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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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PLANNED PARENTHOOD FEDERATION)
OF AMERICA, et al.,)

Plaintiffs,)

vs.)

No. 3:16-cv-00236 (WHO)

CENTER FOR MEDICAL PROGRESS,)
et al.,)

Defendants.)

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

VIDEOTAPED DEPOSITION OF

PERRIN LARTON

OAKLAND, CALIFORNIA

APRIL 12, 2019

Reported By:
CATHERINE M. MEYER, RPR, CSR
CSR NO. 11596
NO. 19-77047

HIGHLY CONFIDENTIAL- ATTORNEYS' EYES ONLY TRANSCRIPT

1 left of the frame. The date is June 14, 2013 and
2 the timestamp is 10:31:23.

3 Ms. Larton, do you recognize the
4 individual depicted on the video?

14:47 5 A. Yes.

6 Q. And who is that?

7 A. That's me.

8 Q. And does this appear to be the same
9 conversation we were just discussing previously?

14:47 10 A. Yes.

11 Q. Okay. We will play a little bit of the
12 video and ask questions afterwards as we've been
13 doing before.

14 (Video playing.)

14:48 15 BY MR. BREEN:

16 Q. And then, Ms. Larton, there was a
17 discussion here. You had mentioned that oftentimes
18 the fetal -- the fetuses have as an open abdomen
19 instead of a closed abdomen; is that accurate?

14:49 20 A. Yes.

21 Q. Do the fetuses occasionally have a closed
22 abdomen?

23 A. Yes.

24 Q. Okay. And then in those circumstances how
14:49 25 frequently do they have a closed abdomen?

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1 A. Oh, I don't know. Once a month maybe.

2 Q. And then in those circumstances is it --
3 is it a situation where the fetus just fell out as
4 had been discussed at the end of the clip or is it
14:49 5 some other reason?

6 A. No. They -- they just -- sometimes they
7 fall out. As I said in the video, it's depending
8 on the woman. Women are all different. Some women
9 labor for 24 hours to have their baby and some
14:49 10 people labor for 24 minutes. So...

11 Q. Certainly. And in the situation -- and
12 then how frequently would -- you mentioned the
13 fetus falling out situation. How frequently would
14 that occur in your estimation?

14:50 15 A. I don't know. Once every couple months.
16 And again, it depends on the woman. So...

17 Q. And then in a situation like that, when is
18 the next time -- well, so in a normal situation
19 you've said the surgeon certifies the completeness
14:50 20 of the procedure and then the technician goes and
21 procures the tissue.

22 A. And the --

23 Q. The technician then goes to procure --

24 A. Yes.

14:50 25 Q. -- the tissue? In the situation where the

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1 fetus falls out, does the same thing happen?

2 A. Certainly.

3 Q. Okay. When the fetus falls out, is
4 anything done to the fetus by the surgeon in
14:51 5 your --

6 A. No.

7 Q. -- estimation? How does the fetus -- is
8 the fetus then -- is the fetus alive then in the
9 lab room?

14:51 10 A. No.

11 Q. Okay. How does the fetus expire?

12 A. It never breathes.

13 Q. And why not?

14 MS. JOHNSON-McKEWAN: Objection. Calls
14:51 15 for -- calls for a medical opinion at this point.

16 THE WITNESS: Yeah, I --

17 BY MR. BREEN:

18 Q. When you say it never breathe, you were
19 very certain that answer. Why?

14:51 20 A. Because they're not breathing.

21 Q. And -- but are they -- are they alive when
22 they fall out?

23 MS. JOHNSON-McKEWAN: Objection. Asked
24 and answered.

14:51 25 THE WITNESS: In my opinion, no.

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1 BY MR. BREEN:

2 Q. But is the -- well, when that situation
3 occurs, is the entire fetus intact in the lab when
4 the procurement technician enters the lab?

14:52 5 A. Yes.

6 Q. How does a tissue procurement occur in one
7 of these situations when the entire fetus is intact
8 in the lab?

9 A. We do a dissection.

14:52 10 Q. And -- and -- and just to be clear, you do
11 dissection to obtain the tissues that are on the
12 list for the day?

13 A. We do dissection to get the tissues that
14 the researchers have requested, yeah.

14:52 15 Q. Now, when you said that the fetuses are
16 not breathing, are -- they are -- I mean, they have
17 a heartbeat, don't they, at the point they would
18 fall out?

19 MS. JOHNSON-McKEWAN: You know, objection.

14:53 20 This -- this witness isn't in the room when that
21 happens. This witness is not a doctor. This
22 witness is not here to testify about the medical or
23 biological conditions of the fetus when it comes --
24 when it's eliminated from the mother. Moreover,
14:53 25 it's pretty clear I think from the judge's orders

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1 MS. JOHNSON-McKEWAN: So in effect you're
2 trying to get the witness to testify about why your
3 client would believe something that she didn't say.

4 MR. BREEN: No, no, no. And so that's --

15:11 5 BY MR. BREEN:

6 Q. I want to hear what you -- I want to
7 understand what you were thinking when you made the
8 statement and because you very categorically said
9 here today that that fetus was not alive and you

15:11 10 said it with certainty. And so I'm trying to

11 determine why that certainty. And the reason I
12 want to do that is because I want to say, well, my
13 client should have had that certainty as well, and
14 so I'm trying to figure out what the indicators

15:11 15 would be. So that's where I'm going.

16 So why would -- when a fetus in this --
17 what you were describing on the video, the fetus
18 just falls out, why were you certain that those
19 fetuses were not alive when they fell out?

15:11 20 MS. JOHNSON-McKEWAN: Asked and answered
21 half a dozen times at least.

22 THE WITNESS: Because they're not alive.

23 BY MR. BREEN:

24 Q. And how do you know that?

15:12 25 A. Because they're not alive. I -- I don't

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1 know what you want me to say other than that.

2 Q. Well, and by not alive do you mean that
3 they were not moving?

4 A. Correct.

15:12 5 Q. And do you mean that they did not have a
6 heartbeat?

7 A. It would depend.

8 Q. And when you say it would depend, what do
9 you mean?

15:12 10 A. There are -- I can see hearts that are
11 in -- not in an intact POC that are beating
12 independently --

13 Q. Okay.

14 A. -- but they're not attached to anything.

15:12 15 Q. Okay. And then -- and then by not alive,
16 would you -- would you say that for those fetuses
17 that just fell out, would their umbilical cord not
18 be pulsating?

19 A. It's not.

15:12 20 Q. And why not?

21 MS. JOHNSON-McKEWAN: Again, that's
22 calling for expert medical opinion.

23 BY MR. BREEN:

24 Q. And why would you say -- why do you answer
15:13 25 so certain?

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1 A. Because it doesn't -- the placenta doesn't
2 come out with the fetus. They -- yeah, it's --
3 it's not alive. I don't -- I don't understand why
4 anyone would think that an eight-week fetus is
15:13 5 alive when it's outside the womb.

6 Q. And again, I'm -- and we had talked there
7 could also be an 18-week fetus. And you said that
8 in a situation -- so you mentioned that the
9 placenta doesn't come out with the fetus. And
15:13 10 would that hold true for an 18-week fetus?

11 A. I -- I'm not a physician, and so I
12 can't -- I can't answer that with any knowledge
13 about what they're doing.

14 Q. But just you answered certainly about the
15:14 15 umbilical cord pulsating which is one -- it's an
16 indicator. I don't want to represent that it's --
17 what it is, but just that is an indicator for some.
18 And so for -- again, I'm familiar with a full-term
19 birth. There's an umbilical cord. It's cut. So
15:14 20 it's pulsating obviously and then cut. For, say,
21 an 18-week fetus that just falls out, would it have
22 an umbilical cord still attached?

23 MS. JOHNSON-McKEWAN: Objection. Calls
24 for expert testimony. This witness is not --

15:14 25 THE WITNESS: I'm not -- I -- I'm not in

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1 the OR. I don't know.

2 BY MR. BREEN:

3 Q. But again, you had said -- I had asked
4 about the umbilical cord and you said no and you
15:14 5 were certain about it. And I was wondering why you
6 were certain about it.

7 A. Because it's usually cut and you can't
8 just pull the placenta out. So yeah.

9 Q. So the fetus emerges and the umbilical
15:15 10 cord would be cut in that process?

11 A. It depends on what the doctor does. I
12 don't know that for sure. When I get it, that's
13 what I see.

14 Q. Certainly. And when you say it depends on
15:15 15 the doctor does as to the umbilical cord, is it
16 your understanding when the fetus just falls out
17 for an 18-week fetus that the umbilical cord may
18 still be pulsating as the fetus emerges?

19 MS. JOHNSON-McKEWAN: Again, I'm going to
15:15 20 object. This calls for, you know, improper expert
21 testimony from a witness who is not a physician and
22 is not in the room.

23 THE WITNESS: I'm not in the OR.

24 BY MR. BREEN:

15:16 25 Q. Again, I'm -- I'm trying to get - I just

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1 want to establish -- we're almost finished with the
2 establishment of the various points. You had said
3 that the umbilical cord was not pulsating for a
4 fetus that just falls out, but you've also said
15:16 5 you're not in the OR. So I'm wondering, could the
6 umbilical cord be pulsating for an 18-week fetus
7 that just falls out?

8 MS. JOHNSON-McKEWAN: I'm going to object
9 again. Calls for expert testimony from a lay
15:16 10 witness who is not --

11 THE WITNESS: I don't know.

12 MS. JOHNSON-McKEWAN: -- a physician.

13 BY MR. BREEN:

14 Q. And you don't know?

15:16 15 A. (Witness nods head.)

16 Q. Okay. Okay. All right. And have you
17 ever seen or have you ever seen a -- sorry. Strike
18 that.

19 For a situation where a fetus just falls
15:17 20 out, has that ever occurred at a Planned Parenthood
21 affiliate to your knowledge?

22 A. Not when I have been there.

23 Q. And have you -- do your technicians share
24 with you when they are in a procurement situation
15:17 25 where a fetus just falls out?

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1 A. They just tell me what tissue they get,
2 not how it -- not whether it's intact or not.

3 Q. And have any of your procurement
4 technicians shared with you any situations where
15:17 5 the fetus just fell out at a Planned Parenthood
6 affiliate?

7 A. No.

8 MS. MARTIN: Peter, I'm sorry. I'm going
9 to object. We're now in protective order
15:18 10 territory.

11 MR. BREEN: Oh, okay. I was just trying
12 to establish the -- again link it to the case. But
13 I'm not asking any more questions on that topic. I
14 get in trouble for asking questions about Planned
15:18 15 Parenthood. I get in trouble for not asking
16 questions about Planned Parenthood.

17 MS. JOHNSON-McKEWAN: So it's about 3:20.

18 MR. BREEN: Let's take a break, sure.

19 MS. JOHNSON-McKEWAN: Can we take a break?

15:18 20 THE VIDEOGRAPHER: We're going off the
21 record at 3:17 p.m.

22 (Break taken from 3:18 p.m. to 3:40 p.m.)

23 THE VIDEOGRAPHER: This is the beginning
24 of media number seven. We're back on the record at
15:40 25 3:40 p.m. You may proceed.