there and  
9 picked up your son and toured the facility?

10 A. That is right.

11 Q. I would like you to tell -- have you tell me what  
12 your son told you about Cross Creek and what you repeated to  
13 Sue Scheff? Very briefly.

14 A. That there had been a couple of riots in the time  
15 that he was there. And I just told her my personal  
16 impressions of seeing that facility from the top floor to  
17 the basement. That furniture was broken, chipped and in bad  
18 repair. The place smelled terribly of mildew coming out of  
19 the basement, filling up the whole place, but in the  
20 individual basements it smelled like very musty, like dirty  
21 linens and dirty socks.

22 And that my son and the other boys that I saw and  
23 spoke to over there they all looked dirty, they looked like  
24 they didn't have proper hygiene, acne was real bad, hair was  
25 greasy. And just the reality of just have gotten nothing

1       for my money just crashed in on me like a ton of bricks.

2               Q.    What did your son tell you about what the boys  
3       did during the day?

4               A.    Um, during the day they spent the entire time in  
5       the basement in classes.

6               Q.    What did he tell you about the classes?

7               A.    Well, that they're down in the basement, they're  
8       really crowded, and they smelled of mildew all day long.  
9       And that they are in there reading textbooks, that is about  
10      it. Down on that same level is where I saw the two rooms.  
11      I guess they were OP, observational placement rooms. I saw  
12      two kids in there, one was laying down on the floor with his  
13      arms inside of his T-shirt looking like -- when I first  
14      looked at him I thought he was in a straight-jacket but then  
15      when he rolled over to look at me, I realized he had his  
16      arms folded inside of his long sleeve shirt, just it looked  
17      like straps but it was a long-sleeve shirt laying on the  
18      floor.

19              Q.    I would like to just have you look briefly just  
20      so we can identify them Exhibit M. And Exhibit M are those  
21      the photos that you received from the Mexican police of High  
22      Impact?

23              A.    Yes. I received the video and a few photos.  
24      Those are them.

25              Q.    I would like to see if we can just, without the

1 sound, have you point out the things on the video we were  
2 going to have you look at. And you know, can you sort of  
3 shuttle through? Thank you. I would like to have you just  
4 point out with the pointer -- do you have the pointer up  
5 there still?

6 A. I do.

7 Q. All right. Now, I'll have Malea just shuttle  
8 through that so we can see the cage there. A little bit  
9 quicker, if you can. I don't know -- is that as fast as you  
10 can go? That is okay. Okay. Stop there. So this is a boy  
11 in a cage that you saw on the video?

12 A. Um, this is not the video that the police sent  
13 me. This is a video that Pablo Padula, his report to  
14 Premier. After he came to my house and interviewed me, he  
15 did this report.

16 Q. I see two persons in those cages. That is how  
17 you described it to Sue?

18 A. Yes.

19 Q. Keep going.

20 A. That is the Indian-style position.

21 Q. Keep going. Keep going. I think that is -- this  
22 is --

23 A. Right here.

24 Q. This is the young men walking around? Are those  
25 the cages?

1           A.    Those are the cages.

2           Q.    What are these young men doing as your son  
3 described to you?

4           A.    Marching, doing their marching.

5           MR. HENRIKSEN: That is all of the questions I have,  
6 Your Honor.

7           THE COURT: All right. Thank you. Thank you,  
8 Mr. Henriksen. Thank you. Follow-up from the plaintiff  
9 then, Mr. Silvester?

10          MR. SILVESTER: Thank you, Your Honor.

11                                   **CROSS EXAMINATION**

12          BY MR. SILVESTER:

13           Q.    Mr. Goodwin, we have never met. I'm Fred  
14 Silvester and I represent the World Wide Association of  
15 Specialty Programs. It sounds to me like you had a lot of  
16 trouble with your boy, Chris, correct?

17           A.    Yeah, I had problems with him. He had  
18 psychological problems that I was dealing with.

19           Q.    In fact, it must have been pretty frustrating to  
20 go through psychologist and psychiatrist and school  
21 counselors and not be able to come to the solution?

22           A.    Right.

23           Q.    And when Chris went to High Impact, you were  
24 hoping you would find a solution?

25           A.    I was hoping to find a solution at Casa by the

1 Sea. And get the solution as was described to me in the  
2 seminars.

3 Q. The same solution you were hoping to find with  
4 psychologists and psychiatrists, social workers, they had  
5 already worked with, correct?

6 A. Right.

7 Q. And, in fact, your son worked with Dr. Saqui at  
8 Casa by the Sea; correct?

9 A. Right.

10 Q. And in fact, in one of the first e-mails that you  
11 sent to Ms. Scheff which she produced to us, you said that  
12 you thought Dr. Saqui -- you thought that there had been  
13 medical malpractice by Dr. Saqui and you had a good case  
14 against him, correct?

15 A. No, I don't recall saying that. What I recall  
16 saying is that he diagnosed him as being moderately mentally  
17 retarded and when I questioned him is this program really  
18 set up to handle kids with that kind of a problem, he goes  
19 yeah there is a lot to work with here with your son.

20 Q. May I approach, Your Honor? Let me show you a  
21 document that has been produced to us by Ms. Scheff. And I  
22 would like to draw your attention to the third paragraph  
23 there. Just read it to yourself for just a moment.

24 MR. HENRIKSEN: Please tell us what you're reading.

25 THE COURT: Which document is this, Mr. Silvester?

1 MR. SILVESTER: I thought I gave you a copy.

2 THE COURT: You can go ahead and read that. We're  
3 making sure both sides have a copy here.

4 MR. HENRIKSEN: Your Honor, may we approach?

5 THE COURT: Sure.

6 (Whereupon, a side bar conference was held.)

7 MR. HENRIKSEN: I want to be very patient but we have  
8 never seen this document.

9 MR. SILVESTER: You produced it.

10 MR. HENRIKSEN: It has never been marked as an  
11 exhibit. I don't -- he is walking to a witness giving it to  
12 them saying we produced it. There are thousands of  
13 documents and he just hands us that right now.

14 MR. SIEBERS: It has the PURE Bates number on it.

15 MR. HENRIKSEN: Look at our documents.

16 THE COURT: All right.

17 MR. HENRIKSEN: Marking this as an exhibit.

18 MR. SILVESTER: I'm not going to offer it. I'm asking  
19 him trying to refresh the witnesses recollection.

20 MR. HENRIKSEN: We have got it, you know.

21 THE COURT: I think Mr. Henriksen is right. You  
22 should have shown this to him during the break. In view of  
23 the circumstances, I'm going to go ahead and allow you to  
24 use it. The record will reflect that the document appears  
25 to be PURE Bates stamp number on it PURE 240 at the bottom.

1 MR. SIEBERS: That is our Bates number that we put on  
2 it when the documents come into our office.

3 MR. HENRIKSEN: We have had disputes from the  
4 beginning as to not getting -- not -- we are rearguing --  
5 rehash this and rehash this. We don't know that we have  
6 ever seen this document.

7 MR. SILVESTER: Are you questioning me? This is one  
8 you produced.

9 MR. HENRIKSEN: I just said I don't know.

10 THE COURT: We're going to settle this. Go ahead and  
11 ask the questions and if you need additional time to review  
12 that, that is fine.

13 (Whereupon, the side bar conference concluded.)

14 THE COURT: Mr. Silvester, why don't you wait a minute  
15 or two to make sure Mr. Henriksen has had an opportunity to  
16 look at the document and to make sure that our witness has  
17 had a full chance to look at it as well.

18 Has everyone had a chance to look at it? Go ahead,  
19 Mr. Silvester.

20 Q. (By Mr. Silvester) I think I have a question.  
21 Let me see if I can ask it again, does this help refresh  
22 your recollection what you told Ms. Scheff is that you  
23 thought you had a malpractice case against Dr. Saqui?

24 A. Do you want me to read the third paragraph?

25 Q. No, I'm just wondering if it had refreshed your

1 recollection?

2 A. It states that I think he had -- he was either  
3 misdiagnosed or the program was misrepresented. It is one  
4 or the other. That was my personal opinion.

5 Q. Now, do you recall signing a document when Chris  
6 went to High Impact that said High Impact is a boot camp.  
7 Participants function in a camp environment within a fenced  
8 compound. They sleep in sleeping bags in a tent, cook their  
9 own food in an open fire. There are basic toilets, cold  
10 water only bathing and washing facilities. Do you remember  
11 a document that said that?

12 A. No. I remember the brochure.

13 Q. Do you remember signing a document that said  
14 Carolina Springs, excuse me, that Casa by the Sea had no  
15 management authority over High Impact?

16 A. No.

17 Q. You don't remember a document that said Casa by  
18 the Sea has no ownership interest in High Impact?

19 A. I don't recall. You're talking about the  
20 contract that a parent signs for all these programs?

21 Q. No, I'm talking about the contract that you  
22 signed for High Impact?

23 A. Um, what I signed were -- I got like the last  
24 four pages, I got a fax from Dave Scolding and it had a  
25 couple of pages to it and he said these are the -- these are

1 the two lines that you sign. I think at one point I did get  
2 a contract from there but it was already after Chris had  
3 been moved out of High Impact and was at Cross Creek.

4 Q. And Chris went to Cross Creek at your request,  
5 right?

6 A. Yes.

7 Q. And he went to Cross Creek because the most  
8 recent family therapist that you were dealing with at home  
9 knew the program?

10 A. Yes.

11 Q. And knew the therapy available within the  
12 program?

13 A. Right.

14 Q. And when was it that you went to Cross Creek?

15 A. That would have been May, I think it was the  
16 middle of June, June 13th, I think, of 2000 -- of 2000.

17 Q. So May the 13th of 2000?

18 A. June.

19 Q. June the 13th?

20 A. Yeah.

21 Q. June 13th of 2000?

22 A. I signed the papers for High Impact on May 26th.  
23 I think he was, as far as I knew, he was only there for a  
24 couple of weeks.

25 Q. And you toured the entire campus?

1           A.    Yeah.

2           Q.    You toured the manor which is the north end of  
3   LaVerkin, Utah?

4           A.    Is that the girl's center?  I toured the girl's  
5   center and I toured the boy's center.

6           Q.    Did you tour the main campus that is right on  
7   State Street in LaVerkin, Utah?

8           A.    Yes.

9           Q.    You went in and you saw the gym facility that  
10   they had there, correct?

11          A.    No.  I saw the cafeteria.  There was -- there was  
12   things under construction.  I remember looking through  
13   doors.  I remember in the lunch room there was a girl  
14   sitting there with three inch tape across her mouth.

15          Q.    You just made that up.

16          A.    No, I did not make that up.

17          Q.    Let me ask you a question.  Did you have a chance  
18   to talk with Dr. Seally the psychologist at Cross Creek?

19          A.    No.

20          Q.    Did you talk with any of the numerous social  
21   workers that worked there while you were there?

22          A.    I talked to Thayne and I talked to Brian and Pia  
23   Finua.

24          Q.    My question is, did you talk with -- did you talk  
25   with any of the social workers?

A. I don't know. I'm just saying those names. I didn't know if they were social workers or not.

Q. Did you find out that even though Cross Creek, which was a World Wide program, tried to work with your son they found that it was almost impossible to work with him?

A. No.

Q. They didn't tell you that?

A. No, they were surprised I was taking him out of the program. They said he was a good kid.

MR. SILVESTER: Let me have just a moment, Your Honor.

THE COURT: Sure.

MR. SILVESTER: That is all I have. Thank you.

THE COURT: All right. Follow up on that, Mr. Henriksen?

REDIRECT EXAMINATION

BY MR. HENRIKSEN:

Q. Do you still have that e-mail?

A. Yes.

Q. That is dated two and a half years ago, January 16, 2002, correct?

A. I don't have this. This is somebody else's.

Q. He doesn't have it.

THE COURT: That was the last witness I think.

Q. (By Mr. Henriksen) Did you -- did Mr. Silvester give you a chance to read this e-mail?

1           A.    Yes.

2           Q.    Okay.  This is an e-mail that you sent on January  
3 16, 2002, correct?

4           A.    That is correct.

5           Q.    More than two and a half years ago?

6           A.    Right.

7           Q.    And in this statement, let's look at what you  
8 said about the misdiagnosis.  You said either Dr. Chappus  
9 misdiagnosed my son's condition and I had a malpractice case  
10 against him or his diagnosis at Casa by the Sea was fully  
11 aware of was beyond what Casa or WWASP programs could deal  
12 with yet they continued to keep him in the program and  
13 insist to me, with the recommendation of Dr. Chappus, that  
14 the WWASP program was the appropriate treatment?

15          A.    Yes.

16          Q.    Is that what you have told us today?

17          A.    That is what I have told you today.

18          Q.    And in the -- and in this e-mail you tell some  
19 things that happened to your son?

20          A.    Right.

21          Q.    Let's see if those are consistent with what you  
22 told us today.  This is what you wrote two and a half years  
23 ago.  He was awakened and tricked in the middle of the night  
24 to come into the hallway and then he was forcibly  
25 restrained.  His head was pound into the floor by the staff

1       which caused him to bleed. He was in room restriction for  
2       several days at Casa on two occasions. And then you say at  
3       High Impact my son suffered the following: A broken thumb  
4       went untreated and was forcibly twisted to make him comply  
5       with orders to be tortured, he was caged for eight days, he  
6       was fed only bread and water for three days, and he was  
7       threatened with a cattle prod. Is this what you have told  
8       us today?

9             A. Yes, that is.

10            MR. HENRIKSEN: Thank you, Mr. Goodwin.

11            THE COURT: Thank you for your testimony, sir, and  
12       you're free to watch the proceedings or go back to  
13       California as you choose.

14            THE WITNESS: Okay.

15            THE COURT: Who is your next witness then,  
16       Mr. Henriksen?

17            MR. HENRIKSEN: Your Honor, the defendant would rest  
18       at this time.

19            THE COURT: All right. I understand the plaintiff may  
20       have one brief rebuttal witness.

21            MR. SILVESTER: One very brief rebuttal witness, if I  
22       may go out in the hall and get her.

23            THE CLERK: Is this somebody who also testified or is  
24       this a new witness?

25            MR. SILVESTER: This is the last witness. She has not

1 testified.

2 THE CLERK: Come forward by the witness stand and I'll  
3 swear you in right there. Please raise your right hand.

4 ELAINE DAVIS,

5 Having been first duly sworn,  
6 was examined and testified as follows:

7 THE CLERK: If you would have a seat right there,  
8 ma'am. If you would state your name and spell it for the  
9 record, please. And please speak into the microphone.

10 THE WITNESS: My name is Elaine Davis, E-L-A-I-N-E  
11 D-A-V-I-S.

12 **DIRECT EXAMINATION**

13 BY MR. SILVESTER:

14 Q. Mrs. Davis, um, we know each other because your  
15 deposition was taken in this case, right?

16 A. Yes.

17 Q. Could you tell the Court and the jury a little  
18 bit about your educational background?

19 A. I have worked for the state of South Carolina. I  
20 worked there for about 20 years with the different  
21 facilities as directors of moderate management. I have  
22 worked for high management and I have also worked for the  
23 low management. I also worked --

24 Q. I need to stop you right there. You answered my  
25 second question.

1           A.    Okay, sorry.

2           Q.    My first question is your education?

3           A.    My education.   Okay.   I have a bachelors degree  
4           in human service and I'm working on my MBA degree right now,  
5           my masters.

6           Q.    And you're the director of Carolina Springs  
7           Academy?

8           A.    I am.

9           Q.    How long have you held that position?

10          A.    Since February of 1999.

11          Q.    Were you the director during the period of time  
12          Ms. Scheff's daughter was at the school?

13          A.    I was.

14          Q.    We had a witness yesterday, and I'm going to do  
15          this by way of foundation, Ms. Cabrael who was here who  
16          indicated her daughter was in there at the same time.   Do  
17          you remember Bernadette Cabrael?

18          A.    I do.

19          MR. HENRIKSEN:   Your Honor, objection, that is beyond  
20          the scope of direct or what the Court has allowed this  
21          witness to talk about in the order and instructions to this  
22          counsel.

23          THE COURT:   Why don't we zoom right in on the salient  
24          point here.

25          MR. SILVESTER:   I was trying to lay a little

1 foundation.

2 MR. HENRIKSEN: Your Honor, I still object. That is  
3 not foundation for this testimony.

4 THE COURT: We're just going to get some accreditation  
5 things. Let's get right to that.

6 MR. SILVESTER: During the period of time that  
7 Mrs. Cabrael's daughter was at the school, did you have  
8 certified teachers at the school?

9 MR. HENRIKSEN: Objection, Your Honor.

10 THE COURT: Overruled. Go ahead.

11 THE WITNESS: I did.

12 Q. (By Mr. Silvester) And do you remember in the  
13 period of the year 2000 about how many certified teachers  
14 were at Carolina Springs Academy?

15 A. I don't know the exact number at that particular  
16 time.

17 Q. Okay. Was the academic program in 2000  
18 accredited?

19 A. It was.

20 Q. And was there some institution that provided  
21 accreditation?

22 A. Yes, sir.

23 Q. And what was the organization that accredited the  
24 school in South Carolina?

25 A. Northwest Association.

1 Q. I am a little hard of hearing. I didn't hear  
2 you.

3 A. Northwest Association.

4 Q. Okay. And did that association actually visit  
5 the school to do accreditation?

6 A. It did.

7 Q. Did you meet with them when they did that?

8 A. I did.

9 Q. And at the time that you began working at  
10 Carolina Springs, was the academic program accredited?

11 A. Yes, it was accredited.

12 MR. SILVESTER: That is all I have. Thank you.

13 THE COURT: All right. Follow up to that,  
14 Mr. Henriksen.

15 **CROSS EXAMINATION**

16 BY MR. HENRIKSEN:

17 Q. Thank you, Your Honor. Is it Ms. or Mrs. Davis?

18 A. Excuse me?

19 Q. Ms. Davis?

20 A. (Witness nodded.)

21 Q. I took your deposition sometime ago, do you  
22 remember that?

23 A. I do.

24 Q. It was a crowded room, we had all those documents  
25 sitting up. In fact, we had two large boxes of documents

1 about your school DSCC gave to us that day. Do you remember  
2 that?

3 A. I remember.

4 Q. And in all those documents, the questions I have  
5 that you're talking about here today, can a school be  
6 properly accredited if they don't report abuse of students?

7 A. I'm not sure exactly what --

8 Q. If a school has accreditation as part of its  
9 accreditation, don't they have to have a policy with regards  
10 to reporting abuse of its students?

11 A. Are you speaking of education or --

12 Q. At your school, you have an accreditation to  
13 teach those students, correct?

14 A. I have -- we have an educational components which  
15 we have accreditation but we also have an accreditation by  
16 the State of South Carolina because we're licensed by them.

17 Q. So there are two accreditations. One to the  
18 state of South Carolina you have to meet licensing  
19 requirements, correct?

20 A. We do.

21 Q. And if you don't have that license in place, then  
22 you can't even operate the educational part, correct?

23 A. We could do the educational part.

24 Q. Where would the students come from?

25 A. If we -- I'm not sure exactly what you're trying

1 to say.

2 Q. There are two ways to look at this. You have to  
3 have an accreditation to have those students living on the  
4 property, correct?

5 A. At the beginning we did not know that we had to  
6 be licensed by the State of South Carolina but --

7 Q. But you did?

8 A. But we chose --

9 Q. But you did have to have a license and you were  
10 unlicensed to keep kids on that premise, correct?

11 A. No, sir, we're not unlicensed.

12 Q. You were at the beginning, correct?

13 A. In the beginning when I became the director, it  
14 was not a licensed facility.

15 Q. You weren't the first director, were you?

16 A. No, sir, I was not the first director.

17 Q. In fact, the State of South Carolina took that  
18 director and said he was inappropriate to be director and  
19 they booted him off the facility, correct?

20 A. They said he was not -- he did not have the  
21 credentials to be.

22 Q. Should I read that order? You're familiar with  
23 the order?

24 A. Yes, sir.

25 Q. That says he should leave the facility, correct?

1           A.    Yes, sir.

2           Q.    All right.  So you have to have an accreditation  
3           from the state to have the students live there.  And as part  
4           of that accreditation, you have to report abuse that takes  
5           place or any allegation of abuse; isn't that true?

6           A.    That is true.

7           Q.    And isn't it true that Carolina Springs Academy  
8           failed to report allegations of abuse to the state?

9           A.    I don't recollect that there was an incident.

10          Q.    Would you please bring up Exhibit D page five, it  
11          is number 78.  Paragraph 16.  This is a letter written from  
12          the Department of Social Services to you, your school, and  
13          says abuse.  You are not following your own policy on  
14          reporting abuse and dealing with staff who are suspected of  
15          child abuse.  Your own policy manual defines what you  
16          consider abuse.  The incidents currently under investigation  
17          by the Child Protective Services Unit at the DSS office fall  
18          into the category listed in your manual for inappropriate  
19          abusive behavior.

20          Your own policy simply states that if a staff person  
21          is suspected of abuse, he or she will be relieved without  
22          pay until the investigation is completed.  To our knowledge,  
23          the facility staff members who are allegedly perpetrators  
24          have not been relieved of their duties pursuant to your own  
25          policy.  Also your policy is that all reports of suspected

1 abuse shall be made to you and you will report to DSS.  
2 However, as mandated reporters, your staff is required to  
3 report directly to the DSS if they suspect abuse or neglect  
4 pursuant to South Carolina Code Annotated section something  
5 or other.

6 It is true that they cited you for infringement  
7 because you failed to report allegations of abuse and you  
8 failed to relieve those staff members of their duties; isn't  
9 that true?

10 A. No, sir, that was not correct.

11 Q. That paragraph is not correct.

12 A. That paragraph was that they came on my campus  
13 and they spoke with some children. They -- they reported  
14 that. And then -- but I was not acknowledged of that at the  
15 time.

16 Q. This is a letter to you?

17 A. They wrote that because we have to do corrective  
18 action.

19 Q. And they said that you're not in compliance and  
20 you haven't reported the suspected child abuse, isn't that  
21 what they said?

22 A. That is what they said, but that was not the  
23 exact truth. R.

24 Q. All right. Let's turn to Exhibit D-1, the second  
25 paragraph from the bottom. This is a letter from Elizabeth

1 Patterson attorney State Director of the South Carolina  
2 Department of something, like a memo blocked out.

3 And in this paragraph it says, "Carolina Springs has  
4 been performing functions of a child caring facility and was  
5 ruled by a judge to be a child caring facility. Carolina  
6 Springs remains an unlicensed child caring facility because  
7 of its unwillingness and/or inability to meet licensing  
8 requirements." That is true. That was a letter written to  
9 this Richard Byars. Isn't that true? You're aware of this,  
10 aren't you?

11 A. I was not there at this time.

12 Q. Okay. Well let's look at a letter written to you  
13 Exhibit D-22. The DSS letter May 7th, 2003, to you and  
14 let's highlight where it says some of the deficiencies.

15 MR. SILVESTER: Your Honor, I hate to do this, but  
16 isn't this going way beyond the limited direct?

17 THE COURT: It was limited.

18 MR. SILVESTER: 2003 now.

19 THE COURT: It was limited direct. How does this tie  
20 in?

21 MR. HENRIKSEN: She is talking about their  
22 accreditation, what they have to do to meet requirements,  
23 and this is specifically on this issue, Your Honor, and I  
24 can tie it in with her other accreditation also. That is  
25 what I was going to do next.

1 THE COURT: Keep it linked to her accreditation.

2 MR. HENRIKSEN: Uh-huh (affirmative). And this  
3 paragraph is a letter written to you. Again, paragraph one  
4 saying, "instances of suspected child abuse and neglect must  
5 be reported. The fact that you have taken administrative  
6 action against an employee for an incident with a child  
7 concerning improper discipline is not in our nature, ability  
8 to report. This was previously cited in our letter to you  
9 dated February 28, 2000. So they're repeating the same  
10 thing to you because you're not reporting suspected child  
11 abuse. This letter is now repeating what they told you  
12 three years sooner, right?

13 THE WITNESS: That is true. But there has never been  
14 an instance that we did not report.

15 Q. (By Mr. Henriksen) But the State of South  
16 Carolina disagrees with that, don't they?

17 A. You would have to go back and know the history of  
18 why they're writing this.

19 Q. Okay. And with regards to this accreditation for  
20 educational program, you have to have a policy in place to  
21 stop the students from being abused and to report any abuse  
22 or suspected abuse to the authorities. Isn't that part of  
23 your educational requirements not to abuse children?

24 A. It is a policy to never abuse children.

25 Q. And the --

1           A.    I'm really not understanding your question.

2           Q.    The simple matter is you can't be qualified as an  
3 educational institution without following a policy of  
4 reporting alleged abuse; isn't that correct?

5           A.    I'm sure that is incorrect. That never was  
6 stated to me.

7           MR. HENRIKSEN: Thank you, Your Honor.

8           THE COURT: All right. Brief follow up limited to  
9 that?

10                                   **REDIRECT EXAMINATION**

11          BY MR. SILVESTER:

12               Q.    Literally one, I hope, Your Honor. Has there  
13 been an incident of child abuse while you have been director  
14 of Carolina Springs that has been found by a court to be  
15 substantiated?

16           A.    No, sir.

17           MR. SILVESTER: Thank you.

18           THE COURT: All right. Thank you, ma'am, for your  
19 testimony.

20           MR. HENRIKSEN: Your Honor, I do have one question.

21           THE COURT: All right.

22           MR. HENRIKSEN: One question.

23                                   **RECROSS EXAMINATION**

24          BY MR. HENRIKSEN:

25               Q.    Zach Penzanella, did the State of South Carolina

1 find that to be a founded case of abuse; isn't that correct?

2 A. Yes, sir, but it was over -- it was overturned.

3 Q. You appealed the decision?

4 A. I didn't. The gentleman did that was --

5 Q. But they first found it to be founded; isn't that  
6 correct?

7 A. When you say founded, they did, but they have  
8 30 days to appeal and they appealed.

9 Q. What was it that Zach Penzanella did? What was  
10 he accused of?

11 A. Zach was not accused of anything.

12 Q. The staff member was accused of what?

13 THE COURT: We had -- a minute ago is this the  
14 lawyer's one question?

15 MR. HENRIKSEN: I never said one question.

16 THE COURT: I thought you did. Go ahead.

17 Q. (By Mr. Henriksen) Did Zach Penzanella have his  
18 collar broken?

19 A. No, sir, his collar bone was not broken.

20 Q. Was it dislocated?

21 A. No, sir. He complained of it but it was not --  
22 the doctors did not say it was dislocated.

23 THE COURT: This was supposed to be --

24 MR. HENRIKSEN: Thank you.

25 THE COURT: We have covered that. Thank you for your

1 testimony, ma'am, and you can step down then. Anything  
2 further from the plaintiff?

3 MR. SILVESTER: No, Your Honor.

4 THE COURT: All right, ladies and gentlemen. That  
5 concludes all of the evidence in this case.

6 Looking at the clock though, I know you might like to  
7 wrap the case up today but we just don't have enough time.

8 Let me tell you what is going to happen tomorrow then  
9 and you'll see why we don't have enough time today and you  
10 can be ready for tomorrow.

11 If you can come here again tomorrow at 8:15 and we'll  
12 start at 8:30. I have some jury instructions for you. That  
13 is the law that applies to the case and I'll try to explain  
14 to you the different causes of action that the plaintiff has  
15 alleged and the different defenses that the defense is  
16 advancing. That will probably take me about an hour to give  
17 you all of the law on that because there are a lot of  
18 different legal issues in the case. Then we'll take our  
19 break. Then we'll come back and have about an hour for each  
20 side to give a closing argument. The plaintiff will go  
21 first, and defendant will have a response, and then a brief  
22 reply from the plaintiff. And then again they'll each have  
23 about an hour. So we're looking at probably three hours  
24 tomorrow morning, the jury instructions and the closing  
25 arguments from both sides.

1           So that will get you the case probably at about 11:30  
2           or noon tomorrow. And then at that point you'll need to  
3           take as much time as you need to reach a fair and  
4           appropriate verdict. This is an important case for both  
5           sides and I know that you'll work through the evidence  
6           carefully.

7           All of the documents and so forth you have seen up  
8           here on the screen will get back to you, and you will have a  
9           chance to look at all of those. So in the meantime, of  
10          course, don't begin the deliberation process tonight. That  
11          is going to occur tomorrow. Don't discuss the case with  
12          folks at home. Don't read anything about it in the papers  
13          or the television. And we'll see everybody back here  
14          tomorrow morning.

15          THE CLERK: All rise for the jury, please.

16          (Whereupon, the jury left the courtroom.)

17          THE COURT: All right. Everyone may be seated and I'm  
18          wondering whether it makes sense at this time to try -- the  
19          exhibits are going back to the jury room. And a couple of  
20          different things. An hour aside, does that seem fair?

21          MR. SILVESTER: Yes, Your Honor.

22          THE COURT: We'll do that. And now on the exhibits I  
23          would like to get those -- is this a good time to get those  
24          organized?

25          THE CLERK: I would like to do that today.

1           THE COURT: Let's get that all organized so tomorrow  
2 at noon then they can just -- they can just go right back.

3           MR. HENRIKSEN: Our exhibits are all completed except  
4 for the videos and we talked about those and we will get  
5 those made and brought back and probably just bring them in  
6 the morning.

7           THE COURT: That is one question I have. If the jury  
8 may want to look at some of these, how -- what if they want  
9 to play 48 Hours or something.

10          MR. HENRIKSEN: We do those on videotape. We need to  
11 have a video machine.

12          THE COURT: We have a video machine.

13          MR. HENRIKSEN: Okay.

14          THE COURT: Does that work for both sides to provide  
15 video equivalent of the DVD's we have been looking at?

16          MR. SIEBERS: I thought that is what we were to do.

17          THE COURT: Great. And so then what we'll have is  
18 these notebooks will go back, right? They have been seeing  
19 the computer blow up but they'll have the notebooks. Does  
20 that work for both sides?

21          MR. SILVESTER: Right, only of admitted exhibits we  
22 assume.

23          THE COURT: That is what I want you to spend a little  
24 bit of time with Ms. Little now and make sure there is no  
25 confusion about that. If there is some issue I'll be

1 available to sort that out. Anything else that we need to  
2 sort out?

3 I'm assuming that tomorrow during closing argument  
4 both sides will do nothing other than refer to the exhibits  
5 that have been admitted. There isn't going to be any  
6 demonstrative -- you could use an easel or something but I'm  
7 wondering --

8 MR. SILVESTER: I was planning on using instructions  
9 and admitted exhibits on the screen.

10 THE COURT: There is no problem with that. I just  
11 wanted to make sure that if there was some claim of surprise  
12 or something I wanted to make sure. Does that sound good  
13 from your perspective?

14 MR. HENRIKSEN: Yeah, Your Honor. I will probably use  
15 maybe some of the easel I would like that in a convenient  
16 place, and I don't know, sometimes I might bring a bucket of  
17 water or something but I'll be careful with it. But that is  
18 something I had thought about so since the court said  
19 demonstrative I thought I better notify the court.

20 THE COURT: All right. That sounds fine. And I guess  
21 the only other thing I noticed Ms. Scheff and maybe some of  
22 the other witnesses have been getting pretty animated during  
23 some of our testimony here. They're going to need to try  
24 not to distract the jury and that is what the attorneys are  
25 for. So please make sure you do that. And any folks in the

1 audience that are here tomorrow may need to do that as well.  
2 All right anything else I need to do? We have our jury  
3 instructions and the verdict form is all set and so we'll --  
4 I'll just let you work with Ms. Little and we'll see  
5 everybody tomorrow morning.

6 MR. SILVESTER: I have to say, Judge, that clock  
7 worked quite well for both of us.

8 THE COURT: I want to say, for the record, that the  
9 lawyers on both sides have done a very nice job on this  
10 case. We had some wrangling earlier on, but I think both  
11 sides have represented their clients well, and we'll see  
12 what the jury does based on the arguments tomorrow. The  
13 clock, I know, is a bit of an annoyance to the plaintiff and  
14 perhaps to the defense, but this is a case where we could  
15 have spent a week trying it or we could have spent ten weeks  
16 trying it. In the interest of fairness, we need to keep it  
17 manageable. That is what I tried to do.

18 MR. HENRIKSEN: Thank you, Your Honor.

19 MR. SILVESTER: Thank you.

20 THE COURT: Thank you, counsel.

21 MR. SIEBERS: Plaintiffs stipulate to the admission of  
22 defendant's Exhibit Notebook A through -- well let's just  
23 say as included in the notebook as --

24 THE CLERK: As checked.

25 MR. FLATER: And defendants stipulate to the

1 plaintiff's exhibits as checked.

2 THE CLERK: Okay.

3 (Whereupon, the trial adjourned at 1:10 p.m.)

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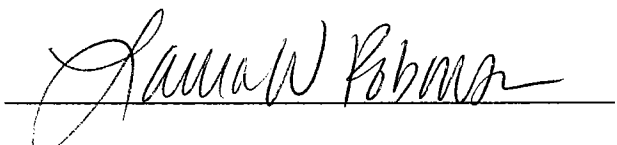
1 STATE OF UTAH )  
2 )ss  
3 COUNTY OF SALT LAKE )  
4

5 I, Laura W. Robinson, Certified Shorthand  
6 Reporter, Registered Professional Reporter and Notary Public  
7 within and for the County of Salt Lake, State of Utah, do  
8 hereby certify:

9 That the foregoing proceedings were taken before  
10 me at the time and place set forth herein and were taken  
11 down by me in shorthand and thereafter transcribed into  
12 typewriting under my direction and supervision;

13 That the foregoing pages contain a true and  
14 correct transcription of my said shorthand notes so taken.

15 In witness whereof I have subscribed my name and  
16 affixed my seal this 23rd day of October, 2004.

17  
18   
19 Laura W. Robinson, CSR, RPR, CP  
20 and Notary Public  
21

22 MY COMMISSION EXPIRES:  
23 December 1, 2004  
24  
25



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1                   Salt Lake City, Utah, August 6, 2004

2                   \* \* \* \* \*

3           THE COURT: We're here this morning to get the case of  
4   World Wide versus PURE to the jury. If I seem a little  
5   blurry-eyed, and my staff seems blurry-eyed, we were here  
6   until 6:00 last night on a question of money laundering, a  
7   contempt proceeding. We started this morning at 7 a.m. and  
8   just concluded. I apologize for being 15 minutes late, but  
9   all I can say is it's a busy day at the office.

10          We are ready to go. My plan is to read the jury  
11   instructions, take a break so they can order their lunch,  
12   get kind of focused on everything, and then come back and do  
13   a two hour run where we will have the closing arguments and  
14   I'll give folks a chance, you know, if you want during the  
15   15 minute break, you can get set up, we'll take a couple of  
16   minutes to let you get set up on your side.

17          MR. HENRIKSEN: If we could take a five minute break  
18   because I have got some easels that I have got to get set  
19   up.

20          THE COURT: We'll certainly give you a chance.  
21   Obviously that will not be involved in your time or  
22   anything.

23          MR. HENRIKSEN: Thank you.

24          THE COURT: Get things situated.

25          MR. SILVESTER: Your Honor, there are a couple of

1 issues that I need to raise for the Court.

2 THE COURT: Sure.

3 MR. SILVESTER: First one may be moot. The woman  
4 sitting in the front row next to the young man yesterday  
5 that was crying, I haven't seen her yet, but the young man  
6 keeps sticking his head in and out of the courtroom.

7 What I found out after the hearing yesterday is that  
8 is Paula Reeves. She is a lawyer from California. The  
9 Court may remember that. And the young man and another  
10 young man confronted Ms. Davis out in the hall before she  
11 testified and accosted her with some pretty rough language.  
12 And I just want to make sure we don't have anything going on  
13 that I can't see that interrupts the jury. He has been  
14 sticking his head back and forth here.

15 THE COURT: All right. We have our -- we have an  
16 extra court security officer here today.

17 THE CLERK: We have one at the moment.

18 THE COURT: Do we have -- Jack is here, isn't he?  
19 Let's see if we can get another court security officer. And  
20 do you have some thoughts on all that, Mr. Henriksen?

21 MR. HENRIKSEN: Yes, Your Honor. I don't know what  
22 may have happened in the hall. Certainly if that happened,  
23 it is certainly disrespectful and should not have happened.  
24 I do have a comment, however. Yesterday during my cross  
25 examination of Chris Goodwin, there was this chuckle that

1 was extremely disturbing to me. I looked right back at  
2 counsel table. I think either someone from counsel table or  
3 one of their witnesses, I think this is sort of going on.  
4 There are comments being said back there by witnesses. It  
5 is unfortunate, but I think it is a natural thing, and I --  
6 I have a tendency when I talk about these matters, I have  
7 six children, I have gotten a little bit emotional twice, I  
8 may be getting emotional, it is a natural thing, certainly  
9 what anyone is doing here it is highly inappropriate and I  
10 don't know who might be showing up, I have no clue.  
11 Hopefully they have all gone. But I don't know what we can  
12 do to try to resolve that.

13 THE COURT: I'm going to keep --

14 MR. HENRIKSEN: If there is something I can do.

15 THE COURT: -- keep an eye on folks. Make sure  
16 something -- we're getting an extra court security officer  
17 and then the young man and Paula Reeves.

18 Jack, we're having some questions about I think we're  
19 all right with the folks here now, but we're concerned about  
20 a young man and his -- apparently his mother. Paula Reeves  
21 and the young man has been disruptive and apparently they  
22 confronted one of the witnesses in this case. Not that  
23 young man, he's an up and coming member of the bar. If you  
24 could just help us keep an eye on folks while we do these  
25 closing arguments.

1 MR. HENRIKSEN: Thank you, Your Honor.

2 MR. SILVESTER: I don't know what the young man's name  
3 is. He had long dark hair. Her name is Paula Reeves. The  
4 young man has sandy hair.

5 THE COURT: I think unless they give you strong  
6 assurances that they're not going to be disruptive, you're  
7 authorized to keep them from the courtroom in closing  
8 argument in view of the disruption I have indicated and what  
9 I have personally observed, Jack.

10 THE CLERK: I'll come around and tell you.

11 MR. SILVESTER: There is one last issue, Your Honor.  
12 I want to make sure we're clear on this, judge. We have  
13 asked for enhancement damages. That is a matter for the  
14 court to take up. And we assume that were there a positive  
15 verdict that would be something that would be subject to  
16 briefing and the court deciding some time in future.

17 THE COURT: That is my understanding. But of course I  
18 would be glad to hear from the defense on whether they have  
19 a different understanding and you don't have any  
20 understanding we need to do something with the jury on that  
21 at this point.

22 MR. HENRIKSEN: That is correct, Your Honor. And I  
23 did -- I had one other suggestion as I was preparing my  
24 closing argument last night. There are couple of times  
25 where proximate cause is used in the instructions and I

1        didn't know what to do. You know, it was 10:00 last night  
2        and I asked my clerk just to e-mail your clerk and  
3        apparently he did not e-mail counsel with that and I advised  
4        him this morning but I thought we should add in a Muji  
5        instruction on proximate cause. It is used a couple of  
6        times. That is sometimes a vague understanding but it is up  
7        to the court to do that or not. I thought that might be a  
8        good suggestion.

9                THE COURT: All right. I'll think about that and we  
10       can think more about that during the break.

11               MR. SIEBERS: Your Honor, we would -- the plaintiff  
12       would strenuously object to that addition of a negligence  
13       instruction. Proximate cause is explained in the defamation  
14       per se instruction as applicable.

15               THE COURT: What I'm going to do is get the jury in  
16       and read the instructions as they are and if there is  
17       something that needs to be adjusted we can do something  
18       during the 15 minute break.

19               THE CLERK: All rise for the jury.

20               (Whereupon, the jury returned to the courtroom.)

21               THE COURT: All right, ladies and gentlemen. I  
22       apologize for starting late. I just thought you would want  
23       to know what the circumstances were that led us to starting  
24       late this morning.

25               I have a Russian money laundering case, a criminal

1 case, a very serious case, nothing to do with this matter.  
2 We were in a hearing that went until 6:00 last night and  
3 emergency things so we came in this morning at 7 a.m. and my  
4 staff and I have been working since 7 a.m. on that. And  
5 unfortunately it spilled over and I apologize to you for  
6 starting late.

7 I wanted you to know it wasn't because we were sitting  
8 around or something, we were working hard on this other  
9 matter that just unfortunately required our attention. But  
10 we're in a position now to get you to the trial here and get  
11 the case to you to decide. You're probably looking at this  
12 big pack of instructions and wondering what is going on  
13 here. These are the instructions on the law that will apply  
14 in this case.

15 And you might wonder why do we have to have so many  
16 instructions on this. But if you think about it for a  
17 minute, if you were a plaintiff in this case or defendant in  
18 this case, you would want to know exactly what the jury was  
19 doing in terms of evaluating the evidence and what the rules  
20 were, and just generally how everything was covered. And so  
21 I have worked with the lawyers over the last couple of days  
22 to come up with a set of instructions that covers all of the  
23 evidence in this case and that we all agree would work.

24 So what I'm going to do now is read you these  
25 instructions. And that will take about 45 minutes or so.

1 And then at that point, we're going to take 15 minute break  
2 so you can have your bagels and the lawyers can get all set  
3 up and come back here for about two hours and do closing  
4 arguments. And then at that point the case will be yours.  
5 So without further adieu, I'm going to start reading jury  
6 instruction number one.

7 (Whereupon, the instructions were read but were  
8 not written down by the court reporter.)

9 THE COURT: Ms. Little, I'm going to need a copy of  
10 the verdict form in a minute. I thought I had that up here.  
11 We're now onto the plaintiff's second cause of action.

12 (Whereupon, the instructions were read but were  
13 not taken down by the court reporter.)

14 THE COURT: All right. And did I read all of those  
15 appropriately?

16 MR. SILVESTER: Yes, Your Honor.

17 MR. HENRIKSEN: Yes, Your Honor.

18 THE COURT: Okay, I just wanted to say a couple of  
19 things. The last instruction was about sending a note out.  
20 Sometimes juries think we're sitting here and two seconds  
21 later we'll be able to get to you. Actually, it takes quite  
22 a while for us to pull everybody back together and answer  
23 that note. If you do have a question, feel free to send a  
24 note out but it may take us a while to get back to you.

25 Also I know the lawyers during their closing argument

1 may talk a little bit about the special verdict form and I  
2 just wanted to tell you what that says. So if there is some  
3 reference to it in the closing argument you'll know what is  
4 going on. This is a two page form that will go back to you  
5 and it has got the different questions that need to be  
6 answered. Question one is, did defendant PURE engage in  
7 false advertising and violation of the Lanham Act? Yes.  
8 No. And you can check either box there.

9 Number two, did PURE willfully engage in false  
10 advertising. Yes. No. Number three, did the plaintiff's  
11 -- sorry, did defendants defame plaintiff with actual  
12 malice? That is the second cause of action. Yes or no.  
13 And then question four, was there a civil conspiracy? Yes  
14 or no. So those are the different causes of action there.  
15 Then if you have answered no to all those questions, then  
16 you don't need to go any further. You can just sign the  
17 form. But if you have answered yes on some of those, and I  
18 spell out which ones in particular, then you need to go on  
19 to damages because you could check yes for the plaintiff  
20 then you need to look at damages.

21 Question five says, what is the total amount of  
22 damages caused by the causes of action that you have found  
23 to be proven? False advertising blank line, you can fill in  
24 any amount. Defamation civil conspiracy is again a blank  
25 line and you can fill in the amount and then you can add

1       those two together.

2               And if you found on defamation in favor of the  
3       plaintiff, then you go to question seven. It says, what is  
4       the total amount of punitive damages and there is a line for  
5       you to fill out there. And again by listing all these  
6       things, I'm not suggesting that you should find damages we  
7       have to cover all possibilities here and it will be up to  
8       you which way you should go in this case. I'm not  
9       suggesting in any way what your verdict ought to be. That  
10      is up to you. I think what we'll do at this point it take a  
11      15 minute break and get organized for closing arguments and  
12      we'll hear closing arguments from both sides at that time.

13             THE CLERK: All rise for the jury, please.

14             (Whereupon, the jury left the courtroom.)

15             THE COURT: All right. Everyone may be seated. And  
16      having just read the jury instructions, I am going to make  
17      two findings on the proximate cause instruction. I'm not  
18      really sure whether the defendant is requesting one, but if  
19      the defendant is requesting one, I'm going to find that the  
20      right to request one has been waived. It simply comes too  
21      late in the process. There were ample opportunities to do  
22      it earlier.

23             And secondly, even if requested timely, proximate  
24      cause is not the central issue in this case and I think the  
25      meaning of the phrase proximate cause is sufficiently clear

1 in the instructions as given. We don't need additional  
2 instructions on that. Anything further we need to do before  
3 closing arguments in the case?

4 All right. Why don't you feel free to get the  
5 courtroom organized in the most effective way, feel free to  
6 move the podium and other things however you want to do it  
7 to make it most effective. Let's have the one arms length  
8 rule in effect for both counsel.

9 MR. HENRIKSEN: Your Honor, I am going to have to have  
10 two easels up here. Maybe one arm length from my easel.

11 THE COURT: That is fine. What I'm concerned about is  
12 I don't want encroachment on the jury space. That is the  
13 concern that I have and I'm not trying to tether you at all,  
14 but that is the concern I have.

15 MR. HENRIKSEN: Great. Thanks.

16 THE COURT: Thanks counsel.

17 (Recess.)

18 THE COURT: Anything we need to take up before I bring  
19 the jury in?

20 MR. SILVESTER: No, Your Honor.

21 THE COURT: All right. And I see the young man in the  
22 front row who was crying, I think, yesterday. Is that  
23 right? All right. We're not going to have any problems are  
24 we.

25 YOUNG MAN: No.

1           THE COURT:   Okay.   And then we have a couple of court  
2 security officers to make sure there are no distractions at  
3 all during our closing arguments of counsel.   Let's get the  
4 jury in.   Do you want me to tell you when you have about  
5 five minutes remaining, Mr. Henriksen?

6           MR. HENRIKSEN:   Ten.

7           MR. SILVESTER:   I would like to reserve 20 minutes for  
8 rebuttal.

9           THE COURT:   So I'll give you a -- so I'll tell you  
10 when you're 25 minutes away from --

11          MR. SILVESTER:   Perfect.

12          THE COURT:   -- then you need to wrap up in five  
13 minutes and I'll give you a five minute warning as well and  
14 I'll give you a ten minute warning as well.   All right.

15          MR. SILVESTER:   Thank you, Your Honor.

16          THE COURT:   Two hours, I mean, is a lot of time and  
17 the jury and the court reporter so we have got to -- I hope  
18 you don't think that is an unreasonable chess clock  
19 mentality there.   Something we have to do to make things  
20 work here.

21          MR. TEDESCO:   Let me remind anybody that if you have  
22 cell phones on turn them off.   Thank you.

23          THE COURT:   Make sure all of the cell phones are  
24 turned off.   Thank you.

25          THE CLERK:   All rise for the jury, please.

1           (Whereupon, the jury returned to the courtroom.)

2           THE COURT: All right, ladies and gentlemen. We have  
3 reached the point in the process that I know you have all  
4 been waiting for. And so without further adieu, I'm going  
5 to turn it over to Mr. Silvester for a closing statement and  
6 then we'll hear from Mr. Henriksen and then a response from  
7 Mr. Silvester.

8           MR. SILVESTER: Thank you, Your Honor.

9           If it please the Court, counsel, ladies and gentlemen  
10 of the jury. We have appreciated your attention. As you  
11 can see, we have gone through a lot of material in one  
12 week's period of time. Some of it you actually haven't had  
13 a chance to see and won't until you get back into the jury  
14 room.

15           I have some empathy for what Mr. Flater said when he  
16 was doing his first examination. I never approached this  
17 position in a trial without being extremely nervous. I have  
18 the responsibility for providing to you an outline of what I  
19 think the facts have shown in this case for my client's  
20 legitimate business with hundreds of employees and hundreds  
21 of -- thousands of kids that they deal with. And it is my  
22 responsibility now to tell you why you should find a verdict  
23 in our favor.

24           I'm going to do something that I usually don't do  
25 however to start with. I'm going to address the defense

1 case because it is important to understand what has gone on  
2 the last couple of days. Defense counsel in this case has  
3 tried their best case that the defendants could try.

4 We have no defense to some of the defenses that they  
5 have tried because of exactly what the judge told you about.  
6 The hearsay evidence. Hearsay evidence is not presented to  
7 you to show the truth of the matter. That is those magazine  
8 -- TV magazine clips, the news articles, they're not here  
9 for you to assume that is what our program is about. In  
10 fact, they're here to show that Ms. Scheff, was not acting  
11 in a reckless disregard of the facts when she posted false  
12 information on both her website and on the Woodbury website.  
13 That is all that stuff goes to.

14 Now, why do I say the defendants have tried the best  
15 case they have? Because 60 Minutes, Inside Edition and  
16 statements by two former employees, the statements by the  
17 fathers about what their sons, the very troubled sons told  
18 them, are not presented for you to determine if World Wide  
19 operates the programs. In fact, I think they were presented  
20 to try and pollute your decision making process. I don't  
21 think that will happen. But if that were what the case was  
22 about, we would have been here for months.

23 Don't you think that if we were trying what happened  
24 to Sergio Alva or what happened to Chris Goodwin or what  
25 happened to John France or what happened to any other child

1 you would have heard the therapist on the stand? Don't you  
2 think those 120 kids that graduate from our programs every  
3 two months would be parading in here saying those kids  
4 aren't telling the truth? They're not telling what the  
5 programs are really like. Don't you think if all of that  
6 stuff that we put in front of you was true, we would have  
7 therapists and we would have teachers. I mean we have 1500  
8 employees in our member schools. We have 2000 kids. We  
9 have been in business long enough that there have been  
10 20,000 kids through these programs.

11 We do stay in business. We do stay in business in  
12 light of what I like to call Geraldo journalism. We can  
13 play on that kind of therapy. We can respond to it. But in  
14 this case, that evidence isn't before you and that is not  
15 what the case is about.

16 I guess in our common experience, and we understand,  
17 we have no defense, we try the other side. We all know it  
18 you know. If you're OJ and you killed your wife, how do you  
19 defend it? You try the prosecutor, you try the police, you  
20 try the crime lab. Have no defense. That is the way it  
21 works in this business. But it is a purposeful intention to  
22 take your eye off the ball and your eye is about our claims  
23 against PURE and Ms. Scheff.

24 Ms. Scheff has no justification for the false  
25 statements that she made in her website and on the Woodbury

1 Report about her own services let alone about our services.  
2 You didn't see witnesses come in and say oh, those were  
3 actually true statements. No. You saw this kind of fog I  
4 think is her word that she tried to place around the entire  
5 case.

6 In fact, if we were trying World Wide as a program, we  
7 would have that Phoenix support group that Mr. Kay talked  
8 about up here that took on the New York Times Reporter and  
9 said you're not telling the truth about our programs. We  
10 would have him here. You would have heard from them if that  
11 is what the case was about. But as you can probably tell  
12 from the outline that the judge gave you by giving you the  
13 jury instructions, this case is about certain issues of law  
14 and how those issues of law are applied to the facts.

15 The judge has now given you a full description of the  
16 law. That is in fact the framework, if you will. That  
17 is -- that is the outside of the building that we have got  
18 to hang the facts on to decide what your verdict should be.  
19 And what I want to talk about is I want to talk about what  
20 those facts are in light of what the Judge has told you to  
21 do.

22 Could we go to instruction number six. And what I'll  
23 try to do is try to look at some of the instructions and  
24 talk to you a little bit about them, about how those apply  
25 to the facts in this case. And this is the first -- I think

1 the most important instruction in this case. If you believe  
2 any witness has willfully testified falsely as to any  
3 material matter, you may disregard the entire testimony of  
4 such witness, except as it may have been corroborated by  
5 other credible evidence.

6 Let's go to the next page. This is an affidavit filed  
7 by Ms. Scheff in this case to try and get the case out of  
8 here and sent to Florida. She didn't want to face us in the  
9 State of Utah. A legitimate business in the State of Utah  
10 that she has been defaming for months, she didn't want to be  
11 here. So she filed under oath the statement in this court.  
12 What does the statement say? Let's go to the next page,  
13 please.

14 The statement says, I don't have any employees or  
15 agents in Utah. Then it goes on in paragraph nine to say, I  
16 have not entered into any contracts in the State of Utah.  
17 It was filed in this court after all of the Woodbury  
18 postings, after we had filed the complaint, it was filed on  
19 the 16th of February of 2002. Now what have you heard?  
20 There are referral fees from Red Rock. That is a contract.  
21 What did Arlene Farrow, their witness, say about Cedar  
22 Mountain? We had a marketing agreement to pay a marketing  
23 fee to Sue Scheff. Wasn't one of our approved programs but  
24 we paid her a marketing fee. We know she was referring to  
25 Sorenson and in fact from the e-mails we know that she was

1 saying if they don't pay me, they're going to be off the  
2 list. We know that she was referring to High Top and we  
3 know she was referring to Lost Legacy. Did she have a  
4 contract in the State of Utah? Well, it was convenient at  
5 that time to try to get out of the State of Utah to say she  
6 didn't. It is false. I mean she has never given any  
7 justification for those false statements.

8 Let's go to number -- well number ten says she didn't  
9 advertise nationwide. That is -- you have seen her website.  
10 That is a nationwide advertising. And then let's go to  
11 number 11. Sue Scheff, PURE, PURE Foundation have never  
12 knowingly communicated with Utah residents in regard to  
13 World Wide, the plaintiff. Now hold it just a second. It  
14 can't be both ways, can it?

15 You saw the Woodbury post where she was Mark D.W. She  
16 admits she was Mark D.W. She said I talked to the doctor at  
17 Cedar Springs about this Josh Jennings. I talked to the  
18 director at Cedar Springs about Josh Jennings. I confirmed  
19 that High Impact was a World Wide Program by talking to  
20 those people in Utah. December '01. Now, she didn't forget  
21 about that because two months later is when she filed this  
22 affidavit.

23 Then we go down and she says, in number 11, we have  
24 never had -- never entered into a contract with the  
25 plaintiff in the State of Utah. And in number 12 she says

1 Sue Scheff, PURE, PURE Foundation have directed no comments  
2 or activities concerning World Wide to the State of Utah.  
3 Then why is she checking with Cedar Mountain to try and  
4 confirm that High Impact is a World Wide program, which it  
5 isn't. Why is she trying to dig up dirt? Why is she in  
6 fact trying to get every bit of rumor she can get that is  
7 negative to World Wide. It doesn't matter. What you do is  
8 you start out with that instruction and that says she is not  
9 believable. And the Court has instructed you. Here it is  
10 under oath she says one thing, now in her testimony in her  
11 writing she said something different.

12 So we go to the next instruction. This is the  
13 instruction about false advertising. This is the Lanham Act  
14 claim. And the elements are false representation of fact in  
15 connection with commercial advertising or promotion of her  
16 goods and services or concerning competitors goods, services  
17 or commercial activities. You will remember what the judge  
18 told you the basis for our case and the basis for the Lanham  
19 Act was when we started this case. This is one of those  
20 federal laws that says we think the market can police  
21 itself. We think that the party that has the most  
22 motivation to keep true factual information in the  
23 marketplace is a competitor. And so we give a competitor,  
24 which the judge has found we are, cause of action to make  
25 sure that we keep advertising, information that is going to

1 consumers. In this case you have heard these are very  
2 vulnerable consumers. Now if you have never dealt with a  
3 child who is a teen-ager and out of control, it is hard to  
4 understand how overwhelming it is. These are very  
5 vulnerable consumers. And why should we be able to sue her  
6 for false advertising? Because that is the way this  
7 particular law is decided.

8 Now, you know she made false representations of fact.  
9 Well, the next jury instruction, number 21, talks about how  
10 you decide if this is really a commercial transaction she is  
11 proposing. Is she a competitor and is this commercial. It  
12 says where the statements contained in an advertisement or  
13 promotion, her website. Where the statements are made  
14 within an economic motive. Economic motive? Quit your day  
15 job, buy a computer, sit at home, send out information,  
16 collect 200 grand a year. Or the statements refer to a  
17 specific good or service. Her good or service.

18 Now let's see whether or not she is consistent in  
19 terms of what she says her purpose is. Because if we look  
20 at Exhibit 77 she says, "WWASP/Teen Help have been trying to  
21 explain me off to many parents that start to wake up.  
22 Fortunately for me, I only speak the truth." We know that  
23 isn't true. But what does she say? I created this site and  
24 my PURE Foundation as a result of the traumatic experience  
25 my daughter and myself went through with World Wide. She

1 remembers writing the lady that wants the government to  
2 provide some grants so that the kids who she is finding are  
3 having success in the programs can go.

4 Go to 17. In 17, however, she writes to Lisa Irving  
5 at Teen Help in Southern Utah. She writes that she never  
6 had contact with Southern Utah about this, but she writes  
7 when she still supported it. She tells in this e-mail why  
8 she is still a supporter and then she says, "I sent this to  
9 a whole bunch of WWASP parents." And what does this  
10 particular letter say that she sends to her referral team?  
11 Well after saying my daughter is home for a couple of months  
12 and this was a miracle, you saved her life, this was an  
13 incredible success. Then on the next page she says,  
14 "basically if it wasn't for all this darkness I wouldn't  
15 have started my new business PURE Inc. Parents Universal  
16 Referral Experts was started and our website is WWW  
17 Helpyourteens.com." Hold it just a minute. She is telling  
18 parents a little later on when it is economically viable  
19 that she started it because she had a horrible experience  
20 with World Wide. Here she is telling her referral team I  
21 started it because of the marvelous experience I had at  
22 Carolina Springs Academy. And we know that she has got a  
23 knack for that.

24 Let's go to the next page. Because she has had a  
25 referral team for quite some period of time. In fact, we

1 remember this e-mail that she sent both to the school  
2 Carolina Springs and to Ken Kay saying this is my dedication  
3 to the program. I want these -- I want all of these parents  
4 who were with World Wide to figure out ways to have police  
5 stations, doctors offices to get the information out. This  
6 is -- this is a great program.

7 Now did she falsely advertise? And as I told you in  
8 the beginning, we would prove that she made false statements  
9 about her own circumstances, and she made false statements  
10 about us. Let's look at what she said about her services.  
11 We have our dynamic network is small yet proven qualified  
12 programs. Schools with longevity and success. Remember  
13 what her witness, Arlene Farrow, said about the longevity  
14 and success of Cedar Mountain Academy? Remember that she  
15 hadn't even visited the State of Utah? That is what she  
16 said in her affidavit. She didn't know anything about Red  
17 Rock. She was referring to these programs with no  
18 understanding.

19 Then she went on to say PURE will evaluate what your  
20 specific needs are and refer placement to the most  
21 appropriate programs. When she testified she said I can't  
22 make a determination about what the children need. All I  
23 can do is provide resources. All I can do is give parents  
24 help. But that isn't what she told the consumer, right?

25 Let's go to the next page. This is her frequently

1 asked questions. "PURE is a dedicated staff of  
2 professionals that have spent time researching and  
3 investigating many schools and programs." Remember, she  
4 posted this before Ms. Peart was even working with her. Not  
5 a true statement. The next statement, PURE professionals  
6 will evaluate your situation on an individual basis." Now  
7 she said here they can't do that.

8 Let's go to the next statement. "If you want more  
9 information, please e-mail me" excuse me, that is one too  
10 far. I want to read a couple more statements off that. We  
11 may not have it on the overhead. Also stated in her  
12 services that "we have done the research and taken the time  
13 to give you the most qualified, proven, successful programs  
14 and schools." Vulnerable parents, right? They are in the  
15 same fog, the same situation she claims she was in when she  
16 put her child in Carolina Springs. And she is saying don't  
17 do your due diligence, don't worry about it, we have done it  
18 for you. You have now heard how much due diligence she has  
19 done for you.

20 You go further and she says, "PURE professionals will  
21 evaluate your situation, there is no cost for our service."  
22 Now let's go to the next one. How -- and what does she do?  
23 Is this a commercial transaction? If you want more  
24 information, plea e-mail me privately. This is on the  
25 Woodbury site. This is SusanneLisa who doesn't say she is

1 Sue Scheff, but you can see the e-mail address so you send  
2 back the information. Let's see what else she says.

3 On page 305. SusanneLisa says that is where you need  
4 to go if you really need help with your kid. Let's go to  
5 the next page. Hilda another one of her false identities  
6 says oh, by the way, here is who we used and they were  
7 marvelous, Helpyourteen.com. Let's go to the next page.  
8 This time it is Hilda saying, by the way, if you want to go  
9 find out what is really going on in this business, go to the  
10 PURE website at WWW Helpyourteens.com. We go to the next  
11 one. Hilda says go to Helpyourteens.com. Go to the next  
12 one, Hilda is again saying go to Helpyourteens.com.

13 Go to the next one. Debbie -- Debbie is on the move,  
14 too. Helpyourteens.com. This is all on the Woodbury site.  
15 And then we go to Debbie telling another person  
16 Helpyourteens.com. But that wasn't the entire way that she  
17 dealt with the business the other book, the other thing she  
18 needed that she needed to say bad things about World Wide.  
19 It was the only way she was getting hits on her website.

20 Let's see if we could go to 331 and I'll try to move  
21 through these fairly fast. And on 331 she is writing to Les  
22 who says he has a 14-year old daughter that is in trouble.  
23 She is writing on the Woodbury Reports. What does she have  
24 to say? She is not going to advertise how great she is, she  
25 also has to say watch out for World Wide. You can see when

1       you look through this stuff Les didn't ask, Les asked for  
2       help. Then we go to Valerie on the next page and Valerie  
3       asked for help and what does she say? Stay clear of the  
4       boot camps such as World Wide Teen Help programs.

5               As you heard from Mr. Kay, World Wide doesn't run boot  
6       camps, we have residential treatment facilities. Then we go  
7       on and we want to find out did this work? We go to page  
8       286. After Ron Woodbury said all these people were really  
9       her, what did she say to Lon? This is her response. "My  
10      mask has been off, and you know I have much to say and  
11      evidence to back it up. However, there is a time and place.  
12      Right now I am very busy re-placing many WWASP families."  
13      Did it work? You can see by looking at her income that it  
14      worked.

15             Let's go to page 284. I have replaced at 38 parents  
16      and their children from WWASP. Was she directing it at us?  
17      Of course she was directing it directly at the people who  
18      were interested in our program. Let's see. Let's go to the  
19      next one. Yeah, what happened? We sued her. Finally said  
20      this has got to stop. And you can see if you look through  
21      the e-mails that she was told you have got to stop this,  
22      this isn't right and she was told that according to the  
23      e-mails by her lawyers. What did she do? She got the  
24      Trekkers going. She has got this group of people who either  
25      are disaffected or have nothing more to do than sit in front

1 of a computer and bad mouth. And she gets them going on her  
2 approach because she says I look forward to speaking with  
3 you all soon. They must be working overtime to remove you  
4 from the BBS. I saw the parent you wanted us to write. I  
5 am glad someone gave out my site. I made it a habit not to  
6 write parents since my name is so known with WWASP. They  
7 justify me as a disgruntled parent. However, and I think it  
8 is supposed to be "I" lead through different ways such as  
9 you all sending my site to them.

10 You can't do it directly. Suddenly you realize you  
11 were caught, caught by Lon, and finally World Wide figured  
12 out who you were. So what do you do? Let's go to the next  
13 page. Exhibit 69 is an e-mail from her to one of her  
14 Trekkers saying, "I'm sending you this because it yanks at  
15 my heart! The entire threat on the BBS" Now remember, the  
16 BBS is a private passworded website that World Wide parents  
17 are allowed to get on. She has already declared she is an  
18 enemy of World Wide yet she has got a mole somewhere. She  
19 says "I read this on the BBS. Use caution if you write, and  
20 always say it was just sent to you from another parent that  
21 doesn't want that name told."

22 See what happens. The next page Carey asks, "Is this  
23 the right e-mail I'm going to e-mail him." And on the next  
24 page what does Ms. Scheff say? "Yes, just use  
25 caution...don't ever say where you got it from, then delete

1 my e-mail please." Parents helping parents.

2 Exhibit 79 shows the same thing. Now she can't go to  
3 it directly. What does she do? She sends it to Toquer who  
4 she said is Jeff Berryman. He is part of her Trekker  
5 network. Does it work? Yeah. "Another three today."  
6 Let's go to the next page. The next page says, "I stopped  
7 nine more families today."

8 Now, go to jury instruction 26. I talked to you about  
9 the purpose of the Lanham Act and it says, "In regards to  
10 the fourth element or a claim for false advertising under  
11 the Lanham Act, you are instructed that if you find PURE's  
12 statements were literally false then the plaintiff is  
13 entitled to a presumption that such statements have caused  
14 damage. Well I hope I didn't paraphrase that too much.  
15 Let's go to the next page.

16 You remember the law professor from Illinois who wrote  
17 her, she was desperate, she had a 15 year old daughter that  
18 was pregnant. What did she ask? She said, and is it true  
19 that PURE gets no financial incentive from any school or  
20 programs? I desperately want to be able to trust someone  
21 with my most precious gift." And the answer was false.  
22 Literately, truly, absolutely, unequivocally false.

23 Now the next jury instruction it says plaintiffs are  
24 entitled to any profit earned by PURE that is attributable  
25 to the false advertising. Well, you put that much out it is

1 all attributable. How else can you literally quit your job,  
2 set up a computer and a website and within six months be  
3 making \$200,000 a year. It is all attributable to false  
4 advertising. And this says profit is determined by  
5 deducting all expenses from gross revenue. I want to make  
6 sure that we look at her income tax returns because it says  
7 you should not include any expenses, excuse me, you should  
8 not include as expenses any salary or commissions paid to  
9 her.

10 Well, if we look at -- let's look at the 2001 tax  
11 return. She makes total expenses of \$41,000 on gross  
12 profits of 67,400. But remember she is the employee. She  
13 is the officer. She is the director. She is the one that  
14 gets commissions. Let's go to the next one. These top  
15 three in the 2002 return. Now this is the year she brought  
16 in \$208,000. And then for whatever tax purposes she says  
17 commissions are an expense but the only commissions are paid  
18 to her because who else was working with her? Ms. Peart.  
19 She said she got paid directly by the program. This is  
20 commissions to Ms. Scheff. This is compensation to  
21 officers. She is the only officer. Salary and wages? She  
22 is the only employee. Then you get down to the bottom and  
23 you look at -- where is it, professional fees. We don't  
24 know what that is.

25 So when you look at damages that you award for false

1 advertising, don't be deluded into the fact that thinking  
2 that just because on her corporate tax return she only got  
3 \$42,000 in net profit that that in fact is the profit she  
4 got because you have to add the 42,000 to those other  
5 amounts that she got. Let's go to the next one.

6 This is the same way. Let's go to the next one now.  
7 One of the things that she wants to do, she wants -- her  
8 counsel has now tried to convince you that the main referral  
9 agency that she goes to is this military academy. Remember  
10 all that discussion on the stand about well, we don't send  
11 these kinds of kids to the military academy. That isn't  
12 really true. You know that isn't one where we have taken  
13 away World Wide parents and put them into some other school  
14 because military academies they're just a pleasure to refer  
15 to but actually approach military academies with a different  
16 mind set.

17 Well let's look at the website. Let's look at who she  
18 actually targets. Because it tells us one of two things. I  
19 mean she can't have it both ways. If you start at the  
20 bottom it says, Parents Universal Resource Experts offer  
21 help with, the next page, undesirable peers, substance  
22 abuse, underachievers, lack of motivation in school,  
23 depression, withdrawal, violence, rebellion. And what do  
24 they recommend? Military schools, boarding schools, summer  
25 programs, ranch programs. And what kind of difficulties do

1 they deal with? Attention deficit disorder, oppositional  
2 defiance disorder. So she is either targeting parents with  
3 troubled teens and sending those troubled teens to her major  
4 referral sources, military academies where she says if you  
5 get kicked out you lose your tuition, right? So is she  
6 putting the wrong people in a military academy because she  
7 has no experience, and then taking her \$1800 because I mean  
8 after all if they lose their 18,000 she doesn't lose her fee  
9 for that. So is she putting the wrong people in the  
10 military school? Is she trying to draw the wool over your  
11 eyes saying oh that is not competitive. We don't believe  
12 so. Oh, by the way, you don't see anywhere where it says we  
13 help you find college preparatory schools which she said  
14 this particular military academy was.

15 And I need to go on now to Exhibit 49 to make that  
16 point even clearer. This is one of the responses that she  
17 gives to a parent of a child who has problems with  
18 motivation, ADHD and truancy and drugs and alcohol and at  
19 the bottom we look for the place on the checklist that  
20 Ms. Peart and her cohort Ms. Scheff says is there where  
21 people can check military schools, that is what they get the  
22 information about. No place to check military schools. But  
23 who does she refer this child to that has all of these  
24 problems? The first is where she gets paid.

25 Let's go on to jury instruction number 23. You need

1 to determine then if statements that she made about World  
2 Wide were defamatory. That means that they were -- well,  
3 we're saying that statements that she made were defamatory  
4 per se. They were charges that World Wide, and you know you  
5 can only charge the people that run World Wide, the judge  
6 has said that, corporations are all run by the people who  
7 run them, that we were guilty of criminal conduct or that we  
8 were guilty of conduct that was incompatible with the  
9 exercise of a lawful business. Did she say that about us?  
10 Did she use those kinds of false statements about us?

11 Let's go to the next page. We know, first of all,  
12 that she tried to hide what she was saying. This is Lon  
13 Woodbury exposing her. Let's go to the next page. What did  
14 she say on the Woodbury site with no authority from this  
15 girl's parents. This was one of her many personalities.  
16 Hilda says, "it was Valerie Heron that died at age 17 in the  
17 hands of WWASP in Jamaica." Do you think when you're  
18 dealing with this sensitive population of potential  
19 customers that saying that accuses World Wide of a crime of  
20 at least not be being able to run a business for kids? It  
21 is defamation per se. They have no explanation about it.  
22 It is defamation per se.

23 Then we go to the Mark D.W. story. You may remember  
24 she was going to have witnesses here who verified that she  
25 told the truth about this young man who was supposedly in

1 Cedar City who had come out of a program that we'll show you  
2 in just a minute she was informed was not a World Wide  
3 program. And that she told -- remember she said in her  
4 deposition, I wrote down exactly what Arlene Farrow told me.  
5 And you heard Arlene Farrow say absolutely not.

6 Okay. Here is what she had to say who she might have  
7 intended to make sure that people looking for a place to  
8 help their kids were going to think that we ran a program  
9 where kids lived in their own bowels and urine. Why would  
10 she say that? Especially if you had no way to back it up.  
11 Arlene Farrow didn't back it up.

12 Now let's go to the next page. Jury instruction 21  
13 says, in determining whether she published statements  
14 knowing that the statement were false, it doesn't have to be  
15 actually that she knows, it is that she acts in reckless  
16 disregard of the truth. And how do we know that she acts in  
17 reckless disregard of the truth? You know, I would really  
18 like you to read -- let's go to the next page. Daria M.  
19 Brockliss' entry of September 4, 2001. She is not  
20 necessarily a strong supporter of World Wide but she says,  
21 "I was in a World Wide school. I was there for 17 months.  
22 The food wasn't super, but it was adequate. We had adequate  
23 facilities, we had a nice place to live." Then she goes on  
24 to say, now this is a story that Ms. Scheff -- if you look  
25 at the e-mail that I showed you where she is talking about

1 working with John Dahlberg, she says that her daughter gave  
2 John Dahlberg a quote that when she was in the seminars in  
3 Carolina Springs, kids were having sex with each other in  
4 the seminar. Ms. Brockliss said, I read that, that is  
5 absolutely absurd. It can't happen. It doesn't happen.  
6 She says, "in the 17 months that I was in the program, I  
7 myself staffed many seminars and I will tell everyone right  
8 now, that girls making out is not permitted, inside or  
9 outside of the closed doors of seminars." She has been  
10 there. So did Ms. Scheff disregard the truth? We know she  
11 was on this site because if you look two pages later one of  
12 her many false identities takes this girl on.

13 Says, you know, you're just one of those brain-washed  
14 WWASP people. So we know she read it. I would like to go  
15 to the next page. She does say that -- this is the person  
16 who was willing to put her whole name down. Again I say  
17 that no, WWASP programs are not for everyone, which I think  
18 is what Mr. Kay said, but those who have had a bad  
19 experience you can be accepting of the fact that your  
20 experience is not necessarily the experience of everyone  
21 else. Then she says, she continues on this Mark D.W. story,  
22 right? It is the most sensational one that she has picked  
23 up since she started accusing us of killing the young lady  
24 in Tranquility Bay. So what happens? Our people see this  
25 on the site and say just a minute. Let's go to the next

1 one. Ken Kay says, High Impact is not and never was a  
2 member of WWASP. WWASP never received any fees, monetary  
3 consideration, or financial benefits from High Impact. When  
4 a student was expelled from a WWASP program, High Impact was  
5 one of the options often suggested to parents.

6 It was understood that after completion of the High  
7 Impact program, the parents of the student could apply to a  
8 World Wide program. Now, they did everything they could to  
9 take the most gruesome video that they could find. Why? To  
10 show that that is what High Impact did. Now remember you  
11 can't consider that to be truth to show that she had a  
12 reasonable basis for making this story back in 2001 because  
13 she saw a 2003 Inside Edition video. It makes sense.

14 She made actual false statements and now do you really  
15 think between the spring of 2001 and December of 2001 when  
16 she was putting all of this poison out on the Woodbury  
17 reports, that she had actually reviewed all of the  
18 information she told you about? Do you really believe that?  
19 Do you believe it in light of the facts here. She continued  
20 to refer to our programs until August. She worked for us.  
21 He had no reason to say otherwise. Not only that. If you  
22 look through the e-mails --

23 THE COURT: You have about 25 minutes total left.

24 MR. SILVESTER: Thank you, Your Honor. Going to the  
25 next one. What we find out she was actually sending e-mails

1 to the Trekkers at the same time. What did she say? Casa,  
2 our program, and High Impact are not together. So in a  
3 private correspondence she knew what she was saying was  
4 false. She says so right there. And it was working. She  
5 spoke with a parent that was 100 percent sold on Casa. They  
6 said they would contact the consulate in Mexico. They  
7 talked to people in Mexico. They said there are no problems  
8 and she says but I turned them around by looking at my true  
9 story.

10 Let's go to the next one. This is the Kevin Richie  
11 matter. He says, by the way, I just talked to her. She is  
12 -- the discrepancy in the date doesn't matter for the one  
13 statement. This is an e-mail of August 17th we know and she  
14 said she would continue to send referrals for Majestic  
15 Ranch, a World Wide program. This is when she was so busy  
16 getting all of this dirt, looking at all of these TV  
17 programs, somehow getting these tapes from way back in 1997,  
18 1998. This is when she was reading, you know, articles from  
19 the Rocky Mountain News that were 1996, 1997.

20 Next jury instruction, please. It says basically how  
21 you're to determine damages when you find that these  
22 statements were defamation per se. They talked about our  
23 people committing crimes. They talked about our business.  
24 And ladies and gentlemen, I need to talk to you briefly --  
25 you can turn that off now -- about the issue of damages. We

1 know how much she made. We think in the false advertising  
2 claim we're entitled to recover that. I am not going to  
3 insult your intelligence by telling you what I think the  
4 damage to our reputation is, but, you know, defense counsel  
5 used an interesting analogy yesterday with his expert.

6 His expert kept talking about a list. Our potential  
7 group of clients is not a list. It is very small group. A  
8 lot of people in this country, even though graduation rates  
9 have gone down in this country since 1969, we used to  
10 graduate 77 percent of our 17 year olds, we graduate  
11 72 percent now. So there are parents out there who have  
12 trouble with kids.

13 If you take that small jar of water and you drop one  
14 drop of poison in it, it poisons the whole amount. How much  
15 of it -- how much is it? Look at the graph. You see it has  
16 had a direct notable impact on upward growth rate in 2001  
17 when she was doing all of this posting on the website. And  
18 I'm not going to tell you what it is, I just think there is  
19 an amount that would be reasonable to compensate for the  
20 loss of reputation.

21 And finally, should you award punitive damages, send  
22 her a message. I don't care if it is \$100. It is not about  
23 the money. It is about saying this is not for you to do  
24 business it is what jury does and nobody does business this  
25 way. I do get to talk to you one more time. And thank you

1       for your attention.

2               THE COURT: All right. Thank you, Mr. Silvester. And  
3       Mr. Henriksen, I think why don't -- if you want to  
4       re-arrange the courtroom. Mr. Henriksen is going to take a  
5       couple of minutes here to get things organized for his  
6       presentation. Why don't you go ahead and stretch for a  
7       second while he is doing that. And Mr. Flater will be  
8       helping out on that I think.

9               All right. You may proceed, Mr. Henriksen.

10              MR. HENRIKSEN: Thank you. May it please the Court,  
11       counsel, ladies and gentlemen of the jury. Yesterday we got  
12       done a little bit early and I decided I'm going to get some  
13       air. We have been in here a long time in the room and I  
14       took a walk. My office is up here on Third South so I  
15       walked down to Liberty Park. And as I walked by that park  
16       and trying to get my mind off of this case and I saw there a  
17       flag of the United States. And I thought of the monument  
18       that is right there that the Boy Scouts erected that says in  
19       memory of those who have fought for our freedom. And I  
20       thought this is what this case is about. It is really the  
21       right of a mother to give her opinion. It is the right of a  
22       father, Chris Goodwin, John France, to give their opinion.

23              And as I continued to walk through the park, I saw  
24       about 30 children playing in a pond that they call the Seven  
25       Canyons Pond and it represents all of the canyons that come

1       into the Salt Lake Valley from Little Cottonwood over to  
2       City Creek Canyon. They can play in the water and what not.  
3       And I saw a bunch of kids playing. I saw some teenagers.  
4       And I thought no, this case is about children who are made  
5       to be quiet and this is their voice. We're here today to  
6       make sure those children can be heard.

7               Now, I am very happy to have you hear and you saw the  
8       evidence and I like to bring up instruction two, if you  
9       would. Would you highlight the second paragraph of that,  
10      please. Bring it up. This has been largely a case of  
11      nitpicking grilling over and over and over again of counsel.  
12      And I am glad that you have been here and you have been able  
13      to hear this evidence. "Statements of counsel and arguments  
14      of counsel are not evidence in this case." Nothing I say to  
15      you, nothing that Mr. Silvester has said to you is evidence.

16             That is what the Court has instructed us. "When,  
17      however, the attorneys on both sides stipulate or agree as  
18      to the existence of a certain facts, then it should be  
19      considered." There was a pretrial order in this case and  
20      there were certain agreements made at that time. I would  
21      like to read a few of those to you at this time.

22             Their attorneys agreed with us that the plaintiff --  
23      plaintiff is aware of parents, present and former students  
24      of affiliated programs who have complained about aspects of  
25      their programs. Most of the students entering affiliated

1 programs expressed dissatisfaction. Most students express  
2 dissatisfaction with the structured nature of the programs.  
3 They have admitted this. Plaintiff is aware of a few  
4 students and a few parents with students in affiliated  
5 programs that have alleged some students were physically  
6 abused. They admitted that. They admit they know that.  
7 They admit that they're aware of students they have alleged  
8 psychological abuse. They admit that these parents are  
9 geographically disbursed. They admit that Valerie Heron  
10 died while she was in their program. They admit that  
11 Sunrise Beach was closed after investigation by immigration  
12 officials of the Mexican Government when it was determined  
13 that Sunrise's Mexican lawyers failed to obtain proper  
14 approval from immigration authorities. Some employees of  
15 Sunrise Beach were arrested by the Mexican government.

16 The Morova Academy, the one in Czechoslovakia, was  
17 closed and people were arrested there. They admitted these  
18 things. Now we need to talk about what the evidence was in  
19 this case. Not what I think about it, but what you think  
20 about it. This is your area. You're going to have to think  
21 through this evidence, and you're going to have to make a  
22 determination as to whether the plaintiff has swayed you, in  
23 other words, they have met their burden of proof.

24 The burden of proof on most of the cause of action of  
25 defamation and whether something is false is they have to

1 clearly convince you that these things are false.

2 If you look first at who they brought as witnesses,  
3 that is who we have to look at. The plaintiffs witnesses,  
4 and remember this, every single one of the plaintiffs  
5 witnesses were their employees or former employees. Karr  
6 Farnsworth, who has been their president; Ken Kay who is  
7 their president; Elaine Davis, who is a director; Jody  
8 Tuttle, who was their consultant for years; Kevin Richie,  
9 would was their employee.

10 Every single person you have heard from them was their  
11 employee. Well, what do you expect their employees to tell  
12 you? We listened with interest to find out what Karr  
13 Farnsworth would say. Yes, he has worked in this program  
14 for a long time. He says well, if it was true. Do you  
15 remember the newspaper articles and the videos. Well, if it  
16 was true. And then he admitted it doesn't really matter if  
17 those videos were true. What matters is they went out in  
18 the news media. Now they're trying to say they have brought  
19 in witnesses to prove to you that what Sue said was false.  
20 Did Karr Farnsworth testify that things that Sue said was  
21 false? No. He never said anything she said was false. Ken  
22 Kay. Did he take the stand and say this particular  
23 defamation or this particular thing of Sue's, this  
24 particular thing of Sue's was false? No, he didn't say  
25 that. Elaine Davis called and said well, they don't even

1 have a program to report allegations of abuse and you can't  
2 be accredited in that way in South Carolina. Told her so.  
3 Jody Tuttle says when she talked to Arlene Farrow she was  
4 very upset and angry over the condition of Josh Jennings  
5 when he showed up at their facility. Did she testify that  
6 what Sue said was false? No. Kevin Richie. Do you  
7 remember his opening argument? He stood in front of you,  
8 Kevin Richie is going to tell you the reason why Sue changed  
9 her mind about WWASP is because they changed the way she was  
10 going to do her referral program. And Kevin said there was  
11 nothing wrong with it. They changed their program many  
12 times. That is what they told you in their opening but what  
13 are they telling you now.

14 Now they're telling you this. They're saying this  
15 case really wasn't about what Sue believed, but how many  
16 times did we hear the Court say the reason why we're showing  
17 these videos, the reason why we're listening to these  
18 parents, the reason why we are looking at these stories is  
19 because that is what she had in her hands. That is what she  
20 looked at to come to a reasonable belief. I want to show  
21 you why we were -- we were doing that.

22 Would you bring up instruction 28. Now instruction 28  
23 goes through the requirements that they have to show for  
24 defamation. Would you highlight paragraph one, please.  
25 They have to prove that the statement by Sue was false that

1 she sent out to others. They have no proof of anything she  
2 said that was false. What did she say? She said Josh  
3 Jennings was injured, he was deprived of food, that he was  
4 in his own bowels and urine. And what did you hear our  
5 witness yesterday Chris Goodwin say about his son? They  
6 took him to High Impact without telling him. Oh, no, but  
7 High Impact is not involved. What did Amberly Knight say  
8 yesterday? She was one of their directors, remember that.  
9 Amberly Knight, one of the plaintiffs witnesses, is one of  
10 their -- one of the defendant's witnesses, is one of their  
11 employees and now she quit them. Amberly Chirolla, her name  
12 was Knight. She said they told us publically not to confirm  
13 that High Impact was ours but that is what she understood.

14 And so if you think about High Impact, and what Chris  
15 Goodwin said yesterday, he said his son was there for three  
16 days in his boxers, in a cage, with his head down and his  
17 hands behind him and he had to do things that he didn't want  
18 to tell his father. When he asked him, he put his head down  
19 and he said yeah, he had done this.

20 Is there a reasonable belief about the Mark D.W.  
21 story? Yes. Have they brought anyone in to tell you that  
22 the story is false? No. They tried to have Ms. Tuttle say  
23 that. She didn't. She said Arlene was very upset. They  
24 had Arlene's deposition. She said well Sue didn't tell me  
25 about the cage. I didn't tell her about this cage and the

1 urine and bowels. What did she testify to on page 405 of  
2 her deposition? She testified that Chris Goodwin, Duane  
3 Reichert and others. We went through that carefully before  
4 the deposition as you recall. Did she have a reasonable  
5 basis for that belief?

6 I would like you to bring up Dateline clip number  
7 three. When we asked Ken Kay on the witness stand if a  
8 16-year old girl had been sexually -- had sex with one of  
9 your staff members been abused, do you remember that? He  
10 wouldn't even agree after he talked to the girl and she said  
11 yes they had sex. It violates their policy, yet he  
12 testified that he doesn't know if that is sexual abuse. I  
13 asked him, did you produce one piece of paper to verify that  
14 you investigated any allegations of abuse and he says no.  
15 Play that video, please.

16 (Whereupon, the Lords of Discipline segment  
17 three video was played but not transcribed.)

18 MR. HENRIKSEN: Get ready for Prime Time one. Let me  
19 say something first and Mr. Robert Lichfield, one of their  
20 directors said no, we don't have any physical punishment,  
21 any physical restraint, we have never used shock devices  
22 pepper spray or whatever never been used. We heard  
23 yesterday from a father, Chris Goodwin, what his son told  
24 us. They had the electrical stimulator, smacked it on the  
25 ground in front of him, making him stay in that spot for

1 three days. Let's hear what J.K. says, who is the director  
2 down there, with regards to pepper spray. Let's see what he  
3 said in the news on Prime Time.

4 (Whereupon, Prime Time one clip was shown  
5 but was not transcribed by the reporter.)

6 MR. HENRIKSEN: Do they have pepper spray? Do they  
7 use it? Yes. That is what he said on the news. The  
8 question is what did Sue know? If you recall back in my  
9 opening statement I said that the basic questions here are  
10 have they proved she said anything that is false? Who have  
11 they brought in here to prove anything she said was false,  
12 number one, and secondly, what was her reasonable belief.

13 And instruction number 28, as you look at that, it  
14 says, was it published with her knowing it to be false or  
15 was it disregard of the truth. In other words, when the  
16 Court said the articles, the stories, the discussions with  
17 the parents, what would you reasonably believe if an  
18 individual by the name of Donna Headricks and others, a  
19 social worker from Maine, gave you videos, gave you these  
20 stories, had you talk to 50 parents and they told you this  
21 information, what would you reasonably believe? Would you  
22 reasonably believe there had been instances of that abuse  
23 that have taken place in those programs? And you watched  
24 the programs, you heard the direction, you saw the iso box,  
25 you saw the size of it, you saw the young men talking about

1 the duct tape. What would you believe?

2 I don't think there is anyone in this courtroom that  
3 would disbelieve that Sue thought these things were  
4 happening. She was shocked. She was horrified when she  
5 read these stories. And she talked to more and more parents  
6 more and more individuals and that is the reason why she  
7 started not referring to those schools and programs. The  
8 plaintiff is alleging the reason why she is in this is for  
9 the money. Think about this. If you wanted all of the  
10 money you could get from referrals, why don't you refer to  
11 everybody that you can. Refer to WWASP, refer to Cedar  
12 Springs, refer to all of the programs. That is what you  
13 would do if you're interested only in money. What she is  
14 interested in, what the Court has instructed you, if you go  
15 to the Lanham Act instructions and we talked about what is  
16 -- what is a representation in the Lanham Act? The  
17 instructions give to you that information and return to that  
18 one, it is on -- turn to instruction number 21 and bring it  
19 up on the screen.

20 What the issue is here, ladies and gentlemen, in the  
21 Lanham Act is are we going to allow a \$90 million company to  
22 stop mothers and fathers from expressing their opinions. If  
23 you look at the Lanham Act, I would like you to go down to  
24 the paragraph just after number three and enlarge that  
25 paragraph that starts if. "If you conclude that any

1 commercial speech by the defendant was inextricably  
2 intertwined with commentary on a public issue, the  
3 defendants communications are protected by the First  
4 Amendment and they are not subject to liability for false  
5 advertising."

6 That is the issue under defamation. That is the issue  
7 under the Lanham Act. Is this a mother trying to give her  
8 opinion? Are these parents trying to help parents give  
9 information. Think of this. If we only have one source of  
10 information about these schools and that is from the  
11 schools, you don't have any other parents giving information  
12 about the schools of their experiences, what will happen?  
13 You have someone giving their opinion here and no one giving  
14 their opinion here. What is a higher interest of public  
15 concern than the welfare of our children. So under the  
16 Lanham Act, you should exclude those discussions that she  
17 has made concerning children. That is the reason why she is  
18 involved in doing what she is doing.

19 I would like to talk about the witnesses that the  
20 defendant called. You will have to make the decision as to  
21 whether we have proved the reasonable belief through our  
22 witnesses. So who did we call? We called Sue Scheff and we  
23 called John France. John France is a master's degree  
24 counseling psychologist. And you remember what happened to  
25 his son. Eight and a half months in the hospital, no books,

1 no paper, not going to the bathroom except in a cup at  
2 night, cold, no heat. And John France believed what they  
3 told him and he told you his personal story. Chris Goodwin,  
4 we talked about him. Bernadette Cabrael came in and told  
5 you what -- what happened to her daughter. She was  
6 hospitalized twice, never called. Withholding food because  
7 she told the staff that she had gained 30 pounds they gave  
8 her one piece of lettuce. Did she have her story told on  
9 the Woodbury report? Yes. Did she say that was okay with  
10 her? Yes. Why? It doesn't really matter who the story is  
11 about. What is important is that it was a fact and it was  
12 true and needs to be told. She told the stories of actual  
13 instances of what happened.

14 I would like you to bring up the exhibits -- it is W-3  
15 page 14, please. She told the story of Deb Saenz and so the  
16 parents would get that information. Bring up paragraphs one  
17 through seven, enlarge those, would you please. They are  
18 numbered down at the bottom. Deb Saenz is a neighbor of  
19 Sue's. She tells her Kari bathed outside in cold water with  
20 other girls. When girls had their menstrual cycle they all  
21 showered in their blood and discharge. Kari experienced  
22 eating pork with hair still on it. Was made to eat it.  
23 Every night Kari heard kids screaming in OP, others were  
24 crying for their parents. They were never allowed insect  
25 repellent. And skip down to number six, a young girl died

1 from jumping off the balcony. Kari was in the room with the  
2 girl. Valerie Heron -- when Valerie asked to throw  
3 something in the garbage, the garbage was on the balcony.  
4 She went to the garbage and proceeded to climb the balcony  
5 and jump off. My daughter also stated that not one staff  
6 member was even watching her.

7 Number seven, when they sent -- when Valerie died they  
8 sent Kari and the other girls to their dorms. And they told  
9 the girls that the therapists were going to be arriving to  
10 help the girls deal with the grief and trauma of the event.  
11 They never arrived. Instead, they gave Kari and the other  
12 girls sleeping pills to deal with it. Go to the next page,  
13 will you. Go to paragraph nine and enlarge it.

14 During the night after Valerie's death, Carey heard  
15 staff trying to scrub the blood stains off the concrete.  
16 The next morning, they made the girls, including my  
17 daughter, line up for head count right over the still  
18 blood-stained X that marked the spot where Valerie landed.  
19 Kari was ill from it. These are things that Sue heard  
20 directly from her neighbor and she told part of that story  
21 so the parents would know what happened. Take that off the  
22 screen now. Thank you.

23 Was there reasonable belief of what Sue Scheff stated?  
24 Stories from parents and former students. She said she had  
25 talked on the phone to 50 or so parents and students, asked

1       them personally what their story was. 15 articles we put  
2       into evidence. There are many, many others articles that  
3       they sent to her. Individuals that were interested in the  
4       subject for her to read. [REDACTED] broke her silence. She  
5       wouldn't talk for several months. She was stoic. All  
6       argument had left from her and then she started telling her  
7       mother the story.

8               TV programs. There were three of them at that time.  
9       Counsel has made a big point that Inside Edition was in '03.  
10      Right, that is during the time they had this big dip in  
11      their loss, little dip in their profit. 48 Hours, Dateline,  
12      Prime Time were all shown. 38 million people saw those  
13      shows. And they sent those to her for her to review. She  
14      had verification stories in writing from many of the  
15      parents. We have shown many on the screen during the course  
16      of the trial. Sue's neighbor, Sue, Chris Goodwin, John  
17      France, Bernadette you heard from in the courtroom today,  
18      this week. And the question is what was Sue's state of  
19      mind? Did she have a reasonable belief that what she wrote  
20      was accurate when she did it?

21             So under defamation they haven't proved these  
22      statements were false. And number two, they have to prove  
23      that Sue didn't have a reasonable belief. That is the  
24      reason why all of the movies and all of the articles we read  
25      to you. Not to hurt or shock or embarrass anyone, but to

1 let us know why it is that Sue Scheff believed what she did.

2 I would like you to turn to jury instruction number  
3 32, please. Jury instruction number 32 is very informative  
4 on this. In defamation they have got to prove not that she  
5 was negligent or careless in what she said, not that she was  
6 sloppy or didn't exercise good judgment. If you go to  
7 paragraph three of the instruction, this is what it says.  
8 In determining whether there was a knowing falsehood or  
9 reckless disregard for the truth, however, it is not enough  
10 for you to find that defendant acted negligently so she was  
11 negligent in what she did or careless or sloppy or did not  
12 exercise good judgment in researching, writing, editing and  
13 publishing the statement.

14 What did we see in this trial for four hours? We saw  
15 a very skilled attorney taking on a mother of a child. And  
16 she did her best to explain to you what she did. They  
17 pulled up her affidavit that our office wrote. And we  
18 walked through that affidavit with her. And all of those  
19 statements are true and accurate. They are trying to say  
20 that well she never has been to Utah. That affidavit was  
21 signed at the very beginning of this case. She had been to  
22 Utah many times after that due to the programs. Prior to  
23 that date, Donna Headrick and others had researched the  
24 programs in Utah. Other paragraphs of the affidavit she  
25 explained to you.

1           They are accurate. They were truthful. Our office  
2 put that affidavit together for her. A very good attorney  
3 took her on, she did her best to tell you what it is. But  
4 this is what it says. If she is -- if she was negligent or  
5 careless or sloppy, or she didn't exercise good judgment in  
6 editing or publishing the statement the exact words weren't  
7 accurate that is not enough to prove that she did something  
8 that she knew was false without reasonable belief.

9           If you look at paragraph four, please, and bring that  
10 up. The mere fact that a mistake may occur does not  
11 evidence knowing falsehood or reckless disregard for the  
12 truth. So even if she made a mistake, that is not enough  
13 under what the Court's given you in the law. So you'll have  
14 to decide after that four hours whether she made a minor  
15 mistake, whether she was doing her best, if she was  
16 negligent, if she was careless, if she didn't use good  
17 judgment all of the time, she was a novice, that is not  
18 enough. They have got to prove that she knew and she was  
19 doing it on purpose and she was trying to do those things.  
20 So your question is after you saw the videos, after you  
21 heard the statements, after you heard the witnesses, what  
22 was your reasonable belief? Were some of these things  
23 possibly going on or not? I think you would agree that she  
24 would believe they were.

25           If you talk about the damages in defamation. They

1 have got to establish those damages. As you recall, they  
2 had Ken Kay take the stand. He says oh, we have had a hard  
3 time recovering from the damages, it has been hard to  
4 recover from this great damage to our reputation. And as  
5 you recall what he testified to was this. In the year 2000,  
6 just WWASP alone, not the whole group of companies that 90  
7 million, if you look at just their company alone, WWASP,  
8 they had \$1,000,000 in '00. That is the year that she still  
9 had her daughter in their program at the end.

10 They said well geez we had a hard time recovering from  
11 '01. '01, 1.6 million. 500,000 more growth. Then the next  
12 year, '02, another \$300,000 growth. In '03, a \$700,000  
13 growth. They have gone from one million to \$2.6 million  
14 during this time of economic crisis after September 11th.  
15 Is that showing they have a hard time recovering if there  
16 were no other damages here? Let's talk about what other  
17 considerations the Court will instruct you, or has  
18 instructed you, with regards to this issue. Would you bring  
19 up exhibit -- instruction 44, please.

20 What the plaintiff has done to their own reputation is  
21 also key. If you go to the bottom of that instruction and  
22 you enlarge that, please. If you -- where is that pointer?  
23 There it is. Thank you. If you look at this part of the  
24 instruction right here, it says you may not award damages  
25 that are the result of plaintiffs own activities. Well what

1 made it into the news? It was things that the plaintiff had  
2 done to other children, other parents, at their facilities  
3 that made it into the news. So plaintiffs own activities  
4 that caused these things to get into the news you can't  
5 recover anything for that. And it says, and any other  
6 persons activities. How many newspaper reporters are  
7 putting articles out? How many other parents are writing  
8 articles and letters? How many TV shows are out there that  
9 got this word to 38 million people. So the only thing you  
10 can award for, is only something that you believe that Sue  
11 Scheff did herself.

12 And so they point to a couple of letters. A letter to  
13 one person early in '01 where she says we don't charge this,  
14 we don't get commissions. In '01 they were a foundation  
15 doing grants and she said by late '01 or September '01, she  
16 wrote a letter, she thinks it was a mistake, she brought  
17 down an old form. A mere mistake is not enough. That is  
18 all they did. That is one person only. They haven't asked  
19 you for damage for that person, and that is not something  
20 that she has put out into the commerce to have damages.

21 I would like you to bring up the video clip Dateline  
22 two.

23 (Whereupon, the video clip Dateline two was played.)

24 MR. HENRIKSEN: Dateline two, Lords of Discipline.

25 Let's hear the response of Mr. Lichfield on the same program

1 with regards to punishment. Clip three, please.

2 (Whereupon, Dateline clip three was played.)

3 MR. HENRIKSEN: You can stop that now. Let's go onto  
4 clip five, please.

5 (Whereupon, clip five of Lords of Discipline Dateline  
6 was shown.)

7 MR. HENRIKSEN: Go to clip eight, please.

8 (Whereupon, Dateline clip eight was played.)

9 MR. HENRIKSEN: So there is an admission by this  
10 company that some people are going to perceive them in bad  
11 light. Says it right on the news. And they have done much  
12 themselves to cause whatever damages they may be trying to  
13 claim in this case.

14 And if you look at what has happened to the  
15 reputation, does this curve of profit, does this curve of  
16 profit look like someone who has damaged their reputation?  
17 If your reputation is damaged, don't you have trouble  
18 getting customers? There is no damage to the reputation  
19 that has been caused by those newspaper articles, by the TV  
20 shows, that we have looked at. They approved.

21 If you look at conspiracy, they're asking for no  
22 damage under conspiracy. They just say oh, this is a really  
23 nasty word let's use it. They tried to argue that there is  
24 this conspiracy of people but they haven't proved it. Would  
25 you bring up jury instruction number 34.

1           You have to have a combination of two or more persons.  
2       There is no other person they have said. They have to prove  
3       that they met and they had a meeting of the minds. They all  
4       agreed to something they were going to do. Who did they  
5       prove agreed with Sue to do something? They haven't proved  
6       anyone else. They have to do something that was unlawful.  
7       Bring up one through five, please, enlarge them.

8           And then they have to do one or more unlawful act and  
9       they have to have damages again. They haven't proved they  
10      have been damaged. Their income continues to increase,  
11      their students continue to enroll. And so, if you try to  
12      look at what they're trying to do with the conspiracy, is  
13      they just want to be able to use that because it sounds bad.  
14      They want to claim that a listserv with parents talking to  
15      parents, parents who want to have a support group of their  
16      own to vent and share their feelings, they're saying in  
17      vague terms this listserv must be some conspiracy.

18           They're now trying to get you guys on the jury to tell  
19      her she can't even talk on a listserv with other parents to  
20      share their feelings and thoughts on a private confidential  
21      listserv just like they have. They want you to stop that.

22           The unlawful activity. They're saying that it is  
23      unlawful that she can speak her opinion. Go back to the  
24      First Amendment again. Under each of these causes of action  
25      it is this company trying to stop a mother from speaking.

1 And she has every right to speak her opinion. And what did  
2 Mr. Lichfield just say on the screen? When you're the best  
3 in the business, well they had a right to say that and we're  
4 not objecting to that. Why doesn't she have a right to say,  
5 you know what, I think my daughter had some problems when  
6 she was there. Why doesn't Mr. -- why doesn't Chris Goodwin  
7 have the right to come in and say, I think my son was abused  
8 from what he told me. John France can say eight and a half  
9 months in the hobbit, it sounds wrong to me. They want to  
10 have you stop these people from even talking on the  
11 listserv. Can you imagine that? They have not proved there  
12 was a conspiracy to do anything illegally.

13 All right. I want to talk more about the Lanham Act.  
14 We talked about that just briefly. But here we go. Was she  
15 a novice in this business? Absolutely. She had a partner  
16 that was the business part of it. She was working on  
17 grants, working on setting up this foundation. She ended up  
18 having a divorce and leaving. Things changed during '91 and  
19 towards the end of '91 business had changed. She messed up.  
20 She has things on her website that are not exactly accurate.  
21 But let's look at some of those because this is the only  
22 thing you can look under Lanham Act. They have to show that  
23 she has advertised something out in the purchasing public.  
24 Think of this. Anything she sent to the Trekkers group,  
25 these are parents who already have problems with their kids

1 at WWASP. Are they consumers? Are they trying to purchase  
2 services from WWASP again? No. Not one Trekker's e-mail,  
3 not one of the listserv documents, none of those can be used  
4 in her Lanham Act because they have to be a consumer looking  
5 to purchase goods or services.

6 I would like you to bring up Exhibit 37, page 132.

7 Now, very craftily, and I have to admit that attorneys can  
8 do that, okay, but let's look at what they have done on this  
9 website. They have pulled things out of context to make it  
10 look as bad as they possibly could. And you are now judging  
11 her from years ago when she tried to put this together and  
12 write it. If she made a mistake, as I have explained to  
13 you, that doesn't matter. She has to do something  
14 materially false. And ask yourself, she has stories on her  
15 website they haven't said anything about those stories. If  
16 you go down to June and July and we highlight that  
17 newsletter, she put on her website Breaking the Vow of  
18 Secrecy by Karen Lyle. Discovery Experience by Kendal Bean,  
19 Ten Warning Signs of Potentially Unsafe Group Leader. Karen  
20 Lyle told her story on the website. Have they said that is  
21 materially false? No. Have they complained that she  
22 advertised that? No. Well answer this for me. Do you  
23 think you would be more interested if you were a parent  
24 going to a website to read someone's true story of what  
25 happened to them at a program or would you be more

1 interested in looking at where her building is. Would you  
2 be more interested if you were a parent trying to figure out  
3 what am I going to do with my teen, would you be more  
4 interested in talking to Sue and other parents and reading  
5 her story, or would you be bothered by something they have  
6 brought out of context about her building?

7 Let's look at a couple of those and I want you to look  
8 very closely up there at the top of this website and you'll  
9 see what I'm talking about. Here is the top of this  
10 website. It says here testimonials. These are stories. If  
11 you look here it says frequently answered questions. We're  
12 going to look at some of those pages here in a minute. I  
13 would like you to turn to Exhibit 96.

14 If you hit this path that says "about us," then you  
15 will learn what she is telling people about the people who  
16 work with her. And they take it out of context wherever  
17 else you put that. Would you please highlight this  
18 paragraph right here (indicating). We offer firsthand  
19 experience from parents to parents and share schools and  
20 programs that we would send our own children to. We are not  
21 therapists or medical doctors. We are parents helping  
22 parents. She never misrepresented that they're professional  
23 therapists or they have doctors or attorneys or someone of  
24 that nature. You can take things out of context. If you  
25 look at the instruction on Lanham Act you have to read them

1 in context of where they are.

2 If you look at the "about us," which is Exhibit 22,  
3 you hit the "about us" and it tells you then what is going  
4 on. This is not the right one. Page 80.

5 You don't have the right one up here. Page 80. See  
6 where that is? That is the one. Will you highlight this  
7 paragraph right here (indicating). About us. PURE  
8 consultants are professionals. Let's talk about that.

9 It used to be that lawyers and doctors and others  
10 thought they were so cool we're going to be professionals  
11 and nobody else can. What is the situation in today's  
12 world? Across the street I have professional dry cleaner,  
13 professional cooks, there is a professional mechanic. She  
14 says we're professionals. We're parents helping parents.  
15 We are parents which makes our service unique and separates  
16 us from other services. Are they claiming they're some kind  
17 of trained professional? No. Is this their material  
18 representation that is false? Is that going to be important  
19 enough or crucial enough that she says we're professionals  
20 like you might say I'm a professional nurse, I'm a  
21 professional court reporter? No, it is not material, and it  
22 is not that important. What is it that is going to drive a  
23 parent to either buy these services or not. It would be the  
24 story of what happened to her. What their programs are  
25 about. How they have researched the programs.

1           Let's talk about the research of those programs. She  
2 got a lot of information from her first quality assurance  
3 director which was Donna Headrick, a social worker from  
4 Maine. And you heard Sue's testimony, you heard Chris  
5 Goodwin's testimony about what information she had. She had  
6 researched these programs and had been to the programs and  
7 had developed a lot of documents and she was her quality  
8 assurance person and social worker. When she died in '02,  
9 Marie Peart actually was trained by these guys as a Teen  
10 Help representative and what not. She came in. She visited  
11 every single place, every single director, talked to  
12 students, checked every building. You heard Marie come in  
13 and testify. She testified that they did check out their  
14 people.

15           They want to say she's advertising they aren't  
16 quality. That is an opinion, isn't it? Mr. Lichfield says  
17 we're the best in the business. Why can't you say we have a  
18 quality. If you look on our license plates many of them say  
19 the Greatest Snow on Earth. Well who ever decided that for  
20 Utah? Colorado, I think, might want to bring an action  
21 against Utah then or something. They're saying that is  
22 their opinion. She has a right to give their opinion. We  
23 think we have quality programs and networks.

24           Okay. So you have got an attorney going after her.  
25 And he was good. I looked at that and I thought wow that is

1 good. But this is a mom that answered his questions the  
2 best that she could. And did she say yeah I made some minor  
3 mistakes, yeah. And your decision is are any of the things  
4 they talked about something that is material or crucial or  
5 so important that you're going to tell her and other parents  
6 you got to close your mouth, you can never give your opinion  
7 any more, we can't say we think we have a qualified network  
8 because we checked them out. You're telling these folks you  
9 can't say that you have quality. You can't even let them  
10 give their opinion. It is a First Amendment issue again.

11 Longevity of success. She puts that on other schools.  
12 It is not just the school is open or not opens, it is the  
13 people who are running it. She is saying our programs have  
14 longevity and success and it depends on who is running that  
15 program.

16 It is like saying call us when you want the absolute  
17 best. These are opinions. I have got to throw this in  
18 because my wife continuously reminds me that she is a  
19 professional homemaker. And there are those now that we  
20 call them professionals just about in everyone. I wouldn't  
21 deny that. The United States Constitution gives us the  
22 right to speak freely and give our thoughts on public issues  
23 of concern. That is what she did and all of those  
24 statements as you look at them she is telling people how to  
25 take better care of kids.

1           Let her give a voice to those stories of parents who  
2           are telling her the truth. Let WWASP continue to tell the  
3           stories that they want to tell. Others have that same  
4           right. And by this case, you will be able to help them  
5           maintain that right.

6           THE COURT: Mr. Henriksen, you have about ten minutes  
7           remaining.

8           MR. HENRIKSEN: Thank you, Your Honor. I'll skip over  
9           some of this here. I don't have time to do it, but if you  
10          get to the frequently asked questions it says location. And  
11          she said we're located in a building that has other  
12          psychologists and what not in them. You're in a party and  
13          you talk to someone. If they came up to me at a party and  
14          asked me for some legal advice and I gave it to them. The  
15          next day, I heard them over talking to somebody else and  
16          overheard them to say, well, our attorney says this. Is  
17          that material and crucial and misleading? No.

18          Now let's talk about the damages that have been  
19          alleged under the Lanham Act. Their claim is that you ought  
20          to just give them all of her profit. Well that is not what  
21          the law says.

22          The law under the instructions says if you get to this  
23          point, if you want to have her close down, not give a voice  
24          to these opinions, then that is what you have to do. If you  
25          find they are crucial material things that she has said to

1 someone, she is a professional or what not, I don't think we  
2 should even get there. But if you do, and you look at the  
3 damages, you only can award what her net profits are and  
4 those are clearly explained in there. She was not just the  
5 only employee as the attorneys testified to you, but he is  
6 not a witness. Marie works for her. She gets commissions.  
7 She has secretaries who work for her. She currently is the  
8 only employee in '04, but in '03, '02, '01 she had staff and  
9 office working for her. Now she doesn't have anyone working  
10 for her. And so those expenses are laid out in there. And  
11 we can look at those, but those damages could only be those  
12 net profits. She has done nothing willful at all.

13 Now, let me talk to you about the Oak Ridge Academy  
14 and why that is important. And if you look at the  
15 instruction number 41, would you bring that up? That  
16 instruction says that you can't include Oak Ridge Military  
17 Academy if it is your belief, not mine, if it is your belief  
18 it is a whole different kind of a program. If you look at  
19 instruction 41, it says from the sell of competing products,  
20 competing products, that is why we talked about that.

21 65 percent of her gross income went -- came from Oak Ridge  
22 Military Academy, which is not a competing product.  
23 65 percent. So those amounts would have to come off those  
24 damages.

25 Now ladies and gentlemen, the plaintiff has the burden

1 of proof. They have to clearly convince you that what  
2 they're saying is exactly right. If you come out and you  
3 say, you know what, I think they ought to have a right to  
4 talk and give their opinions and put out their website, she  
5 ought to have a right to talk and put out her information  
6 and parents helping people. If you believe that the things  
7 are sort of equally balanced here, then you should find  
8 against the plaintiff.

9         They have to clearly convince you that she didn't  
10 believe those things after she saw and read them. She  
11 didn't believe them. She only believed what they say, their  
12 employees, and not believe anything she said, she didn't  
13 have a reasonable belief. But they have the burden. If you  
14 come out and you're thinking, you know, I don't really know  
15 whether she is exactly telling the truth, you looked at all  
16 of the articles, it looks to me like someone would probably  
17 believe those things but they're telling you not to, they  
18 haven't met their burden of proof.

19         There is a special verdict form that you will be  
20 looking at and the judge sort of went through that with you.  
21 And let me remind you that I don't get a chance to now rebut  
22 anything that Mr. Silvester will come up here and say. And  
23 he gets the last talk. And the reason why, is because he  
24 has the highest burden of proof in this case. And I don't  
25 know what he is going to say. But someone here in the jury,

1 I hope, when you go back in there and you talk and you start  
2 discussing this, somebody say, you know I think  
3 Mr. Henriksen would have argued this on this point because I  
4 won't be able to say anything after this.

5 But the special verdict form is just sort of the end  
6 run of where ever you are going. I think that is pretty  
7 small print. But it says the defendant PURE engaged in  
8 false advertising under the violation of the Lanham Act?  
9 That answer should be no. She hasn't done anything material  
10 or crucial. I mean little tiny things they tried to pick  
11 out of context and the answer to that question should be no.

12 Did the defendant PURE engage in false advertising  
13 willfully? That means did she intentionally put something  
14 on her website or was it just a mistake? She has clearly  
15 admitted that to you. A couple of things that were a  
16 mistake but were not important or material, then you would  
17 answer that question no. Did she defame the plaintiffs with  
18 actual malice? And the actual malice part we have talked  
19 about that in my opening, that means did she have a  
20 reasonable belief or not? If you believe she reasonably  
21 believed these things after seeing those shows and what not  
22 and there are problems in the program, you would just say no  
23 to that question.

24 And on question four says, did they engage in civil  
25 conspiracy? We talked about the requirements of that. They

1 haven't proved anybody conspired with her or had a meeting  
2 or actually unlawful. All they're trying to do is voice  
3 their opinion. And so that answer would be no, also. And  
4 you don't have to reach any of the other questions with  
5 regards to damages. There isn't any reason to do that at  
6 all.

7 We're here because a mother, Amberly Knight, admitted  
8 to you, she said I'm sick of what I did when I was the  
9 director at Dundee Ranch. I watched things happen to those  
10 kids. That is direct proof of what she saw happen. And  
11 this is a mother who has a right to share her opinion, she  
12 is the one that is trying to give voice to this. And as I  
13 think back to some of the evidence that we have had in this  
14 case, and you remember the drawing on that board, I won't  
15 take time to go get that drawing, but on that drawing this  
16 young man, Chris Goodwin -- John France, let's make sure I  
17 get it right. Anything I say you guys if it is a little bit  
18 wrong go with what you think, John France sat in that room  
19 for eight and a half months and what did he write on his  
20 bunk? He puts his name on there. And what did he write  
21 above it on the walls? Dad wrote in that little box on that  
22 drawing said "let freedom ring."

23 That is what we're all about today. And you have the  
24 right as jurors to stand up for our Constitution. Let's not  
25 let people trample our right of freedom of speech when we

1 give our opinion, her opinion, based upon credible facts  
2 that she has. And what they're asking you to do is to take  
3 away someone's Constitutional right and take away the voice  
4 of that young man who says let freedom ring. That is what  
5 we're talking about here.

6 And if a decision is by this jury that no, there is no  
7 freedom of speech, there is no freedom to give your opinion,  
8 there is no freedom to say what you have learned from  
9 others, there is no freedom to repeat what is on a newspaper  
10 article, then what you have done is hampered the First  
11 Amendment. You have stopped one source of information and  
12 you have let a \$90 million company continue operating where  
13 no one else to even say hey you know I think there are two  
14 sides to this story.

15 Let's not let them do that. Let's tell them there are  
16 two sides to a story. As long as there is something we are  
17 basing that on, you know, scars on France, the broken arms,  
18 and the other tragedies we have heard about, all they're  
19 trying to saying is there are problems and parents be  
20 careful when you look into these programs. Be careful,  
21 choose them carefully, don't believe everything that you are  
22 told when you go into these programs because people  
23 sometimes are misled. That is the -- that is the opinion  
24 and the voice that you as the jury now have a right to go  
25 into the room and say she has every bit of right to do that.

1 A mother can stand up for her kids and she can be involved  
2 and if she makes a couple of little mistakes along the way  
3 that is okay, too. That is what the law allows.

4 Now I challenge you jurors to do something good today.  
5 We can go vote in November, choose a president, choose a  
6 governor, but today you're doing something directly to  
7 support the Constitution. The right to go out and give  
8 these opinions. Just like if you had something in your  
9 profession, I can't remember who was the cook, who was the  
10 nurse here, I can't remember from all the discussions we  
11 had, but if you had something important to say about your  
12 own business, or things that you know about, you have a  
13 right to talk about them, too.

14 And if you find out a company of someone is doing  
15 something that is improper, and you have something to base  
16 that on, then you want to be able to talk, too. And so one  
17 by one if we don't stand up to these big companies, and we  
18 don't let people voice their opinions, pretty soon we won't  
19 have them any more. And I challenge you to do something  
20 right.

21 I'm sure when you go in the jury room you have to  
22 debate a lot of things. If you listen carefully to what  
23 everyone talks about, you'll come out with the opinion that  
24 we have the right to voice our opinion as long as it is  
25 based on something that is pretty concrete.

1           And I know you'll come back with the right verdict,  
2           and for the right reasons. Not just trying to stop somebody  
3           from doing what they thought was good and made a little tiny  
4           mistake. And I appreciate your attendance and your time.  
5           Thank you very much.

6           THE COURT: All right. Thank you, Mr. Henriksen. And  
7           Mr. Silvester, if you want to take a minute to get the  
8           courtroom set up for your presentation.

9           MR. SILVESTER: Except for them moving their stuff,  
10          I'm just fine, Your Honor.

11          THE COURT: All right.

12          MR. SILVESTER: I thought I was okay but I do need  
13          that.

14          MR. HENRIKSEN: Your Honor, I object.

15          MR. SILVESTER: As do I. You know if we go through a  
16          week and only have one glitch we have done pretty well. Are  
17          you ready? Do you think?

18          MS. HAMPTON: I don't know.

19          MR. SILVESTER: If I may, Your Honor?

20          THE COURT: All right.

21          MR. SILVESTER: I do need to have the last word here.  
22          Now it is not only to try to be a lawyer, I guess I am a  
23          little distracted by this. Yeah, I spent four hours and  
24          left one person off the witness list. Our primary witness  
25          was Sue Scheff. And we don't have to just prove false

1 statements through our witnesses, we prove them through the  
2 documents. You don't have to believe my recollection of the  
3 facts. I want you to just look at the facts.

4 There were a whole bunch of exhibits introduced by the  
5 defendants saying certain things about certain kids and  
6 certain schools. You didn't have those people here. You  
7 had to rely on Ms. Scheff to say these are true statements  
8 made by them. In fact, if you remember in opening  
9 statement, I think Mr. Henriksen said Debbie Saenz would be  
10 here to verify that that was her statement. I want you to  
11 look at the evidence. Look at that statement which is  
12 defense exhibit and then look at Exhibit 58 on page 297. I  
13 don't need that right now. I just want to point out the  
14 fact that Ms. Scheff posted that story on the Woodbury  
15 Reports. Only when she posted it as SusanneLisa she said  
16 these are facts. This was written by a girl who just came  
17 back from Tranquility Bay two weeks ago. And she writes  
18 that horrendous story about -- I don't need to talk about  
19 it.

20 But she ends it out, interestingly enough this is her  
21 neighbor, she ends it out by saying, by the way, they made  
22 us tell our parents good things about the program. During  
23 the seminars, sex was always occurring between the girls and  
24 boys. When we would lay on the floors, kids would feel each  
25 other up. Staffers were actually students at the school so

1 they would participate. I saw it, I was there, I was  
2 frightened. Again I closed my eyes and complied. Why is  
3 that important? Because if you go a little further and you  
4 read her Trekkers post, she says John Dahlberg is going to  
5 make that quote in the L.A. Times because I have been  
6 working with him for a year to get this story out. By the  
7 way, the quote is from my daughter.

8 I would suggest to you that when you look through the  
9 evidence, you don't have to leap. In fact you shouldn't.  
10 What you should do is start looking at the written documents  
11 and what you'll find is she has a pattern, she uses a lot of  
12 bold. You know you start typing on the computer and you hit  
13 that bold thing up on top. And you notice in all of these  
14 posts, in a lot of the documents that she has introduced,  
15 she likes to put things in quotes, and she thinks that that  
16 makes them stand out.

17 Look at the stories. Remember what came in. We have  
18 Debbie Saenz. No. We have Bernadette Cabrael. What did  
19 she say? She thought her daughter was abused at Carolina  
20 Springs. It is only parents helping parents. Think that  
21 about that for just a minute. Only parents helping parents.  
22 Try the program, if that doesn't work you try the lawyer, if  
23 that doesn't work you wrap yourself in the flag. By the  
24 way, there is no value in the market. The First Amendment  
25 doesn't give any value to false statements to consumers. So

1 wrap yourself in the Constitution and the flag all you want.  
2 But the point is, if it wasn't commercial speech, if she  
3 wasn't really into it just to make money, she would have  
4 told you a balanced story. She would have told it. Think  
5 about it. If you are going to do a legitimate business and  
6 you want to truly help parents, do you post and not account  
7 for who you are? Or do you say, I am sue Scheff. If you  
8 want to know this stuff call me. I am not Hilda. I'm not  
9 SusanneLisa. I'm not Tracy Britanny Reese. I'm not -- I'm  
10 Sue Scheff. Here I am. Call me.

11 If you're going to post the stories of parents that  
12 you believed are true and those parents want to be  
13 protected, don't you say hold it just a second. I am not  
14 going to put this stuff out there unless you're willing to  
15 stand up to the story, put your name and address and  
16 telephone number on it. If you really are parents helping  
17 parents, don't you think you have the responsibility for  
18 maybe telling a little bit of the other side of the story.  
19 You won't see it. No where in her postings do you see it.

20 But you know what we know? I read your part of Ron  
21 Clems post. He put his full name and his telephone number  
22 and he is from Kalispell, Montana. Our daughter, this is  
23 the -- this is the one who remember he checked with the  
24 embassy, he checked with the Lutheran minister friend down  
25 there, he checked out the program at Tranquility Bay. He

1       said our daughter has been at the facility for seven months.  
2       Due to her age, we had to extend her guardianship to insure  
3       she would stay at the facility until treatment was  
4       completed. Extended guardianship allowed us to make  
5       decisions for our daughter. However, our decisions are  
6       under close scrutiny by the court. We had to hire our  
7       daughter her own attorney. We also had to hire an  
8       independent observer not associated with the facility in any  
9       way.

10             The observer could be a physician, psychiatrist,  
11       pastor or a ranking American Government Official. We opted  
12       for the psychiatrist knowing that our daughter would require  
13       extensive counseling treatment over the next several months.  
14       The court also mandated that reports about the facility and  
15       our daughter's progress be filed with the court on a monthly  
16       basis. Now this is the person that two pages later saying  
17       you don't know what you're talking about. Our daughter is  
18       recovering and has her life back. She thanks God daily for  
19       the second chance. We have been to Tranquility Bay twice  
20       and the facility is clean and professional. The staff,  
21       mostly Jamaicans, are remarkable not only in their way of  
22       life but in the love and dedication they share with our  
23       children. The Jamaican people are moral, faith-based, many  
24       denominations and provide our children supporting families  
25       with an environment to recover their lives without abuse,

1 abundance or excesses. It is not a club or resort or prep  
2 school. It is a facility that requires you to review your  
3 past and current behavioral choices and the resulting  
4 outcomes in modest conditions. They don't starve, beat or  
5 berate your children. They do, however, require respect,  
6 diligence and effort.

7         These are the kids that are having the hardest times  
8 in our society. And she is telling parents come to my site  
9 because I can be a professional. Either she is the  
10 professional or she is the novice. If she is the novice,  
11 she shouldn't be telling you those things. If she is the  
12 professional where is she? She has a staff of  
13 professionals. Where are they? Don't believe me on the  
14 facts. Go back through and read those postings and you'll  
15 find not only did Ms. Scheff say once on the website that  
16 she had psychiatrists, psychologists, attorneys, juvenile  
17 attorneys, she later on she wrote in a posting we have this.

18         Just look at the facts. She is misleading the public  
19 and I don't care how much you wrap yourself in the flag,  
20 there is no value in the marketplace for false information.  
21 There is no value saying parents come to me. And was there  
22 actual malice? Read the Trekker site. We're going to get  
23 those, the fat boys. That is what she says. Is their  
24 actual malice? Absolutely. It is in there.

25         Why are the Trekkers civil conspiracy? Because

1 suddenly when the lawsuit happens she decides she can't go  
2 to our clients directly, she has got a mole on our BBS. She  
3 sends the Trekkers. She sends this group of people who she  
4 knows will spread the defamatory information. Now, did she  
5 make false statements? Did she make them maliciously or did  
6 she recklessly disregard the truth? Who came in to tell you  
7 that they told her that Valerie Heron died at the hands of  
8 World Wide? World wide is the trade association. Who told  
9 you that Valerie Heron died because of the negligence of the  
10 staff at Tranquility Bay? Were her parents here? No.  
11 Maybe that is because she had no valid reason for putting  
12 that on the post.

13           Who came and told you I saw Josh Jennings living in  
14 his own excrement in a World Wide program in Mexico? Not  
15 Mr. Goodwin. He didn't say anything about Josh. He didn't  
16 know who Josh Jennings was. And he may believe this stuff.  
17 I think he probably does. I feel bad for him that he has  
18 gone through so much. But these are the kids that as he  
19 said he tried psychologists, psychiatrists, social workers,  
20 he tried us. Doesn't always work. Our schools don't always  
21 work. Did these kids always tell the truth? Read the  
22 posting lists. Says I lied to everybody, I lied to my  
23 parents, I lied to the government, I lied to every media  
24 person I talked to to get out of here. Do they lie if  
25 they're going to think they're going to get money like

1 Sergio Alva, like Stanley Goold who you have heard their  
2 cases were dismissed.

3 I want to show you what the rest of 60 -- the rest of  
4 the 48 Hours the part that they didn't want you to see.

5 (Whereupon, clips from 48 Hours were played.)

6 MR. SILVESTER: That is all, Your Honor.

7 THE COURT: All right. At this point, we have  
8 received all of the evidence and it is the point in the  
9 process for you to begin deliberating. I just wanted to  
10 mention one thing. The exhibits are going back to you and  
11 you're going to be getting two notebooks. I just wanted you  
12 to know one thing about those. We gave each side roughly  
13 500 pages. Obviously there is a variety of different  
14 documents but sort of to focus things down they have had to  
15 pick and choose and kind of prioritize and each side has  
16 come up with what they think are the key documents for you.  
17 They will go back to you.

18 Ask for you to take as much time as is important as  
19 you need. This is an important case for both sides. So  
20 work through the evidence and come up with a fair and  
21 appropriate verdict. All right. I think our Court Security  
22 Officer will come forward at this time to take the oath.

23 THE CLERK: Please raise your right hand.

24 (Whereupon, the Court Security Officer was sworn in.)

25 THE CLERK: All rise for the jury.

1           (Whereupon, the jury left the courtroom.)

2           THE COURT: All right. Everyone may be seated. And  
3 counsel, you will need to give telephonic contact numbers to  
4 Ms. Little and obviously be within immediate access at all  
5 times by telephone. And unless there is anything further we  
6 need to do, we'll await the verdict of the jury.

7           MR. SILVESTER: Thank you, Your Honor.

8           MR. HENRIKSEN: Thank you, Your Honor.

9           (Whereupon, Court stood in recess at 12:10 p.m.)

10          THE COURT: All right. We're here on the World Wide  
11 matter. Counsel are present and we have received two  
12 questions from the jury. I take it the first one is fairly  
13 straightforward. It says, "may we have a legal dictionary?"  
14 I was planning to answer that question no. That that is not  
15 permitted by the rules. Would anyone object to proceeding  
16 in that fashion?

17          MR. SILVESTER: No, Your Honor.

18          MR. HENRIKSEN: No, Your Honor.

19          THE COURT: All right. And the second question may  
20 require a little more discussion. The question is with  
21 respect to jury instruction number 25, and I believe it is  
22 the Lanham Act instruction, what is meant by the literally  
23 false in the second paragraph?

24                 My intention was to answer a literally false  
25 representation is that it is one that is false on its face.

1 But would either side object to answering the question in  
2 that way? Let me just read that again. I'm planning to  
3 answer that, what is meant is a representation that is false  
4 on its face some case law that seems to lie in that  
5 direction, it is not quite on point, but 211 F3d 515 at page  
6 521. That is the Hutchinson case from the Tenth Circuit,  
7 which suggests that would be a reasonable way of answering  
8 the question.

9 MR. SIEBERS: Do you want this on the record?

10 THE COURT: That is my plan. Does anybody want to try  
11 to talk me out of it? Mr. Siebers is shaking his head no.  
12 The record will reflect that for once he hasn't --

13 MR. SIEBERS: I agree.

14 MR. SILVESTER: He has absolute authority to do that,  
15 Your Honor.

16 THE COURT: You were the jury instruction guy, you  
17 both were here. Mr. Siebers was here, all right.

18 MR. HENRIKSEN: Your Honor, we would propose to say  
19 something like this. That it is actually false. I think  
20 that is -- that is what we just looked up in the dictionary.  
21 I think actually false would be a good way to do that.

22 THE COURT: What about that? What if I said it was  
23 actually false on its face.

24 MR. SIEBERS: Your Honor, that is the instruction that  
25 we offered and was objected to, so I don't know where we go

1 with that literally false. As we discussed in the  
2 conference, I don't know that it means anything. I think  
3 you're only getting benefit when you use the false on the  
4 face. I don't know that actually false is going to mean any  
5 different to the jury than literally false and we will  
6 probably be here on question number three what does actually  
7 false mean?

8 THE COURT: Would the plaintiff have any objection if  
9 it means a representation that is actually false on its  
10 face.

11 MR. SIEBERS: No.

12 THE COURT: All right. I'm going to go ahead and do  
13 that and I'll send those two answers back.

14 MR. HENRIKSEN: That was the plaintiff that answered.  
15 We would object. I don't think to say on its face --

16 THE COURT: Wait a minute, I put that in, I was trying  
17 to do what you wanted.

18 MR. HENRIKSEN: It just said actually false. It did  
19 not say on its face. So we were just saying it is actually  
20 false as we were proposing.

21 THE COURT: That will make it easier for the plaintiff  
22 but if that is the way you want to go, object to taking out  
23 on its face, that broadens the concept and makes it easier.  
24 Is it actually false is fine.

25 MR. SIEBERS: I would say that is the instruction we

1       offered initially.

2               THE COURT: All right. So I'm going to say it is a  
3 representation that is actually false. All right. We'll go  
4 ahead and do that. I'll send a written answer back to the  
5 jurors along those lines and we'll await further word from  
6 the jury then. Thank you, counsel.

7               (Whereupon, the hearing concluded at 2:45 p.m.)

8               THE COURT: I have been advised that the jury has  
9 reached a verdict. Ms. Little will make arrangements to  
10 bring them in. She mentioned, Mr. Henriksen your request,  
11 and we'll see if we can take care of that. I usually meet  
12 with the jurors briefly afterwards and I'll pass that  
13 request along to them.

14              (Whereupon, the jury returned to the courtroom.)

15              THE COURT: All right, ladies and gentlemen. I have  
16 been advised that you have reached a unanimous verdict. If  
17 you would provide that to the Court Security Officer here.

18              All right, Ms. Little, you may publish the verdict.

19              THE CLERK: In the matter of World Wide Association of  
20 Specialty Programs versus PURE, Inc., PURE Foundation, Inc.  
21 and Sue Scheff, the special verdict form reads: We the jury  
22 present our answers to the questions submitted by the Court  
23 to which we have all agreed.

24              Did defendant PURE engage in false advertising and  
25 violation of the Lanham Act? No. Did defendant PURE

1 engage in false advertising willfully? No. Did defendants  
2 defame plaintiff with actual malice? No. Did the  
3 defendants engage in a civil conspiracy to defame the  
4 plaintiff? No. Signed by the foreperson of the grand jury  
5 Lyla O'Dell this 8th -- this 6th day of August, 2004.

6 THE COURT: All right. If you'll poll the jurors  
7 then, Ms. Little.

8 THE CLERK: I'm going to ask a question and then I'll  
9 call on each of you individually for an answer. Was that  
10 and is it now your true verdict? Ms. O'Dell?

11 MS. O'DELL: Yes.

12 THE CLERK: Ms. Roundy.

13 MS. ROUNDY: Yes.

14 THE CLERK: Ms. England? Did I get it wrong? Early,  
15 sorry.

16 MS. EARLY: Yes.

17 THE CLERK: Ms. Turner?

18 MR. TURNER: Yes.

19 THE CLERK: Ms. Johnson?

20 MS. JOHNSON: Yes.

21 THE CLERK: Ms. West?

22 MS. WEST: Yes.

23 THE CLERK: Mr. Stringham?

24 MR. STRINGHAM: Yes.

25 THE CLERK: Ms. Harmon?

1 MS. HARMON: Yes.

2 THE CLERK: Ms. Jackson?

3 MS. JACKSON: Yes.

4 THE CLERK: Mr. Player?

5 MR. PLAYER: Yes.

6 THE CLERK: Ms. Lang?

7 MS. LANG: Yes.

8 THE CLERK: Ms. Roberts?

9 MS. ROBERT: Yes.

10 THE COURT: All right. Is there any reason why the  
11 jury should not now be discharged?

12 MR. SILVESTER: No, Your Honor.

13 MR. HENRIKSEN: No, Your Honor.

14 THE COURT: All right. I'll go ahead and discharge  
15 the jury at this time. And I wanted to come back and extend  
16 my thanks to each of you personally if you'll wait a minute  
17 back there in the jury room. I know you're anxious to get  
18 going. I'll be right back. All rise for the jury.

19 (Whereupon, the jury left the courtroom.)

20 THE COURT: All right. Everyone may be seated. I  
21 take it there is no further business that we need to do on  
22 this case?

23 MR. HENRIKSEN: Your Honor, I just wanted to let  
24 counsel know that I was just asking for the jurors to leave  
25 an address either one way or the other, if we won or lost,

1       because I would like to send them a questionnaire.  If I do  
2       get those addresses, we'll be happy to share with counsel,  
3       if they would like those.  If anybody would be interested to  
4       leave that we would appreciate it.

5               THE COURT:  All right.  I'll make --

6               MR. HENRIKSEN:  Thank you, Your Honor.

7               THE COURT:  All right.  Thank you, counsel.

8               THE CLERK:  Counsel, could we get the jury  
9       questionnaires back so I can destroy them?  It doesn't have  
10      to be today.  And please wait for me to get the exhibits.

11              MR. HENRIKSEN:  Yes.

12              (Whereupon, the trial concluded.)

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1 STATE OF UTAH )

2 )ss

3 COUNTY OF SALT LAKE )

4  
5 I, Laura W. Robinson, Certified Shorthand  
6 Reporter, Registered Professional Reporter and Notary Public  
7 within and for the County of Salt Lake, State of Utah, do  
8 hereby certify:

9 That the foregoing proceedings were taken before  
10 me at the time and place set forth herein and were taken  
11 down by me in shorthand and thereafter transcribed into  
12 typewriting under my direction and supervision;

13 That the foregoing pages contain a true and  
14 correct transcription of my said shorthand notes so taken.

15 In witness whereof I have subscribed my name and  
16 affixed my seal this 26th day of October, 2004.

17   
18 \_\_\_\_\_

19 Laura W. Robinson, CSR, RPR, CP  
20 and Notary Public

21  
22 MY COMMISSION EXPIRES:

23 December 1, 2004  
24  
25