

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,)

vs.)

CENTER FOR MEDICAL PROGRESS,)
et al.,)

Defendants.)

CASE NO. 3:16-cv-00236
(WHO)

CONFIDENTIAL, ATTORNEYS' EYES ONLY

VIDEO RECORDED DEPOSITION OF

JON DUNN

IRVINE, CALIFORNIA

MAY 9, 2019

Reported by:
DEBBIE STRICKLAND
CSR 9036
No. 19-78512

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1 Q Was it over a year?

2 A I just said I do not know.

3 Q Well, I'm asking for a reasonable estimate.

4 If you have no way of giving me an estimate, that's

03:22 5 fine. I just wasn't sure if it was less than six

6 months, a couple of months, over a year?

7 A I don't know.

8 Q Okay. So it could have been multiple years?

9 A I don't think it was multiple years.

03:22 10 Q Okay.

11 Have you ever had born alive cases at your
12 affiliate?

13 MS. MAYO: Objection. Irrelevant, lacks
14 foundation, vague and ambiguous, and that goes to the
03:23 15 protective order. So I will instruct the -- that goes
16 to the area of testimony the Judge Ryu's order says
17 that cannot be inquired into. And on that basis I'm
18 going to instruct the witness not to answer.

19 BY MR. JONNA:

03:23 20 Q Well, I'm asking you about Dr. Russo's
21 statement, so I'll just stick to that. She says it
22 happens sometimes, but it's pretty rare.

23 Do you know if, in any of those occasions,
24 there were born live infants?

03:23 25 MS. MAYO: Objection. Mischaracterizes the

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1 videotape, lacks foundation, calls for speculation,
2 calls for medical opinion.

3 THE WITNESS: To the best of my knowledge,
4 no.

03:23 5 BY MR. JONNA:

6 Q Would you expect to be made aware if there
7 were, in fact, born alive cases?

8 MS. MAYO: Objection. Calls for speculation,
9 lacks foundation, vague and ambiguous, calls for
03:24 10 medical opinion, calls for a legal opinion.

11 THE WITNESS: I think that Dr. Russo would
12 alert me if we had such a situation, yes.

13 BY MR. JONNA:

14 Q You have never been alerted of that situation
03:24 15 in your 25 years at Orange County?

16 A One time maybe 20 years ago, I don't honestly
17 remember, there was such a situation, and I was made
18 aware of it.

19 Q Do you remember what happened?

03:24 20 A The fetus wasn't viable and expired very
21 quickly.

22 Q Do you remember who the doctor was?

23 A I do not.

24 Q Do you remember how you were made aware of
03:24 25 it? Was it the next day?

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1 A I don't remember the details except that I
2 was made aware that it happened. Staff were upset
3 about it, but there was nothing that could be done.
4 The fetus was not anywhere near viable.

03:25 5 Q Do you know how far along the fetus was?

6 A I don't remember specifically.

7 Q Okay.

8 A That is the only time in my 25 years there
9 that I'm aware that such a thing took place.

03:25 10 Q Did you -- you didn't talk to Dr. Russo
11 before your deposition today, but one of the questions
12 I wanted to ask was if you asked her what she meant
13 when she said, "but we tried"? But I assume you did
14 not ask her what she meant; correct?

03:25 15 A I didn't talk to her at all.

16 Q Counsel, I think that the witness was
17 required to be prepared to answer questions about the
18 video clip. So do you have an explanation for that --

19 MS. MAYO: I don't --

03:25 20 MR. JONNA: -- I mean, the fact that the
21 witness didn't even speak to the person on whose
22 behalf the organization is suing?

23 MS. MAYO: I'm not -- I'm not going to tell
24 you what we did to prepare the witness.

03:26 25 MR. JONNA: Well, I'm going to tell you that

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1 I think we have an unprepared witness. So, I mean,
2 I'm just letting you know.

3 MS. MAYO: Okay.

4 BY MR. JONNA:

03:26 5 Q If you were made aware -- so in the situation
6 you described 20 years ago, do you know what your
7 staff did to, if anything, to tend to that fetus?

8 Did they call 911?

9 MS. MAYO: Objection. Calls for speculation,
03:26 10 beyond the scope, irrelevant.

11 THE WITNESS: I have only a vague
12 recollection of it. I know they kept it warm and
13 comfortable for the very brief period that it was
14 alive. I don't think there was even time to call 911.
03:26 15 It was a matter of seconds.

16 BY MR. JONNA:

17 Q Is that the protocol, just keep it warm and
18 comfortable?

19 MS. MAYO: Objection. Assumes facts not in
03:27 20 evidence, lacks foundation, calls for speculation.

21 THE WITNESS: This is something that every
22 obstetrician and gynecologist deals with on a rare
23 occasion. I'm not a medical doctor. I've never been
24 in such a situation. It is their medical judgment
03:27 25 what to do in that circumstance.

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1 BY MR. JONNA:

2 Q Okay. So the Medical Directors would decide
3 what the protocols are, not the CEO?

4 MS. MAYO: Objection. Calls for speculation.

03:27 5 BY MR. JONNA:

6 Q Does the CEO actually make sure --

7 MS. MAYO: Objection. Calls --

8 MR. JONNA: Well, I'm withdrawing the
9 question.

03:27 10 MS. MAYO: Okay. Then say, "I'm withdrawing
11 the question."

12 BY MR. JONNA:

13 Q Okay. So I assume that, as CEO, you want to
14 make sure the medical protocols are being followed at
03:27 15 your organization; correct?

16 MS. MAYO: Objection. Vague and ambiguous,
17 overbroad.

18 THE WITNESS: Yes. In general I would want
19 the medical protocols followed at my affiliate.

03:27 20 BY MR. JONNA:

21 Q And you want -- you would also want to have a
22 general understanding as to what those protocols are?

23 MS. MAYO: Objection. Vague and ambiguous,
24 overbroad.

03:28 25 THE WITNESS: Only a very general