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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely
Circuit Court Judge

Appellate Case No.: 2022-001332

Andrew Pampu, ...Appellant-Respondent,

v.

Erin Wingo, David Wingo, and Colin J. Gahagan..... Respondents-Appellants.

RECORD ON APPEAL
VOLUME IV

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INDEX
VOLUME I

Order of August 22, 2022.....	1
Order of July 11, 2022.....	4
Order of November 16, 2021.....	14
Order of October 13, 2021.....	17
Order of January 10, 2018.....	26
Order of October 25, 2017.....	28
Complaint (June 15, 2017)	31
Answer of Defendants Erin Wingo and David Wingo (November 17, 2017)	72
Amended Answer of Defendants Erin Wingo and David Wingo (October 2, 2020)	89
Defendant Colin J. Gahagan’s Answer (October 6, 2020)	109
Defendants Erin Wingo and David Wingo’s Motion for Summary Judgment (July 2, 2021) ...	133
Motion for Summary Judgment by Colin J. Gahagan (July 13, 2021)	134
Defendants Erin Wingo and David Wingo’s Memorandum of Law in Support of Summary Judgment (September 22, 2021)	135
Exhibit A.....	156
Exhibit B.....	160
Exhibit C.....	163
Exhibit D.....	167
Exhibit E.....	177
Exhibit F.....	202
Exhibit G.....	207
Exhibit H.....	210

Exhibit I.....	295
Exhibit J.....	342
Exhibit K.....	344
Exhibit L.....	348
Exhibit M.....	353
Exhibit N.....	355
Exhibit O.....	359
Exhibit S.....	363
Exhibit T.....	390
Brief in Support of Motion for Summary Judgment on Behalf of Colin J. Gahagan (September 22, 2021), <i>together with all Exhibits except where duplicative</i>	404

VOLUME II

Plaintiff’s Memorandum of Law in Opposition to Defendants Erin Wingo and David Wingo’s Motion for Summary Judgment (September 30, 2021), <i>together with all Exhibits except where duplicative</i>	464
Exhibit A.....	499
Exhibit B.....	528
Exhibit C.....	549
Exhibit D.....	581
Exhibit E.....	591
Exhibit F.....	597
Exhibit G.....	607
Exhibit H.....	610
Exhibit I.....	638
Exhibit J.....	641

Exhibit K.....	663
Exhibit L.....	667
Exhibit M.....	723
Exhibit N.....	726
Exhibit O.....	788
Exhibit P.....	798
Exhibit Q.....	801
Exhibit R.....	812
Exhibit S.....	816
Plaintiff's Memorandum of Law in Opposition to Defendant Colin J. Gahagan's Motion for Summary Judgment (September 30, 2021).....	819
Defendants' Motion to Alter or Amend the Judgment and Memorandum in Support (October 22, 2021).....	847
Memorandum in Opposition to Defendants' Motion to Alter or Amend the Judgment (November 12, 2021).....	855

VOLUME III

Plaintiff's Motion in Limine to Exclude Testimony of Alesia Smith (March 14, 2022).....	865
Exhibit A.....	870
Exhibit B.....	1067
Plaintiff's Motion in Limine to Exclude Clemson's Title IX Decision or Plaintiff's Settlement with Clemson (March 14, 2022).....	1077
Exhibit A.....	1082
Post-Trial Motions of Colin J. Gahagan (March 30, 2022).....	1086

Defendant Wingo's Notice of Motion and Motion for JNOV or Judgment as a Matter of Law or, in the Alternative, for a New Trial Absolute or, in the Alternative, for Remittitur of Verdict (April 4, 2022).....	1094
Plaintiff's Memorandum in Opposition to Defendants' Motion for JNOV or Judgment as a Matter of Law or in the Alternative for a New Trial Absolute or, in the Alternative, for Remittitur of Verdict (April 14, 2022).....	1110
Plaintiff's Memorandum of Law in Opposition to Post-Trial Motions of Gahagan (April 14, 2022).....	1130
Defendant David Wingo's Notice of Motion and Motion to Reconsider Order Denying JNOV and/or New Trial (July 20, 2022).....	1148
Exhibit A.....	1152
Exhibit B.....	1196
Plaintiff's Memorandum in Opposition to Defendant David Wingo's Motion to Reconsider Order Denying JNOV and/or New Trial (August 12, 2022).....	1217
Exhibit 1.....	1222
Exhibit 2.....	1237
Andrew Pampu Notice of Appeal (September 21, 2022), <i>together with all Exhibits except where duplicative</i>	1239
ORDER FOR ADMISSION PRO HAC VICE OF JAMES E. FIGLIOZZI.....	1244
ORDER FOR ADMISSION PRO HAC VICE OF KIMBERLY C. LAU.....	1247
Colin J. Gahagan's Notice of Appeal (September 21, 2022).....	1249
Motion for Leave to Deposit Judgment Amount (May 15, 2023).....	1258
Pre-Trial Hearing Transcript of Record (March 18, 2022).....	1262

VOLUME IV

Transcript of Trial (March 21-25, 2022).....	1338
 <u>Andrew Pampu</u>	
Direct Examination by Ms. Lau.....	1427

Cross-examination by Ms. Porter.....	1470
Cross-examination by Mr. Moore.....	1587
Redirect examination by Ms. Lau.....	1610

Erin Wingo

Direct Examination by Ms. Lau.....	1625
Cross-examination by Ms. Porter.....	1699
Cross-examination by Mr. Moore.....	1725
Redirect examination by Ms. Lau.....	1740

VOLUME V

Trial Transcript (March 21-25, 2022) *Continued*

CJ Gahagan

Direct Examination by Ms. Lau.....	1755
Cross-examination by Mr. Grantland	1798
Cross-examination by Mr. Moore.....	1824
Redirect examination by Ms. Lau.....	1840

David Wingo

Direct Examination by Mr. Figliozi.....	1850
Cross-examination by Ms. Porter.....	1872
Redirect examination by Mr. Figliozi.....	1882

Dr. Harrison Pope

Direct Examination by Mr. Figliozi.....	1893
Cross-examination by Ms. Grantland	1909
Cross-examination by Mr. Moore.....	1924

Redirect examination by Mr. Figliozi.....	1927

Steven Shedlin

Direct Examination by Mr. Figliozi.....	1930

Cross-examination by Ms. Porter	1959

Cross-examination by Mr. Moore.....	1982

Redirect examination by Mr. Figliozi.....	1999

Rachel Corbin

Direct Examination by Ms. Lau.....	2006

Cross-examination by Ms. Porter.....	2031

Redirect examination by Ms. Lau.....	2044

Jami Hafner

Direct Examination by Mr. Figliozi.....	2048

Cross-examination by Mr. Grantland.	2055

Redirect examination by Mr. Figliozi.....	2065

Ben Zboray

Direct Examination by Mr. Figliozi.....	2072

Cross-examination by Mr. Grantland.	2076

Leslie Snider

Direct Examination by Mr. Figliozi.....	2080

Cross-examination by Ms. Porter.	2087

Alesia Smith

Proffer Examination by Ms. Porter i.....	2095

Proffer examination by Ms. Moore.....	2120

Olivia Pescatore

Direct Examination by Mr. Grantland.....	2155
Cross-examination by Ms. Lau.....	2170
Redirect examination by Mr. Grantland.....	2180

VOLUME VI

Trial Transcript (March 21-25, 2022) *Continued*

Jonathan Stoddart

Direct Examination by Ms. Porter.....	2181
Cross-examination by Mr. Figliozzi	2198
Redirect examination by Ms. Porter.....	2202
Post-Trial Hearing Transcript (May 4, 2022)	2318
Andrew Pampu Deposition Excerpts (January 16, 2020).....	2393
Pampu deposition exhibits <i>except where duplicative</i>	2399

VOLUME VII

Alesia Smith Deposition Excerpts (May 22, 2020).....	2403
Smith deposition exhibits <i>except where duplicative</i>	2406

VOLUME VIII

Smith deposition exhibits <i>except where duplicative Continued</i>	2903
David Wingo Deposition Excerpts (February 25, 2021)	3029
Wingo deposition exhibits.....	3033
Defendants' Trial Exhibits:	
2.....	3033
5.....	3036
6.....	3038

10.....	3040
12.....	3067
13.....	3075
14.....	3077
15.....	3080
16.....	3084
17.....	3092
18.....	3093
19.....	3096
20.....	3108
21.....	3115

Plaintiff’s Trial Exhibits

1.....	3116
4.....	3118
5.....	3122
6.....	3124
7.....	3125
10.....	3130
11.....	3131
12.....	3133
13.....	3134
14.....	3135
15.....	3136

16.....	3137
17.....	3140
18.....	3142
Dental School Application.....	3147
Clemson University Settlement Agreement (July 1, 2019)	3190
Certification of Counsel	3194

State of South Carolina

Court of Common Pleas

County of Pickens

Andrew Pampu	)	
	)	
Plaintiff,	)	Transcript of Record
v.	)	2017-CP-39-00709
	)	
Erin Wingo, David Wingo,	)	
and Colin J. Gahagan,	)	
<u>Defendants.)</u>	)	

March 21-25, 2022
Pickens, South Carolina

B E F O R E:

The Honorable Perry Gravely, Judge; and a jury.

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I N D E X

WITNESSPAGE

Andrew Pampu

Direct Examination by Ms. Lau.....	90
Cross-examination by Ms. Porter.....	133
Cross-examination by Mr. Moore.....	251
Redirect examination by Ms. Lau.....	273

Erin Wingo

Direct examination by Ms. Lau.....	288
Cross-examination by Ms. Porter.....	362
Cross-examination by Mr. Moore.....	388
Redirect examination by Ms. Lau.....	403

CJ Gahagan

Direct examination by Ms. Lau.....	418
Cross-examination by Mr. Grantland.....	462
Cross-examination by Mr. Moore.....	487
Redirect examination by Ms. Lau.....	503

David Wingo

Direct examination by Mr. Figliozi....	513
Cross-examination by Ms. Porter.....	535
Redirect examination by Mr. Figliozi..	545

Dr. Harrison Pope

Direct examination by Mr. Figliozi....	556
Cross-examination by Mr. Grantland.....	572
Cross-examination by Mr. Moore.....	587

Redirect examination by Mr. Figliozzi...	590
Steven Shedlin	
Direct examination by Mr. Figliozzi.....	593
Cross-examination by Ms. Porter.....	622
Cross-examination by Mr. Moore.....	645
Redirect examination by Mr. Figliozzi...	662
Rachel Corbin	
Direct examination by Ms. Lau.....	670
Cross-examination by Ms. Porter.....	694
Redirect examination by Ms. Lau.....	707
Jami Hafner	
Direct examination by Mr. Figliozzi.....	711
Cross-examination by Mr. Grantland.....	718
Redirect examination by Mr. Figliozzi...	728
Ben Zboray	
Direct examination by Mr. Figliozzi.....	735
Cross-examination by Mr. Grantland.....	739
Leslie Snider	
Direct examination by Mr. Figliozzi.....	743
Cross-examination by Ms. Porter.....	750
Alesia Smith	
Proffer examination by Ms. Porter.....	758
Proffer examination by Mr. Moore.....	783
Olivia Pescatore	
Direct examination by Mr. Grantland.....	819

Cross-examination by Ms. Lau.....	833
Redirect examination by Mr. Grantland...	843
Jonathan Stoddart	
Direct examination by Ms. Porter.....	844
Cross-examination by Mr. Figliozzi.....	861
Redirect examination by Ms. Porter.....	865

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1	Plaintiff's - text messages		X
2	Plaintiff's - Google maps		X
1	Defenses' - drawn map		X
2	Defenses' - Google maps		X
4	Defenses' - text messages		X
5	Defenses' - text messages		X
6	Defenses' - college application		X
3	Plaintiff's - text messages		X
4	Plaintiff's - text messages		X
6	Plaintiff's - text messages		X
7	Plaintiff's - text messages		X
8	Plaintiff's - text messages		X
9	Plaintiff's - text messages		X
10	Plaintiff's - text messages		X
11	Plaintiff's - text messages		X
12	Plaintiff's - text messages		X
13	Plaintiff's - messages	X	
14	Plaintiff's - text messages		X
15	Plaintiff's - text messages		X
16	Plaintiff's - text messages		X
8	Defenses' - text messages		X
17	Plaintiff's - letter	X	

18	Plaintiff's - redacted letter	X
19	Plaintiff's - letter to Erin	X
20	Plaintiff's - e-mail	X
21	Plaintiff's - picture	X
22	Defenses' - text messages	X

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P R O C E E D I N G S

* * * * *

THE COURT: All right. First of all, thank you, everybody, for your patience. Sometimes Monday mornings are a little hectic. And I know that several of y'all had some serious conflicts for this week. And what I'm going to do is, I'm going to -- I'm going to ask you questions about this case. And after we figure out exactly how many we have left remaining on the panel, then I'll be able to address the requests that y'all had. We just need to figure out where we are here. We should be okay, but I just needed to -- we've got to make sure. This is a case that's been scheduled for quite some time. And, obviously, there's a lot of parties involved and a lot of moving parts, and we've got to kind of make sure that we have sufficient jurors for this case to go forward this week.

All right. Now, what I'm -- this process that I'm doing now is totally different than what we did. Before it was just qualifying, so everybody's qualified to sit on the jury panel this week.

Now, what I'm going to be asking you are questions that more specifically relates to the case being tried. Some of them are to determine whether

1 you can be fair and impartial in the case that's
2 going to be presented. The rest of the questions
3 are so that the attorneys can get more information
4 about you, because ultimately they will decide what
5 jurors are going to sit on this case. What it boils
6 down to is, the plaintiff will have -- and the
7 plaintiff is the one that brings the lawsuit.

8 This is a -- let me just explain this a little
9 bit. This is a civil action. And a civil action is
10 one where somebody filed a lawsuit for damages, and
11 I'll discuss that in just a minute a little more.
12 And the defendant or defendants are the people whom
13 the lawsuit was brought against.

14 So, ultimately, after we ask these set of
15 questions here, we will take a -- another short
16 break so that the attorneys can look at their list
17 and make decisions. And then we have a list of 20
18 individuals that are spit out of the computer
19 randomly and each side gets four strikes. And
20 that's how you -- that's how you get selected on the
21 jury. We'll also have some alternates. I just kind
22 of want to tell you that's the kind of process that
23 we have at this point.

24 Again, this is a civil lawsuit. I'm going
25 to -- it is *Andrew Pampu v. Erin Wingo, David Wingo,*

1 *and Colin Gahagan.* Okay. And this is a brief
2 statement. These are the allegations or assertions
3 that both sides have -- or their cases -- or this is
4 what they have asserted.

5 So this matter arises out of an incident which
6 occurred in connection with a fraternity party at
7 Clemson University on October the 24, 2015. At that
8 gathering, plaintiff alleges that he had a
9 consensual sexual encounter with Defendant Erin
10 Wingo.

11 Plaintiff has brought this action for
12 defamation and conspiracy for defending allegations
13 to others that he committed rape. This lawsuit
14 alleges that these reports were false, and plaintiff
15 seeks damages resulting from the defamation and
16 false reports.

17 Defendants are Erin Wingo, David Wingo, and
18 Colin Gahagan, and they deny any conspiracy or
19 defamation and state that all allegations were true.
20 So those are the kind of -- that's a very simplified
21 version of the claims being asserted in this matter.

22 All right. Now, first of all, I'm going to ask
23 at this time if the parties, I'm just going to ask
24 that you stand, face the jury just so they can see
25 who you are. Andrew Pampu.

1 MR. PAMPU: (Standing.)

2 THE COURT: All right. Thank you. Erin Wingo.

3 MS. WINGO: (Standing.)

4 THE COURT: All right. David Wingo.

5 MR. WINGO: (Standing.)

6 THE COURT: And Colin Gahagan.

7 MR. GAHAGAN: (Standing.)

8 THE COURT: I think -- I hope I pronounced that
9 right.

10 MR. GAHAGAN: Yes.

11 THE COURT: Okay. Thank you. All right.
12 First of all, anybody related by blood or marriage,
13 have any close personal, business, or social
14 relationship with any of these parties? If so,
15 please stand.

16 PROSPECTIVE JURORS: (No responses.)

17 THE COURT: Okay. And no response. At this
18 time I'm going to ask that the lawyers stand,
19 introduce themselves and their law firms.

20 MS. LAU: Kimberly Lau, Warshaw Burstein.

21 MR. FIGLIOZZI: James Figliozi, Warshaw
22 Burstein.

23 MR. GRAHAM: Chad Graham, Ward Law Firm.

24 MS. PORTER: Susan Porter, Murphy and
25 Grantland.

1 MR. GRANTLAND: John Grantland, Murphy and
2 Grantland.

3 MR. MOORE: My name is David Moore. I'm with
4 Turner Padget in Greenville.

5 THE COURT: All right. Is anybody related by
6 blood or marriage or have a close social, personal,
7 or business relationship with any of these
8 attorneys? If so, please stand.

9 PROSPECTIVE JURORS: (No responses.)

10 THE COURT: Has anybody ever been represented
11 by these attorneys or had a matter where these
12 attorneys were on the other side of a matter that
13 you were involved in? If so, please stand.

14 PROSPECTIVE JURORS: (No responses.)

15 THE COURT: All right. At this time I'm going
16 to read off -- now I'm going to read off the
17 possible witnesses in this case. And, again, the
18 question at the end of this is going to be ---

19 (Brief interruption.)

20 THE COURT: All right. These are the witnesses
21 that are going to be -- that have been listed. It
22 doesn't mean all of them will be called, but they
23 possibly will be called so I need to make sure.
24 Again, if you know any of these witnesses, if you're
25 related by blood or marriage, have a close personal

1 or social relationship with any of these
2 individuals. I've already named the parties.

3 We have Rachel Corbin; Jami Hafner; Ben Zboray;
4 Leslie Snider; Dr. Harrison Pope; Steven Shedlin;
5 Amanda Pampu; Olivia Pescatore; Haley Sinclair;
6 Alesia Smith; Jared or J. Smullens; Jonathon
7 Stoddart; Margaret Wingo; Donna Maddox; Teri
8 Stockham; Katie Boland; John Akerman; Austin Bush;
9 and Elizabeth Wingo.

10 Anybody know any of those individuals,
11 connected by blood or marriage, or have any personal
12 or social relationship with any of these
13 individuals? If so, please stand.

14 PROSPECTIVE JURORS: (No responses.)

15 THE COURT: And this is a -- I just remembered
16 another thing that I need to ask. I realize the
17 first panel I forgot to ask you one question, so
18 this is a little bit -- I'm taking a break from the
19 questions related to the case. I needed to make
20 sure that related to the first panel from this
21 morning. Is anybody a clerk of court, deputy clerk
22 of court, constable, sheriff, or other commissioned
23 law enforcement officer, probate judge, county
24 commissioner, magistrate, or other county officer,
25 or anyone employed within the walls of a courthouse?

1 Does that apply to anybody?

2 PROSPECTIVE JURORS: (No responses.)

3 THE COURT: Thank you. Just something I
4 forgot.

5 All right. So we got through and that's all
6 the witnesses there. Okay. Does any member -- any
7 member of the jury panel or a member of your
8 immediate family member have a connection to Clemson
9 University? If so, please stand and state that
10 connection.

11 PROSPECTIVE JURORS: (Standing.)

12 THE COURT: All right. First person here, your
13 name and number?

14 PROSPECTIVE JUROR: Jakob Waldrep, Number 137.

15 THE COURT: Okay. And what is your connection?

16 PROSPECTIVE JUROR: My sister was a Clemson
17 alumni and graduated last year.

18 THE COURT: Okay. And could you still be fair
19 and impartial in the trial of this case?

20 PROSPECTIVE JUROR: I believe I could.

21 THE COURT: Okay. Thank you. Yes.

22 PROSPECTIVE JUROR: Number 140, Braiden Warner.
23 I'm a student at Clemson University.

24 THE COURT: All right. And could you still be
25 fair and impartial in the trial of this case?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: All right. Thank you. Your name
3 and number?

4 PROSPECTIVE JUROR: Lindsay Wilson, 146. I
5 went to Clemson.

6 THE COURT: Okay. Could you still be fair and
7 impartial in a trial of this case?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: All right. Any member of the jury
10 panel or member of your immediate family have a
11 connection with Mercer University School of Law? If
12 so, please stand and state your connection.

13 PROSPECTIVE JURORS: (No responses.)

14 THE COURT: All right. This is going to --
15 what I'm going to have -- this is going -- this is
16 going to take -- it's going to involve every -- it's
17 going to involve everybody, so what I'm going to do
18 is because it's going to be a question for you to
19 provide information about your children.

20 So what we're going to do is, we'll just start
21 right here and you stand up, give your information,
22 and then kind of go down that way so that everybody
23 is not standing at -- at one time. It's a couple of
24 questions. So, first of all, do you have any
25 children? State the name of your children or gender

1 or whether they're attending a college and whether
2 they're a member of a fraternity or sorority. If
3 you have a college degree as well. It's a long
4 question. All right. Your name and number?

5 PROSPECTIVE JUROR: Megan Reid, Juror 111.

6 THE COURT: All right.

7 PROSPECTIVE JUROR: I don't have any children,
8 and I don't have a college degree either.

9 THE COURT: All right. Thank you.

10 PROSPECTIVE JUROR: Yes. I'm Mary Oliver,
11 Juror No. 94. I do have a college degree. I have
12 two adult sons, ages 33 and 27.

13 THE COURT: And were they -- did they go to
14 college?

15 PROSPECTIVE JUROR: They're both college
16 graduates.

17 THE COURT: Were they members ---

18 PROSPECTIVE JUROR: We're all graduates of
19 Clemson.

20 THE COURT: Right. And were they a member of a
21 fraternity or sorority?

22 PROSPECTIVE JUROR: No.

23 THE COURT: All right. Thank you.

24 PROSPECTIVE JUROR: Juror No. 80, Mike Meece.
25 Not a college education.

1 THE COURT: All right. And how about children?

2 PROSPECTIVE JUROR: I'm sorry?

3 THE COURT: Do you have children?

4 PROSPECTIVE JUROR: No children.

5 THE COURT: Okay. Thank you.

6 PROSPECTIVE JUROR: Teresa Clark, Juror 26. I
7 have four children -- 42, 37, 35, and 33. Two are
8 college graduates, but not from Clemson. I am a
9 college graduate, but not from Clemson.

10 THE COURT: Were they in fraternities or
11 sororities?

12 PROSPECTIVE JUROR: No, they were not.

13 THE COURT: And what are their genders? I
14 forgot to ask.

15 PROSPECTIVE JUROR: The three oldest are boys
16 and the youngest is a girl.

17 THE COURT: All right. And going back to
18 people who had children. Would you just stand and
19 give your gender.

20 PROSPECTIVE JUROR: They're both boys.

21 THE COURT: All right. Thank you. Next down.

22 PROSPECTIVE JUROR: I have no children.

23 THE COURT: Name and number?

24 PROSPECTIVE JUROR: Oh, Amy Robinson, Juror
25 114. No children and I'm a college graduate, but

1 not of Clemson.

2 THE COURT: Okay. Thank you.

3 PROSPECTIVE JUROR: Benjamin Watson, Juror 142.

4 I do not have any kids, and I'm not a college

5 graduate.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR: Phillip Pittman, Juror 101.

8 One son is a college graduate, not of Clemson.

9 THE COURT: How about your son, was he in
10 college?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: All right. Was he a member of the
13 fraternity or sorority?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: All right. Thank you. Yes. Next.

16 PROSPECTIVE JUROR: Juror 104, Robert Puckett.

17 I am a college graduate. Three kids. A 16-year-old
18 boy, an 11-year-old girl, and a 7-year-old boy.

19 THE COURT: All right.

20 PROSPECTIVE JUROR: I'm Randy Shulak, Juror

21 123. I have four children. Two older boys. The

22 oldest is going to college in Las Vegas. The three

23 youngest, no college. And I have no college.

24 THE COURT: All right. Thank you.

25 PROSPECTIVE JUROR: Elaine Collins, 28. I have

1 three children. All three are college graduates,
2 not of Clemson. And I have a masters.

3 THE COURT: And were your children involved in
4 any social ---

5 PROSPECTIVE JUROR: Only honorary.

6 THE COURT: I'm sorry?

7 PROSPECTIVE JUROR: Only honorary.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR: Jakob Waldrop, Juror No.
10 137. I have a college degree, but not from Clemson.
11 And I have no children.

12 THE COURT: All right. Thank you.

13 PROSPECTIVE JUROR: Lindsay Wilson, 146. I
14 went to Clemson. I have two sons, both five and
15 under.

16 THE COURT: All right. Thank you.

17 PROSPECTIVE JUROR: Tracy Radford, Number 107.
18 I have four children -- two boys; two girls. No
19 connection to Clemson or any education fraternity
20 stuff.

21 THE COURT: Thank you. Next.

22 PROSPECTIVE JUROR: Kelly Waldrep, Number 138.
23 I'm a graduate from Tri-County Tech. I have three
24 children -- one son; two daughters. No college
25 graduates.

1 THE COURT: All right. Thank you.

2 PROSPECTIVE JUROR: Joann Hayes, Number 51.
3 I'm a college graduate from Limestone College. My
4 son is a graduate from Tri-County Tech. I have two
5 sons. No association with fraternities.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR: Jodie Smith, 125. I have
8 three boys and one girl ages 27, 25, 18, and 17.
9 And one Tri-County Tech.

10 THE COURT: All right. Thank you.

11 PROSPECTIVE JUROR: Trina Camacho-London, Juror
12 21. No children. I am a college graduate from the
13 University of Texas in Austin. I was in a sorority
14 and I was sexually assaulted in college.

15 THE COURT: All right. And we'll ask you about
16 that in just a minute then.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: Thank you. Yes.

19 PROSPECTIVE JUROR: Dale Ellicott, Number 43.
20 I have a 10-year old son, 11-year old daughter,
21 21-year old daughter and distanced learning from
22 Boise State transferring to Clemson and she was in a
23 sorority.

24 THE COURT: You said she was?

25 PROSPECTIVE JUROR: She was.

1 THE COURT: Okay. Thank you.

2 PROSPECTIVE JUROR: Julie Medina, Juror 79. I
3 have two children -- a 33-year old son who graduated
4 from Clemson and not related to a fraternity, and
5 daughter who is 25 who graduated USC, not involved
6 in sorority.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR: Donald Thurlow, 133. A
9 bachelor of science -- computer science for Atlanta
10 University. My son is 51 years old, not a college
11 graduate. My daughter is 47 years old, and she
12 graduated from Tri-County.

13 THE COURT: All right. Next.

14 PROSPECTIVE JUROR: Hazel Teal, Juror 132. I
15 am a college graduate from University of South
16 Carolina. I have three children. My daughter is
17 32. She graduated from Wofford and is a special
18 stenist. My son graduated from Columbia
19 International University. And then my other son
20 graduated from Charleston Southern University. None
21 are affiliated with any fraternity or sorority, but
22 I was in a sorority.

23 THE COURT: Okay. Thank you.

24 PROSPECTIVE JUROR: Melinda Bolin, Number 11.
25 And I have two adult sons -- one is a college

1 graduate and one attends Tri-County Tech.

2 THE COURT: All right. Any sorority or
3 fraternity?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Okay. Thank you.

6 PROSPECTIVE JUROR: Danielle Roberts, 113, and
7 no kids or college.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR: James Moser, Juror 89. I
10 have a 13-year-old son and a 15-year-old daughter.
11 No college degree.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR: Candace Ballenger, 124.
14 I'm not a college graduate. I have a 12-year-old
15 daughter and 9-year-old son.

16 THE COURT: All right. Thank you.

17 PROSPECTIVE JUROR: Julie Cassell, Juror No.
18 23. I am college graduate. I was not in a
19 sorority. I have son who is 23 and he wasn't in a
20 fraternity, but he did play college baseball.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR: Robert Pace, Number 99. I
23 am not a college graduate. I have a daughter that's
24 23, a son that's 22, and another son that's 21.
25 None of them are college graduates either.

1 THE COURT: All right. Thank you.

2 PROSPECTIVE JUROR: Braiden Warner, Number 140.
3 I'm currently at Clemson University, but enrolled in
4 the cooperative education program so I'm not
5 currently in classes and no fraternity association.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR: Felicia McCauley, Number
8 77. I do not have any kids nor do I have a college
9 education.

10 THE COURT: All right. Thank you.

11 PROSPECTIVE JUROR: Jamie Young, Juror 150. No
12 college; no kids.

13 PROSPECTIVE JUROR: Christian Gomez, 49. No
14 college and no kids.

15 PROSPECTIVE JUROR: Gage Moses, Number 90. No
16 college degree; no children.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR: Charles Felton, 44. I got
19 three boys and three boys girls, and they're all not
20 in college and I have no college degree.

21 PROSPECTIVE JUROR: Bradley Johnson, Number 61.
22 I graduated from Tri-County Tech and a son two years
23 old.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: Frances Barnes, Juror

1 No. 8. I got my undergraduate at Clemson. My
2 father is a retired professor from Clemson. I have
3 two older daughters. One is 32 and one's 30. One
4 is about to finish college, and the other one just
5 went to trade school.

6 THE COURT: Any sorority or fraternity?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR: Number 41, Greg Durham. I
10 have three sons. Two of them are college graduates.
11 My youngest son graduated from Clemson and I'm a
12 college graduate.

13 THE COURT: Any sorority or fraternity
14 connection?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR: John Baldwin, Number 6. I
18 have no kids or college education.

19 THE COURT: All right. Thank you.

20 PROSPECTIVE JUROR: I'm Todd Cothran, Juror
21 No. 30. I have a college degree. My oldest
22 daughter is 26; no college degree. My youngest
23 daughter is 24; has a college degree. No fraternity
24 or sorority.

25 THE COURT: All right. Thank you.

1 PROSPECTIVE JUROR: My name is Freddy Aiken,
2 Number 2. I have a son 34, a son 30, and a daughter
3 28. No college.

4 THE COURT: All right. Thank you.

5 PROSPECTIVE JUROR: Dalia Rodriguez, 117. I'm
6 a student at Tri-County Technical College in the
7 criminal justice program. I finish this summer. I
8 have two kids, a five-year-old son and a
9 two-year-old daughter.

10 PROSPECTIVE JUROR: Nakieya Cobb, Juror Number
11 27. One son who's 13; no college degree.

12 THE COURT: All right. Thank you.

13 PROSPECTIVE JUROR: Daniel Connelly, Number 29.
14 I have one son who's 39; a daughter who's 35.
15 Daughter graduated from Bob Jones University. The
16 son does not have a college degree.

17 THE COURT: All right. How about you? Do you
18 have a college degree?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: Christopher Chapman, Juror
22 25. I have a seven-year-old daughter, and I don't
23 have a college degree.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR: Shirley Johnson, Number 62.

1 I have a son with two degrees from AT&T -- I mean,
2 ITT Tech. And I have a daughter that's 37, and she
3 has a degree from Tri-County. I also have a degree.
4 My daughter was in a sorority, but I was not.

5 THE COURT: Okay. Thank you.

6 PROSPECTIVE JUROR: Ron Kelly, Juror 65. No
7 kids and no college degree.

8 THE COURT: All right. Thank you.

9 PROSPECTIVE JUROR: Taletha Addington, 1. I
10 have no college degree, and I have one son who's 15.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR: Laura Gilbert. No college.
13 I have two sons ages 14, and daughter 16, and a
14 10-year-old son.

15 THE COURT: All right. Okay. Has any member
16 of the jury panel or member of your immediate family
17 ever worked in a legal profession? If so, please
18 stand and tell the position that you worked in.

19 PROSPECTIVE JURORS: (No responses.)

20 THE COURT: All right. No response. I'm
21 sorry. Yes.

22 PROSPECTIVE JUROR: What did you say?

23 THE COURT: Legal profession as working for
24 attorneys or anyone involved in a legal profession.

25 PROSPECTIVE JUROR: My wife has.

1 THE COURT: Okay. What does she -- what's your
2 name and number?

3 PROSPECTIVE JUROR: Robert Puckett, 104. So
4 she -- she worked for a law firm.

5 THE COURT: What kind of law firm?

6 PROSPECTIVE JUROR: Almond Law Firm.

7 THE COURT: Where was that?

8 PROSPECTIVE JUROR: It's in Easley.

9 THE COURT: Okay. All right. Has any member
10 of the jury panel -- oh, I'm sorry.

11 PROSPECTIVE JUROR: Robert Pace, 99. Would
12 that include like the clerk of court? My mom worked
13 as the clerk of court for years.

14 THE COURT: Okay. And what clerk of court did
15 she work for?

16 PROSPECTIVE JUROR: Pickens.

17 THE COURT: Okay. Thank you. Has anybody ever
18 served on a jury before and would that experience
19 affect your ability to be fair and impartial in this
20 case? So if you've been on jury before, please
21 stand.

22 PROSPECTIVE JURORS: (Standing.)

23 THE COURT: All right. You state your -- start
24 right here, gentleman to the right, your name and
25 number.

1 PROSPECTIVE JUROR: Mike Meece, Juror No. 80.

2 THE COURT: All right. And do you believe your
3 previous experience, could you still be fair and
4 impartial in the trial of this case?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: All right. And what -- thank you.
7 Yes.

8 PROSPECTIVE JUROR: Amy Robinson, Juror 114.

9 THE COURT: Could you been fair and impartial
10 in the trial of this case?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right. Thank you. Lady to the
13 left here.

14 PROSPECTIVE JUROR: Hazel Teal, 132.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: I felt like the police were
17 on trial and not the defendant.

18 THE COURT: Okay. And this is a civil matter.
19 Could you still be fair and impartial in the trial
20 of this case?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: All right. Thank you.

23 PROSPECTIVE JUROR: 133, Donald Thurlow.

24 THE COURT: All right. And could you be fair
25 and impartial in the trial of this case?

1 PROSPECTIVE JUROR: Absolutely.

2 THE COURT: All right. Thank you. Lady here.

3 PROSPECTIVE JUROR: Joann Hayes, Number 51, and
4 I can be impartial.

5 THE COURT: I'm sorry?

6 PROSPECTIVE JUROR: I can be impartial.

7 THE COURT: Okay. Thank you. Lady in the
8 back.

9 PROSPECTIVE JUROR: Taletha Addington, Number
10 1. I can be impartial.

11 THE COURT: All right. Thank you.

12 PROSPECTIVE JUROR: Daniel Connelly, Number 29.
13 I could be impartial.

14 THE COURT: All right. Thank you.

15 PROSPECTIVE JUROR: Todd Cothran, Number 30. I
16 could be impartial.

17 THE COURT: All right. Thank you. All right.
18 Does anybody have any preconceived notions,
19 prejudice, or feelings about people who bring
20 lawsuits or basically could you be fair and
21 impartial to the party who brings the lawsuit and
22 somebody that's being sued? If you have a
23 preconceived notion or prejudice or feelings about
24 either party, then please stand.

25 PROSPECTIVE JURORS: (No responses.)

1 THE COURT: Okay. Thank you. Does anybody
2 have -- think that they would have difficulty in
3 following my instructions of what the law is? If
4 so, please stand.

5 PROSPECTIVE JURORS: (No responses.)

6 THE COURT: Okay. And this may be something
7 that I can take up independently -- individually
8 between each of you. Has anybody had any personal
9 experiences that you believe would prevent you from
10 rendering a fair and impartial verdict in this case?
11 If so, please stand.

12 PROSPECTIVE JURORS: (Standing.)

13 THE COURT: All right. If y'all don't mind,
14 I'm going to take y'all up individually. If you
15 would come up one at a time.

16 PROSPECTIVE JURORS: (Complying.)

17 THE COURT: Yes. Your name and number?

18 PROSPECTIVE JUROR: Randy Shulak, 123.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: My youngest daughter, she
21 was eight, was assaulted by a pedophile for quite a
22 bit and we had to deal with a lot. Put him in jail
23 and the whole thing and I don't know.

24 THE COURT: Do you think you can be fair and
25 impartial in a trial of this case?

1 PROSPECTIVE JUROR: Yes. This is civil,
2 correct?

3 THE COURT: It's civil.

4 PROSPECTIVE JUROR: Yeah, I think so.

5 THE COURT: All right.

6 PROSPECTIVE JUROR: I just wanted to let you
7 guys know.

8 THE COURT: All right. And you think you can
9 be fair and impartial and listen to the facts of
10 this case?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right. Thank you.

13 PROSPECTIVE JUROR: Trina Camacho-London, Juror
14 21.

15 THE COURT: Yes.

16 PROSPECTIVE JUROR: Okay. So I was sexually
17 assaulted in college by a fraternity/sorority
18 brother. And I couldn't be impartial, even though
19 it was that long ago. It's still...

20 THE COURT: So do you think you can be fair and
21 impartial?

22 PROSPECTIVE JUROR: No.

23 THE COURT: I'm going to excuse you.

24 PROSPECTIVE JUROR: I can leave?

25 THE COURT: Yes.

1 PROSPECTIVE JUROR: Thank you.

2 PROSPECTIVE JUROR: Christopher Chapman. I'm
3 in the middle of a lawsuit where my daughter was
4 molested.

5 THE COURT: All right. Could you been fair and
6 impartial in a trial of this case?

7 PROSPECTIVE JUROR: Not with that.

8 THE COURT: All right. I'm going to go ahead
9 and excuse you.

10 THE CLERK: What's his name and number?

11 THE COURT: Twenty-five. I'm going to excuse
12 you. You're free.

13 All right. Now, this is something, again, I'm
14 going to have -- I should've just let everybody
15 stand up there. This is another one I want y'all to
16 come up individually because this is very personal
17 and I realize that.

18 Has any member of your immediate family ever
19 accused someone of sexual misconduct including
20 sexual assault or rape? Again, we'll have you come
21 up one at a time.

22 PROSPECTIVE JURORS: (Complying.)

23 THE COURT: Name and number?

24 PROSPECTIVE JUROR: Randy Shulak.

25 THE COURT: Is this any different than what you

1 just provided?

2 PROSPECTIVE JUROR: No. She was abused.

3 THE COURT: Okay. Thank you. Yes. Your name
4 and number.

5 PROSPECTIVE JUROR: Laura Gilbert, 46.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: My brother has been
8 convicted and spent three years and registered as a
9 sex offender. My daughter had a case in Pickens.
10 She was actually put in a mental institution for
11 evaluation and then there's an ongoing investigation
12 for Anderson County.

13 THE COURT: All right. Do you think you can be
14 fair and impartial?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: It's a civil action here.

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Okay. Thank you. Yes.

19 PROSPECTIVE JUROR: Megan Reid, 111.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: So I don't know all the
22 details of it, but at one point my aunt mentioned
23 that she was molested by her grandfather. I'm not
24 close with any of them and the grandfather has
25 passed away, so I could still be impartial.

1 THE COURT: Okay. You could still listen to
2 the facts of this case and be fair and impartial to
3 both sides?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: All right. Thank you. Yes. Name
6 and number?

7 PROSPECTIVE JUROR: Dale Ellicott, 43.

8 THE COURT: All right.

9 PROSPECTIVE JUROR: My wife, when she was a
10 child, one of her friends ---

11 THE COURT: Could you been fair and impartial
12 in a trial of this case?

13 PROSPECTIVE JUROR: Yeah.

14 THE COURT: You can be fair to both the
15 plaintiff and defendant?

16 PROSPECTIVE JUROR: I think so.

17 THE COURT: Thank you. Now, I will just stand
18 here.

19 All right. Has any member score -- oh, sorry.
20 This is a little bit different than the last
21 question, so if you've already -- if it's some
22 additional information to what's been provided.
23 Have you or any member of your immediate family ever
24 been a victim of sexual misconduct including sexual
25 assault or rape?

1 And just to make sure. The previous question
2 was actually: Have you or any member of your family
3 member ever accused anyone of sexual assault or
4 rape?

5 So if anybody has -- and here's the -- I'm
6 going to ask one more question, and then anybody who
7 needs to stand up and give us any -- provide anymore
8 information. Do you know anyone who has been a
9 victim of sexual misconduct, including sexual
10 assault or rape? So anybody who needs to add any
11 additional information that has not already been
12 provided, then at this time please come forward.

13 PROSPECTIVE JUROR: (Complying.)

14 THE COURT: Mr. Shulak, I believe? Is there
15 any additional? Was that ---

16 PROSPECTIVE JUROR: No. He was accused and
17 tried.

18 THE COURT: All right. Anybody else?

19 PROSPECTIVE JURORS: (No responses.)

20 THE COURT: Okay. All right. Is there anyone
21 who is morally opposed to the consumption of
22 alcohol? If so, please stand. Your name and
23 number.

24 PROSPECTIVE JURORS: (Complying.)

25 PROSPECTIVE JUROR: Robert Pace, Number 99.

1 THE COURT: All right. And in the event that
2 there is allegations of the consumption of alcohol
3 in this matter, could you be fair and impartial?

4 PROSPECTIVE JUROR: I believe it would be hard
5 to take because I don't believe in drinking at all.

6 THE COURT: I'm going to excuse you from this
7 jury then.

8 PROSPECTIVE JUROR: Thank you, sir.

9 THE COURT: Mr. Pace, you need -- just in case
10 if something happens to this case, we may have other
11 trials. So if you would call back after six o'clock
12 tonight. And that goes for anybody that's excused.

13 All right. We'll start here to the left.

14 PROSPECTIVE JUROR: Robert Puckett, 104.

15 THE COURT: Okay. And how do you respond to
16 that question? I mean, there is -- if there is
17 evidence about the consumption of alcohol, could you
18 still be fair and impartial to both -- both parties?

19 PROSPECTIVE JUROR: I could.

20 THE COURT: Okay. Thank you.

21 PROSPECTIVE JUROR: Elaine Collins, 28.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: And, yes, I could be
24 impartial.

25 THE COURT: All right. Okay.

1 PROSPECTIVE JUROR: Daniel Connelly, Number 29.
2 Because of my religion and beliefs, I don't believe
3 I could be impartial.

4 THE COURT: Thank you. We will excuse you from
5 this case.

6 All right. Has -- I think we've covered -- we
7 may have covered most of this in a previous
8 question. Has any member of our jury panel or
9 member of your immediate family ever been connected
10 to a fraternity or a sorority that you did not
11 provide previous -- information did not provide
12 previously?

13 PROSPECTIVE JURORS: (Indicating.)

14 THE COURT: Yes.

15 PROSPECTIVE JUROR: Julie Cassell, Number 23.
16 Could your repeat that question?

17 THE COURT: Basically, I mean, I know before
18 everybody talked about their children, whether they
19 were involved in a fraternity, and if you or a
20 member of your immediate family ever been connected
21 to a fraternity or sorority.

22 PROSPECTIVE JUROR: I have a social chamber.

23 THE COURT: Okay. And could you still be fair
24 and impartial in a trial of this case?

25 PROSPECTIVE JUROR: Absolutely.

1 THE COURT: All right. Thank you.

2 PROSPECTIVE JUROR: Frances Barnes, Number 8.
3 My brother was affiliated with a fraternity.

4 THE COURT: Okay. Could you still be fair and
5 impartial in the trial of this case?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: I'm sorry?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. Is there anyone that has an
10 opinion regarding college fraternities and do not
11 believe that they could be fair and impartial in the
12 trial of this case because of the role of a
13 fraternity? If so, please stand.

14 PROSPECTIVE JURORS: (No responses.)

15 THE COURT: Okay. Has any member of the jury
16 panel or a member of your immediate family ever been
17 involved in a lawsuit involving a defamation claim?
18 If so, please stand.

19 PROSPECTIVE JURORS: (No responses.)

20 THE COURT: Okay. And this is -- I think this
21 is a little bit different than the previous one.
22 Has anybody on the jury panel or a member of your
23 immediate family member ever been a party to a
24 lawsuit involving a sexual assault claim? If so,
25 please stand if you did not provide information

1 earlier on this.

2 PROSPECTIVE JURORS: (No responses.)

3 THE COURT: All right. Has any member of
4 your -- member of the jury panel or member of your
5 immediate family ever been involved in a Title IX
6 action. And that I know -- you will know -- if you
7 were involved in a Title IX action, then you will
8 know what that -- that means. Anybody involved in a
9 Title IX action? If so, please stand.

10 PROSPECTIVE JURORS: (No responses.)

11 THE COURT: Okay. No response. That's --
12 that's a Title IX action. A little bit -- a little
13 bit different then, but along the same lines. Has
14 any member of the jury panel or member of your
15 immediate family been a party to a lawsuit involving
16 Title IX? If so, please stand.

17 PROSPECTIVE JURORS: (No responses.)

18 THE COURT: Okay. And no response. Has any
19 member of the jury panel or member of your immediate
20 family ever been a party to a lawsuit involving a
21 claim against an institution of higher learning,
22 such as a college, university, or graduate school?
23 If so, please stand.

24 PROSPECTIVE JURORS: (No responses.)

25 THE COURT: Okay. And no response. Has any

1 member of the jury panel or a member of your
2 immediate family ever been a party to a lawsuit
3 involving a civil conspiracy claim? If so, please
4 stand.

5 PROSPECTIVE JURORS: (No responses.)

6 THE COURT: All right. And no response. Is
7 any member of the jury panel or a member of your
8 immediate family a contributor against any
9 organization against the consumption of alcohol such
10 as MADD or SADD? If so, please stand.

11 PROSPECTIVE JUROR: Could you repeat the
12 question?

13 THE COURT: Okay. Any member of the jury panel
14 or a member of your immediate family been a
15 contributor or a member of an organization against
16 the consumption of alcohol such as MADD or SADD?

17 PROSPECTIVE JURORS: (No responses.)

18 THE COURT: Okay. As indicated in the summary,
19 this -- the allegations involve premarital sex
20 between two individuals that are minors. Does any
21 member of the jury panel have strong feelings and
22 could not be fair and impartial in a trial of this
23 case as to that type of evidence? If so, please
24 stand.

25 PROSPECTIVE JURORS: (No responses.)

1 THE COURT: Okay. Does any member of the jury
2 panel know of any information whatsoever about this
3 case that they may've learned from any source,
4 whether they were newspaper, television, internet,
5 social media, or anything like that? If so, please
6 stand.

7 PROSPECTIVE JURORS: (No responses.)

8 THE COURT: All right. Now that you've heard
9 lots of different questions here, is there any
10 member of the jury panel, have you formed or
11 expressed opinion about any issue or matter in this
12 case? If so, please stand.

13 PROSPECTIVE JURORS: (No responses.)

14 THE COURT: Okay. Is there any member of the
15 jury panel aware of any bias or prejudice either to
16 the plaintiff or the defendant and you cannot be
17 fair and impartial in the trial of this case? If
18 so, please stand.

19 PROSPECTIVE JURORS: (No responses.)

20 THE COURT: All right. And, finally, does any
21 member of the jury panel know of any reason
22 whatsoever that they cannot be fair and impartial in
23 the trial of this case?

24 PROSPECTIVE JURORS: (No responses.)

25 THE COURT: All right. Any additional

1 questions from the plaintiff?

2 MS. LAU: No.

3 THE COURT: All right. Any additional
4 questions from the defendant?

5 MR. MOORE: None, Your Honor.

6 THE COURT: All right. Y'all need 15 minutes?
7 (Affirmative responses.)

8 THE COURT: All right. And for the record here
9 before y'all start, how many did we excuse here?

10 THE CLERK: We excused four, and we've got ---

11 THE COURT: We're good to get rid of ---

12 THE CLERK: You've got 12. We've got four more
13 that had some type of excuse you were going to bring
14 up later.

15 THE COURT: All right. I'm going to go ahead
16 since it looks like we're -- I'm going to --

17 Mr. Cothran, I'm going to excuse you. We'll

18 transfer you, so you'll have to see her on the

19 transfer. Mr. Puckett, Mr. Shulak, and Mr. Teal --

20 I mean, Ms. Teal, I'm going to transfer you to

21 another term, so you'll have to see her.

22 Ms. Radford, I'm going to excuse you. I think that
23 takes care of everybody that had some issues.

24 All right. Actually, we're going to have about
25 a 15-minute break, and then we'll come back in and

1 actually strike the jury for this case. There's a
2 couple of rooms outside if y'all want to.

3 THE CLERK: I've told the bailiffs where to put
4 them out there.

5 THE COURT: Okay. All right. And for the rest
6 of you, this process, once y'all come back in here
7 in 15 minutes, it should just take a very short
8 period of time. So, I know, probably -- my
9 stomach's growling and all that. We'll be able to
10 take care of -- lunch will be -- you'll be able to
11 go away to lunch in just a short period of time.

12 (From 12:35 to 1:05 p.m., brief recess.)

13 THE COURT: All right. Is the plaintiff ready?

14 MS. LAU: Yes.

15 THE COURT: All right. Defense ready?

16 MR. MOORE: Yes, sir.

17 THE COURT: Y'all come up with your -- we'll
18 have two alternates.

19 THE CLERK: Plaintiff's first strike?

20 MS. LAU: Plaintiff strikes Juror No. 7,
21 seventh on the list.

22 THE CLERK: Yes. Defense first strike?

23 MS. PORTER: Defense strikes Number 2.

24 THE CLERK: Plaintiff's second strike?

25 MS. LAU: Plaintiff strikes 14.

1 THE CLERK: And defense second strike?

2 MS. PORTER: Number ten.

3 THE CLERK: Plaintiff's third strike?

4 MS. LAU: Plaintiff strikes 17.

5 THE CLERK: Defense third strike?

6 MS. PORTER: Number 14.

7 THE CLERK: Fourteen's already been struck.

8 MS. PORTER: Number 1.

9 THE CLERK: All right. Plaintiff's fourth
10 strike?

11 MS. LAU: Eighteen.

12 THE CLERK: And defense fourth strike?

13 MS. PORTER: Beg the Court's indulgence.
14 Number 16.

15 THE CLERK: All right. Plaintiff's strike for
16 the first alternate?

17 MS. LAU: Twenty-two.

18 THE COURT: And defense strike for first
19 alternate?

20 MS. PORTER: Twenty-one.

21 THE COURT: And plaintiff's strike for second
22 alternate?

23 MS. LAU: Twenty-six.

24 THE CLERK: And defense strike?

25 MS. PORTER: Twenty-five.

1 THE CLERK: Okay. Plaintiff has struck Number
2 7, Number 14, Number 17, Number 18. And for
3 alternate, Number 22 and Number 26?

4 MS. LAU: Yes.

5 THE CLERK: Defense has struck Number 2, Number
6 10, Number 1, Number 16. First alternate, 21, and
7 for second alternate, 25?

8 MS. PORTER: Yes, sir.

9 THE COURT: Thank you.

10 THE CLERK: As I call your name, if you would
11 please come to the jury box and have a seat. The
12 bailiffs will direct you.

13 Juror No. 94, Mary Oliver. Juror No. 125,
14 Jodie Smith. Juror No. 101, Phillip Pittman. Juror
15 No. 124, Candace Ballenger. Juror No. 138, Kelly
16 Waldrop. Jury No. 80, Mike Meece. Juror No. 23,
17 Julie Cassell. Juror No. 65, Ron Kelly. Juror No.
18 89, James Moser. Juror No. 113, Danielle Roberts.
19 Juror No. 26, Teresa Clark. And Juror No. 8,
20 Frances Barnes. For the first alternate, 137 Jakob
21 Waldrep. And for the second alternate, Juror No.
22 11, Melinda Bolin.

23 (All jurors were seated in the jury box.)

24 THE COURT: All right. Any objection or
25 exceptions for this selection or process that we

1 need to bring out -- bring up outside the presence
2 of the jury from the plaintiff?

3 MS. LAU: No, Your Honor.

4 THE COURT: Anything from the defendant?

5 MS. PORTER: No, Your Honor.

6 THE COURT: All right. Ladies and gentlemen,
7 we -- y'all have been selected for this case. Now,
8 a couple of rules I'm going to give you and we'll go
9 break for lunch, but it's real important that you
10 follow these rules today and throughout this trial
11 until I tell you otherwise. It's very important.
12 Do not discuss the case. I know you know very
13 little about the case, but it's not proper to
14 discuss the case among yourselves or any friends or
15 family. I know it's very tough to do because you're
16 going home. They're going to say, "What are you
17 doing?" "Oh, I've got this case." Don't discuss
18 it. It's very important that you only discuss the
19 case after you've heard all the evidence and the law
20 that applies and that will take place when you
21 actually deliberate.

22 Do not do any type of research. That is also
23 strictly prohibited. You don't need to be googling
24 anything about this event, googling the law,
25 anything, the lawyers. You will get all the

1 information you need in this case from this
2 courtroom, our rules of evidence, the rules we have
3 to apply, so it's very important that you do not get
4 any additional information.

5 Third is -- I'm not aware of any media
6 coverage -- any media coverage, but do not pay any
7 attention if there is any, including social media
8 that is also information outside of this courtroom
9 that you should not be...

10 And, finally, I've never had this happen. If
11 anybody should contact you other than someone from
12 the clerk's office, then please let the bailiffs
13 know when you get back.

14 It is now 1:15. There's some matters to take
15 up with the attorneys, so I'm going to ask that you
16 be back in your jury room at 2:45 and we'll get
17 started on this case. That gives you an hour and a
18 half there, and at that time we will get the start
19 of the case going.

20 We should -- we usually try to shoot for
21 finishing up by five o'clock each day. If we have
22 to go past that, it will only be to finish up
23 something. That's kind of what we're shooting for.

24 At this time if you will go back in your jury
25 room, the bailiffs will give you some additional

1 information there.

2 (At 1:15 p.m., jury exited the courtroom.)

3 THE COURT: All right. For the rest of you
4 that weren't selected, so you can go out and buy a
5 lottery ticket -- no. I appreciate you being here.
6 We anticipate this case will take up the balance of
7 the week, but just in case there should be something
8 that happens with this, call back after six o'clock
9 tonight. You will call back and this will tell
10 you -- it'll tell you one of two things. It'll tell
11 you either you need come back at a certain time over
12 the next couple of days or it'll tell you when you
13 need to call back. If something should happen to
14 this case, then we have other trials that we'll need
15 to pull up. Call back after six o'clock today. If
16 I don't see you again, I do want to thank you
17 sincerely for your being here and spending a good
18 part of your Monday on this. Thank you very much.
19 And at this point, you're free to go. Sorry we
20 ended up being a little bit later on lunch. Thank
21 you.

22 (At 1:17 p.m., prospective jurors not selected
23 to serve on the jury were excused.)

24 THE COURT: All right. Since we have several
25 matters we need to go over, I'm going to -- we're

1 going to take a break now and let everybody gather
2 their thoughts. Be back in here at 2:15 to go over
3 anything we need to go over before we bring the jury
4 in.

5 (From 1:18 to 2:22 p.m., lunch recess.)

6 THE COURT: All right. I guess first of all,
7 let's go into any stipulations, and then we'll get
8 into any additional arguments or anything we need
9 work on at that point.

10 I guess I'd like for the parties to put on the
11 record. It's my understanding that y'all have
12 stipulated to witnesses being on Webex. I don't
13 know if y'all want to put the particular ones or do
14 y'all want to say? Based on my notes, the parties
15 have stipulated that Rachel Corbin, Jami Hafner,
16 Dr. Harrison will be put up on behalf of the
17 plaintiff. And the defendant, Haley Sinclair,
18 Olivia Pescatore, and Dr. Teri Stockham would be
19 presented by Webex; is that correct of the
20 plaintiff's side?

21 MS. LAU: Yes, Your Honor.

22 THE COURT: Defense, also stipulate to that?

23 MR. MOORE: Yes, sir.

24 THE COURT: All right. And now I'll go ahead
25 and put on the record the rulings on the motion in

1 limine. The first one was Teri Stockham's -- the
2 testimony of Teri -- Teri Stockham as an expert. At
3 this point, I find that he can testify about the
4 effects of intoxication, his opinion based on the
5 record, but not as to the actual BAC level or any
6 reference to the DUI standing, because, again,
7 that's something totally different than what we're
8 dealing with here. And, again, these are all my
9 motions in limine that y'all can present anything
10 you need to after that.

11 Testimony to the plaintiff's motion?

12 MR. MOORE: So Dr. Stockham did the three
13 scenarios on Erin's blood alcohol level based on how
14 much alcohol is alleged she had that night. Are you
15 saying she can or cannot?

16 THE COURT: I think that she can -- she can
17 testify that whether an individual would be, in
18 their opinion, intoxicated at that -- based on that
19 information, but not as to the actual BAC levels.

20 MR. MOORE: Okay.

21 THE COURT: The testimony -- the plaintiff's
22 motion for testimony of Amanda Pampu as to wealth
23 and money spent, I granted that. I thought that
24 was -- I said that was not appropriate.

25 Testimony of Alesia Smith, Clemson employee, I

1 guess let me elaborate on this. My feeling on the
2 Clemson disciplinary proceedings is, one, I mean, I
3 know that it's -- the result is relevant because of
4 the action that Clemson University took as a result
5 of that, but I -- and I don't believe that we should
6 be putting in anything about the findings or the
7 rules and regulations that apply to that because I
8 think, one, I think that could be very confusing to
9 the jury because it's a totally different standard
10 than what we're dealing with here. It's different
11 rules. Different rules of evidence apply there. I
12 mean, it's just a wholly different thing and I think
13 if you get too far into the weeds of that, I think
14 it could be prejudicial and confusing to the jury so
15 that's my basis on that.

16 MR. MOORE: Let me get you to expand on what
17 the scope of the ruling is. Can we get in, for
18 example, into the investigation part of the Title
19 IX? Can we get into any of the testimony that's
20 been given? How far ---

21 THE COURT: Only for impeachment purposes.

22 MR. MOORE: Only for impeachment purposes?

23 THE COURT: Yes.

24 MR. MOORE: So we cannot get into anything with
25 regard to any -- any of the testimony given, the

1 Title IX hearing, or any of the investigation?

2 THE COURT: Right. Based on what I had so far,
3 I ruled that the -- on the motion as to Donna
4 Maddox, that she's not able to testify as to -- I
5 felt like this was more of a bolstering type, that
6 Wingo's behavior was consistent with someone who's
7 been traumatized, and that the Title IX findings
8 corroborate that she did not -- in my opinion, I
9 feel like that's the definition of bolstering and so
10 I'm going to disallow that.

11 MR. MOORE: And, Your Honor, I guess to
12 piggyback, you know, her and what we argued on
13 Friday. Her testimony is really to rebut their
14 expert's testimony who basically says Ms. Wingo has
15 created a false memory of the incident. I think
16 what you said earlier that you're not going to allow
17 any experts to talk about whether someone's telling
18 the truth or not. I would assume that your ruling
19 as to Dr. Maddox would also apply to Dr. Pope.

20 THE COURT: Well, if that ever comes in front
21 of me. As of this point, it has not. I mean, that
22 wasn't -- I don't remember that being any kind of
23 motion from your side. I mean, that's my position
24 on that. This is the jury going to hear the parties
25 and they've got to determine whether somebody's

1 telling the truth or not.

2 MR. MOORE: And -- and I guess based upon if
3 they call Dr. Pope, we can hear -- we have a motion
4 to can address that?

5 THE COURT: Yes.

6 MS. LAU: Yes, Your Honor. Just to be clear,
7 the -- the type of opinions that Dr. Pope would've
8 been testifying or is going to be testifying to are
9 different than what Dr. Maddox would be testifying
10 to. She's testifying to sexual trauma. That's
11 what's been disclosed in their responses to our
12 interrogatories. And our responses to
13 interrogatories about what Dr. Pope's going to
14 testify about is about memory, and blackout effects,
15 as well as potentially the toxicology effects
16 because he also has, you know, toxicology
17 background. So it's apples and oranges.

18 THE COURT: Well, I mean, I really haven't been
19 presented other than y'all have referenced that. I
20 mean, I haven't been presented with anything on that
21 and that may be something I need to take up this
22 evening or something.

23 MS. LAU: And, also, just to clarify, he is the
24 rebuttal witness to them ---

25 THE COURT: Okay.

1 MS. LAU: --- because of their affirmative
2 defense of truth.

3 THE COURT: Y'all are not -- y'all would not be
4 presenting him in your case in chief, is that what
5 you're saying?

6 MS. LAU: At this time ---

7 THE COURT: All right. We need to cross that
8 bridge. I'll give y'all the opportunity. I don't
9 want to foreclose anything there.

10 MS. LAU: Thank you.

11 THE COURT: Since that was not presented to me,
12 any reports from him have not presented to me, I
13 have not made a ruling on those.

14 MR. MOORE: Are we supposed to be putting on
15 the record now our position with regard to these
16 rulings, or are we supposed to handle that since
17 they were done in chambers?

18 THE COURT: Well, no, they weren't. They were
19 actually recorded.

20 MR. MOORE: Were they recorded?

21 THE COURT: Yeah, they were recorded.

22 MR. MOORE: I'm sorry.

23 THE COURT: I was just making for the record,
24 just making sure.

25 MR. MOORE: Okay.

1 THE COURT: That was recorded and that can be
2 transcribable too.

3 MR. MOORE: Okay. Good enough.

4 THE COURT: The testimony of Margaret Wingo.
5 There's a little bit of confusion about that. I
6 think that any testimony regarding from her would be
7 direct observations on the night in question and
8 statements made by her sister following the
9 incident. I think there was some other stuff. I
10 never did quite -- I never did quite follow what
11 y'all were trying to present there. That may've
12 been all that y'all were presenting.

13 MS. LAU: Your Honor, for our motion to limit
14 Ms. Wingo's testimony was to her observations on
15 that Facetime call and her receipt of defamatory
16 statements. That was it. So not any further
17 discussions with Ms. Wingo are necessarily not in
18 that broad since, but certainly to whatever
19 defamatory statements she may have received.

20 THE COURT: Go ahead.

21 MS. PORTER: I think they're going to have to
22 hear the testimony to object at the appropriate
23 time, Your Honor.

24 THE COURT: Right.

25 MS. PORTER: Again, we don't intend to break

1 the rules.

2 THE COURT: And I think that's the way a lot --
3 most motions in limine are sometimes. This is the
4 preliminary ruling, but any objections need to be
5 made at the time anybody tries to proffer
6 information.

7 The motion about ESI, mainly text messages. As
8 I told y'all this morning about my ruling on that,
9 which was not on the record, was that any text made
10 by parties or witnesses presented which are
11 relevant, but if somebody's not a witness, then
12 those would not -- then those texts would be
13 admissible.

14 I've already discussed my position on the Title
15 IX decision.

16 MR. MOORE: And, again, Your Honor, the Title
17 IX, the result is relevant. The findings, you're --
18 you're not allowing us to get into the findings
19 unless the door's opened.

20 THE COURT: Yeah.

21 MR. MOORE: And you're not allowing us to get
22 into rules and regulations unless the door is
23 opened.

24 THE COURT: I'm sure they're going to keep that
25 door pretty well closed.

1 MR. MOORE: When you talk about the rules and
2 regulations, what are you ---

3 THE COURT: I'm talking about the rules and
4 regulations that apply to the Clemson University and
5 all their disciplinary manuals.

6 MR. MOORE: The antiharassment manual?

7 THE COURT: Anything that came out of the Title
8 IX that was decided.

9 MS. PORTER: If I may, Your Honor? You know,
10 one of our defenses is its truth and that they
11 relied on the definition contained in the student
12 code of conduct and the antiharassment policy which
13 is incorporated into the student code of conduct
14 because that's what they were trained on as freshman
15 and that was their understanding of the definition
16 of rape. I mean, so you're -- if they have a right
17 to rely on the materials that was provided to them
18 by the university when making statements.

19 THE COURT: I don't think -- have I seen the
20 antiharassment?

21 MR. MOORE: Here's something.

22 THE COURT: All right. I'll -- I'll take a
23 look at that, but my gut feeling again is it's the
24 same with, you know -- I mean, I think it's going to
25 boil down to who's -- what happened that night,

1 who's telling the truth. That's just -- I know
2 y'all try to think differently, but that's kind of
3 what I think this jury should be hearing.

4 MS. PORTER: One of the elements of defamation
5 is fault and it's intentional and willful. I think
6 their understanding of the definition of rape is
7 relevant and frankly a defense of ours.

8 THE COURT: Okay. I mean, I'm going to look at
9 that and then I'll let you put whatever you need to
10 on the record.

11 MS. PORTER: Thank you.

12 MS. LAU: Your Honor, if I may? The reliance
13 on -- on -- on that -- the Clemson decision or the
14 findings, it doesn't affect the statements that were
15 made as we -- as we argued before you in the
16 motions. The statements were made outside of the
17 process.

18 MR. MOORE: That's just not true, Your Honor.
19 They do rely upon that definition.

20 THE COURT: Hold on.

21 MR. MOORE: I'm sorry.

22 MS. LAU: If I may finish? Thank you.

23 MR. MOORE: I'm sorry.

24 MS. LAU: And so that, therefore, their -- I
25 don't see how they could rely on a Clemson matter

1 when this is a matter of law. And this is in need
2 of the jury -- the jury's duty and the jury's
3 ability to decide this case on its own.

4 MR. MOORE: And I'm sorry.

5 THE COURT: It's okay.

6 MS. LAU: And just as a matter of
7 clarification, we also wanted to know. When you say
8 the result is allowed, you mean the fact that he was
9 suspended. That's allowed to be ---

10 THE COURT: Right.

11 MS. LAU: --- at least stated? Okay. Thank
12 you.

13 MR. MOORE: See our position is, if they were
14 relying upon information they were given before the
15 Title IX investigation ever began, these were
16 materials they got when they first started school.
17 They received a definition of rape within those
18 materials.

19 My client relied upon that with regards to
20 anything he may've said, so this is pertinent as to
21 his defense with regards to his reliance and whether
22 it's true or not. So this doesn't -- this doesn't
23 necessarily have anything to do with the Title IX
24 hearing or the investigation. It has to do with
25 what my client understood to be rape, and the

1 definition of rape is very pertinent to this
2 particular case.

3 MS. LAU: And, Your Honor, the Clemson
4 definitions are just not what every day people
5 understand rape to mean. Those are not applicable
6 to what every day people understand that to mean.

7 MR. MOORE: But, Your Honor, it's not what
8 every day people think. It's what my client
9 understood to be the definition of rape, which is
10 why this is so important.

11 MS. PORTER: And, again, we would ask that
12 because there's -- they'll be testimony that all of
13 these individuals were trained as freshman at
14 Clemson on these definitions, not only by Clemson
15 and the ---

16 THE COURT: They "sat through training" or
17 "were trained"? There's a difference.

18 MS. PORTER: They sat through the training and
19 relied upon that training as freshman and through
20 the sorority and fraternity organizations.

21 THE COURT: I'll look at it again, but I think
22 my ruling is going to be the same as to the Clemson
23 rules and regulations.

24 I denied the immunity. I don't think that
25 applies in this particular situation and also some

1 of the information falls outside any reports to
2 Title IX.

3 The -- regarding settlement negotiations and
4 various documents that I looked at, let me put those
5 back up. All right. Exhibit 5, which is the letter
6 to Phi Delta, I have reviewed that. Again, a lot of
7 it talks about the findings from Clemson University,
8 but a lot of it goes well beyond anything findings.
9 And the fact at some point he goes into the
10 plaintiff being a predator and so forth, and I
11 didn't see anything that any findings like that from
12 Clemson University.

13 So any -- any -- any allegations that -- in
14 Exhibit 5 that Defendant Wingo made to Phi Delta is
15 admissible. You will need to redact any portions
16 which relate to the findings by Clemson University.

17 Exhibit 26, the voicemail. Y'all agreed that
18 that would not be out -- I mean, introduced.

19 Exhibit 67 is an e-mail that says -- basically
20 asked whether he can live -- live at the house or
21 something like that. I think if it's limited to
22 just that particular e-mail and none of the other
23 e-mails.

24 MS. PORTER: Your Honor, at that point, the
25 settlement negotiations were well underway and

1 that's part of the terms and the settlement.

2 THE COURT: Well, we didn't reference that in
3 the e-mail. It just says -- it says, "My daughter
4 is not able to go to the house. I thought he wasn't
5 allowed in the house."

6 MR. MOORE: Your Honor, my concern on Exhibit 5
7 with Mr. Wingo's letter, I mean, it still references
8 the -- I mean, it's all -- the OCES investigation is
9 all in the letter.

10 THE COURT: Right. But for the first part of
11 it, it just says here are the -- it's just kind of
12 blanket allegations.

13 MR. MOORE: But if they cross Mr. Wingo on this
14 letter just -- just -- just to give him an adequate
15 opportunity to explain the letter, I mean, I feel
16 like he needs to be able to explain everything in
17 the letter, not just bits and pieces they want him
18 to explain. I feel that would be grossly unfair and
19 prejudicial to him. It doesn't just say -- he's not
20 just writing it to bash Mr. Pampu. He's also
21 telling them what happened at the OCES hearing.

22 THE COURT: I mean, I think we're going to have
23 to walk a fine line, but I just don't -- I think
24 that the findings are clearly going to confuse the
25 jury so I'm just not going to let those in.

1 MR. MOORE: Are they going to be allowed to go
2 into Erin's damages? Those damages aren't -- her
3 damages aren't a part of this case.

4 THE COURT: I mean, I don't think those should
5 be appropriate then.

6 MR. MOORE: That's on page 5.

7 THE COURT: I mean, are you asking for that to
8 be in there or not?

9 MR. MOORE: No. Either all of it or none. I
10 mean, that's -- our point is, with all do respect,
11 we think it's more confusing to cut and paste the
12 letter. Either all comes in or none of it comes in.

13 THE COURT: The allegation is -- especially,
14 like I said, the last part of it, I think clearly
15 without the scope of anything. And the first part
16 of it, I think what we're going to have to do is
17 have a redacted copy and look at it.

18 Settlement agreement, I think that can be
19 confusing. I'm not going to let anything in about
20 the settlement agreement. Seems like a lot of this
21 should've been taken care of with summary judgment.

22 All right. What else?

23 MS. LAU: Your Honor, were you able to think
24 more on the Terex production?

25 THE COURT: Yeah.

1 MS. LAU: We also have an update on that if it
2 helps.

3 THE COURT: What's the latest on that?

4 MS. LAU: The latest on that is, we did receive
5 the privilege log. There are 291 e-mails being
6 withheld. They were e-mails between Dave Wingo and
7 Kerri Simon regarding this case. And they were sent
8 from his Terex e-mail, which I believe counsel has
9 already agreed and conceded that that -- any --
10 anything that's sent from his Terex e-mail is
11 waived -- that privilege is waived.

12 MS. PORTER: Judge Sprouse concluded that it
13 was waived between a spouse, between Dave Wingo and
14 his spouse. This issue between attorney/client has
15 not been addressed by this Court.

16 THE COURT: Yeah, I read -- I read through the
17 judge order -- I mean, Judge Sprouse's order after
18 you mentioned that, and I saw nothing that really
19 relates to this particular issue with Terex and how
20 there was a privilege there.

21 I guess what we can do -- I mean, without -- I
22 don't want to prejudice Terex. We can set a time at
23 lunchtime tomorrow to have a Webex hearing with
24 their counsel involved. That'll give y'all time to
25 look at everything tonight to discuss with them. So

1 at 12:30, we will have a Webex hearing to address
2 any compliance with my order and anything else
3 related to that discovery motion.

4 All right. Anything else from the plaintiff?
5 Have you got -- are you -- everything good with what
6 you needed for your opening?

7 MS. LAU: Yes, Your Honor.

8 THE COURT: Okay. You're good. All right.
9 Anything else from Defendant Wingos?

10 MS. PORTER: Your Honor, I just wanted to
11 clarify one -- one issue on the ESI.

12 THE COURT: Yes. Let me pull those up.

13 MS. PORTER: Again, there are some -- and we
14 didn't go -- and when they're offered for evidence,
15 we don't have an issue with authenticity, but there
16 are some statements within the body of text messages
17 that we believe fall under the protective order, so
18 we would ask that those portions be redacted prior
19 to publishing to the jury.

20 THE COURT: Right. Well, before any -- before
21 anything is introduced, they're going to have to
22 show it to you anyway.

23 MS. PORTER: Sure.

24 THE COURT: If there's any issues, then we'll
25 address it at that time because I know there's some

1 that I have not seen that I noticed y'all had
2 referenced.

3 MS. PORTER: Thank you.

4 THE COURT: All right. Anything else from
5 Defendant Wingo?

6 MS. PORTER: No, Your Honor.

7 MS. LAU: Your Honor, just before we close on
8 that issue. If counsel could point us out to where
9 in the ESI specifically, then we could maybe come to
10 a consensus earlier.

11 MS. PORTER: I'd be happy to meet with her, but
12 I don't know what they're planning on ---

13 THE COURT: Well, I don't -- that's something
14 y'all can talk about.

15 MS. LAU: We've given you our exhibit list.

16 MS. PORTER: I know you have ---

17 THE COURT: Y'all talk about it at the end of
18 the day.

19 All right. Is there anything before we bring
20 the jury in? Normally what I do is, I have a brief.
21 I kind of give them a summary, what I call my
22 pretrial charge, tell them what's going on, what's
23 to be expected and so forth. And then we'll
24 immediately go into opening statements. And then
25 how long do you anticipate your first witness to be?

1 MS. LAU: I would -- maybe about an hour.

2 THE COURT: Okay. Sounds good. Ready for the
3 jury from the plaintiff?

4 MS. LAU: Yes, sir.

5 THE COURT: Ready for the jury from the
6 defense?

7 MR. MOORE: Yes.

8 (From 2:45 to 2:53 p.m., brief recess.)

9 THE COURT: All right. The jury is here and
10 the plaintiff ready?

11 MS. LAU: Yes, Your Honor.

12 THE COURT: Is the defense ready?

13 MR. MOORE: Yes, Your Honor.

14 THE COURT: Bring the jury in.

15 (At 2:54 p.m., jury entered the courtroom.)

16 THE COURT: All right. Please be seated.

17 THE JURORS: (Complying.)

18 THE COURT: All right. Ladies and gentlemen, I
19 hope everybody had a good lunch. I'm going to give
20 you some preliminary instructions about the
21 procedure that we're going through, and then we'll
22 actually start the case. But, first, I'm going to
23 have the Clerk of Court administer the oath.

24 Ms. Broom.

25 THE CLERK: If you could stand, please.

1 THE JURORS: (Complying.)

2 THE CLERK: Raise your right hand.

3 THE JURORS: (Complying.)

4 THE CLERK: You shall well and truly try the
5 issues joined in this case of *Andrew Pampu v. Erin*
6 *Wingo, David Wingo, and Colin J. Gahagan*, and a true
7 verdict render according to law and evidence so help
8 you God. If you agree with that, say "I will."

9 THE JURORS: (Collectively:) "I will."

10 THE COURT: All right. Thank you. You may be
11 seated.

12 THE JURORS: (Complying.)

13 THE COURT: All right. Now that y'all have
14 been sworn in, I'm going to give you a little bit of
15 information so that you'll know what's going on as
16 the trial proceeds.

17 I always like to tell people. First, you met
18 the attorneys and the parties, but I want to let you
19 know the other kind of personnel in the courtroom.
20 We have the court reporter here. She takes down
21 everything that is stated, all the testimony.
22 That's her job. We have the Clerk of Court --
23 Assistant Clerk of Court who is in charge of, you
24 know, the records and swearing everybody in. Seated
25 behind me is my claw clerk. She's a graduate of law

1 school and will assist me with any research or
2 anything I need during the trial. The most
3 important people for y'all are the bailiffs. If you
4 have any questions or you have anything that you
5 need, you just please convey that to the bailiffs.
6 The bailiffs here are fantastic. They do a great
7 job. If there's anything that I need to be apprised
8 of, they'll come and let me know. Any time you have
9 any information you need or anything like that,
10 please direct that to the bailiffs.

11 Your role in this matter is to determine what
12 the facts of this case are. You will hear evidence.
13 And, ultimately, at the conclusion of the trial,
14 you'll have to determine what the facts of this case
15 are. And that's what we call deliberations. That's
16 what you're, you know, rendering a verdict when you
17 go back in there in the jury room and you're
18 deliberating. That is deciding what the facts are,
19 and that's to be decided by the 12 -- all 12 of the
20 primary jurors.

21 And that is to be based on the evidence that is
22 presented, and evidence may be in several forms. It
23 may be by way of exhibits. It could be by way of
24 stipulations, testimony from the stand. In this day
25 and age since Covid, we have all come up with a new

1 way to do things. And that's by -- many of you may
2 have been involved in Webex or Zoom meetings since
3 Covid started. Well, we've used those quite a lot
4 in our court now. In fact, the parties have
5 stipulated that several of the witnesses will be
6 presented by way of video. Now -- and you'll --
7 you may have depositions that are presented, as
8 well.

9 Now, whether somebody is seated right here in
10 the stand or they're seated -- or their testimony is
11 presented by deposition or by Webex, it's to be
12 considered the same by you. They're under oath and
13 it's to be given the same weight and value that you
14 feel is appropriate.

15 And that's just like any other witness. It's
16 ultimately to be given the weight and the value
17 which you feel is appropriate. And I told you,
18 cautioned you, in the beginning, it's very, very
19 important that the only information that you get to
20 make your decision is what you get in this
21 courtroom, which is subject to our rules of evidence
22 and our rules of court.

23 That means it's not appropriate to get any
24 information by googling or getting any information
25 about the parties, the lawyers, what the law is,

1 anything like that outside this courtroom.
2 Everything that you will need to make your decision
3 will be presented through our -- our rules.

4 It's also very important that you not be in
5 discussing the case, and, again, among yourselves or
6 at home. Because once you begin discussing the
7 case, then you're making up your mind. And that's
8 not appropriate because you need to hear everything.
9 Evidence is presented by both sides. And then you
10 need to hear the law that I will give you at the
11 conclusion of the trial in order to know how to
12 evaluate that, so that's important too that you keep
13 an open mind throughout.

14 Now, my job is totally different from yours.
15 My job is to preside over the trial, rule on the
16 evidence, and provide you with the law which I will
17 do at the end of the case. If there's anything that
18 I do or say that makes you think I have an opinion
19 on the facts, then please disregard that because
20 that's not my job. That is your job there.

21 Another thing that you will need to use that's
22 kind of a skill is, you need to determine the
23 credibility of witnesses. And that just means
24 believability of witnesses as they're providing the
25 testimony. And, again, ultimately it will be up to

1 you to decide the weight and the value that you need
2 to give each of these witnesses and pieces of
3 evidence.

4 Now, as far as scheduling, we, as I told you in
5 the beginning of this case, anticipated this case
6 will go the whole week and that we will -- we try to
7 stop as close to 5:00 as possible. Sometimes that's
8 not always possible because we may have a witness
9 that started and we hate to break right in the
10 middle of a witness. Before -- and if it looks like
11 we'll have something like that happen, I usually
12 bring it to your attention and say, hey, we're going
13 to be going past 5:00. Does anybody need to make
14 any phone calls or make any arrangements? Again,
15 we're not going to be -- shouldn't go way past 5:00,
16 but sometimes we just have to go there. And I will
17 communicate with y'all since it would go late.

18 Normally, we try to take breaks about every
19 hour. And, again, sometimes that depends on where
20 we are with the witness. If anybody needs to take a
21 break before then, please let us know. I mean, we
22 realize that this is an inconvenience to you and we
23 try to make it as less of an inconvenience as
24 possible.

25 We will start back tomorrow at 9:30 and usually

1 break around lunch anywhere from 12:30 to 1:00.
2 That's kind of what we shoot for. Again, every time
3 we plan that and then something happens and you got
4 to go a little bit later. Like today, I mean, you
5 know, one of those things I thought we were going to
6 do. Sometimes you have to go a little bit earlier.
7 Again, I'll try to make sure that y'all are kept
8 abreast of kind of where we're headed on that.

9 Also, do not pay any attention to any media
10 coverage -- I'm not aware of any -- particularly
11 social media. If you should happen to run across
12 some social media that refers to this case, please
13 do not pay any attention to that and disregard it.

14 I'm going to ask that you not take notes. I
15 think that even though this is a long case, there
16 will be sufficient evidence and information for you
17 to have in your jury room during your deliberations.

18 The -- oh, let me tell you also. I don't know
19 if anybody has been involved in a criminal matter
20 before. Let me tell you about the burden of proof.
21 The burden of proof in this case is different than a
22 criminal matter. In a criminal matter, you may have
23 heard on TV or something like that, it's beyond a
24 reasonable doubt. You have a different standard in
25 a civil matter. This is what's called by the

1 preponderance of the evidence. Basically, it is
2 more likely than not. It's not as high a standard
3 as you have in criminal matters, and it's a civil
4 matter.

5 As I told you in your -- in the beginning, if
6 you hear any witnesses or any reference to the
7 parties, the plaintiff is the party that brings the
8 lawsuit, and the defendants are the people against
9 who the lawsuit was brought. So that's just kind of
10 the terminology there.

11 The -- the -- a little bit about the trial.
12 The plaintiff has the burden of proof. They will
13 present their case first. And when they rest, the
14 defense will put their case next. And, again, it's
15 by witnesses and evidence. And then the plaintiff
16 will have an opportunity to present any rebuttal
17 evidence if needed, and then that's the presentation
18 of evidence.

19 After the presentation of evidence, then we'll
20 have closing arguments by the attorneys, and then I
21 will charge you on the law. And at that point, you
22 will go back in your jury room and you'll finally be
23 able to discuss the case, and that's what we call
24 deliberate. And then your ultimate goal is to
25 determine and you will have -- you'll have all the

1 information or the -- a form. And you're going to
2 be basically coming up with the verdict that the 12
3 of you agree to.

4 So -- and we start off the case with opening
5 statements by the attorneys. And at this point, I'm
6 going to turn it over to the attorneys for opening
7 statements. So, plaintiff, you may proceed.

8 MS. LAU: Thank you, Your Honor. Good
9 afternoon, Your Honor, ladies and gentlemen of the
10 jury.

11 I think we can agree that rape is a serious
12 crime. Nobody would wish that for themselves or for
13 their children. But I think we can also agree that
14 lying about being a victim of rape can make serious
15 damage for the accused party and can cause a setback
16 for true victims to be believed in the future. For
17 now, there may be a number of reasons why someone
18 might lie about being a victim of rape: Shame,
19 guilt, embarrassment, or even a cover-up to escape
20 from someone you love. And this is what the case
21 boils down to, is a cover-up or a mistake.

22 Now, let me tell you a little bit about the
23 story of what happened. On October 24, 2015, there
24 was a party at Phi Delta Theta, known as the
25 "Compound." Plaintiff Andrew Pampu, also known as

1 "Drew," and Defendant Colin Gahagan, also known as
2 "CJ," were pledge brothers of Phi Delta Theta.

3 Defendant Erin Wingo, a pledge of Gamma Phi
4 Beta, was planning on attending that party at the
5 compound and discussed her plans to go with CJ
6 earlier in the day. You see, Erin and CJ were
7 dating at the time, so the plan was for Erin to stay
8 over at CJ's dorm room after the party.

9 Erin decided to pre-game after the party with
10 three of her friends. Then the four girls walked
11 over from the dorm to the party at the compound.
12 And on the walk over, Erin told her friends that she
13 wanted to give Drew a birthday kiss because it was
14 his birthday.

15 In fact, this was not the first time that Erin
16 and Drew had kissed. In September, about a month
17 before the party, Erin texted her friend, quote, Got
18 drunk and made out with CJ's hot pledge brother. CJ
19 found out about it and was furious.

20 On the night of October 24th, CJ was the first
21 person to see Erin arrive at the party at the
22 Compound. He did not see her exhibit the typical
23 signs of someone who was incapacitated from alcohol,
24 namely stumbling, slurring, unable to be steady on
25 your feet, or vomiting.

1 But instead of hanging out with her, CJ said,
2 "Go find someone else." Erin felt rejected because
3 as she said, nobody likes to be told to find
4 somebody else. So she set out to find Drew at the
5 party to give him that birthday kiss. Drew also did
6 not see Erin exhibiting the typical signs of someone
7 who was incapacitated. Erin told Drew to kiss her
8 or else she would not have sex with him. And after
9 they kissed at the compound, they both walked
10 together about a quarter to a half mile away to find
11 a private place to be together. Erin did not need
12 assistance for that walk. She did not hold hands
13 with Drew.

14 Erin then consented three times to have sex
15 with Drew. They engaged in sexual intercourse, then
16 walked back to the party together at the Compound,
17 at which point they parted ways. Erin was
18 displaying signs of panic asking, "Why doesn't CJ
19 love me?" The panic continued through the car ride
20 back to her dorm room, where she continued asking
21 for CJ, saying, "CJ is going to hate me." Never
22 mentioning Drew or her sexual encounter with him.

23 The next morning, Erin wakes up to a series of
24 angry text messages from CJ sending her around 12:40
25 a.m. because he couldn't find her at that party

1 during the time she was with Drew. At 8:18 a.m.,
2 Erin texted CJ telling him she loves him and told
3 him, "I want to be yours and only yours, and you
4 won't ask me to do that and I don't know why." Then
5 at 10:04 a.m., Erin texted Drew, "Do not tell CJ
6 what happened." Later that morning, Erin told her
7 friend that she had sex with Drew the night before.

8 The evidence shows Erin remembered what had
9 transpired, but did not want CJ to find out. She
10 knew CJ would be jealous and was worried it would
11 ruin her chances to be in a more serious
12 relationship with him.

13 Then CJ found out about Erin's sexual encounter
14 through a group chat among the fraternity pledge
15 brothers. You see, at 3:30 a.m., one of the pledges
16 asked Drew how his birthday went. In response, Drew
17 drunkenly sent a text message describing the sexual
18 encounter in a crass way that some young men might
19 do, never naming her and never intending for that
20 message to be shared with anyone else. But without
21 his consent, the pledge brother screen shot Drew's
22 message and shared it with the rest of the frat
23 brothers in a group chat with all 30 of them.

24 Since he was also a pledge, CJ saw the group
25 chat and immediately put two and two together. CJ

1 went to Erin's dorm that afternoon to confront her.
2 Ashamed that 30 fraternity pledge brothers found out
3 about the sexual encounter and worried that CJ would
4 be upset and not want a serious relationship with
5 her, Erin needed to cover her tracks. Despite her
6 earlier statements that she remembered the sexual
7 encounter, she panicked and lied to cover up what
8 she knew happened.

9 She told CJ she did not remember it. In
10 response, CJ told Erin, "If you don't remember, then
11 it's rape." That was the first time the term "rape"
12 was ever used to describe the sexual encounter
13 between Drew and Erin, but it would not be the last.

14 Erin told at least 16 people that Drew raped
15 her. And although CJ did not witness the sexual
16 encounter, he told at least two people that Drew
17 raped Erin. Similarly, Erin's father, Mr. Wingo,
18 did not have firsthand proof, but he told at least
19 two people that Drew sexually assaulted her.

20 From that point on, Erin and CJ worked together
21 to get Drew removed from school, and Mr. Wingo
22 worked with Erin to get Drew kicked out of the
23 fraternity. Based on defendants' statements, Drew
24 was removed from Clemson University. It's important
25 to note, Drew was never convicted of rape because he

1 was never charged by a DA with that crime. Also,
2 Erin never filed a claim of civil rape against him,
3 not even in this case.

4 Then one year after Drew was removed from
5 Clemson, CJ texted Drew, "You're innocent. I lied."
6 CJ's admission to lying are not shocking since Drew
7 knew about the lies, but they were earth shattering
8 nonetheless.

9 Now, defendants will have you believe that this
10 is a rape trial because they will argue that Erin
11 was too incapacitated to consent and that she
12 doesn't remember the sexual encounter. However, the
13 evidence speaks for itself and demonstrates a
14 cover-up, not a rape.

15 To be clear, the plaintiff's civil conspiracy
16 claim is based on the defendants' common plan to get
17 him removed from Clemson University and removed from
18 the fraternity. Meanwhile, plaintiff's defamation
19 claim is actually based on defendants' false
20 statements to at least 20 other people calling him a
21 rapist. Because of defendants' actions, Drew will
22 be required to disclose and self-report his removal
23 from Clemson for the rest of his life whenever he
24 applies to another school or applies to certain
25 jobs. His dreams of becoming an orthodontist will

1 never happen because of defendants' irreversible
2 actions. His reputation has been forever tarnished
3 by the defendants, peers at Clemson University, and
4 all the other individuals that have defamed him.

5 As I stated at the beginning, we believe rape
6 is a terrible crime and nobody deserves to be raped.
7 But lying about being raped, well, that is even
8 worse because it victimizes the person being falsely
9 accused causing irreparable damage and represents a
10 setback for true victims to be believed in the
11 future. And I believe at the end of the case,
12 you're going to understand why we are seeking a
13 verdict of liability against all of the defendants
14 for defamation and civil conspiracy. Thank you.

15 THE COURT: Who's going first?

16 MS. PORTER: I guess I'll go first, Your Honor.
17 May it please the Court?

18 THE COURT: All right.

19 MS. PORTER: Thank you for being here. It is a
20 civic duty and one that I appreciate more than most
21 in our community. I've been a lawyer for 22 years
22 now, and I'm the youngest lawyer at that table. And
23 we make our living trying to resolve problems. And
24 there are times when those problems can't be
25 resolved and we must rely on you to resolve them, so

1 thank you.

2 Now, I'm sorry. I am sorry that you're here
3 today because it's going to be uncomfortable. We
4 unfortunately are going to get in the middle of the
5 lives of some college freshmen. And we are going to
6 talk about intoxication, drinking too much, being
7 drunk, and we're going to talk about having sex.
8 And it is all memorialized in text messages. It's
9 going to be uncomfortable, most of all for the
10 defendants. They didn't bring a lawsuit. And you
11 heard it, they didn't bring any charges.

12 The plaintiff has the burden of proof. The
13 judge briefly described that, but I'd like to
14 describe it a little bit more. Preponderance of the
15 evidence is like a scale. Right now today before
16 any evidence has been presented, that scale is even.
17 In order for the plaintiff to succeed, he must tilt
18 that scale however so slightly in his favor. If it
19 remains even or tips however so slightly towards the
20 defense, he does not succeed. That's their burden.
21 They must prove that Erin Wingo was sober enough on
22 October 24th to consent to sex.

23 It's undisputed. It is undisputed that they
24 were all freshman, that CJ, Drew, and Erin were all
25 freshman at Clemson. It's undisputed that Drew and

1 CJ were fraternity brothers. It is undisputed that
2 there was a party at the fraternity Compound, which
3 you're going to hear a lot about three houses, a
4 little piece of property.

5 You're going to -- it's undisputed that Erin
6 Wingo pre-partied with three sorority sisters and
7 Facetimed her sister who was in another state and
8 drank a ridiculous amount of liquor. Undisputed.
9 It is undisputed that CJ was the first person to see
10 Erin when she arrived at the Compound, and it is
11 undisputed that the plaintiff and Erin left the
12 Compound and had sex by a shed or dumpster. It is
13 undisputed that he texted his fraternity brother and
14 told another fraternity brother almost immediately
15 thereafter about it. And you're going to get to see
16 the text messages.

17 Those are not -- that's not why we're here.
18 Why we're here is because what is disputed is the
19 level of intoxication and her ability to consent.
20 If she was too drunk to know what she was doing, she
21 could not consent to sex. Nonconsensual sex is
22 rape. Nonconsensual sex is rape.

23 They have to prove that Erin intentionally,
24 willfully, and wrongfully lied about her
25 intoxication level that night and what she

1 remembered. That's their burden.

2 Then they have to prove that Erin and CJ
3 conspired to have the plaintiff removed from
4 Clemson.

5 And then they have to drag in dad, David Wingo,
6 and have to prove that he joined that conspiracy,
7 and that together they all figured out a way to
8 remove the plaintiff from the university. That's
9 why we're here today, ladies and gentlemen.

10 I'm going to ask you the only three things I've
11 ever asked a jury to do in 22 years, come with an
12 open mind. This is not Law and Order. It is not
13 CSI. It does not work that way. This is real life.
14 And it's important -- this process is important for
15 everybody in this courtroom today. So please leave
16 all of those preconceived notions at the door.

17 Come each day and listen to the evidence that
18 is presented to you. It doesn't matter who presents
19 it. Your job is to consider it all, to weigh it
20 all. Decide what you believe and what you don't.
21 But in order to do that, you have to listen to it
22 all.

23 And, lastly, and most importantly, please use
24 your common sense. That's why our system works.
25 It's not perfect, but it's the best one I'm aware

1 of. And it works because we have citizens in our
2 community applying their common sense. Thank you.

3 MR. MOORE: May it please the Court? I
4 represent CJ Gahagan. You're going to hear the name
5 Colin, but, quite frankly, he goes by CJ. CJ is the
6 third or fourth party in this lawsuit. Back in
7 2015, he was a freshman at Clemson, along with Drew
8 Pampu, along with Erin Wingo. When they went off to
9 school like a lot of college students, they were
10 free. They weren't under the wing of their parents
11 at that particular point in time, which leads to a
12 lot of drinking, sex, and that leads to lies. And
13 that's what we're dealing here with today. Where
14 there was excessive alcohol drinking, there's sex
15 going on because they're not under their parents'
16 wing anymore. And then when the complaint comes
17 about who's responsible, there are lies that occur.

18 Your responsibility is going to be to make a
19 determination, not so much about the drinking
20 because there was drinking. Everybody admits to
21 that. Not so much about the sex. Everybody admits
22 there was sex involved, but whether there was a lie.
23 The lying has to do with whether Erin Wingo was so
24 much under the influence of alcohol that she could
25 not consent to having sex with Drew Pampu.

1 Now, this lawsuit is based upon two causes of
2 action. The main one is called defamation.
3 Sometimes called slander. Sometimes called a lie.
4 It has basically four elements -- three elements.
5 One is, it has to be false. And this is one of the
6 big areas you're going to have to consider is
7 whether the statements were false or not.

8 And defamatory statements. Now, accusing
9 somebody of a crime is defamatory. The second thing
10 is, that it has an unprivileged publication to a
11 third party, which means basically that you tell
12 somebody who's not a party. In other words, you
13 don't -- that CJ is not telling Erin Pampu -- Erin
14 Wingo or Drew Pampu about what was happening to
15 somebody else. Then it's not privileged because
16 it's not told to a legislator or something of that
17 nature.

18 The third element has to do, it has to be fault
19 by someone who's publishing this defamatory
20 statement, and that is going to be one of the key
21 elements you're going to have to consider as well as
22 to whether these two parties, or the individual
23 making these statements, had a basis for making the
24 statements, as they look into the matter to make a
25 determination as to what occurred.

1 And, finally, there has to be some kind of
2 damages, and the Court will advise you as of that
3 later. The damages can be either damages that they
4 actually are out-of-pocket damages, future damages,
5 or could it be what's called damages "per se" where
6 they're just inferred. It'll be your responsibility
7 to make findings of fact with regard to each of
8 those elements.

9 So let's talk about what happened. Back in
10 October 2015, almost seven years now, there was a
11 fraternity party. That's another -- fraternities
12 usually don't have any control over what happens,
13 and that's exactly what occurred here. The
14 fraternity party at which all three of these
15 students attended. CJ and Drew are pledges to a
16 fraternity there. And as a pledge, they have an
17 obligation to set up the party. They have to clean
18 it up. They had to set out drinks or whatever makes
19 it okay. The brothers take turns. They actually
20 take advantage of that situation so they can party
21 hard.

22 Erin came to the party around 12:00, 11:30 or a
23 quarter to 12:00. She had previously been drinking
24 that night, pre-party drinking. And there is some
25 indication that she may have been intoxicated when

1 she got to the party. Now, she may not have been
2 intoxicated to the point where she's stumbling and
3 falling all over herself or mumbling her words, but
4 she's -- she's under the influence at that point.
5 Because she's had so much to drink, it becomes worse
6 as time goes on. To the point that after the sex
7 occurs, she is stumbling. She is mumbling. She's
8 crying. She tries to text CJ. She can't do it. So
9 clearly she's on the bad end of a drunk at that
10 point in time.

11 The question you have to resolve is between the
12 time she gets to the party and the time -- right
13 after she had sex, when did she lose control to the
14 extent that she could not consent to the sex.
15 That's -- those are decisions you're going to have
16 to make with regard to who's responsible in this
17 particular matter.

18 There's another cause of action where the
19 plaintiff is indicating that CJ and Erin were in
20 some kind of conspiracy to have him thrown out of
21 Clemson. Now, there was an investigation by
22 Clemson. And Drew was eventually thrown out of
23 Clemson with regard to this particular matter.
24 However, that was not initiated by either CJ or
25 Erin. It was followed through by Clemson to find

1 out what the responsibility was.

2 There's also an allegation with regard to Dave
3 Wingo working with CJ to try and get him kicked out
4 of the fraternity. And what you'll learn is what CJ
5 did was basically provide some documents. He had no
6 input with regard to what happened there, and, of
7 course, Dave Wingo was sitting there trying to
8 protect his daughter with regard to what had
9 occurred to her.

10 Your responsibility since you are the judges of
11 the facts. You'll notice that we all stand when you
12 all come into the jury box here. That's because you
13 are judges. And we're trying to show you respect
14 because it's an awesome burden that you have to make
15 a decision in this particular case as to, not so
16 much about the lying, not so much about the
17 drinking, not so much about the sex, but about the
18 lying, whether Erin Wingo had the ability because
19 she had so much to drink to actually consent to the
20 sex.

21 If she didn't have the ability to consent, then
22 there is no defamation because there is at that
23 point in time a rape. And our position is that
24 based upon the definition of a rape, where someone
25 has sex, but it was without consent from that

1 particular party, then that will be a rape and that
2 is what was talked about in this particular case.
3 It's not as if you hear rape, criminal rape, where
4 somebody is ravished and forced into a position.
5 That's not what we're talking about.

6 We're talking about someone who was
7 incapacitated, that did not have the ability to give
8 consent to have sex. That's your responsibility to
9 make that decision to determine what damages might
10 have occurred with regard to what was said about the
11 rape that has occurred in this particular matter.
12 What we're asking you to do is, listen to all the
13 testimony. We're going to have probably about four
14 more days worth of testimony. The judge will charge
15 you on the law. And once you put that law to what
16 you find the facts, you return a verdict that's fair
17 to everybody concerned. Thank you.

18 THE COURT: Ms. Lau, call your first witness.

19 MS. LAU: Plaintiff calls Drew Pampu.

20 THE COURT: Come forward to be sworn.

21 THE WITNESS: (Complying.)

22 THE CLERK: Please raise your right hand.

23 THE WITNESS: (Complying.)

24 THE CLERK: Do you solemnly swear that the
25 testimony you're about to give in this case to be

1 the truth, the whole truth, and nothing but the
2 truth so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please state your full name for the
5 record.

6 THE WITNESS: Andrew Pampu. I go by Drew.

7 ANDREW PAMPU,
8 having been produced and first duly sworn as a
9 witness on behalf of the Plaintiff, then testified
10 as follows:

11 DIRECT EXAMINATION

12 BY MS. LAU:

13 Q. Good afternoon, Mr. Pampu.

14 A. Good afternoon.

15 Q. Today we're going to discuss certain events
16 related to an incident that occurred on October of
17 2015. But before we get to all of that, can you
18 please tell the jury a little bit about yourself?
19 Where you're from? Where you went to school? What
20 you're doing now?

21 A. Yes, ma'am, I can. Good afternoon. Thank you
22 for being here. My name is Drew Pampu. I'm
23 originally born in Traverse City, Michigan. I lived
24 there until I was about 17. I moved down to
25 Charleston, South Carolina, with my family. I'm one

1 of seven. I have three brothers and three sisters.
2 I'm the second eldest.

3 There I finished high school at Bishop England
4 Catholic High School. I went to Clemson for about a
5 year and then transferred to the College of
6 Charleston. I finished my degree in biochemistry.
7 Doing pretty well academically. I also was able to
8 get a graduate degree as an MBA specializing in
9 finance.

10 From there, I was able to move up to Raleigh,
11 North Carolina, where I now work as a salesman for
12 Siemens Healthcare.

13 Q. Mr. Pampu, in the fall of 2015, you were
14 attending college?

15 A. Yes, ma'am. That's correct.

16 Q. What school were you attending?

17 A. I was at Clemson University.

18 Q. Why did you decide to go to Clemson University?

19 A. So being relatively new to South Carolina, I
20 understood Clemson and the name to have the most
21 prestigious name in the state. I understood it was
22 one of the top schools that I could attend, and I
23 was fortunate enough out of some of my classmates to
24 be accepted there. So, you know, after really
25 falling in love with the South, I wanted to stay

1 here and that's why I chose to attend.

2 Q. Did you rush a fraternity during your freshman
3 year?

4 A. Yes, ma'am, I did.

5 Q. And which fraternity did you rush?

6 A. It was Phi Delta Theta.

7 Q. And why did you decide to rush Phi Delta Theta?

8 A. Phi Delta Theta was a fraternity I felt
9 comfortable with. There's certainly some more
10 individuals who, you know, were originally born and
11 raised in the North. It was easy for me to speak
12 with these guys and I just felt the chemistry there,
13 so I felt like it was a good fit me.

14 Q. Did you meet Defendant Erin Wingo and Colin J.
15 Gahagan while you were a freshman at Clemson?

16 A. Yes, ma'am, I did.

17 Q. When is your birthday, Mr. Pampu?

18 A. October 24, 1996.

19 Q. Did you meet Ms. Wingo prior to October 24,
20 2015?

21 A. Yes, ma'am, I did.

22 Q. What was your relationship with Ms. Wingo prior
23 to October 24, 2015?

24 A. Well, I had only met her once. And from there,
25 we became friends.

1 Q. Had you ever been physically intimate with
2 Ms. Wingo prior to October 24, 2015?

3 A. Yes, ma'am, I had.

4 Q. And what was the extent of your physical
5 intimacy on that occasion?

6 A. Kissing and hugging.

7 Q. And do you recall the approximate day of when
8 the kissing occurred?

9 A. Yes, ma'am. It was on September 10, 2015.

10 Q. And was September 10, 2015, the first time you
11 met Ms. Wingo?

12 A. Yes, ma'am, it was.

13 Q. Did you meet Mr. Gahagan prior to October 24,
14 2015?

15 A. Yes, ma'am, I had.

16 Q. And what was your relationship with Mr. Gahagan
17 prior to October 24, 2015?

18 A. We were friends. We rushed together, a group
19 of us, you know, CJ's dorm, Tori Hall. And later as
20 you know, we became pledge brothers.

21 Q. Did -- what was your understanding of the
22 relationship, if any, between Ms. Wingo and
23 Mr. Gahagan in September of 2015?

24 A. They had a thing for lack of a better word.
25 They were together in some capacity. I learned

1 later it was more of an open-ended relationship.

2 Q. And what was this belief based on?

3 A. This belief was based on the fact that ---

4 MS. PORTER: Objection, Your Honor.

5 THE COURT: Yeah, hold on. We have an
6 objection.

7 MS. PORTER: We're getting close to ---

8 THE COURT: Yeah, I'm going to sustain the
9 objection.

10 BY MS. LAU:

11 Q. Did Ms. Wingo and Mr. Gahagan have an open
12 relationship at that time?

13 MS. PORTER: Objection, Your Honor.

14 THE WITNESS: Yes, ma'am, they did.

15 THE COURT: Yeah, hold on. I'm going to
16 sustain it and instruct the jury that's to be
17 stricken and just -- you may proceed.

18 BY MS. LAU:

19 Q. Do you know if Ms. Wingo ever told Mr. Gahagan
20 about the kissing that had occurred between you and
21 Ms. Wingo on September 10, 2015?

22 A. Yes, ma'am, she did.

23 MS. LAU: Plaintiff has marked this document as
24 Plaintiff's Exhibit 1 in this trial.

25 THE COURT: Have y'all gone over this?

1 MS. LAU: Showing defense counsel what's been
2 marked as Plaintiff's Exhibit 1. Your Honor, may I
3 approach the witness?

4 THE COURT: You may.

5 BY MS. LAU:

6 Q. Mr. -- Mr. Pampu, do you know what this
7 document is?

8 A. Yes, ma'am, I do. These were texts between
9 Erin and myself.

10 Q. And is this a true and accurate copy of those
11 texts messages?

12 A. Yes, ma'am, it is.

13 MS. LAU: I'd like to move to enter Plaintiff's
14 Exhibit 1 at this time.

15 THE COURT: Any objection from the defendant?

16 MR. MOORE: No, sir.

17 MS. PORTER: No, Your Honor.

18 THE COURT: All right. Plaintiff's 1 is in
19 without objection.

20 (Plaintiff's Exhibit No. 1 was received into
21 evidence.)

22 BY MS. LAU:

23 Q. Mr. Pampu, the messages on the left-hand side
24 on this document, who -- who are those from?

25 A. The messages are from me.

1 Q. On the left-hand side?

2 A. Oh, I'm sorry. On the right-hand side on
3 there. On the left side, they're from Erin.

4 Q. Okay. Please look at that front page that you
5 have there, Bates stamp plaintiff's 00753. Can you
6 please read the message under the heading
7 September 11, 2015, at 7:48 a.m.?

8 A. Yes, ma'am, I can. It says, "Don't hate me if
9 I tell." And it's redacted. "Okay. I feel so
10 guilty," with an emoji. I believe that redaction to
11 be "CJ."

12 Q. Can you please go to the next page, Bates stamp
13 P00754?

14 A. Yes, ma'am. I got it right here.

15 Q. Now, can you read the message under the heading
16 September 12, 2015, at 12:56 a.m.?

17 A. Yes, ma'am, I can. It says, "So I'm guessing
18 you've talked to," and it's redacted, but "CJ."

19 Q. And what does the message right below it say
20 from you?

21 A. The one in the blue?

22 Q. (Affirmative response.)

23 A. The one in the blue says, "Ha-Ha. He was cool
24 with it for the most part."

25 Q. Mr. Pampu, do you remember anything about

1 October 24, 2015?

2 A. Yes, ma'am, I do.

3 Q. Did you do anything that morning?

4 A. Yes, ma'am, I did.

5 Q. What did you do?

6 A. So that morning a few of my fraternity brothers
7 and I were at a philanthropy event. It was for an
8 Alzheimer's walk. We were there to, obviously,
9 participate in the setup of the event and also
10 participate ourselves as walkers. It's an event
11 that was pretty important to me. I've had a couple
12 different family members in my family pass away from
13 Alzheimer's, and it's something that I felt very
14 passionately about.

15 Q. And what did you do at that event?

16 A. So that event, like I said, we helped set up,
17 so we poured waters. Set-up the trails. We're
18 there to help guide individuals where they need to
19 register and get set up.

20 MS. PORTER: Your Honor, relevancy. Relevancy.

21 THE COURT: All right. Move along.

22 BY MS. LAU:

23 Q. Did you do anything that evening?

24 A. Yes, ma'am, I did.

25 Q. And what did you do?

1 A. That night, there's a party at my fraternity,
2 so I went to that party.

3 Q. And what are the -- was that party at the
4 premises of Phi Delta Theta?

5 A. Yes, ma'am, it was. It was at the compound.

6 Q. And is the Compound a nickname of sorts for the
7 premises of Phi Delta Theta?

8 A. Yes, ma'am. The compound was essentially three
9 different houses -- a front house, a doll house in
10 the back, and then a back house in the back left,
11 all, you know, under one fencing. It's one
12 property.

13 Q. Did Mr. Gahagan attend the party at the
14 Compound?

15 A. Yes, ma'am, he did.

16 Q. Did Ms. Wingo attend the party at the Compound?

17 A. Yes, ma'am, she did.

18 Q. When did you first see Ms. Wingo at the party?

19 A. Erin had approached me later on into the night.
20 She was with one of my other pledge brothers, Ben
21 Zboray. They came together to find me out in the
22 middle of the courtyard, which was -- if I was
23 looking at the front, it was in front of the doll
24 house. Before it was in the back right, and we were
25 just standing right there in the middle of the

1 courtyard.

2 Q. So where on the Compound were you when she
3 found you?

4 A. We were in the courtyard within the
5 confinements of the Compound itself.

6 Q. And when you first saw Ms. Wingo, did you
7 observe her slurring her words?

8 A. No, ma'am.

9 Q. Did you observe her having difficulty walking?

10 A. No, ma'am.

11 Q. Do did you observe her stumbling?

12 A. No, ma'am.

13 Q. How about difficulty maintaining her balance?

14 A. No, ma'am.

15 Q. Do you remember if she was with anyone?

16 A. She was with my pledge brother, Ben Zboray.

17 Q. Was he holding her in any way to assist her to
18 walk?

19 A. No, ma'am. Not that I remember.

20 Q. When you first saw Ms. Wingo, was she vomiting?

21 A. No, ma'am.

22 Q. After you first saw Ms. Wingo, did you have a
23 conversation with her?

24 A. Yes, ma'am, we did.

25 Q. What did you discuss with Ms. Wingo?

1 A. Well, the exact nature of our conversation, I
2 don't recall exactly. I know we did talk about my
3 birthday briefly. We did talk about a proposition
4 that she brought towards me, which was, "If you
5 don't kiss me tonight, we're not going to have sex."
6 That was something that stuck out in particular.

7 Q. At some point, did she agree to give you a blow
8 job?

9 A. Yes, ma'am, she did.

10 Q. Please explain how that came about.

11 A. Yes, ma'am. So, you know, after that initial
12 proposition, you know, I was a little bit taken
13 back. I didn't plan on having sex with Erin that
14 night. You know, granted I was interested in Erin.
15 I was developing feelings for her. I thought that a
16 blow job was something that I would enjoy, certainly
17 not to the level of sexual intercourse.

18 Q. At this point, was Ms. Wingo slurring her
19 words?

20 A. No, ma'am, she was not.

21 Q. Difficulty maintaining her balance?

22 A. No, ma'am, she was not.

23 Q. Was she vomiting?

24 A. No, ma'am, she was not.

25 Q. Did Ms. Wingo offer you anything to drink

1 during this conversation?

2 A. She did. She had a bottle of what tasted like
3 vodka in a clear water bottle.

4 Q. Did you and Ms. Wingo kiss at any point?

5 A. Yes, ma'am, we did.

6 Q. And when did you and Ms. Wingo first kiss?

7 A. We had first kissed shortly after she had told
8 me, you know, "If we don't kiss, we won't have sex
9 tonight."

10 Q. Okay. And whose idea -- withdrawn. What
11 happened after you and Ms. Wingo kissed?

12 A. Well, we began to talk more. Obviously, we had
13 come to the consensus that she was going to give me
14 a birthday blow job and we decided to find somewhere
15 more private than the party, so we proceeded to walk
16 back behind that doll house as I described before at
17 the back right of the compound to be with one
18 another.

19 Q. Whose idea was it to go behind the doll house?

20 A. I don't remember particularly, but I know it
21 was mutually agreed upon.

22 Q. While you and Ms. Wingo were walking to the
23 area behind the doll house, did you observe her
24 stumbling?

25 A. No, ma'am, I did not.

1 Q. Did she have difficulty maintaining her
2 balance?

3 A. No, ma'am, she did not.

4 Q. What happened when you and Ms. Wingo were
5 behind the doll house?

6 A. We proceeded to more than kiss. We made out.
7 I don't remember the nature of the conversation, but
8 it was mostly focused on that.

9 Q. At a certain point, did you leave the area
10 behind the doll house?

11 A. Yes, ma'am, we did.

12 Q. Why?

13 A. There were other, you know, whether it was
14 brothers or other people at the party, they were
15 walking back there, so we weren't really getting the
16 privacy that we hoped to by walking back there
17 initially.

18 Q. And did you and Ms. Wingo eventually find
19 somewhere more private?

20 A. Yes, ma'am, we did.

21 Q. How did you get to that more private location?

22 A. So to describe it, there was a back entrance at
23 the compound behind the doll house, which was that
24 back house. We had walked out that way and there
25 was an opening in the gated fence there that led out

1 into a parking lot that led out into the street
2 behind the property.

3 MS. LAU: We've marked Plaintiff's Exhibit 2.
4 I'm now showing defense counsel Plaintiff's
5 Exhibit 2. May I approach the witness?

6 THE COURT: You may.

7 THE WITNESS: Thank you.

8 BY MS. LAU:

9 Q. Do you know what this document is, Mr. Pampu?

10 A. Yes, ma'am. It appears to be some Google maps
11 of the area, including the compound, and then a
12 drawing of the path that we took that night walking.

13 Q. Okay. And does this exhibit accurately depict
14 the path that you walked with Ms. Wingo to the best
15 of your knowledge?

16 A. Yes, ma'am.

17 MS. LAU: Plaintiff moves to enter Exhibit 2
18 into evidence?

19 THE COURT: Any objection?

20 MR. MOORE: No, objection, Your Honor. Is it
21 supposed to be one, two, or three pages?

22 MS. LAU: Three pages.

23 MR. MOORE: Two pages?

24 MS. LAU: Three. Three. The three you have.

25 MR. MOORE: So should we mark these as one

1 exhibit or -- or three?

2 THE COURT: I don't know. However y'all want
3 to do it.

4 MS. LAU: They're all related, so...

5 MR. MOORE: All right. I have no objection.

6 MS. PORTER: No objection.

7 THE COURT: All right. Plaintiff's Exhibit
8 No. 2 is entered without objection.

9 (Plaintiff's Exhibit No. 2 was received into
10 evidence.)

11 BY MS. LAU:

12 Q. We talked about -- you just testified about
13 what the top two pages are of this exhibit. You
14 said it was Google maps -- a Google map depiction of
15 where the path was that you walked; is that correct?

16 A. Yes, ma'am. That's correct.

17 Q. Can you talk about the third page to this
18 exhibit and explain what this is?

19 A. Yeah. So the third page is more or less a hand
20 drawing of the path we had taken that night upon
21 leaving the party. Ultimately, the completion of
22 the path when we arrived back to the party later.

23 Q. And this hand drawing was made by you?

24 A. Yes, ma'am. That's correct.

25 Q. While you were walking this path -- withdrawn.

1 Approximately, how long or what was the distance of
2 this path that you and Ms. Wingo took?

3 A. I don't know precisely, but I know that this
4 path after, you know, looking into it, it was
5 somewhere in between about a quarter of a mile to
6 half a mile. Somewhere in between there.

7 Q. While you were walking to the more private
8 location with Ms. Wingo, did she require assistance
9 from you?

10 A. No, ma'am. She did not.

11 Q. Were you holding her hand?

12 A. No, ma'am. I was not.

13 Q. Was she stumbling at all?

14 A. No, ma'am. She was not.

15 Q. Did she have difficulty maintaining her
16 balance?

17 A. No, ma'am. She did not.

18 Q. Was she slurring?

19 A. No, ma'am. She was not.

20 Q. Did she vomit?

21 A. No, ma'am. She did not.

22 Q. Did you and Ms. Wingo drink anything from her
23 water bottle when you arrived at the private
24 location?

25 A. Yes, ma'am, we did. I had had one more sip

1 from her bottle, and I believe she did as well.

2 Q. Then what happened next?

3 A. Well, you know, we started making out some
4 more. And shortly after that, Erin had started to
5 take down her pants.

6 Q. What was your reaction to Ms. Wingo pulling her
7 pants down?

8 A. I was taken back by it. You know, based on our
9 conversations before, I didn't anticipate that we
10 were having sex so I was naturally confused on why
11 she was doing that.

12 Q. And what did you say, if anything, in response
13 to Ms. Wingo pulling her pants down?

14 A. Well, I had asked her what she was doing.

15 Q. And did she respond?

16 A. Yes, she did. She said, "So we can have sex."

17 Q. And did you say anything in response?

18 A. I asked her again for clarification, "Are you
19 sure?"

20 Q. And did Ms. Wingo respond?

21 A. Yes, she did. She said, "Yes."

22 Q. Did you ask Ms. Wingo about a condom?

23 A. Yes, ma'am, I did. I had -- I had a pledge
24 pack. It's what they required pledges to carry. It
25 was a small, you know, little sack like you get some

1 cheap glasses to cover and protect them. And within
2 that pack, I had a condom so I asked her if I should
3 use it.

4 Q. And do you know if Ms. Wingo responded?

5 A. She said, "Yes. You should."

6 Q. And did you, in fact, use the condom?

7 A. Yes, ma'am, I did.

8 Q. When Ms. Wingo was responding to your questions
9 about having sex, did you observe her slurring her
10 words?

11 A. No, ma'am. I did not.

12 Q. Was she having difficulty maintaining her
13 balance?

14 A. No, ma'am.

15 Q. And did you and Ms. Wingo proceed to have sex?

16 A. Yes, ma'am. We did.

17 Q. Did any aspect of Ms. Wingo's outward
18 appearance change after she drank the vodka from her
19 water bottle but before you engaged in sex?

20 A. No, ma'am.

21 Q. While you were having sex with Ms. Wingo, did
22 Ms. Wingo ever tell you to stop?

23 A. No, ma'am. She did not.

24 Q. Did she ever tell you that she did not want to
25 have sex?

1 A. No, ma'am. She did not.

2 Q. Did she indicate in any way with her bodily --
3 or body that she did not want to have sex?

4 A. No, ma'am. She did not.

5 Q. When you were having sex with Ms. Wingo, did
6 she vomit?

7 A. No, ma'am. She did not.

8 Q. Did she stumble at all?

9 A. No, ma'am. She did not.

10 Q. Did Ms. Wingo pass out at any point during the
11 encounter?

12 A. No, ma'am. She did not.

13 Q. Did she become non-responsive in any way during
14 the encounter?

15 A. No, ma'am. She did not.

16 Q. Did she -- did you change positions during the
17 sexual encounter?

18 A. Yes, ma'am. We did.

19 Q. Can you explain the position that you started
20 in?

21 A. Yes, ma'am, I can. So, initially, you know, we
22 were both standing up. She had her hands on what
23 was a small shed or a small garage wall. And then,
24 you know, some time during the sexual encounter, we
25 did get down on our -- I was still on my knees and

1 she would've been on her hands and knees.

2 Q. Did Ms. Wingo -- withdrawn. Did you observe
3 Ms. Wingo to have any problem changing positions?

4 A. No, ma'am. I did not.

5 Q. Was she unsteady on her feet when she changed
6 positions?

7 A. No, ma'am. She was not.

8 Q. After the sexual encounter with Ms. Wingo
9 ended, did she say anything to you?

10 A. You know, nothing initially. Shortly
11 thereafter, we did start conversing again. And, you
12 know, she started talking about past boyfriends and,
13 you know, challenges she's had with them, being
14 cheated on and things of that nature.

15 And then she started to talk about CJ
16 specifically, you know, "Why did CJ not love me?
17 Drew, why are you treating me as well as you do?"
18 And then, you know, as we started to walk back, it
19 was focused on CJ. "Where's CJ? Why doesn't he
20 love me?" I could she see was pretty disappointed
21 about that.

22 Q. Before you started to walk back, who --
23 withdrawn. Before you started to walk back, how did
24 your clothes come back on?

25 A. I had taken my own clothes and put them back

1 on.

2 Q. And how about for Ms. Wingo?

3 A. I had not helped her redress herself. I
4 believe that she had redressed herself completely.

5 Q. For the rest of the time that you were with
6 Ms. Wingo that evening, did she ever say anything to
7 you indicating that the sexual encounter was not
8 consensual?

9 A. No, ma'am. She did not.

10 Q. After you started to walk back to the Compound,
11 where did you end up parting ways?

12 A. So we ended up parting ways on the stair steps
13 in front of the front house of the Compound.

14 Q. Did Ms. Wingo send you a text message the next
15 morning regarding your sexual encounter?

16 A. Yes, ma'am, she did. She said, "Don't tell CJ
17 what happened."

18 Q. Mr. Pampu, what is the basis of your civil
19 conspiracy claim against the defendants?

20 A. My claim is that the defendants worked together
21 to have me removed from my school and my fraternity.

22 Q. Let's start with the plan to have you kicked
23 out of Clemson University. Did Ms. Wingo want you
24 kicked out of Clemson University to your knowledge?

25 A. Yes, ma'am, she did.

1 MS. PORTER: Your Honor, may we approach?

2 THE COURT: Yes.

3 (Sidebar discussion.)

4 THE COURT: Ladies and gentlemen, I was getting
5 ready to take a break anyway so that way I can
6 discuss what we need to discuss. So at this time
7 I'm going to ask that you go back in the jury room.
8 Do not discuss the case. And for the original 12, I
9 want you to select the person that's going to be the
10 foreman or forelady. A foreperson does not -- they
11 basically will be communicating with the Court and
12 lead discussions. Other than that, your duties will
13 be the same as everybody else. You don't get paid
14 any more than the other jurors just because you're
15 the foreman. But do not discuss the case, and we'll
16 bring you out in just a few minutes.

17 (At 3:58 p.m., jury left the courtroom.)

18 THE COURT: You're in what I call my witness
19 bubble. Once you started testifying, you cannot
20 discuss with your lawyers in any way about your
21 testimony. You can step down, but you can't discuss
22 your testimony with anybody.

23 THE WITNESS: Yes, sir. I understand.

24 THE COURT: All right. I figured we're getting
25 into all that, we might as well just address

1 everything right now.

2 MS. PORTER: Your Honor, the -- the last
3 question asked is, "Did she want you removed from
4 Clemson?" Well, that is in the testimony at the
5 administrative hearing regarding sanctions. So
6 after he was found responsible and there's testimony
7 from my client at the -- at the hearing, so she's
8 stepping into -- she's opened the door in my opinion
9 because the answer -- the reason he knows she wanted
10 him removed is because of the sanctions she
11 requested not only at the administrative hearing,
12 but in both appeals. So, I mean, that's ---

13 THE COURT: Ms. Lau.

14 MS. LAU: I have not mentioned anything about
15 the Clemson process, the Clemson findings, or the
16 definitions or what rules apply, so I've kept within
17 the confines of what, you know, we have to be able
18 to say as Your Honor stated in our conference this
19 morning. He was kicked out of the university and
20 that's what we've said. We're about to learn how he
21 understood that.

22 THE COURT: And I'll let that -- I mean, but
23 that was a statement that she made?

24 MS. PORTER: At the administrative hearing
25 during the sanc -- there's two portions to the

1 hearing, the responsibility and you come back out
2 and he presents character witnesses and the victim
3 gets to request sanctions. The sanction requested
4 was expulsion. It was also requested by Alesia
5 Smith. Now, the board went against that and only
6 issued one semester suspension at that time.

7 Then there are two appeals at which time the
8 renewed request for expulsion is addressed, not only
9 to the vice president's office, but to the
10 president's office. So, I mean, the reason he knows
11 that she wanted him expelled was because of her
12 comments to the investigators, the administrative
13 hearing board, and then the vice president and
14 president's offices.

15 THE COURT: Mr. Moore?

16 MR. MOORE: Just going along with her.

17 THE COURT: Oh, okay.

18 MS. LAU: Your Honor, if I may briefly?

19 THE COURT: Yes.

20 MS. LAU: Ms. Porter is assuming she knows the
21 reasons why my client knows. He has not stated any
22 of what she just argued as to why he believed that
23 she wanted him out. He's not gotten to that part of
24 his testimony. We know the parameters. We are very
25 clear on the parameters on what's in and out, but

1 she's assuming that the reasons are what she just
2 stated. My client hasn't provided any testimony
3 like that.

4 THE COURT: I made my ruling, so, I mean,
5 you're anticipating an answer. Sounds like her
6 answer is different than what you propose it is, I
7 guess. We'll see.

8 MR. MOORE: Your Honor, let me add one thing.
9 Her question is as to Erin's state of mind, which is
10 improper unless Erin had stated something to him
11 specifically as to what her intent is or some text
12 or whatever. And, again, I assume what she's going
13 to do is submit evidence showing some kind of direct
14 conversation or interaction between the two, but
15 other than that, her trying to assume what she's
16 thinking is inappropriate.

17 THE COURT: It's inappropriate for me to assume
18 what he's going to say on the stand too.

19 MR. MOORE: Well, that's what I'm saying. Put
20 him up -- let's put him up there and see what he's
21 going to say before we bring the jury back.

22 THE COURT: I mean, she knows the rules. I
23 mean, we can have it stricken. I've ruled. I'm not
24 going to make her present her testimony ahead of
25 time.

1 All right. Take a five-minute break.

2 (From 4:00 to 4:09, a recess was had.)

3 (At 4:09 p.m., jury entered the courtroom.

4 THE COURT: All right. Mr. Meece?

5 THE FOREMAN: Yes.

6 THE COURT: You need to sit here in the first
7 seat. I'm sorry.

8 THE FOREMAN: Yes, sir.

9 THE COURT: That's your official seat.

10 THE FOREMAN: Yes, sir.

11 THE COURT: Okay.

12 THE FOREMAN: May I request something?

13 THE COURT: Yes.

14 THE FOREMAN: Would the plaintiff attorney ---

15 THE COURT: Hold on. I tell you what --
16 let's -- let me get y'all back out. I got to make
17 sure we do all this properly. Let me ask you to go
18 back and you make a note of it.

19 THE FOREMAN: All right.

20 (At 4:11 p.m., jury left the courtroom and
21 asked a written question of the Court.)

22 THE COURT: Okay. I think you're right. All
23 right. It appears that everybody needs to speak
24 louder. Everybody needs to speak louder. The
25 problem is, that -- that microphone doesn't help you

1 a whole bunch because it's too far away. If you can
2 pull it as close as possible and we can turn it up.

3 Okay. I guess we'll mark that. I'll verify
4 when he comes up. All right. Go ahead and bring
5 them back in.

6 (At 4:14 p.m., jury entered the courtroom.)

7 THE COURT: All right. Mr. Meece, sorry about
8 that. Y'all can sit down. Sorry about the
9 formality of that. It's my understanding you wish
10 that witnesses and attorneys speak louder?

11 THE FOREMAN: Correct.

12 THE COURT: All right. Okay. Well, I have
13 instructed them to do so.

14 THE FOREMAN: Thank you.

15 THE COURT: And our microphone doesn't help a
16 whole lot either.

17 All right. You may proceed, Ms. Lau.

18 MS. LAU: Thank you, Your Honor.

19 BY MS. LAU:

20 Q. Mr. Pampu, did you believe that Ms. Wingo
21 wanted you kicked out of Clemson?

22 A. Yes, ma'am. I did believe that.

23 Q. Why?

24 A. Well, you know, very initially, we, you know,
25 actually before my birthday, we texted a lot.

1 Shortly thereafter, our communication started to
2 dwindle to a certain point she wouldn't communicate
3 to me at all. You know, I just felt like she didn't
4 want anything to do with me and pretended she wanted
5 me kicked out of the university.

6 MR. MOORE: Your Honor, I'm going to object to
7 the answer there. He's trying to read her mind at
8 that point in time of Ms. Wingo saying that he felt
9 she was going to do something, rather than giving
10 his testimony from his own personal knowledge.

11 MS. PORTER: Join in on that objection.

12 THE COURT: I'm going to overrule it. Y'all
13 can cross-examine him on those issues.

14 BY MS. LAU:

15 Q. And did -- do you believe -- did you believe
16 that -- did you believe that Mr. Gahagan wanted you
17 kicked out of Clemson?

18 A. Yes, ma'am. I did believe that.

19 Q. Why?

20 A. So CJ was the first one to consider the
21 encounter between Erin and I as rape. You know, he
22 talked about all the stipulations and, you know,
23 that I would be kicked out of the university. You
24 know, on one hand, he was telling me that all this
25 was happening and that it was considered rape. And

1 then on the other hand, he was acting as my friend,
2 as my sole outlet for the process. Meanwhile, he
3 was communicating with Erin a totally different
4 capacity.

5 Q. Do you believe that Ms. Wingo and Mr. Gahagan
6 were working together to get you kicked out of
7 school?

8 A. Yes, ma'am. I do believe that.

9 Q. Okay. Why is that?

10 A. For the same reason I described previously. CJ
11 acted, at one point in time, as the intermediary
12 between Erin and my communication. So much as to
13 the point that he was texting directly from her
14 phone, inhibiting me from speaking with her in any
15 capacity.

16 Q. Did Mr. Gahagan ever tell you ---

17 THE COURT: Hold on a second.

18 MS. LAU: I'm sorry.

19 THE COURT: All right. Proceed.

20 BY MS. LAU:

21 Q. Did Mr. Gahagan ever tell you his thoughts
22 about the sexual encounter between Erin and you?

23 A. Yes, ma'am, he did. And he considered that
24 what happened between Erin and I to be rape.

25 Q. How did the actions by Mr. Gahagan and

1 Ms. Wingo harm you, if at all?

2 A. Their actions inevitably led to my dismissal
3 from the university and my fraternity.

4 Q. Okay. Now, let's talk about defendants' plan
5 to have you removed from your fraternity. At a
6 certain point, did you become aware that a claim had
7 been made to Phi Delta Theta, the fraternity that
8 you were rushing?

9 A. Yes, ma'am, I did.

10 Q. And this claim was related to the sexual
11 encounter between yourself and Ms. Wingo?

12 A. Yes, ma'am, it was.

13 Q. How did you become aware of that?

14 A. Well, upon being removed -- upon being removed
15 from my fraternity, you know, I wanted to learn why.
16 And, you know, I received information that ---

17 MS. PORTER: Objection. Hearsay.

18 THE COURT: Yeah, sustained.

19 BY MS. LAU:

20 Q. Did there come a time where you did learn
21 that -- withdrawn. Do you know who made the claim
22 to Phi Delta Theta?

23 A. Yes, ma'am, I do.

24 Q. Who was that?

25 A. It was Dave Wingo.

1 Q. Is that Ms. Wingo's father?

2 A. Yes, ma'am, it is.

3 Q. Did Mr. Wingo make this claim on behalf of his
4 daughter to your knowledge?

5 A. Yes, ma'am. To my knowledge, he did.

6 Q. Do you know when Mr. Wingo made the claim on
7 behalf of his daughter?

8 A. I don't know exactly, but it was some time in
9 the spring of 2016.

10 Q. And what was the outcome of this claim?

11 A. The outcome of his claim is that, you know, Phi
12 Delta Theta had believed that I raped Erin and I was
13 removed.

14 MS. PORTER: Objection. This calls for -- this
15 calls for hearsay.

16 THE COURT: Right. It's sustained. He can
17 testify about the result, but not what he was told.
18 And that's to be stricken.

19 Ladies and gentlemen, that testimony I've
20 determined is not appropriate through this witness,
21 so, therefore, you're not to consider that during
22 your deliberations.

23 BY MS. LAU:

24 Q. Mr. Pampu, what -- what happened with your
25 membership as a result of the Phi Delta Theta claim?

1 A. It was expelled or suspended.

2 Q. Did the actions of Mr. Wingo on behalf of his
3 daughter, Ms. Wingo, those actions harm you in any
4 way?

5 A. Yes, ma'am, they did.

6 Q. How?

7 A. The most important thing that was taken away
8 from me was the access to the fraternal brotherhood
9 in Phi Delta Theta. It's a multi-generational, you
10 know, multi-sector access to other members of the
11 fraternity in the society. And that was something
12 that, you know, for an upcoming student and later
13 professional gives you a lot of access to, you know,
14 resources for jobs, you know, helps with
15 relationships and even personal matters to that
16 extent.

17 Q. What is the basis of your defamation claim
18 against the defendants, Mr. Pampu?

19 A. My claim for the defamation claim is that the
20 false statements of the defendants contributed to my
21 suspension from Clemson University and the removal
22 of my fraternity.

23 Q. Did Ms. -- did the defendants -- withdrawn.
24 Did all three defendants -- correct me if I'm
25 wrong -- withdrawn. Do you know which defendants

1 you allege have defamed you?

2 A. Yes, ma'am, I do. Erin, CJ, and Erin's father.

3 Q. And is it your belief that they made statements
4 that were false?

5 A. Yes, ma'am. I do believe that.

6 Q. And were these statements verbal or in writing?

7 A. Some of them were verbal; some of them were
8 documented in writing.

9 Q. And what were these statements by Mr. Gahagan?

10 A. That I had raped Erin.

11 Q. And what were these statements by Ms. Wingo?

12 A. That what we had done that night was considered
13 rape.

14 Q. And what were these statements from Mr. Wingo?

15 A. That Drew Pampu had sexually assaulted Erin
16 Wingo, his daughter.

17 Q. Mr. Pampu, were you ever arrested for rape by
18 the police as a result of your sexual encounter with
19 Ms. Wingo?

20 A. No, ma'am. I was not.

21 Q. Were you ever charged with rape as a result of
22 your -- charged with rape by the police as a result
23 of your sexual encounter with Ms. Wingo?

24 A. No, ma'am, I was not.

25 Q. Were you ever convicted of rape following a

1 criminal trial as a result of your sexual encounter
2 with Ms. Wingo?

3 A. No, ma'am. I was not.

4 Q. Have you been sued for civil rape as a result
5 of your sexual encounter with Ms. Wingo?

6 A. No, ma'am. I have not.

7 Q. Has your reputation suffered as a result of
8 defendants' statements against you?

9 A. Yes, ma'am, it has.

10 Q. How has your reputation suffered as a result of
11 these statements?

12 A. I've become known as someone who would rape
13 another individual.

14 Q. Have you suffered any other damages as a result
15 of defendants' false statements?

16 A. Aside from a relationship standpoint and a
17 reputation standpoint, those are my claims, but it
18 extends beyond that. You know, it's been really
19 hard to develop a solid relationship with another
20 person. Certainly, I had trust issues before, but
21 now I certainly have more. It's been hard to
22 socialize because I had to learn to take
23 accountability for actions that weren't my own.
24 There's nothing I could do about it. And so every
25 single day, I had to wake up and by the grace of God

1 I had to figure out a way to get through.

2 Q. Have the defendants' actions had an impact on
3 your education -- sorry. Do you need a minute,
4 Mr. Pampu?

5 A. No, ma'am. I'm okay.

6 Q. Have the defendants' actions had an impact on
7 your education?

8 A. The defendants' actions have. You know, I was
9 unable to obtain a degree from Clemson University,
10 which as I mentioned earlier, is the most
11 prestigious university here in South Carolina.

12 Q. And did you end up transferring from Clemson
13 University to another school?

14 A. Yes, ma'am, I did. I was able to transfer to
15 College of Charleston.

16 Q. And did you receive a degree at College of
17 Charleston?

18 A. Yes, ma'am. I was a magna cum laude in
19 biochemistry upon completion of College of
20 Charleston undergraduate.

21 Q. Did you have to self-report your removal from
22 Clemson University to College of Charleston?

23 A. Yes, ma'am, I did.

24 Q. And at what point did you self-report that?

25 A. That was reported later on after I had been at

1 College of Charleston. When someone from College of
2 Charleston reached out to me about the night in
3 question.

4 Q. When you initially transferred, did you have to
5 self-report the removal from Clemson University?

6 A. Yes, ma'am, I did. But when I applied to the
7 College of Charleston, under the advisement of my
8 counsel, I did not disclose it at that time.

9 Q. You disclosed the removal from Clemson
10 University to College of Charleston at a later
11 point, correct?

12 A. Yes, ma'am. It was disclosed.

13 Q. And you received a degree -- a second degree
14 from College of Charleston?

15 A. Yes, ma'am. As I said before, I went on to
16 finish an MBA focused on finance at the College of
17 Charleston's graduate school.

18 Q. Was that your intended career path to obtain an
19 MBA and -- well, let's start there. Was that -- was
20 that your intent to obtain an MBA from College of
21 Charleston?

22 A. No, ma'am. It was not my original plan. My
23 original plan was to become a physician and later on
24 a dentist or an orthodontist in the long term.

25 Q. Are you able to get into dental school?

1 A. After applying and being unsuccessful, no, I'm
2 not able to get into dental school.

3 Q. And why is that?

4 MR. MOORE: Your Honor ---

5 MS. PORTER. Objection. Calls for speculation.

6 THE COURT: Unless you lay better foundation,
7 then I'll sustain the objection.

8 BY MS. LAU:

9 Q. Are you aware of the reason why you're not able
10 to get into dental school?

11 MS. PORTER: Objection, Your Honor. It's the
12 same ---

13 MR. MOORE: Same objection.

14 THE COURT: Sustained.

15 BY MS. LAU:

16 Q. How many dental schools, Mr. Pampu, have you
17 applied to?

18 A. I've applied to nine dental schools.

19 Q. Did you get into any of these dental schools?

20 A. No, ma'am. I was not accepted to a single one.

21 Q. And what were your scores on the DATs?

22 A. My DAT? It consists of two parts. The
23 academic, which more of a multiple choice based
24 section, I scored a 20 which is considered above
25 average. And then I scored a 25 on the perceptual

1 ability. Perceptual ability is how you orient
2 things in 3D space and can, you know, imagine
3 structures before they exist. And as I said, I
4 scored a 25. It's considered in the top 10 percent
5 of the nation.

6 Q. And what about your grades at College of
7 Charleston? What grades did you have?

8 A. It says I finished -- as I said before, I
9 finished with the second highest honors. I was a
10 3.85 GPA.

11 Q. You're working now, correct?

12 A. Yes, ma'am. That's correct.

13 Q. What are you -- what are you doing for
14 employment?

15 A. So I'm in Raleigh, North Carolina, for
16 employment working for Siemens Health Care as a
17 salesman.

18 Q. And that was not your intended career path,
19 correct?

20 A. I never imagined I'd be a salesman.

21 Q. What steps did you take to try to get into
22 dental school?

23 A. So for dental school, there's obviously aside
24 from your GPA, your application itself. You know, I
25 took test score. I worked hard at school. I

1 volunteered. I went and shadowed clinically over
2 100 hours. I went and worked part-time for an
3 orthodontist while in school working my way up from
4 a sanitations personnel to an assistant. And then,
5 you know, received recommendations.

6 MS. LAU: That's all I have for this witness.
7 Sorry. Just a second. One more question for this
8 witness.

9 BY MS. LAU:

10 Q. Mr. Pampu, are you aware of any statements that
11 Ms. Wingo or any of the defendants made about you
12 related to the sexual encounter outside of Clemson?

13 A. Can you rephrase the question?

14 Q. Are you aware of any statements beyond what you
15 discussed?

16 A. Yes. Yes, ma'am, I am.

17 Q. Okay. And what are they?

18 A. They are statements that were given by Erin on
19 social media. There were statements given by Erin
20 at an event called "Tiger Speak Out" which is a
21 speech contest. And those are the two that I recall
22 at this time.

23 Q. And are you aware of any statements Ms. Wingo
24 made about the sexual encounter to describe them as
25 rape with any of your peers at Clemson University?

1 A. Yes, ma'am. I am aware of those.

2 Q. Please describe those.

3 A. So the statements made by Erin about our
4 encounter at Clemson, very initially it was just,
5 "We had sex," which is a consensual statement. And
6 later on it became, "Yeah, I don't remember
7 anything. Drew raped me."

8 Q. How about in your fraternity? Are you aware of
9 any statements that were made by any of the
10 defendants to anyone in your fraternity Phi Delta
11 Theta that called you a rapist?

12 A. Yes, ma'am, I am.

13 Q. Please explain that.

14 A. Well, the one made by CJ Gahagan to a man named
15 Paul O'Donnell, he said that Drew had raped ---

16 MS. PORTER: Objection. Hearsay, Your Honor,
17 of what Paul O'Donnell says.

18 THE COURT: Yeah. After Paul O'Donnell, I
19 couldn't tell where he testified whether he was
20 referring to himself or not.

21 MS. LAU: Correct.

22 THE COURT: Keep it to anything the defendant
23 said.

24 BY MS. LAU:

25 Q. Yes. Mr. Pampu, we want to hear what you're

1 aware of as far as what the defendants have stated
2 as far as whether ---

3 MS. PORTER: I'm sorry. It's through hearsay,
4 unless he was a party to the conversation. Can we
5 lay that foundation? I mean, if it's between CJ and
6 Paul O'Donnell, Paul O'Donnell needs to be here to
7 testify.

8 THE COURT: Lay a foundation.

9 BY MS. LAU:

10 Q. Mr. Pampu, were you in any discussion with
11 Mr. Gahagan where you learned he was calling you a
12 rapist?

13 A. Yes, ma'am, I was.

14 Q. Please explain that.

15 A. Yes. So those text messages, you know, refers
16 to the encounter as rape, you know, what I did was
17 considered rape because they all stem from the
18 context in which Erin did not recall anything, which
19 was different than my, you know, communications with
20 Erin and my understanding of that night.

21 Q. And how about for Ms. Wingo?

22 A. For Ms. Wingo, initially, it was, "Don't tell
23 CJ." She recalled us being together that night.
24 Later on, it was, "I don't remember anything." You
25 know, it was, "CJ is saying is true."

1 Q. And how about Mr. Wingo?

2 A. And Mr. Wingo, as I've explained before, I
3 learned from Phi Delta Theta that he called me ---

4 MR. MOORE: Objection, Your Honor. He's
5 testifying as to hearsay.

6 THE COURT: Unless you lay a better foundation,
7 then I'm going to sustain the objection.

8 BY MS. LAU:

9 Q. Mr. Pampu, are you aware of any statements that
10 Mr. Wingo made regarding, you know, where he called
11 you a rapist?

12 A. Yes, ma'am, I am.

13 Q. Please explain.

14 A. It was -- it was said that I raped his
15 daughter.

16 MS. LAU: No further questions for this
17 witness.

18 THE COURT: Counsel approach over here.

19 (Sidebar discussion.)

20 THE COURT: Ladies and gentlemen, this may be a
21 good breaking point. It's a little bit early. Does
22 anybody have a problem if we started at 9:00 in the
23 morning? If you do, raise your hand. I want to
24 make sure.

25 (No responses.)

1 THE COURT: All right. We're going to start at
2 nine o'clock. Be in your jury room at nine o'clock.
3 Be ready to go. Again, I'm going to tell you those
4 four rules. It's important. Do not discuss the
5 case among yourselves. Do not -- or anybody else.
6 Don't do any type of research about this matter. Do
7 not pay attention to media coverage, social media,
8 TV, or anything like that. If someone other than
9 the clerk's office tries to contact you, then please
10 let the bailiffs know. Otherwise, y'all have a good
11 evening. We will see you back in the morning.

12 (At 4:36 p.m., the jury was excused for the
13 day.)

14 THE COURT: All right. Mr. Wingo, you are --
15 I'm sorry. Mr. Pampu, again, you're in the trial
16 bubble. You've got all evening that you cannot
17 discuss your case or possible cross-examination or
18 anything with your attorney. Do you understand
19 that?

20 THE WITNESS: Understood.

21 THE COURT: Also, respect -- I also request
22 that all parties act appropriately. I don't want
23 any -- anybody shaking heads or glaring or any type
24 of intimidation from any parties. I will deal with
25 that if that occurs. So -- all right. Everybody

1 have a good evening. See everybody a few minutes
2 before nine o'clock. You're free to go.

3 (At 4:38 p.m., proceedings concluded for the
4 day.

5 March 22, 2022

6 THE COURT: If the jury is ready, bring them
7 in.

8 (At 9:06 a.m., jury entered the courtroom.)

9 THE COURT: All right. Everybody be seated.

10 THE JURORS: (Complying.)

11 THE COURT: Good morning, ladies and gentlemen.
12 I hope everybody had a good evening. As you will
13 recall, the plaintiff had finished their direct
14 testimony of their witness. So at this time, I
15 would ask Mr. Pampu to come back to the stand and
16 remind you that you were already placed under oath
17 yesterday, and at this time we'll have
18 cross-examination. Ms. Porter.

19 MS. PORTER: Thank you, Your Honor. May it
20 please the Court?

21 THE COURT: Yes.

22 CROSS-EXAMINATION

23 BY MS. PORTER:

24 Q. Good morning, Mr. Pampu.

25 A. Good morning.

1 Q. Yesterday you testified regarding beginning
2 your collegiate education at Clemson University in
3 the fall of 2015, correct?

4 A. Yes, ma'am. That's correct.

5 Q. And as a part of every freshman's experience at
6 Clemson, they are educated and trained on the
7 student code of conduct, correct?

8 A. Yes, ma'am. That's correct.

9 Q. And that student code of conduct incorporates
10 an antiharassment policy, does it not?

11 A. Yes, ma'am. It does.

12 MS. LAU: Objection. Rules and regulations.

13 MS. PORTER: Your Honor, he's -- my client is
14 on ---

15 THE COURT: Hold on. Let me -- this is
16 something we need to take up outside the presence of
17 the jury. I'm sorry that y'all just got situated,
18 but I think this is an issue I need to address with
19 the attorneys so I'm going to ask you to go back
20 out. Don't discuss the case.

21 (At 9:08 a.m., jury exited the courtroom.)

22 THE COURT: All right. I just figured it's
23 going to be more involved and we needed to address
24 it so -- without the jury being right in here.

25 MS. PORTER: I only have two more questions.

1 THE COURT: Well, I know that, but the crux of
2 it, I know we needed to discuss. Okay. Your
3 objection?

4 MS. LAU: Your Honor, this is going into the
5 rules and regulations of Clemson University, which
6 are in violation of your order.

7 THE COURT: All right. Ms. Porter?

8 MS. PORTER: Well, one, I think they opened the
9 door in opening and direct yesterday stating that my
10 client's actions caused him to be dismissed from
11 Clemson. So I'm trying to establish that all the
12 parties were educated by Clemson on what the
13 definition of consent and rape is, because my client
14 has a right to rely on those definitions when making
15 the statements.

16 I'm not talking about the OCES investigation.
17 I'm talking about when they're a freshman at
18 Clemson. Every -- every -- not only as freshman,
19 but every transfer student is educated on the
20 definition of consent.

21 MS. LAU: Your Honor, that's going to go right
22 into the rules and regulations that were at issue in
23 the process. So that's an end run around your order
24 talking about the process. Those definitions have
25 no bearing or relevancy to this case. They're not

1 going to define how this jury decides for itself
2 whether or not a rape occurred. So introducing
3 those definitions are going to confuse them and be
4 prejudicial to plaintiff's case. She also knew rape
5 was a crime before she even got to Clemson. She
6 knew that.

7 THE COURT: Well, I guess -- go ahead.

8 MS. PORTER: It goes to the intent. I mean,
9 they have charged them with a tort that is
10 intentional. It must be willful or reckless. It's
11 an intentional tort. There is a fault element of
12 defamation.

13 MR. MOORE: Your Honor?

14 THE COURT: Yes.

15 MR. MOORE: There's also this element. They're
16 accusing our clients of defamation. The defamatory
17 word is rape. If you look at the criminal statutes,
18 there are three bases for rape in our state at this
19 particular point in time. So it's important to
20 understand which type of rape is going to be called.
21 It's not actually called that in the criminal
22 statute that we're talking about, so we get a
23 definition as to what's going on.

24 The Clemson students are given this definition
25 from the get-go when they get to Clemson

1 orientation. And based upon that particular
2 definition, there -- there are accusations of
3 defamation arise. So it's important that the jury
4 understands what we're really talking about when we
5 say the word "rape," rather than getting
6 first-degree rape, when in reality third-degree
7 rape.

8 THE COURT: Or actually criminal sexual
9 conduct.

10 MR. MOORE: You're right.

11 THE COURT: How do you get the definition of
12 rape of what's he charged with?

13 MS. LAU: If the defendants want to bring in
14 the criminal definition of rape, we have no
15 objection to that, Your Honor, but that's what is --
16 that's what's at issue here.

17 MS. PORTER: Which is the same definition.

18 THE COURT: Hold on. She's talking.

19 MS. PORTER: Sorry.

20 MS. LAU: And they can ask their clients what
21 they knew the definition of rape to be, but to say
22 that it's reliance on Clemson policy, that's going
23 to be an end run -- a backdoor way of getting to the
24 Clemson process and that's going to confuse the
25 jury. And your order was clear. Can't talk about

1 that Clemson definition. Can't talk about Clemson
2 rules and regulations that go to define these --
3 these little -- all these charges. And this is a
4 clear violation. We did not open the door. We
5 didn't talk about -- we didn't talk about that.

6 THE COURT: Where do you -- I mean, I guess
7 then we've researched. Do you have any law that
8 talks about rape in South Carolina and consent and
9 capacity to consent?

10 MS. LAU: I mean, we have -- it's the criminal
11 statute.

12 THE COURT: Well, criminal statute now. They
13 changed it at some point and don't even call it
14 rape. It's criminal sexual conduct.

15 MS. LAU: Well, let's put it this way, Your
16 Honor. There was no question that under -- in their
17 testimony at their depositions, the defendants knew
18 that there were no findings of rape. They knew that
19 there was no criminal conviction of rape, so that --
20 I don't think they had any confusion about what we
21 were talking about.

22 THE COURT: Actually, this -- this policy used
23 the word rape.

24 MS. LAU: It does.

25 MR. MOORE: Which one are you talking about?

1 THE COURT: I mean, I see sexual harassment. I
2 see rape.

3 MS. PORTER: But anytime the policy does ---

4 THE COURT: I see it.

5 MS. PORTER: --- it defines rape as
6 nonconsensual sex based on mental incapacitation.
7 One of the factors is intoxication.

8 THE COURT: Well, what I'm going to rule is, at
9 this point you can ask him what he believed rape
10 was, but I'm not going to allow you through him to
11 go through the policy.

12 MS. PORTER: All right. Can I at least put
13 this part on the record just for appellate purposes.

14 THE COURT: Yeah.

15 MS. PORTER: The antiharassment statute is from
16 Title IX which is federal law which mimics, if not
17 verbatim. I haven't compared them lately, but it's
18 extremely similar to the South Carolina criminal
19 sexual conduct of the third degree statute. So if
20 they want me to go into criminal sexual degree, I
21 mean, nobody was educated on that at Clemson, but
22 they were educated on this. So they're very
23 similar, if not the same. Thank you.

24 THE COURT: All right. And like I said, I
25 think you can ask him regarding what he understood

1 rape was, but I'm not going to let you not
2 specifically refer to the policy.

3 MR. MOORE: Can I put another thing on the
4 record?

5 THE COURT: Yes.

6 MR. MOORE: Our law on defamation makes the
7 distinction when it's necessary for the jury to make
8 a determination as to how the word is used in a
9 particular situation. A lot of times that has to do
10 with pro hac/pro se, that type thing. However in
11 this situation, I think that also transfers over to
12 what -- what -- what level of rape we're talking
13 about, and that is important for a jury to
14 understand in this situation. Whereas, a lot of
15 times what they hear about rape is where it's not
16 only nonconsensual, but it's forced.

17 THE COURT: Somebody breaking in the house.

18 MR. MOORE: Yeah, exactly. And that's where
19 the confusion arises, and I think that needs to be
20 brought out before the jury.

21 THE COURT: Well, and I'm -- I'm telling you
22 now, I mean, I know what I ruled previously. I have
23 not foreclosed the ability for your client to be
24 able to say what he understood rape was when he said
25 it. I think he's got to be able to -- I mean, I

1 think that's where I'm headed. I mean, I
2 followed -- this has kind of dominated my thoughts
3 last night and this morning after looking at this
4 because the intent of your client which has to be
5 proven. This witness, again, I'm going to stick
6 with my ruling.

7 MS. PORTER: Okay. Thank you.

8 THE COURT: All right. Anything else before we
9 bring the jury back?

10 (No response.)

11 THE COURT: All right.

12 (At 9:16 a.m., jury entered the courtroom.)

13 THE COURT: Oh, stop them right quick.

14 THE BAILIFF: (Complying.)

15 THE COURT: And I'm just -- lawyers approach.

16 (Sidebar discussion.)

17 THE COURT: All right. And I guess I'll put on
18 the record that based on the pro hac, the Court can
19 excuse an attorney from attendance. So, Mr. Graham,
20 I realize that you're not ready to go forward.

21 MR. GRAHAM: Thank you, Your Honor.

22 THE COURT: Nobody here wants to get whatever
23 you have.

24 MR. GRAHAM: I appreciate it.

25 THE COURT: Any objection to that from the

1 defense?

2 MS. PORTER: No, Your Honor.

3 THE COURT: All right. Bring the jury in.

4 (At 9:20 a.m., jury entered the courtroom.)

5 THE COURT: Ladies and gentlemen of the jury,
6 also, one of the attorneys that was sitting at this
7 table, Mr. Graham, apparently has a stomach bug or
8 something, so that's why he's not here. We were
9 addressing that. He showed up and we sent him home.
10 So, anyway, just letting y'all know that. All
11 right. Cross-examination.

12 BY MS. PORTER:

13 Q. All right. I think we were talking about
14 freshmen at Clemson. Based on your classes during
15 freshman orientation, do you understand the
16 definition of rape?

17 A. Yes, ma'am, I do.

18 Q. Do you understand the definition of consent?

19 A. Yes, ma'am, I do.

20 Q. Yesterday on direct, you discussed Phi Delta
21 Theta having a Compound on Wigington Street in
22 Clemson, South Carolina; is that correct?

23 A. Yes, ma'am, it is.

24 Q. I'm going to hand you what's been marked as
25 Defendants' Exhibit No. 1 and ask you, do you

1 recognize that?

2 A. Yes, ma'am, I do.

3 Q. And that's the map you drew during your
4 deposition of kind of -- it's not to scale. It's
5 not accurate, but it's your representation of what
6 the Compound looks like; is that correct?

7 A. Yes, ma'am. That's correct.

8 MS. PORTER: Okay. Great. Thank you. At this
9 time, Your Honor, I'd like to enter Defense Exhibit
10 No. 1 into evidence.

11 THE COURT: Any objection?

12 MS. LAU: No objection.

13 (Defendants' Exhibit No. 1 was received into
14 evidence.)

15 MS. PORTER: All right. And I have already
16 shown. Any objection?

17 MS. LAU: No objection.

18 BY MS. PORTER:

19 Q. All right. We've blown it up for you and for
20 the jury. And if it's alright with you, I want to
21 talk a little bit about the Compound. Can you --
22 and I'll tell you what, I'm going to let you have
23 this one. That may help. Where is the front house
24 on this diagram?

25 A. It's at the very bottom.

1 Q. So here (indicating)?

2 A. Yes, ma'am.

3 Q. Okay.

4 A. Dead center.

5 Q. All right. How many bedrooms are in the front
6 house?

7 A. There's only one that I recall.

8 Q. Okay. And one bathroom, correct?

9 A. One that I recall. Yes, ma'am.

10 Q. Okay. Now, the doll house, is that here
11 (indicating)?

12 A. Yes, ma'am. It's that back house.

13 Q. Okay. And there are three bedrooms in the doll
14 house, correct?

15 A. Yes, ma'am. That's correct.

16 Q. And two bedrooms -- I'm sorry -- two bathrooms
17 in the doll house; is that correct?

18 A. Ma'am, I only remember one bathroom.

19 Q. One bathroom. Okay. Now, what is this
20 (indicating) building?

21 A. It's the back house.

22 Q. The back house. And there's a bedroom -- one
23 bedroom and bathroom in the back house also,
24 correct?

25 A. Yes, ma'am. That's correct.

1 Q. Okay. All right. And this line here
2 (indicating) all the way around the property, does
3 that represent a fence?

4 A. Yes, ma'am, it does. And I'll just note that
5 in the back right, the fence wasn't continuous. It
6 was an open area there that led to a pathway.

7 Q. And this is the pathway that you and Erin took
8 out of the Compound?

9 A. Yes, ma'am. That's correct.

10 Q. Okay. Now, this fence, is it a privacy fence,
11 a wooden privacy fence or is it a chain-link fence?

12 A. So the fence around the -- what I would
13 consider, the front -- front part of the Compound,
14 it is more of a wooden fence. The back fence, if I
15 recall correctly, was a chain fence.

16 Q. Okay. You're making motions, so make sure I'm
17 making the same motions you are. The front here
18 (indicating) is wooden?

19 A. Yes, ma'am.

20 Q. And the back here (indicating) is chain?

21 A. Yes, ma'am. That's what I recall.

22 Q. Okay. And where is Wigington Street? We
23 didn't put that on here.

24 A. Wigington Street is in front of the front
25 house.

1 Q. So in front of the front house?

2 A. Yes, ma'am.

3 Q. All right. And are there steps in the front of
4 the front house going down towards Wigington Street?

5 A. There's a few steps. Yes, ma'am.

6 Q. Okay. So if I may -- tell you what, why don't
7 you do it for us. Draw some steps on there for us.

8 A. (Complying.)

9 MS. PORTER: Great. Thank you.

10 MR. MOORE: Is this going to be part of the
11 exhibit or what he's drawing on?

12 MS. PORTER: Draw on the exhibit too. How
13 about that? Is that fair?

14 MR. MOORE: Yes.

15 MS. LAU: No objection.

16 BY MS. PORTER:

17 Q. Great. You keep that. All right. How many
18 pledge brothers did you have at Phi Delta Theta in
19 the fall of 2017? I'm sorry. Excuse me. '15.

20 A. Well, it did vary throughout the pledge season,
21 but I do recall the time of this incident it was
22 roughly 30 to 31 including myself.

23 Q. Okay. And how -- do you recall how many
24 fraternity brothers there were in the fraternity?

25 A. I don't recall an exact number, but I know that

1 the number 120 is approximately how many there were
2 including the pledge class.

3 Q. Okay. Now, October 24th pretty early on in the
4 semester, and you got to Clemson some time in late
5 August; is that correct?

6 A. Yes, ma'am. That's correct.

7 Q. And this particular party, was it
8 well-attended?

9 A. I wouldn't say it was the most attended party
10 that we had had, but there was a fair amount of
11 people. I would say an average, it was a normal
12 party.

13 Q. A normal party. And a normal party is roughly
14 200 people; is that correct?

15 A. I can't say for certain.

16 Q. Do you recall testifying in your deposition
17 that it was around 200 people?

18 A. I recall talking about the fact that there were
19 approximately 120 people within the fraternity. If
20 everyone was there and they invited about one
21 person, yes, approximately 200 to 240 people.

22 Q. All right. So you don't have a specific memory
23 because it was seven years ago, but you're
24 guesstimating pretty -- a pretty fair guesstimation
25 is 200 -- between 200 and 240 people at the party?

1 A. Yes. That's -- that's what I would say,
2 especially since I wasn't sure who all was at that
3 party that night.

4 Q. Well, obviously, you can't speak to 240 people,
5 right?

6 A. Yes, ma'am. That's correct.

7 Q. And you can't tell me how many people you spoke
8 to that night of the 240, right?

9 A. Yes, ma'am. That's correct.

10 Q. I mean, seven years ago is a long time ago?

11 A. Yes, ma'am. That's correct.

12 Q. Okay. All right. Now, you got to the party
13 around eight o'clock; is that correct?

14 A. I believe I arrived to the party some time
15 between 7:00 and 8:00 p.m.

16 Q. Okay. And you had already been at the Compound
17 earlier that day cleaning up and setting up,
18 correct?

19 A. Yes, ma'am. That's correct.

20 Q. And the fraternity offered beer to its guests,
21 correct?

22 A. Yes. There was beer available for all guests.

23 Q. All right. But not liquor, correct?

24 A. Yes, ma'am. That's correct.

25 Q. All right. Now, yesterday you testified that

1 when Erin arrived, y'all met in the courtyard; is
2 that correct?

3 A. Yes, ma'am. That's correct.

4 Q. All right. So this squiggly line (indicating)
5 here on the exhibit, does that represent a big tree?

6 A. Ma'am, that represents trees, bushes,
7 shrubbery, if you wanted to call it that.

8 Q. Okay. All right. And what does this
9 (indicating) represent?

10 A. So I believe that roughly indicates where I had
11 seen Erin for the first time that night.

12 Q. Okay. You had seen Erin for the first time
13 that night. And do you recall approximately what
14 time it was?

15 A. No, ma'am, I do not.

16 Q. Okay. Was it eight o'clock?

17 A. Ma'am, I do not recall what time it was.

18 Q. You have no idea what time it was?

19 A. No, ma'am. As we started the party, generally
20 I do lose track of time so I can't give you for
21 certain what time I had actually seen her that
22 night.

23 Q. Okay. Well, I mean, was it right after you got
24 there or had you been there for a minute?

25 A. I had been there for a while. Yes, ma'am.

1 Q. Okay. All right. But you don't recall when
2 you saw her? You don't have any idea when you saw
3 her?

4 A. No, ma'am. I don't recall when I first saw
5 her.

6 Q. Okay. Do you recall how -- well, let me
7 rephrase that. You have testified previously that
8 Ben Zboray, your brother in the fraternity, helped
9 Erin find you; isn't that correct?

10 A. Yes. I have testified that Ben Zboray did help
11 Erin find me that night.

12 Q. Okay. And you testified yesterday that she
13 wasn't slurring her words when she and you met up
14 for the first time, correct?

15 A. Yes, ma'am. That's correct.

16 Q. And she wasn't stumbling, correct?

17 A. Yes, ma'am. That's correct.

18 Q. And she wasn't having balance issues; is that
19 correct?

20 A. Yes, ma'am. That's correct. That's what I
21 observed.

22 Q. All right. Do you recall saying that when Erin
23 arrived at that party and met up with you, that you
24 could tell she was drunk?

25 A. I remember testifying that, you know, it had

1 been -- it was clear that Erin had been drinking to
2 a certain extent, but only in the way that someone
3 would be happy, they're having a good time, they're
4 feeling the stress leave from themselves like most
5 of us do when we get off work, have a beer, glass of
6 wine, something like that.

7 Q. Okay. So your testimony previously and today
8 is that you could tell she was drunk when she
9 arrived?

10 MS. LAU: Objection. Improper
11 mischaracterization of the questions.

12 THE COURT: Rephrase the question.

13 BY MS. PORTER:

14 Q. Well, would you like to see your prior
15 testimony from December 10, 2015, when you said, "I
16 could tell she was drunk. She was loud and having a
17 good time."

18 MS. LAU: Objection. She can't -- she can't
19 get in to any statements or time frame when these
20 statements were made.

21 THE COURT: I think that's a proper cross.
22 From the deposition, is that what you're reading?

23 MS. PORTER: No, sir. It's from a previous
24 statement he made.

25 THE COURT: All right. That's -- that's

1 appropriate.

2 BY MS. PORTER:

3 Q. Would you like to see it?

4 A. No, ma'am. Not necessary.

5 Q. And yesterday you testified that Erin had a
6 water bottle filled with vodka with her, correct?

7 A. Yes, ma'am. That's correct.

8 Q. And you know that because you tasted it and you
9 took a shot with her from the water bottle, correct?

10 A. Yes, ma'am. That's correct.

11 Q. Is this the type of water bottle that Erin had?

12 A. Yes, ma'am. That's correct.

13 Q. And it wasn't full when she got there, correct?

14 A. No, ma'am. I don't recall it being.

15 Q. And it had been kind of crumpled up and stuck
16 in her back pocket, correct?

17 A. Yes, ma'am. That is correct.

18 Q. Okay. And you took not one but two shots with
19 her at some point during the party, correct?

20 A. Throughout the entire time I spent with Erin
21 that night, yes, I had taken two sips of the bottle.

22 Q. Okay. All right. Now, let's talk about this
23 statement that Erin makes to you when she first
24 arrives?

25 A. Yes, ma'am.

1 Q. All right. You testified yesterday that she
2 says, "If you don't kiss me now, I won't have sex
3 with you tonight;" is that correct?

4 A. Yes, ma'am. That is correct.

5 Q. Okay. And did you feel coerced into kissing
6 her?

7 A. I felt some pressure in the question. Yes,
8 ma'am.

9 Q. Okay. Did you feel threatened into kissing
10 her?

11 A. Not exactly threatened. I wouldn't use that
12 wording.

13 Q. Well, you did use that wording previously?

14 A. Yes, ma'am. And I understand that coerced is
15 maybe not the correct word, but the essence of what
16 I was trying to get to was, there was some pressure
17 and there was something that was presented to me
18 from a girl that I liked that I wasn't sure how to
19 react.

20 It was a pressuring circumstance because this
21 proposition gave me an ultimatum. I'm not sure what
22 that ultimatum would lead to. I didn't know if I
23 didn't kiss Erin if I wasn't going to be able to
24 speak to her further. I liked her and I didn't want
25 to ruin any of those chances.

1 Q. Isn't it true that you wanted to have sex with
2 Erin that night?

3 A. No, ma'am. That was not the intent.

4 Q. Well, let me ask you a question. Did you kiss
5 her?

6 A. Yes, I kissed her, but that didn't mean I had
7 agreed to have sex with her that night.

8 Q. A girl comes up to you and says, "If you don't
9 kiss me tonight, I'm not going to have sex with
10 you," and you kiss her, correct?

11 A. I did kiss her. That is correct. Yes, ma'am.

12 Q. And your intent was not to have sex then?

13 A. My intent was not to have sex, and that can be
14 explained by the fact that I did ask for a birthday
15 blow job instead.

16 Q. Okay. Isn't a blow job part of sex?

17 A. I mean, depends on what your definition of it.
18 It's oral sex.

19 Q. Okay. Well, did you ask her, "Define what you
20 mean by sex. Is that intercourse or is that a blow
21 job?"

22 A. No. I did not ask her to define.

23 Q. Okay. But you did ask her for a blow job?

24 A. Yes, ma'am. We had agreed upon that.

25 Q. So that's not really coercion, is it?

1 A. Ma'am, like I had said, I explained my
2 reasoning for using "coercion" and that wording in
3 my testimony. You know, ultimately I was given an
4 ultimatum and I felt pressured into doing -- either
5 kissing her to have an opportunity to continue to
6 develop a relationship with Erin or not.

7 Q. All right. So after your ultimatum and
8 accepting the ultimatum by kissing her, you and Erin
9 end up behind the doll house here; is that correct?

10 A. Yes, ma'am. That is correct.

11 Q. All right. And y'all began making out,
12 correct?

13 A. Yes, ma'am. That is correct.

14 Q. Okay. And you've drawn on this map that these
15 are shrubs and trees. What about -- where around
16 the doll house are you?

17 A. Ma'am, if you look at the doll house, the back
18 left corner, approximately somewhere around there
19 behind the doll house.

20 Q. Tell you what, do me a favor. Mark it on the
21 exhibit.

22 A. (Complying.)

23 Q. Okay. All right. If it's alright with you,
24 I'm just going to put it on the -- on the big map
25 for everybody to see. All right. So you're kind of

1 in between the doll house and this chain-link fence;
2 is that correct?

3 A. Yes, ma'am. That is correct.

4 Q. Okay. And what do y'all start doing?

5 A. Well, I know that we continued to proceed to
6 make out. We were finally somewhere private.

7 Q. You consider between a chain-link fence and the
8 back of a house private?

9 A. Well, ma'am, I do want to bring up the fact
10 that you had mentioned earlier that it is not to
11 scale. When you look at that drawing, it does
12 appear that there's a very tight area, but it's not.
13 It's a little bit more open. What I mean by private
14 is, we were no longer in the middle of the party.

15 Q. So you didn't make out with her in the middle
16 of 240 people, but you just went around the building
17 to make out with her?

18 A. Well, again, I can't say that all 240 people
19 were there at that time in the night, but, yes, we
20 did go behind the building to where we had some
21 more, what I would consider, privacy.

22 Q. Okay. Do you recall testifying that when Erin
23 coerced you or gave you the ultimatum -- I'm going
24 to use your words -- gave you the ultimatum, you
25 thought to yourself, I don't have a care in the

1 world. It's my birthday. Why not?

2 A. Well, at that point in time, I considered a lot
3 of Erin and my interactions before. You know, there
4 was several occasions where I would stay up to make
5 sure she had gotten home from the library. You
6 know, she had offered to bring me food when I was
7 working hard either on school or pledge duties.
8 Yeah, at that point, you know, I had liked this girl,
9 so I didn't see a problem with kissing her
10 specifically.

11 Q. Okay. But that's not my question. I think
12 everybody knows y'all developed a friendship,
13 correct?

14 A. Yes, ma'am.

15 Q. My question is: Do you recall saying that when
16 Erin gave you the ultimatum, you thought to
17 yourself, it's my birthday. I don't have a care in
18 the world. Why not? Let's go have sex. You didn't
19 add that part. That's me. Do you recall saying
20 that?

21 A. I would agree to the part about having sex. I
22 wouldn't agree to that portion.

23 Q. But the first part?

24 A. Yes. We were at a party. We were both having
25 fun. I didn't see an issue with kissing her.

1 Q. All right. When did you ask for the blow job?
2 Was it -- was it in the middle of the 240 people or
3 when you're back behind the doll house?

4 A. Ma'am, I don't recall exactly when I did ask
5 for it. I know it was agreed upon before we decided
6 to leave the Compound later.

7 Q. Okay. And tell me about that. How do you know
8 it was agreed upon?

9 A. Well, I had asked if she would give me a
10 birthday blow job, and she said "yes."

11 Q. Okay. I was wondering how that went down. Why
12 drop -- all right. So if this is somewhat private,
13 why not drop your pants and let her give you a blow
14 job right there?

15 A. Well, because that area specifically where I
16 included, there's squiggles of the bushes and
17 shrubbery, whatever you want to call them. You now,
18 a lot of brothers and pledge brothers did come back
19 there to use the restroom.

20 Q. So it wasn't that private?

21 A. People did come back and forth. And, no,
22 that's why we chose to leave the Compound in
23 general.

24 Q. All right. So getting pretty hot and heavy
25 making out by the doll house and decide to go

1 somewhere a little bit more private so you're not
2 interrupted; is that correct?

3 A. Yes, ma'am. That's correct.

4 Q. Okay. Let's talk about -- I believe this is
5 Plaintiff's Exhibit No. 2, but we're going to blow
6 it up. All right. Would you like to have Number 2
7 up there with you?

8 A. Yes, ma'am. I would appreciate that.

9 Q. Sure. Happy to help. All right. You've
10 already testified that back where y'all are making
11 out is the exit to the well-worn path; is that
12 correct?

13 A. Yes, ma'am.

14 Q. Right here?

15 A. That's correct.

16 Q. All right. And that there's not a gate on that
17 fence. It's just -- you just walk out of the fence,
18 correct?

19 A. Yeah. At the time -- there were times in the
20 future where we'd actually put structures in front
21 of that area so that people couldn't come and go.
22 But at that point in time, it was open. No gate.

23 Q. Okay. And you testified yesterday that y'all
24 walked somewhere between a fourth and a half mile;
25 is that correct?

1 A. Yes, ma'am. Somewhere in there.

2 Q. All right. So let's -- let's be a little more
3 specific and let's talk about where you walked. Do
4 you recall going through where you walked through in
5 your deposition?

6 A. Yes, ma'am. I do recall.

7 Q. And do you recall drawing this map about the
8 path that y'all took during your deposition?

9 A. Yes, ma'am. I do recall.

10 Q. Okay. So we kind of glossed over that
11 yesterday, so let's go over it a little bit more.
12 So when you leave the back house, can you show us
13 where you left out of on -- on the Exhibit No. 2?

14 A. Ma'am, I believe you said "back house."

15 Q. I'm sorry.

16 A. We left the Compound, yes, right where that red
17 line begins ---

18 Q. Okay.

19 A. --- towards the back right corner of it.

20 Q. Thank you for correcting me. And I'm trying to
21 look at it upside down, so help me. Right here
22 (indicating) where it starts?

23 A. Yes, ma'am. That's correct.

24 Q. So right here (indicating) is where y'all
25 leave. So let's do this: Put a little arrow where

1 y'all are headed.

2 A. (Complying.)

3 Q. Perfect. All right. So if it's alright with
4 you, I'm going to show your counsel. All right.
5 Here you go. All right. So where -- where is this
6 (indicating)?

7 A. Yeah, so there was a path as I described before
8 leading out of the back of the Compound. And, you
9 know, there's a break in the fence that actually led
10 into a parking lot. I'm not sure what the building
11 was, but so it's kind of a path that walks in
12 between that would take you out to Wigington if you
13 were to take it far enough.

14 Q. Okay. As a part of this exhibit, there's also
15 a Google maps. So I've blown up the Google maps.
16 All right. So I'm going to -- I'm going to give you
17 the other part of Exhibit No. 2, okay, so you've got
18 both in front of you.

19 All right. So if this -- if you're leaving out
20 of the back of the Compound, would that be back
21 here, right up here (indicating)?

22 A. No, ma'am. That's a little bit to the left.
23 I'm trying to find it on here, but the resolution
24 isn't great. It would be ---

25 Q. Why don't you find it on here for us?

1 A. So it would be right back here (indicating).

2 Q. All right. Marked -- how about let's mark
3 that.

4 A. (Complying.)

5 Q. All right. I wish I had a red one. Sorry
6 about that. All right. Okay. And then will you
7 draw in the direction that you traveled on here?

8 A. (Complying.)

9 Q. All right. And just so we've got this
10 comparatively speaking, where did you go?

11 A. So from there, this parking garage -- oh, I'm
12 sorry. The parking lot would represent this parking
13 lot over here.

14 Q. Okay. All right. So you traveled -- you went
15 out the back of the back house, down a path to this
16 parking lot; is that correct?

17 A. Yes, ma'am. That's correct.

18 Q. All right. And this path is -- it appears that
19 this property backs up to another property; is that
20 correct?

21 A. Yes, ma'am. That's correct.

22 Q. So there's no road in between the properties,
23 correct?

24 A. Can you explain what you mean "in between"?

25 Q. There's no road in between the properties?

1 There's a road here, Wigington Street?

2 A. Yes, ma'am.

3 Q. And there's a road here, Sloan Street?

4 A. Yes, ma'am.

5 Q. And the properties back up to each other, but
6 there's no road in between the proprietors on the
7 other side?

8 A. Yes, ma'am.

9 Q. Okay. So it's a well-worn path, but no road,
10 correct?

11 A. Yes, ma'am. That's correct.

12 Q. Okay. And so you come out the back of the
13 property and travel down this well-worn path to a
14 parking lot, correct?

15 A. Yes, ma'am. That's correct.

16 Q. And your intent at this point is you guys were
17 hot and heavy making out and you're going to find a
18 private location to get a blow job, correct?

19 A. Yes, ma'am. That's correct.

20 Q. Okay. Was there any private location along
21 this path?

22 A. Ma'am, there might've been, but for whatever
23 reason we didn't stop there.

24 Q. Didn't stop there. Okay. So then where did
25 you go after the parking lot?

1 A. Yes, ma'am. So we walked down past the parking
2 lot. There was a parking garage. I think it was on
3 our left, and we walked down Sloan Street towards
4 Chipotle.

5 Q. All right. Draw it for us.

6 A. (Complying.)

7 Q. Okay. So you pass a park -- is this the
8 parking garage?

9 A. Yes, ma'am.

10 Q. Okay. You pass the parking garage and go down
11 towards Chipotle; is that correct?

12 A. Yes, ma'am.

13 Q. Did y'all stop in Chipotle?

14 A. No, ma'am. We did not.

15 Q. Was it closed?

16 A. I don't recall for certain whether it was
17 closed.

18 Q. All right. So you didn't get any food?

19 A. No, ma'am.

20 Q. All right. So why go down to Chipotle? Why go
21 to that area?

22 A. In all honesty, ma'am, I'm not sure why we
23 chose to walk that way.

24 Q. Was there any private location to get a blow
25 job between that parking lot and down -- downtown

1 Clemson?

2 A. No. It didn't appear so because it was
3 nighttime and people were out downtown Clemson.

4 Q. Okay. So you left a more secluded area and
5 went to a more populated area; is that correct?

6 A. Yes, ma'am. That's correct, but ultimately we
7 did turn around.

8 Q. Okay. You turned around. Where'd you go after
9 you turned around?

10 A. (Drawing.)

11 Q. All right. And why did you stop there?

12 A. At the time, and I don't see it represented on
13 that Google map, but there was a relatively private
14 area where there was a garage or a shed right there.

15 Q. Okay. All right. So just make sure I'm right.
16 Correct me if I'm wrong. I believe your testimony
17 is you exit the Compound here (indicating). You
18 travel to a parking -- down a well-worn path. There
19 were trees on either side of this path and shrubs?

20 A. Ma'am, I know there were trees on the right
21 side. I believe there were some on the left, but I
22 can't say for certain.

23 Q. Okay. And then through a parking lot, down to
24 Chipotle, correct?

25 A. Yes, ma'am. That's correct.

1 Q. All right. By a parking garage, correct?

2 A. Yes, ma'am.

3 Q. Up Sloan Street, correct?

4 A. Yes, ma'am.

5 Q. Past -- is this an apartment complex?

6 A. Yes, ma'am. I believe it was.

7 Q. All right. And there's a pool there?

8 A. Yes, ma'am.

9 Q. All right. By an apartment complex. Now, this
10 is not another -- you're cutting through a property,
11 correct? That's not a road?

12 A. Yes, ma'am. That's correct.

13 Q. All right. So you're cutting through on the
14 back side of the apartment complex and you come to
15 what you call a more private location; is that
16 correct?

17 A. Yes, ma'am. That's correct.

18 Q. Okay. All right. Now, let's talk about this
19 private location. Describe it for the jury.

20 A. Based on my recollection of the night is, you
21 walk down this wooden fence that would've been on
22 our left side as we walked that way, which I believe
23 is the apartment complex. There at the end of the
24 fence, kind of that corner of it, there's a garage
25 or a shed set up. It wasn't very large. And then

1 there's a telephone pole somewhere in between the
2 fence and this garage.

3 Q. All right. Garage/sled -- shed -- excuse me --
4 type building; is that correct?

5 A. Yes, ma'am. That's correct.

6 Q. All right. How much room is between the wooden
7 privacy fence and the shed?

8 A. There was probably, you know, a few to 4 feet,
9 somewhere in between there.

10 Q. Well, I'm -- if the jury bar is the shed and
11 I'm the fence, tell me when to stop. Okay. Ready?

12 A. Yes, ma'am.

13 Q. (Demonstrating.)

14 A. I would say somewhere around -- well, are you
15 talking about this far (indicating) or the jury
16 themselves?

17 Q. All right. No. So back up? Back up more?

18 A. Yes, ma'am. I would say approximately there.

19 Q. Right here (indicating)?

20 A. Yes, ma'am.

21 Q. So what is that? I'm terrible with distance.

22 A. I can't say for certain, ma'am.

23 Q. Well, technically one of you are laying down.

24 So I'm 5'4". It's 5 feet -- between 5 and 6 feet?

25 A. Somewhere in between there, ma'am. I can't say

1 for certain.

2 Q. All right. Now, is there also like a utility
3 light pole right there?

4 A. Yes, ma'am. I described that.

5 Q. All right. So utility light pole is on the
6 edge of the shed, like on the one end. It's not in
7 the middle of the shed, right?

8 A. I don't believe it was in the middle of the
9 shed ma'am.

10 Q. All right. Was it beside the fence or the
11 shed? Was the utility pole here or there
12 (indicating)?

13 A. I can't see whether it was approximately closer
14 to one or the other.

15 Q. Okay. All right. What did you and Erin talk
16 about on this journey around Clemson?

17 A. I can't recall, ma'am. I don't remember what
18 we spoke about in that walk.

19 Q. Did y'all speak?

20 A. I would assume so, yes, ma'am.

21 Q. But you don't have any recollection of what it
22 was?

23 A. No, ma'am. I don't.

24 Q. Okay. All right. When you get to the shed,
25 y'all share another drink of the vodka, correct?

1 A. Yes, ma'am. I had another sip of the vodka,
2 and I believe she did, as well.

3 Q. All right. So you kind of glossed over this
4 yesterday, and I want to unfortunately go through it
5 in a little bit more detail.

6 A. Yes, ma'am.

7 Q. All right. When you get to the shed and y'all
8 share that drink of vodka, you start making out
9 again, correct?

10 A. Yes, ma'am. That's correct.

11 Q. All right. Tell -- tell this jury what you
12 mean by that.

13 A. Ma'am, can you add some detail to your
14 question?

15 Q. Sure. Did you french kiss her?

16 A. Ma'am, I don't -- I don't recall exactly. I
17 mean, I know that we were making out, which was more
18 than just kissing. It was certainly a little bit
19 more passionate at that point.

20 Q. Well, this is -- you have alleged that this is
21 a consensual sexual encounter with Erin Wingo?

22 A. Yes, ma'am. It is a consensual encounter with
23 Erin Wingo.

24 Q. All right. Describe it.

25 A. Yes, ma'am. So, again, I can't recall the

1 exact details because over about six to seven years
2 time, especially having to live with this my whole
3 life, I'm very narrowed in on the important facts
4 which was anything that indicated that this was
5 consensual.

6 So we were making out. We were hanging out.
7 I, of course, had gone there with the assumption
8 that I was going to get a blow job on my birthday.
9 And from there, after -- whether it was before we
10 had alcohol or after, which I do recall it was
11 after, eventually Erin took down her pants and
12 that's when I had asked her what she was doing.

13 Q. Okay. I'm interested in what happened before
14 she took down her pants. Any foreplay?

15 A. No, ma'am.

16 Q. Okay. She has dropped her pants. You get
17 there, take a swig of vodka, and she just drops her
18 pants?

19 A. Yes, ma'am. I was very shocked by it.

20 Q. Shocked?

21 A. Yes, ma'am.

22 Q. Why were you shocked when she propositioned,
23 using your words, and you accepted the proposition
24 by kissing her?

25 A. Well, ma'am, like I had said before, we left

1 the Compound under the assumption that there was
2 going to be oral sex. I had asked for a birthday
3 blow job, and she'd agreed to it. That was my
4 assumption.

5 Q. Okay. But she also said, "If you don't kiss
6 me, you're not going to have sex tonight." Would
7 that not have been an easy assumption that, hey, I'm
8 going to kiss her and get laid?

9 A. It could've been, but, ma'am, like I had said,
10 I asked her for a birthday blow job because at that
11 point in time, especially in that environment, sex
12 was not something that I had considered.

13 Q. How did your pants get down?

14 A. I took my own pants down.

15 Q. Okay. When Erin dropped her pants, what
16 happened next?

17 A. Well, I had asked Erin, of course, what she was
18 doing, and she had responded, "So we can have sex."
19 And that's when I had asked her, "Are you sure?
20 Should I use a condom?" And she says, "Yes, you
21 should."

22 Q. Are y'all face-to-face having this discussion?

23 A. Ma'am, I'm not exactly sure whether we were
24 face-to-face while having this discussion.

25 Q. Okay. Describe this -- you had a shed. Is it

1 metal? Is it wood? Is it vinyl? What is it?

2 A. I believe it was wood.

3 Q. Wooden shed. You got a wooden fence, correct?

4 A. Yes, ma'am.

5 Q. You got dirt? grass? gravel? What's the ground
6 like?

7 A. I believe it was a mixture of dirt and grass.

8 Q. And you got a utility pole with a light on it?

9 A. Yes, ma'am. That's correct.

10 Q. All right. And she just drops her pants. So
11 is she -- is she up against the shed or is she up
12 against the fence?

13 A. Well, ma'am, like I said, I don't recall what
14 way she was facing when she dropped her pants. I
15 know that initially when we were making out and we
16 were taking sips of her -- her vodka, she was facing
17 towards me.

18 Q. Okay. Well, how'd she get turned around?

19 A. I don't know. I think you'd have to ask her
20 about that. I didn't turn her around.

21 Q. We will.

22 A. Yes, ma'am.

23 Q. I'm asking you what you remember. How did she
24 get turned around?

25 A. Yes, ma'am. I believe she turned around on her

1 own ability.

2 Q. Okay. So is she up against the shed or the
3 fence?

4 A. You're going to have to clarify when, ma'am.

5 Q. When she turns around and I believe you said
6 bends over, when she bends over for you to have sex
7 from behind with her, is her back and body facing
8 the fence or the shed?

9 A. Her back and bottom would be facing the fence
10 at that point.

11 Q. Okay. So she's up against the shed. You -- I
12 think you testified that her hands were on the shed?

13 A. Yes, ma'am. That's correct.

14 Q. All right. Hands or forearms? How is she on
15 the shed?

16 A. I believe her hands were on the shed.

17 Q. So she's bending over on the shed
18 (demonstrating)?

19 A. Ma'am, I don't know if she would've gotten down
20 that low.

21 Q. Not that low?

22 A. No, ma'am.

23 Q. How low? Tell me when to stop (demonstrating).

24 A. Ma'am, I just think the way that you've got
25 your hands is not really in line with the way she

1 would've had -- her hands would've been pretty much
2 parallel ---

3 Q. I wasn't there. That's why I'm asking.

4 A. --- with her body. Yes, ma'am. And that's ---

5 Q. Parallel to her body? Here (indicating)?

6 A. That's perpendicular.

7 Q. Here (indicating)?

8 A. No. I mean, I would say parallel like -- yes,
9 ma'am.

10 Q. She's up here (indicating)?

11 A. Yes, ma'am.

12 Q. Up against the shed?

13 A. Well, so she didn't have to bend down that
14 much.

15 Q. There (indicating)?

16 A. Yes, ma'am. That's approximately where she
17 was.

18 Q. All right. And you're having sex with her?

19 A. Yes, ma'am. That's correct.

20 Q. All right. Is her shirt on?

21 A. Ma'am, I didn't take off any of her clothing.

22 Q. You didn't take off any of her clothing?

23 A. I don't remember her taking off her shirt.

24 Q. Okay. But her pants are down. She -- she
25 dropped her pants to her ankles?

1 A. Yes, ma'am. That's correct.

2 Q. Okay. And your testimony here today is you
3 were shocked. You asked her what she was doing.
4 She said, "We're having sex. You said, "You're
5 sure?" She said, "It's fine." "I'll use a condom."
6 She says, "Yes." That's your testimony?

7 A. I mean, I wouldn't put that verbatim, but my
8 testimony ---

9 Q. That's the gist?

10 A. The consensus, yes.

11 Q. Okay. You recall slapping her butt?

12 A. Yes, ma'am. I did.

13 Q. What else do you recall?

14 A. I recall slapping her butt. You know, that is
15 something that I usually have done during sex as a
16 playful move. It wasn't intended to cause any harm.

17 Q. Did you climax?

18 A. Yes, ma'am. After we had moved positions again
19 and gotten down on our hands and knees, yes, at the
20 end of it I did.

21 Q. Let's talk about that for a second. She's
22 bracing on the shed, and you get down on your knees.
23 Did y'all fit in that five, or did you have to
24 adjust?

25 A. Ma'am, I believe we had turned more towards the

1 light post. That would've been on her left.

2 Q. If this (indicating) is the shed and this
3 (indicating) is the fence, which side is the light
4 pole?

5 A. Yes, ma'am. The light post would've been on
6 the left.

7 Q. On your left. So you move from that position.
8 Do you flip her over?

9 A. Ma'am, she was able to move under her own
10 ability. I didn't move her to get on the ground or
11 anything.

12 Q. All right. So she goes from hands standing,
13 hands on the shed, down on her knees. And does she
14 have -- is she on all fours?

15 A. Yes, ma'am. I believe so.

16 Q. Okay. And you're kind of shifted turning
17 towards the light post?

18 A. Yes, ma'am.

19 Q. All right. And you're still from behind?

20 A. Yes, ma'am.

21 Q. All right. So you go from one position to the
22 next?

23 A. Yes, ma'am.

24 Q. So she -- her knees and her hands are in the
25 dirt?

1 A. Ma'am, again, I don't know if it was dirt
2 exactly or it was a mixture of dirt and grass, but,
3 yes, her hands were on the ground.

4 Q. Okay. Did she climax?

5 A. I'm not sure, ma'am.

6 Q. What happened after you climaxed?

7 A. Well, by the end of it, that was it. You know,
8 I had taken off my condom. I had thrown it on the
9 ground. She had gotten dressed. I had gotten
10 dressed.

11 Q. Let's talk about that.

12 A. Yes, ma'am.

13 Q. You've given two prior statements -- three.
14 Well, two prior statements where you specifically
15 say that "we dressed her." Why is it different
16 today?

17 A. Ma'am, I don't think that's correct. I think
18 we dressed ourselves. I know for a fact that I have
19 not said that I helped dress Erin.

20 Q. Let's go back to your previous statement. Do
21 you remember giving a statement on February 26,
22 2016?

23 A. Ma'am, where do ---

24 Q. Do you remember giving a statement February 26,
25 2016?

1 A. Ma'am, I remember giving lots of statements.

2 Q. All right. Well, I'm talking about one on
3 February 26, 2016. Do you recall ---

4 A. Yes, ma'am. I do recall.

5 Q. --- stating, "After we finished having sex, we
6 began to walk to the car. We pulled up her pants.
7 I pull up mine."

8 A. Yeah, ma'am, this was something that was
9 discussed in my deposition. I did not agree with
10 the word "we pulled up her pants." This was
11 something that was from notes taken and that's
12 something that I had not verified before. It was
13 included.

14 MS. PORTER: Your Honor, may we have a sidebar?

15 THE COURT: Yes.

16 (Sidebar discussion.)

17 BY MS. PORTER:

18 Q. All right. Just so I'm clear, you're saying
19 that that statement wasn't recorded correctly?

20 A. Yes, ma'am. That's what I testified in my
21 deposition.

22 Q. Okay. All right. All right. Let's talk
23 about, you've climaxed. You've thrown your condom
24 on the ground. And now what do y'all do? You've
25 gotten dressed?

1 A. Yes, ma'am. So we had gotten dressed and, you
2 know, then we started talking a little bit, you
3 know.

4 Q. What did y'all talk about?

5 A. Ma'am, I was getting there. So we were
6 talking, you know, about specifically past
7 relationships and things like that. And, you know,
8 Erin had talked about CJ and, you know, some of her
9 experience in the past with past relationships and
10 how she had been cheated upon and she had a hard,
11 you know, a hard time with some men. And then
12 specifically when CJ came up, you know, she really
13 cared for CJ. Although, previously, she had said
14 that they were done and she was single, but she
15 couldn't figure out why CJ didn't love her. She
16 didn't understand why I had treated her well, why I
17 had stayed up to make sure she had gotten home from
18 the library. But for whatever reason, CJ didn't
19 love her and she was pretty bothered with that.

20 Q. All right. Well, this conversation, is it
21 taking -- I mean, do y'all get dressed and have a
22 seat up against the fence, up against the shed,
23 cuddling, chitchatting after sex or what?

24 A. No, ma'am. I mean, we were standing and we
25 were talking, and, you know, she's, shortly after

1 that, pretty persistent on finding CJ, so we started
2 to make our way back to the Compound.

3 Q. Okay. So you finished having sex and you have
4 this conversation on the way -- on the walk back to
5 the Compound?

6 A. Yeah, I mean, between the time we finished and
7 then started walking back and then during the walk,
8 yes, that's correct.

9 Q. All right. Well, let's talk about the walk
10 back, and then we're going to talk about that a
11 little bit more. All right. So let's -- can you
12 put an "X" right there where the shed is located?

13 A. (Complying.)

14 Q. And then if you will please draw where you go?

15 A. (Complying.)

16 Q. All right. So is it fair to say -- and you
17 wrote this "X." That's where the shed is?

18 A. Yes, ma'am. That's correct.

19 Q. And then y'all travel. Again, you cut through
20 some property to Wigington Street?

21 A. Yes, ma'am. That's correct.

22 Q. Down Wigington Street?

23 A. Yes, ma'am. That's correct.

24 Q. And then you're going to enter down -- this is
25 Wigington Street, correct?

1 A. Yes, ma'am. In front of the Compound. That's
2 correct.

3 Q. And in the -- at the front of the -- in the
4 front of the -- well, which house do y'all end up
5 at?

6 A. It would've been in front of the front house.

7 Q. The front house. Because the front house is at
8 the front of the Compound, correct? That's why it's
9 called the front house?

10 A. Yes, ma'am. That's correct.

11 Q. All right. So isn't it fair to say that that's
12 a much more direct route back to the Compound than
13 when y'all left?

14 A. Yes, ma'am. That's correct.

15 Q. Okay. All right. Now, let me make sure I
16 understand this. On the walk back, Erin is crying;
17 is that correct?

18 A. Yeah, ma'am. As we continued to speak about CJ
19 and their relationship, she was pretty persistent on
20 finding him. So I had actually given him a call,
21 and she was becoming upset about CJ.

22 Q. All right. So you -- on the walk back, you had
23 your cell phone?

24 A. Yes, ma'am, I did.

25 Q. And you called CJ?

1 A. Yes, ma'am, I did.

2 Q. Do you know what time that was?

3 A. Ma'am, I don't recall specifically what time it
4 was.

5 Q. If I showed you a copy of a text message, would
6 that refresh your memory?

7 A. Ma'am, I knew it was late at night.

8 Q. Does 1:00 a.m. sound right?

9 A. It's possible. Yes, ma'am.

10 Q. Okay. 1:03 a.m.?

11 A. Ma'am, again, like I said, I ---

12 Q. Would you like me to show you the text message?

13 A. No, it's okay. It's some time late at night.

14 Q. Why don't I show you the text message. We want
15 to be specific.

16 A. Understood, ma'am.

17 Q. I'm just going to show you this. I guess we
18 need mark to it as Defense Exhibit No. 3 for
19 identification purposes.

20 So this is marked as Defendants' 3 for
21 identification purposes only. This is a copy of a
22 text message that you send to Erin Wingo and it
23 has -- you screen shotted a message between you and
24 CJ. Do you recognize that?

25 A. Yes, ma'am. I do recognize that.

1 Q. All right. And do you see the timestamp in the
2 screen shot?

3 A. Yes, ma'am. Are you referring to "Why'd you
4 call" text?

5 Q. Yes.

6 A. Yes, ma'am. I see that.

7 Q. What time is that?

8 A. That text message is sent at 1:02 a.m.

9 Q. Thanks. So we're talking about -- does that
10 refresh your memory as to the time?

11 A. Yes, ma'am. Somewhere before then.

12 Q. Okay. All right. So on this walk back, is
13 Erin crying?

14 A. Ma'am, I don't know if she's crying
15 uncontrollably or the nature of her crying, but
16 she's upset. Yes, ma'am.

17 Q. She's upset. Asking for CJ, correct?

18 A. Yes, ma'am. That's correct.

19 Q. Talking about ex-boyfriends cheating on her,
20 correct?

21 A. Yes, ma'am. That's correct.

22 Q. Talking about what a great guy you are and how
23 you're treating her, correct?

24 A. Ma'am, she was talking about the fact that I
25 was treating her well. Yes, ma'am.

1 Q. Okay. Do you recall in previous testimony
2 saying that she was super emotional?

3 A. Yes, ma'am. I do recall that.

4 Q. Okay. Do you recall in prior testimony that on
5 the walk back you realized she's on the bad end of
6 drunk?

7 A. Yes, ma'am. And that was a statement I made,
8 you know, while I was at Clemson, while I was
9 19 years old. I certainly didn't articulate what
10 the bad end of being drunk meant, but it was
11 referring to the fact she was extremely emotional.

12 Q. Well, do you recall in previous testimony
13 describing that you realized she was not doing so
14 well on the walk back?

15 A. Yes, ma'am. She was very upset.

16 Q. Do you recall telling previously that she was
17 stumbling walking back?

18 A. Yes, ma'am. And I think it's important to note
19 that there was a rocky terrain before we had gotten
20 back onto Wigington Street. She was upset. I had
21 actually -- you know, we had linked arms because I
22 wanted to console her. You know, I wanted to be
23 there and support her.

24 Q. Well, the first time you mentioned that was in
25 your deposition, correct?

1 A. Yes, ma'am. That's correct.

2 Q. All right. And your deposition was taken on
3 January 16, 2020; is that correct?

4 A. Yes, ma'am.

5 Q. And the previous statements on December 10,
6 2015, and February 26, 2016, you don't mention rocky
7 terrain, do you?

8 A. Yes, ma'am. I was not a very articulate 18 to
9 19-year old.

10 Q. That -- that's your explanation, that you just
11 weren't articulate?

12 A. Ma'am, I was very nervous at this point in
13 time. I certainly could've explained myself much
14 better. Yes, ma'am.

15 Q. Okay. All right. But you don't deny that then
16 back when it was fresh in your memory when it had
17 just occurred, you said Erin was drunk when you
18 first saw her at the party, correct?

19 A. Yes, ma'am. That's correct.

20 Q. And she was on the bad end of drunk, stumbling,
21 having trouble walking on the way back to the
22 Compound?

23 A. Yes, ma'am. I did say that, but as I meant,
24 she was very emotional. She was upset and was very
25 persistent on finding CJ that night.

1 Q. Super emotional, correct?

2 A. Yes, ma'am. She, as I found out later on, had
3 been blown off by CJ that night.

4 Q. You think she was super emotional because she'd
5 gotten blown off by CJ?

6 A. Ma'am, everything that she had told me that
7 night and everything that I observed, pointed to CJ.
8 Yes, ma'am.

9 Q. Okay. All right. Let's talk about when you
10 get back to the Compound. Let's talk about these
11 front steps. Okay. Your testimony is that y'all
12 walked down Wigington Street and you would've
13 entered the front house at these front steps; is
14 that correct?

15 A. Yes, ma'am. That's correct.

16 Q. All right. And when you get to the front steps
17 with a super emotional Erin Wingo, you put her on
18 the front steps, don't you?

19 A. I would not describe it as I put her on the
20 steps.

21 Q. Tell -- tell the jury what you would.

22 A. A lot of friends. Ben Zboray, who was my
23 pledge brother at the time, and also Erin's friend,
24 Rachel Corbin, who were both there together. They
25 were mutual friends. Rachel was looking for a ride

1 home. Ben was there with her, and so we found them.

2 Yes, ma'am.

3 Q. So you handed a super emotional Erin Wingo off
4 to your fraternity brother, Ben Zboray?

5 A. If you're implying that I disregarded her as a
6 person and that I was trying to get rid of her, no,
7 ma'am. I was there with her. She happened to sit
8 down on the steps. I had spoken with Ben trying to
9 figure out what the ride situation was going to be
10 because as I had said before, she was very
11 persistent on finding CJ that night. She wanted to
12 go find CJ.

13 Q. All right. When you arrive back at the
14 Compound ---

15 A. Yes, ma'am.

16 Q. --- and you see Ben Zboray, you tell him, "Erin
17 and I had sex," don't you?

18 A. Yes, ma'am. You know, he had asked what we had
19 been doing and why Erin was upset, and so I was
20 explaining that she was looking for CJ, that we did
21 just hook up. So, yes, ma'am, I did in a private
22 off to the side one-on-one conversation.

23 Q. So you were the first person to publish you and
24 Erin's sexual encounter, correct?

25 A. Ma'am, I don't know if "published" is the right

1 word. I think publish has the connotation that I'm
2 going and saying it to the world. I had a one-off
3 conversation with my buddy, which I expected to be
4 confidential. Yes, ma'am.

5 Q. Defamation doesn't work that way, Mr. Pampu.
6 You published to a third party, an individual who
7 was not present at that moment is what you did, is
8 it not?

9 A. Ma'am, that's ---

10 MS. LAU: Objection. Improper legal argument.

11 THE COURT: Sustained.

12 BY MS. PORTER:

13 Q. All right. At that moment you told a third
14 party who was not present between the shed and the
15 fence that y'all had sex, did you not?

16 A. Yes, ma'am, I did.

17 Q. Okay. Thank you. First publication is to Ben
18 Zboray. Now, Ben is physically present with Erin
19 super emotional sitting on those steps, is he not?

20 A. Yes, ma'am. That's correct.

21 Q. All right. And so is Rachel Corbin. She's
22 observing Erin hysterically crying sitting on those
23 steps, is she not?

24 A. She observed Erin being emotional. Yes, ma'am.

25 Q. All right. Super emotional?

1 A. Super emotional. Yes, ma'am.

2 Q. All right. And Ben says to you, "I got this.
3 It's your birthday. Go on back into the party"?

4 A. Yes. You know, Ben was in the process of
5 getting a ride for his friend Rachel at the time.
6 As I said before, Rachel and Erin were mutual
7 friends. You know, he had told me, yes, "It's your
8 birthday. Don't worry. I'll make sure the girls
9 get home safe." And so he handled calling a ride.
10 Yes, ma'am.

11 Q. All right. Do you know who gave them a ride at
12 the time right then and there? Did you stay with
13 Erin until that ride arrived?

14 A. No, ma'am, I did not. I had spoken with Erin
15 letting her know what was going on, that Ben was
16 going to give her a ride, that Rach was going to get
17 a ride too with them, that if she needed actually
18 anything, she could call me.

19 Q. Okay.

20 A. But as I had said before, she was persistent on
21 finding CJ at that point.

22 Q. And it was your birthday, so you went back into
23 the party, correct?

24 A. Yes, ma'am. That's correct.

25 Q. All right. Do you remember who the sober

1 driver was that evening?

2 A. Yes, ma'am. I do remember one of them being
3 Jon Stoddart.

4 Q. All right. And did Jon Stoddart have a working
5 car on October 24, 2015?

6 A. I believe he did. Yes, ma'am.

7 Q. Was it broken?

8 A. No, ma'am.

9 Q. All right. Well, why did he drive your car
10 that evening?

11 A. Well, you know, there were only a handful of
12 pledges who actually had had cars that night in
13 that -- sorry. Let me back up. There was only a
14 handful of pledges that had cars while at school.
15 You know, I had routinely given my car to other
16 pledge drivers to drive.

17 Q. What kind of car did you have?

18 A. I had a Buick.

19 Q. And did it sit two people? four people? seven
20 people? How -- how big was it?

21 A. At the time there were two front seats, driver
22 and the passenger, and three seats in the back row.

23 Q. What color was it?

24 A. It was white.

25 Q. All right. And you had let Jon Stoddart borrow

1 your car that evening, correct?

2 A. Yes, ma'am.

3 Q. Okay. What time did you leave the party that
4 night?

5 A. Ma'am, I'm not sure what time I left that
6 night.

7 Q. What time was the party over that night?

8 A. Ma'am, that -- that's a good question, but I
9 don't know what time the party officially ended.

10 Q. Okay. How many people did you talk to after
11 going back into the party roughly? Guesstimate.

12 A. Ma'am, that -- that would be speculating. I
13 don't know exactly how many people I had spoken to
14 that night.

15 Q. Well, it's not speculating if you were there
16 and talked to people. What do you remember?

17 A. Yes. But asking me to recount something that
18 on a daily basis I don't count how many people I
19 speak to. I can't say for certain how many people I
20 spoke to that night afterwards.

21 Q. All right. But there are roughly between 200
22 and 240 at the party. You go back in and mix and
23 mingle with them?

24 A. Ma'am, again, I had said, people come and go
25 during parties. I don't know if all of those people

1 were there at that point in time.

2 Q. And my question is: Did you go back into the
3 party and mix and mingle with the people there?

4 A. Yes, ma'am, I did.

5 Q. Do you recall texting with Jonathan Stoddart on
6 the early morning hours of Sunday, October 25th?

7 A. Yes, ma'am, I do.

8 Q. Okay. Do you remember discussing how to get
9 your car back?

10 A. No, ma'am. I do not recall that.

11 Q. Okay. Do you remember him asking you how your
12 birthday went?

13 A. Yes, ma'am. And let me clarify, this was all
14 retrospectively. I don't recall it that night as
15 those texts were being sent.

16 Q. Okay. But you do acknowledge that there's a
17 text exchange between you and Jonathan Stoddart?

18 A. Yes, ma'am. The next morning when I had woken
19 up, I had seen that I had texted Jon.

20 Q. Okay. And Jon took a screen shot of that text,
21 did he not?

22 A. Yes, ma'am. He did.

23 Q. And he put it into your pledge classes' GroupMe
24 chat; is that correct?

25 A. Yes, ma'am. That's correct. He had done that

1 without my knowledge.

2 Q. Okay. You didn't ask him to, and he didn't ---

3 A. Yes, ma'am. Our conversation was obviously
4 one-on-one.

5 Q. Okay. I'm going to hand you what has been
6 marked for identification purposes as Defendants'
7 Exhibit 2. Do you recognize that?

8 A. Yes, ma'am, I do.

9 Q. All right. And is that the screen shot of a
10 portion of your text message with Jon -- Jonathan
11 Stoddart?

12 A. Yes, ma'am. That's correct.

13 Q. And is that the one that was placed into the
14 GroupMe?

15 A. Yes, ma'am. That is correct.

16 Q. All right. Why don't you read your response to
17 Jonathan Stoddart?

18 A. Yes, ma'am. So I wrote, "I fucked a chick by a
19 garbage thing behind Chipotle, so I think that
20 definitely did it with they night alone -- with that
21 alone. Thanks though, my man. Thanks for
22 contributing for tonight in a huge way."

23 Q. All right. Second publication of your sexual
24 encounter with Erin Wingo, correct?

25 A. Ma'am, I did not name Erin in this text

1 message.

2 Q. I didn't ask if you named her. Is this
3 referring to your sexual encounter with Erin Wingo?

4 A. Yes, ma'am, it is. But, again, I didn't
5 identify her in the text message.

6 Q. Okay. Did you have sex with anybody else that
7 night?

8 A. No, ma'am. I did not.

9 Q. Okay. And -- all right. Roughly 31 members of
10 your pledge class; is that correct?

11 A. Yes, ma'am.

12 Q. All right. And this was placed into the
13 GroupMe chat and distributed to all 31 members of
14 your pledge class; is that correct?

15 A. Yes, ma'am. Without my knowledge or consent,
16 it was.

17 Q. Did you sue Jonathan Stoddart?

18 A. No, ma'am. I did not. Can I ask why you asked
19 that question?

20 Q. No. You don't get to ask questions. I do.
21 All right. How many of your pledge brothers were at
22 that party on October 24, 2015?

23 A. Ma'am, I cannot say for certain how many were
24 there.

25 Q. Well, let's talk about that for a second. Part

1 of your duties as a fraternity pledge is to appear
2 at these functions, is it not?

3 A. Generally, it's expected that you do appear.
4 Yes, ma'am.

5 Q. So is it safe to say that the majority of your
6 31 pledge brothers were there that night?

7 A. Yeah, I would say it's probably fair to say
8 more than half were there. Yes, ma'am.

9 Q. More than half. So more than half would be 17,
10 18, 19, out of the 31?

11 A. Approximately. Yes, ma'am.

12 Q. Is that fair?

13 A. (Affirmative response.)

14 Q. All right. But everybody got the message,
15 correct?

16 A. Yes, ma'am. That's correct.

17 Q. All right. How did they respond to that? What
18 were the responses?

19 A. Ma'am, I do not recall.

20 Q. You don't recall?

21 A. No, ma'am.

22 Q. Did you get a bunch of likes? a bunch of
23 hearts?

24 A. Ma'am, again, I do not recall the next day.
25 You know, I'm not waking up until later on. I

1 really had not paid attention to the text message in
2 GroupMe.

3 Q. Did y'all have a fraternity pledge class later
4 on Sunday, that afternoon?

5 A. Ma'am, I believe people went and helped clean
6 up the Compound from the night before, but I didn't.

7 Q. And it's your pledge classes' duty to clean up
8 at the Compound the day after, correct?

9 A. It's expected, but, ma'am, not everyone always
10 did that.

11 Q. If you didn't do it, did you get in trouble?

12 A. A lot of pledges took repercussions if they
13 came. Yes. There's things you're expected to do
14 and they made note of that, but some pledges took it
15 upon themselves more than others to make sure that
16 they were there to help clean up.

17 Q. But you were there to help clean up?

18 A. Ma'am, no. I had said that I didn't go clean
19 up that day.

20 Q. But then you helped set up or why did -- why
21 did you get excused from clean up?

22 A. Ma'am, I can't say specifically. I just did
23 not show up.

24 Q. When was the next time y'all got together as a
25 pledge class after Saturday, October 24, 2015?

1 A. If I recall correctly, usually we had study
2 hours at the library. I believe that was probably
3 the next time we got together.

4 Q. Was that on Sunday or Monday?

5 A. It was not on Sunday. I'm not sure if it was
6 on Monday or not.

7 Q. Well, when was your -- typically, when was your
8 pledge -- you met at a pledge class during the week,
9 right?

10 A. Yes, ma'am. That's correct.

11 Q. All right. Wasn't that on Monday night?

12 A. Honestly, I'm not sure, ma'am.

13 Q. All right. Well, let's -- let's talk about
14 Sunday, October 25th. You woke up to a text message
15 from Erin Wingo. You woke up and saw not only the
16 GroupMe message, but a text message from Erin Wingo
17 that you testified to yesterday; is that correct?

18 A. Yes, ma'am. That's correct.

19 Q. All right. And that text message says, "Did
20 you happen to see my key? Do not tell CJ what
21 happened," correct?

22 A. Yes, ma'am. That's correct.

23 Q. Okay. And you respond, "Haven't seen your key.
24 Won't tell CJ," correct?

25 A. Yes, ma'am. That's correct.

1 Q. "Just woke up. Haven't seen your key,"
2 correct?

3 A. Yes, ma'am. That's correct.

4 Q. All right. And that was about 2:00 p.m. on
5 Sunday; is that correct?

6 A. Yes, ma'am. That's correct.

7 Q. All right. When's the next time you had any
8 conversation with Erin?

9 A. I believe it was later in the day via text
10 message.

11 Q. Okay. Do you remember why you texted Erin
12 later in the day?

13 A. Yes, ma'am. I had texted Erin because CJ had
14 texted me that, you know, he was upset with me for
15 taking advantage of Erin that night, which I
16 disagreed with. And he said that what I had done
17 was considered rape. So, naturally, I was texting
18 Erin to try to figure out what was going on.

19 MS. PORTER: Beg the Court's indulgence.

20 THE COURT: All right. Ladies and gentlemen,
21 we've been going well over an hour. We'll go ahead
22 and take a short break. Do not discuss the case.
23 We'll bring you back out in just a few moments.

24 (From 10:32 to 10:46 a.m., brief recess.)

25 THE COURT: All right. Plaintiff ready for the

1 jury?

2 MS. LAU: Yes, we are.

3 THE COURT: Okay. Bring the jury in.

4 (At 10:46 a.m., jury entered the courtroom.)

5 THE COURT: All right. Please be seated.

6 THE JURORS: (Complying.)

7 THE COURT: All right. You may continue,

8 Ms. Porter.

9 MS. PORTER: Thank you, Your Honor. For record
10 keeping purposes, at this time I'd like to enter in
11 Defense Exhibit No. 2.

12 THE COURT: Any objection to that?

13 MS. LAU: No, Your Honor.

14 THE COURT: All right. In without objection.

15 (Defendants' Exhibit No. 2 was received into
16 evidence.)

17 BY MS. PORTER:

18 Q. All right. At this time I'm going to hand you
19 what has been marked as Defense Exhibit No. 4. If
20 you'll take a moment and just read through that,
21 that would be great.

22 A. (Complying.)

23 Q. Let me know when you're done.

24 A. Yes, ma'am.

25 Q. Do you recognize that?

1 A. Yes, ma'am, I do. I'm still skimming through
2 it.

3 Q. Oh, I'm sorry. I apologize.

4 A. It's okay. Thank you. Okay. Yes, ma'am. I
5 do recall.

6 Q. All right. Is that a copy of a text
7 conversation between you and Erin Wingo beginning on
8 the early morning hours of Sunday, October 25th?

9 A. Yes, ma'am. That's correct.

10 MS. PORTER: Okay. All right. And that
11 includes on -- at the bottom -- well, let me ask --
12 at this time, Your Honor, I'd like to offer in this
13 text conversation as Defendants' Exhibit 4.

14 THE COURT: Any objection?

15 MS. LAU: No objection.

16 THE COURT: All right. In without objection.

17 (Defendants' Exhibit No. 4 was received into
18 evidence.)

19 BY MS. PORTER:

20 Q. At the bottom of these text -- of this text
21 conversation on each page, there's what we call
22 Bates label; is that correct?

23 A. Yes. Are you referring to the first page, the
24 00772P?

25 Q. That -- that is exactly what I'm referring to.

1 A. Yes, ma'am.

2 Q. All right. So just for simplicity, I'm going
3 to refer to those page numbers to refer you to the
4 particular text messages I want to talk to. Okay?

5 A. Understood. Yes, ma'am.

6 Q. Great. And this is -- these are text messages
7 that you provided during the discovery of this case;
8 is that correct?

9 A. Ma'am, these are texts that I believe I did
10 provide, but, yes -- yes, ma'am, because I'm in
11 blue. That's correct. Yes, ma'am.

12 Q. Okay. And these have been redacted, correct?

13 A. Yes, ma'am.

14 Q. All right. So what I want to spend a minute
15 doing is, figuring out who's who based your
16 recollection. Okay?

17 A. Yes, ma'am.

18 Q. All right. I'm going to give you a pen so that
19 you can write the names of the individuals that are
20 redacted when we discuss it. Is that fair?

21 A. Yes, ma'am.

22 Q. Okay. All right. If you will look on page
23 772, the first page of the exhibit.

24 A. Yes, ma'am.

25 Q. At the top on October 24, 2015, at 8:09 a.m. --

1 I believe that's 8:09. Does that sound about right?

2 A. Ma'am, the very top of it is crossed off, but,
3 yeah, it looks like it's something like that in the
4 morning.

5 Q. And the white bubble is Erin Wingo's or the
6 text that Erin Wingo authored, correct?

7 A. Yes, ma'am. That's correct.

8 Q. And the dark bubbles are the text that you
9 authored; is that correct?

10 A. Yes, ma'am. That's correct.

11 Q. All right. So on October 24, 2015, Erin says
12 to you, "Facebook says it's your birthday," question
13 mark, correct?

14 A. Yes, ma'am.

15 Q. And you respond at 9:30 a.m., "Indeed it is"?

16 A. Yes, ma'am. That's correct.

17 Q. And she responds, "Happy birthday"?

18 A. Yes, ma'am. That's correct.

19 Q. And you respond, "Aww, thank you. Ha-ha-ha"?

20 A. Yes, ma'am. That's correct.

21 Q. So, again, establishing at this point y'all
22 have become friends; is that correct?

23 A. Yes, ma'am. That's correct. I think it was
24 established before that.

25 Q. Okay. But this is confirming that?

1 A. Yes, ma'am.

2 Q. Okay. And then we look at the very next text
3 message is October 25, 2015, about 1:20 in the
4 morning; is that correct?

5 A. Yes, ma'am. That's correct.

6 Q. All right. Now, again, this is blacked out so
7 help me -- correct me if I'm mistaken, but I believe
8 that's, "Drew, this is Erin's friend, Haley. Do you
9 know where her key is?" Is that accurate?

10 A. Yes, ma'am. It does seem accurate.

11 Q. Okay. Who is Haley?

12 A. I believe it's Haley Sinclair, Erin's friend.

13 Q. And she was a sorority sister of Erin's,
14 correct?

15 A. I believe so. Yes, ma'am.

16 Q. Yep. And she was one of the sorority sisters
17 Erin pre-gamed with on October 25, 2015, correct?

18 A. I don't recall exactly who she pre-gamed with,
19 but if that's the case, yes, ma'am.

20 Q. Okay. All right. So Haley at one o'clock --
21 at 1:20 in the morning is saying, "Hey, have you
22 seen Erin's key;" is that correct?

23 A. Yes, ma'am.

24 Q. Okay. And you don't see that until much later,
25 correct?

1 A. Yes, ma'am. That's correct.

2 Q. All right. So you don't respond to that text
3 message?

4 A. Yes, ma'am. Not at that time. That's correct.

5 Q. All right. And then at 10:45 a.m., Erin sends
6 you another text, correct?

7 A. Yes, ma'am.

8 Q. And we've heard a lot about this text. This is
9 the "Did you happen to see my key at all? Do not
10 tell -- and that's -- CJ what happened"?

11 A. Yes, ma'am.

12 Q. Will you place "CJ" there, and can you place
13 "Drew, Erin, and Haley" above?

14 A. Yes, ma'am.

15 MS. PORTER: Great. All right. And I believe
16 it's in. So Defense Exhibit 1 is -- I'd like to
17 move Defense Exhibit 1 into evidence.

18 THE COURT: Any objection?

19 MS. LAU: No objection.

20 THE COURT: All right. In without objection.

21 (Defendants' Exhibit No. 1 was previously
22 received into evidence.)

23 BY MS. PORTER:

24 Q. Sometimes text -- when you start pulling
25 electronic devices -- material off electronic

1 devices, it gets jumbled up, correct?

2 A. Yes, ma'am. That's correct.

3 Q. All right. So what I'm interested in is your
4 response to Erin. Hang on. Let me -- sorry. I
5 apologize.

6 A. That one's from September.

7 Q. That's the wrong one. Well, it's in evidence.
8 That's the wrong one. Give me a second. Well, not
9 to belabor the point, but you respond that you
10 hadn't seen it, correct?

11 A. Yes, ma'am. That's correct.

12 Q. Okay. And it, for some reason, did not show up
13 in the sequence of -- but you did respond, correct?

14 A. Yes, ma'am. That's correct.

15 Q. Okay. And then it's not until 6:40 p.m. that
16 evening that y'all have any more communication; is
17 that correct?

18 A. Aside from earlier responding to her text, yes,
19 ma'am. That's correct.

20 Q. So when you woke up that morning and see this
21 text from Erin, you respond, "No. I have not seen
22 the key;" is that correct?

23 A. Yeah, that I would not tell CJ. Yes, ma'am.

24 Q. And that you would not tell CJ. Anything else
25 that you recall since I can't put my hands on it

1 right now?

2 A. No, ma'am. I thought you had had it earlier,
3 but...

4 Q. I saw it too.

5 A. No, ma'am. Yes. You're correct.

6 Q. Okay. All right. And when we find it, we can
7 put it in.

8 A. Yes, ma'am.

9 Q. So do you recall -- I think you woke up around
10 2:00 p.m. that day. Does that sound right?

11 A. Yes, ma'am. I spent a significant amount of
12 time in bed that next day.

13 Q. Okay. So from 2:00 p.m. to 6:38 p.m., there's
14 no conversation between you and Erin?

15 A. Yes, ma'am. That's correct.

16 Q. All right. So you don't know what's happening
17 at that point?

18 A. Yes, ma'am. That's correct.

19 Q. Okay. You don't know if she's -- well, strike
20 that. All right. And then at 6:38 p.m., you send a
21 text message -- a screen shot of a text message to
22 Erin; is that correct?

23 A. Yes, ma'am. That's correct.

24 Q. And that screen shot is a text message between
25 you and CJ; is that correct?

1 A. Yes, ma'am. That's correct.

2 Q. All right. And in that particular text
3 message, you -- what you author is in dark and what
4 CJ -- excuse me -- authors is in white, correct?

5 A. Yes, ma'am. That's correct.

6 Q. All right. Will you please read for the jury
7 what you authored at -- on -- or what CJ authored to
8 you on 10/25 at 5:48 p.m.?

9 A. Yes, ma'am. CJ said, "Whether it was your
10 birthday or not, not too proud of you for taking
11 advantage of -- redacted, but it's Erin -- like you
12 did last night. The poor girl doesn't even remember
13 it."

14 Q. Okay. Will you please write "Erin" there?

15 A. Yes, ma'am.

16 Q. Okay. And you send that to Erin?

17 A. Yes, ma'am.

18 Q. All right. If you will flip the page and go to
19 773 for me.

20 A. (Complying.)

21 Q. All right. That's, again, another capture of
22 that screen shot, and then Erin's response; is that
23 correct?

24 A. Yes, ma'am. That's correct.

25 Q. And Erin responds to you, "Yeah, I know. He

1 told me. He told me he knew, not that he texted me,
2 and he's right. I don't remember it. I'm sorry.
3 Not all of it at least," correct?

4 A. Yes, ma'am. That's what's written.

5 Q. Okay. So she remembers some of it, but not all
6 of it pursuant to her text messages?

7 A. Yes, ma'am. That's correct.

8 Q. All right. And that is at roughly 6:48,
9 between 6:45 and 7:00 p.m., the night after y'all's
10 sexual encounter, correct?

11 A. I can say that was after 6:38 p.m. Yes, ma'am.

12 Q. Okay. Well, let's flip the next page.

13 A. (Complying.)

14 Q. So 774, and you respond -- why don't you read
15 your response for the jury, please?

16 A. I said, "You don't remember anything? Jesus,
17 dot, dot. I asked you countless times if you really
18 wanted to be with me, and you kept telling me you
19 wanted me and all of that."

20 Q. Okay. And then she says, "Wow. No, I really
21 don't remember that at all. I had way too much to
22 drink last night," correct?

23 A. Yes, ma'am. That's what's written.

24 Q. All right. And this is less than 24 hours
25 after the event, correct?

1 A. Yes, ma'am. That's correct.

2 Q. All right. And then you say what?

3 A. I say, "You literally told me mid-party that if
4 I didn't take you behind the doll house and make out
5 with you that you'd lose it because you wanted me."

6 Q. Okay. And that's -- that's consistent with
7 your testimony that she propositioned you and you
8 accepted, correct?

9 A. It's consistent with the fact that she'd been
10 the one to bring up sex that night and that, yes,
11 she was obviously interested in me as I was to her.

12 Q. Okay. All right. And then the next is Erin.
13 Again, is that "Drew" that's redacted? I'm sorry.
14 Yeah, Drew?

15 A. Yes, ma'am.

16 Q. All right. Why don't we put "Drew" right
17 there.

18 A. (Complying.)

19 Q. "I'm not holding it against you. If I said it,
20 I said it and you did what I thought I wanted. Do I
21 wish maybe you hadn't because I was so drunk? Yeah,
22 but I'm a little upset I was talked about in your
23 GroupMe. I'm not going to lie about that." Is that
24 how she responded to you?

25 A. Yes, ma'am. That's how she wrote it.

1 Q. All right. So this first real conversation you
2 two have about the events by the shed are through
3 text message; is that correct?

4 A. Yes, ma'am. That's correct.

5 Q. All right. Is it fair to say that that is
6 present sense impression? That is what you were
7 feeling and thinking at that time on October 25,
8 2015?

9 A. Yes, ma'am. That's -- that is what I was
10 thinking at that time. Yes, ma'am.

11 Q. Okay. And then -- so this conversation takes
12 place on Sunday some time after 6:38 p.m. Was it
13 kind of quick back and forth?

14 A. Ma'am, I don't recall whether it was quick back
15 and forth, but I would assume so. Yes, ma'am.

16 Q. All right. So then -- and I -- times are
17 difficult, so I'm -- so the sex occurs late on the
18 24th, early the morning of the 25th. Your first
19 real conversation about it is around -- between 6:30
20 and 7:00 on Sunday night and then early morning
21 hours of Monday morning.

22 So 12:09, right after midnight, 12:09 on Monday
23 morning -- Sunday night, Monday morning, you send
24 the following text. Why don't you read it for the
25 jury? I tell you what. Let me read it and then I'm

1 going to ask questions.

2 A. Yes, ma'am.

3 Q. All right. You say, "Just gonna say it." So
4 it's been six hours roughly -- five hours since your
5 last communication with her, because you -- you
6 didn't communicate with her between these text
7 messages and this one, correct?

8 A. No, ma'am.

9 Q. "Just gonna say a few things regarding last
10 night because" --- is that CJ's?

11 A. Yes, ma'am.

12 Q. All right. Why don't you put "CJ."

13 A. (Complying.)

14 Q. --- "CJ's up my ass about it." What do you
15 mean by that?

16 A. What I meant by that is, CJ was, you know,
17 trying to make this an issue. He was claiming that
18 Erin hadn't remembered anything, which was different
19 from the text I received with her saying, "Don't
20 tell CJ." The only thing I could think of that
21 night that was significant that she wouldn't want to
22 tell CJ is our consensual encounter, and CJ wouldn't
23 leave me alone.

24 Q. He wouldn't leave you alone?

25 A. Yes, ma'am.

1 Q. Okay. "It is the right thing to do and I want
2 to be left alone until tomorrow so I can study for
3 my test." What test did you have?

4 A. Ma'am, I'm not exactly sure. I think it was
5 maybe a communications test.

6 Q. Okay. Big -- but big test? You needed to
7 study, right?

8 A. Yes, ma'am. An exam.

9 Q. "I'm extremely sorry for last night." Did you
10 say that to her?

11 A. Yes, ma'am, I did. I felt bad because this was
12 obviously becoming an issue, and, clearly, she did
13 regret having consensual sex with me. It was clear
14 that night she was more interested in CJ. And I
15 think it believe -- I believe it comes out later on
16 in this text that she was still interested in CJ, so
17 I felt bad for impeding upon their relationship.

18 Q. Did you feel bad for impeding upon their
19 relationship or taking advantage of a drunk girl?

20 A. Impeding upon their relationship because as
21 I've said, you know, this was a consensual
22 interaction.

23 Q. "Although, I thought what I was doing was fine
24 at the time, it clearly was a mistake and I hope
25 you're okay." Did you say that to her?

1 A. Yes, ma'am, I did. What I was referring to
2 there is the fact that we shouldn't have hooked up
3 in that setting that night. You know, looking back
4 on it at that point in time, it was clear it was not
5 the appropriate time and place to have an intimate
6 interaction like that. And it was clear to me that,
7 you know, this was becoming something. And so, yes,
8 it was a mistake and I did feel bad.

9 Q. Clear it was not the time and place for an
10 intimate event. Let me ask you a question, wasn't
11 your roommate out of town on Saturday, October 24th?

12 A. Yes, ma'am. I believe he was.

13 Q. You go on to say, "Too, given what you were
14 saying to me, how you were acting and functioning up
15 until we were heading to -- back to the Compound
16 after, you did not seem too drunk to do what we
17 did." So is that, again, you saying that on the way
18 back she was too drunk?

19 A. No. That's me saying on the way back -- and,
20 again, as I had said before, this is a 19-year old
21 boy texting late at night, not being very articulate
22 in nature. She was very emotional on the way back.
23 Too drunk was what I was referring to. Like I had
24 said earlier, on the bad end of being drunk. It's
25 all encompassing the same point.

1 Q. "You were making coherent complete sentences,
2 not stumbling or leaning until we walked back,"
3 correct?

4 A. Yes, ma'am. And like I had said, it was a
5 rocky terrain and we were both supporting one
6 another. She was emotional and I was there to
7 support her. And so, yes, at that point we were
8 both stumbling walking back.

9 Q. "And that's when I knew you weren't okay."

10 A. Yes, ma'am. And this -- I want to explain
11 myself. Again, as I just said, that's when she was
12 starting to be emotional, crying for CJ.

13 Q. I just want to make sure I'm right. Your
14 testimony here today is, on the way back it's not as
15 if she's drunk. She's just super emotional and you
16 were supporting her emotionally?

17 A. Yes, ma'am. That's correct.

18 Q. Okay.

19 A. I cared about this woman.

20 Q. You cared about this woman?

21 A. Yes, ma'am. I did. I think I had explained
22 that earlier when I had said that we were developing
23 feelings for one another. And I can't speak for
24 her, but I can for myself.

25 Q. Okay. You go on to say, "Also, I honest to God

1 did not -- did -- did ask for consent and everything
2 after, every step after leaving the Compound,"
3 correct?

4 A. Yes, ma'am.

5 Q. "By the time I was texting my pledge brother --
6 and let's -- if you'll move on to page 776. That's
7 got the full text. I'll start again. It's after
8 the three in your text.

9 A. Yes, ma'am.

10 Q. You there?

11 A. Yes, ma'am.

12 Q. Okay. "By the time I was texting my pledge
13 brother, who also put the screen shot in the
14 GroupMe, I was unbelievable backed out -- blacked
15 out." All right. Do you know what time that was
16 that he put it into the GroupMe?

17 A. No, ma'am. I don't recall what time it was.

18 Q. Okay. "I sent multiple texts to not only him,
19 but to others, including my ex-girlfriend from
20 freshman year of high school and also the love of my
21 life so far that also lives in" -- and it doesn't
22 matter what -- where that is. "To one -- the one to
23 my pledge brother was not the only one that
24 mentioned what happened, but not even the
25 conversation with him mentioned your name." I want

1 to ask you about that.

2 A. Yes, ma'am.

3 Q. Who else did you text about having sex on your
4 birthday?

5 A. Ma'am, I don't recall texting anyone else
6 besides from Jon.

7 Q. The text message says you did.

8 A. Well, no. The text message says I texted my
9 ex-girlfriend. It was clear to me that Erin still
10 cared about CJ. You know, I was still trying to
11 find my person too. That was the first person I had
12 ever really truly loved in this life, at least in
13 the sense to what I knew love to mean. But, again,
14 I believe we did an ESI production and it would've
15 come back to that text.

16 Q. We don't have any other text messages from your
17 ESI production that mentioned the encounter.

18 A. That's because I didn't. I didn't talk about
19 it, aside from those individuals and in person with
20 Matt.

21 Q. All right. I'm just going to reread the
22 sentence.

23 A. Yes, ma'am, but, again ---

24 Q. Let me reread the sentence, then you can tell
25 me whatever you want to tell me.

1 A. Yes, ma'am.

2 Q. "The one to my pledge brother was not the only
3 one that mentioned what happened, but not even that
4 conversation with him mentioned your name, nor has
5 it been besides between me and you and" -- is that
6 CJ?

7 A. Yes, ma'am. I believe it is.

8 Q. --- "CJ." All right. I'm just asking other
9 than the one you say was not the one -- wait. The
10 one -- I -- I apologize. I apologize. I misread
11 this.

12 A. Okay.

13 Q. I apologize.

14 A. Yes, ma'am.

15 Q. All right. "The one to my pledge brother was
16 the only one that mentioned what happened with him."
17 Okay. I apologize.

18 All right. So in this you're talking -- and
19 you go on to say, "It has been besides between me,
20 you, and CJ." All right. So in that particular
21 moment at 12:09 on Monday morning, early, early,
22 early Monday morning, you're saying that only three
23 people know about this event, correct?

24 A. I'm saying as far as texts go, yes, ma'am, but
25 obviously I had spoken with Ben the night of the --

1 the night in question.

2 Q. Okay. And it had been distributed to your
3 GroupMe to 31 pledge brothers?

4 A. It had been distributed, but Erin's name has
5 not been included. I hadn't gone out of my way to
6 make that private text something that was involved
7 with everyone in the GroupMe.

8 Q. "I'm sorry again about what happened. I hope
9 we can figure this out and take care of it
10 properly." What would've been "taking care of it
11 properly"?

12 A. The truth that it was a consensual encounter
13 and that this was not something that was rape.
14 Taking care of it properly would be allowing us to
15 move forward without it being an issue, which I
16 believe it should've gone forward without being an
17 issue.

18 Q. Without being an issue?

19 A. Yes, ma'am.

20 Q. Okay. Let's turn to page 777, because that's
21 got her full response. It starts on 776, but 777
22 has got the full response from Erin. Okay.

23 Now, she is sending this and that's what you
24 get from 776. You'll see that she's sending it on
25 October 26th at 9:20 a.m. So she didn't respond for

1 nine hours, correct?

2 A. Yes, ma'am. That's correct.

3 Q. All right. And so that morning -- midmorning
4 now, 9:20 in the morning, Erin says, "Okay. So
5 here's my response, but don't read it until you're
6 done with your test," correct?

7 A. Yes, ma'am. That's correct.

8 Q. All right. You said I need to study for my
9 test, so she's saying don't read this until after
10 your test, but here's my response to you, correct?

11 A. Yes, ma'am. I think she just had assumed that
12 my test was that important. Yes, ma'am.

13 Q. Well, you say it in the text, right?

14 A. The night before, yeah, I said I was studying
15 for a test.

16 Q. Right. All right. "I don't blame you for it.
17 I told you that's what I wanted and I believed you
18 when you say that you kept asking me if it was okay.
19 I'm going to be okay. I'm mad at myself for letting
20 it happen and honestly I know I shouldn't be, but
21 I'm a little upset with you for not stopping me.
22 But like I said, I told you it's what I wanted.
23 What I remember is making out behind something. You
24 talking to someone. The wall of apparently what was
25 a garage. Then crying walking back."

1 I'm going to stop right there for a second.

2 This event occurs in morning -- early morning hours
3 of October 25th. And a little more than 24 hours --
4 barely more than 24 hours later, Erin is telling you
5 exactly what she remembered; is that correct?

6 A. Yes, ma'am. But it doesn't include the
7 information about why she didn't want me to tell CJ.

8 Q. Okay. I agree with you.

9 A. And I have explained that, so I won't go into
10 it.

11 Q. No, no, no. That's a good point, and I want to
12 talk about that.

13 A. Yes, ma'am.

14 Q. It doesn't explain why she asked you not to
15 tell CJ, correct?

16 A. That's correct. Yes, ma'am.

17 Q. And you had no conversation with her between
18 that text message -- no phone conversation, no
19 in-person conversation with her between that text
20 message and this text message, did you?

21 A. That's correct. Yes, ma'am.

22 Q. Okay. So she didn't have an opportunity to
23 explain to you what she meant by "don't tell CJ"?

24 A. That's correct. Yes, ma'am.

25 Q. All right. So all this testimony that you've

1 given about that is speculation as to what Erin
2 intended, correct?

3 A. If that's how you'd like to look at it, yes,
4 ma'am.

5 Q. That is how I want to look at it. I'm asking
6 how you look at it.

7 A. I've explained how I look at it. That night
8 with Erin, there wasn't anything other than the
9 consensual sex that I felt like she would want to
10 withhold from CJ.

11 Q. Okay.

12 A. Yes, ma'am.

13 Q. All right. Now, back to this. You've sent her
14 the screen shot from CJ. CJ is fussing at you for
15 taking advantage of a drunk girl and she confirms,
16 "I don't remember it, not all of it," and then tells
17 you what she remembered, correct?

18 A. Yes, ma'am. That's correct.

19 Q. Okay. She goes on to say, "I'm glad that my
20 name wasn't said, so that makes me feel better.
21 Like I said, I don't blame you and I'm not going to
22 hold it against you. I'm just going to need time to
23 figure it out and to forgive myself, because as much
24 as I say I might be over" --- is that CJ?

25 A. Yes, ma'am. That's correct.

1 Q. Will you write CJ on there?

2 A. Yes, ma'am.

3 Q. --- "that's so not true in any way. And I'm
4 sorry you got in the middle of it, but thank you for
5 texting me;" is that correct?

6 A. Yes, ma'am. That's what's written in the text.

7 Q. All right. So let me just make sure I'm clear,
8 and then we're going to move on. When you say on
9 page 776 that to one -- the one to my pledge brother
10 is the only one you mentioned that mentioned what
11 happened, not even the conversation with him
12 mentioned your name, you're referring only to text
13 messages?

14 A. You're asking about my text message to my
15 pledge brother?

16 Q. I'm just clarifying this text that you sent to
17 Erin ---

18 A. Yes, ma'am.

19 Q. --- is now -- your testimony is that you're
20 only referring to text messages?

21 A. I'm referring to the text messages. Yes,
22 ma'am.

23 Q. That you sent, correct?

24 A. Yes, ma'am.

25 Q. All right. So you didn't tell her that you had

1 told Ben Zboray?

2 A. No, I didn't. It was all about the text at
3 that point in time.

4 Q. The GroupMe that had been put -- the text
5 message that had been put into the GroupMe?

6 A. Yes, ma'am.

7 Q. All right. I'm just clarifying to make sure I
8 understand. All right. Beg the Court's indulgence.

9 All right. I've marked for identification
10 purposes Defendants' No. 5. And these are -- it's
11 kind of light. I think we can muddle through --
12 text messages between you and CJ Gahagan. All
13 right. I'm only marking the first two pages. All
14 right. I am going to hand you what's been marked as
15 State's Exhibit No. 5 and ask if you can -- if you
16 recognize that.

17 MR. GRANTLAND: Objection to the word "State's
18 exhibit."

19 MS. PORTER: I'm sorry. I -- I apologize.
20 Defense exhibit.

21 THE COURT: Is there any objection?

22 MR. FIGLIOZZI: Not to calling it defense
23 exhibit.

24 THE COURT: No objection to the exhibit?

25 MR. FIGLIOZZI: No, Your Honor.

1 THE COURT: All right.

2 BY MS. PORTER:

3 Q. All right. Okay?

4 A. Yes, ma'am.

5 Q. Do you recognize that?

6 A. Yes, ma'am, I do.

7 Q. Is that a text exchange between you and CJ
8 Gahagan?

9 A. Yes, ma'am. That's correct.

10 MS. PORTER: All right. At this time, Your
11 Honor, I'd like to enter in State's -- excuse me --
12 Defense Exhibit No. 4 [sic].

13 THE COURT: I think they've already said there
14 was no objection.

15 (Defendants' Exhibit No. 5 was received into
16 evidence.)

17 BY MS. PORTER:

18 Q. Okay. This encompasses the screen shot that
19 you sent to Erin, correct?

20 A. Can you clarify which part you're referring to
21 because I don't believe I said all of this to Erin?

22 Q. I believe you're correct, but it -- but this
23 first page encompasses the portion that you sent to
24 Erin, correct?

25 A. Yes, ma'am. You're talking -- okay. Yes,

1 ma'am. That's correct.

2 Q. All right. So if you'll look at 10/25, 5:47
3 p.m.

4 A. Ma'am, I can't see any times.

5 Q. It is -- it is light. I do apologize for the
6 light version.

7 A. I can't see any ---

8 Q. All right. I'll tell you what, let's switch
9 you out. All right. Is that a better copy?

10 A. Yes, ma'am. I can see the times.

11 Q. All right. Tell us when -- what time CJ texted
12 you, "Whether it's your birthday or not, not too
13 proud of you for taking advantage of Erin like you
14 did last night."

15 A. That text came to me on the 25th of October,
16 2015, at 5:47 in the evening.

17 Q. Okay. And you do not respond, correct?

18 A. Yes, ma'am. That's correct.

19 Q. Okay. And then at -- later that evening, you
20 do respond, correct?

21 A. Yes, ma'am. That's correct.

22 Q. What do you say and what time -- well, let's
23 start with what time did you respond?

24 A. I can't say for certain what time I responded,
25 but I know CJ had asked me to explain myself around

1 11:43 at night.

2 Q. Okay. Do you recall if you responded right
3 away or no?

4 A. I do not recall, no.

5 Q. Okay. But you responded -- well, why don't you
6 read to the jury how you responded?

7 A. Yes, ma'am. So I responded, "Honestly, I have
8 a huge test tomorrow in COM, so I don't have time to
9 explain myself. I didn't take advantage of her, CJ.
10 I couldn't even tell if she was blacked out, but
11 before she told me that she didn't remember anything
12 today, nor did I know that she was drunk because,
13 one, she could complete sentences in a coherent
14 manner and, two, she was not stumbling all over the
15 place until I was back with -- walking with her to
16 the pound. I proceeded with complete caution in
17 asking her for consent on everything. Believe it or
18 not, I don't exactly care because it's what
19 happened, but she approached me at the party and
20 insisted on taking things further."

21 Q. Insisted on taking things further. That's what
22 you told CJ?

23 A. Yes, ma'am. That's correct.

24 Q. Okay. All right. And then let's talk about
25 CJ's response to you. He says, "I'm not trying to

1 fight with you now, but that's a load of bullshit.
2 The girl has barely any recollection of Saturday
3 night, and she was crying her eyes out all day
4 today. I know that we're not together or any shit
5 like that and it's probably not my place to get mad
6 at you, but, honestly, as your pledge brother, what
7 you did the other night could be classified as rape.
8 I'm not saying that to scare you or any shit like
9 that. For all we know, Erin actually could have
10 been" -- and if you'll turn the page -- if you'll --
11 if you'll go halfway down, it starts at four.

12 A. Yes, ma'am. I'm following.

13 Q. All right. You're following. "For all we
14 know, Erin actually could've been fine, but talking
15 to her sisters about how much she drank, that is
16 definitely not the case. I guess what pisses me off
17 more is the fact that you felt the need to text Stod
18 about it the next morning and made it seem like she
19 was just some random slut you fucked in a garage.
20 We're all going to have sex here, and we're all
21 going to hook up with girls. I was just extremely
22 pissed off with how it was handled after the fact,
23 and I was able to put the pieces together that it
24 happened without even asking you straight-up. We're
25 told to respect girls no matter what, and I just

1 don't feel that respect was given to Erin. When a
2 dear -- when a girl hears that she was fucked in a
3 garage, she is not going to be proud of that no
4 matter who she is. I could be overreacting because
5 of how close I am to her, but I just believe it was
6 very disrespectful." Is that what he said to you?

7 A. Yes, ma'am. That's his text to me.

8 Q. Okay. All right. And then you say, "Okay.
9 Well, I was also blacked out and didn't even know I
10 texted Stod until this morning by that point, but,
11 great, CJ, we'll talk tomorrow. I have a test to
12 study for like I said." Now, that is on the Sunday
13 after the event, correct?

14 A. Yes, ma'am. That's correct.

15 Q. All right. And CJ did use the word "rape,"
16 correct?

17 A. Yes, ma'am. He did.

18 Q. But he used it to you, correct?

19 A. Yes, ma'am. He did.

20 Q. He didn't text Ben Zboray, did he?

21 A. No, ma'am. I don't know if he did.

22 Q. Well, that day, he didn't text Ben Zboray that
23 day, did he?

24 A. Ma'am, I have no idea.

25 Q. Okay. Are you aware of any texts to any other

1 fraternity brother that day from CJ?

2 A. No, ma'am. I'm not.

3 Q. He came directly to you, correct?

4 A. Yes, ma'am.

5 Q. And the conversation between you and Erin over
6 text that day directly to you, correct?

7 A. Yes, ma'am. That's correct.

8 Q. And Erin didn't use rape, did she?

9 A. No. But she referred to what CJ was saying was
10 rape. So, no, she did not use the word rape.

11 Q. She didn't use the word rape, but she did say,
12 "I was drunk," correct?

13 A. Yes, ma'am. She did.

14 Q. "I wish you had stopped me," correct?

15 A. Yes, ma'am. She said that.

16 Q. And that she didn't remember it all, correct?

17 A. Yes, ma'am. In that text message, that's what
18 she said.

19 Q. And she even told you the little bits that she
20 did remember, correct?

21 A. Yes, ma'am. She did include that in her text.

22 Q. All right. Now, after your conversation over
23 text with CJ, CJ texted into the GroupMe, correct?

24 A. Yes, ma'am. That's correct.

25 Q. All right. And you received a copy of the text

1 into the GroupMe, correct?

2 A. Yes, ma'am. That's correct.

3 Q. Make sure I'm getting my numbers right. This
4 is six for identification purposes only. I'm going
5 to hand you a copy of the message that was sent into
6 the GroupMe as well as your response. Do you
7 recognize that?

8 A. Yes, ma'am. I do.

9 Q. Okay. And this is for identification purposes
10 only. CJ, can you tell the jury what time he texted
11 into the GroupMe?

12 A. You said, "CJ, can you tell the jury."

13 Q. I'm sorry.

14 A. So Drew.

15 Q. Drew, can you please tell me -- tell the jury
16 what time CJ texted into the GroupMe?

17 A. Yes, ma'am, I can. You know what? I can only
18 tell you what time he wrote this note, which was at
19 2:47 p.m.

20 Q. All right. So he authored it 2:47 p.m.?

21 A. Yeah, and that was actually on October 25,
22 2015, so that would've been month.

23 Q. Okay. The 25th or 26th?

24 A. It says 26th on here.

25 Q. Okay. So you have this text exchange with him

1 on the 25th, and you talked to Erin about it on the
2 26th?

3 A. Ma'am, I'm not -- I'm not following you. I'm
4 sorry.

5 Q. All right. All right. Hang on. We just went
6 over Defense Exhibit 5 ---

7 A. Yes, ma'am.

8 Q. --- which is a conversation between you and CJ
9 on Monday -- excuse me -- Sunday the 25th, correct?

10 A. Yes, ma'am. That's correct.

11 Q. All right. And this is -- so this is the
12 following day?

13 A. Yes, ma'am.

14 Q. Monday the 26th?

15 A. Yes, ma'am.

16 Q. That's all I'm trying to establish. All right.
17 And so he writes -- CJ writes, "Guys, I feel like
18 this should go without saying, but we need to
19 respect girls. We all complain about what older
20 brothers do to scare away girls, and are failing to
21 realize some of the shit we do ourselves. I've
22 heard things from multiple girls about how they are
23 not happy with the way they are treated at the
24 Compound. We all talk this big talk about how we
25 want to make this fraternity better, and

1 disrespecting just one girl could make that all
2 impossible. I think it's sad that I have to say
3 this in the first place." Is that an accurate
4 depiction of what CJ posted into the GroupMe?

5 A. Yes, ma'am.

6 Q. All right. Do me a favor, flip the page.

7 A. (Complying.)

8 Q. All right. Read -- are you Pamp Charleston,
9 SC?

10 A. Yes, ma'am. I am.

11 Q. You having a hard time seeing that copy?

12 A. Yes, ma'am.

13 Q. All right. I'm going to show you my copy.
14 What does it say at the bottom? Read your response
15 to the jury.

16 A. My response is to CJ Gahagan, "Fuck off, dude.
17 Girls are fine. Next time, don't let your girl
18 hookup with your pledge brothers."

19 Q. Now, at this time it was well known among your
20 pledge class, was it not, that Erin and CJ had a
21 thing?

22 A. You know, honestly, I can't answer that.

23 Q. You can't answer that?

24 A. No. I mean, at this point, he's referring to
25 his -- I'm referring to his girl, but I'm not aware

1 if any of the other pledge members knew Erin. I
2 can't account that for certain.

3 Q. Okay. The day before Jon Stoddart puts in the
4 GroupMe you -- he puts your statements in the
5 GroupMe about fucking a girl by the garbage. On
6 Monday, you put in a GroupMe who it is, it's CJ's
7 girl, don't you?

8 A. Yes, ma'am. But like I had said yesterday, I'm
9 not going to say that, but it wasn't an exclusive
10 relationship between CJ ---

11 Q. I'm not talking about exclusive relationships.
12 I'm talking about publishing who you fucked by a
13 garbage thing to 31 of your brothers, and then suing
14 my client for defamation. Isn't that what's
15 happened?

16 MS. LAU: Objection. It's a
17 mischaracterization of the testimony.

18 THE COURT: Yeah, sustained.

19 BY MS. PORTER:

20 Q. I'll move on. Yesterday you testified that as
21 a result of my client's false allegations, you
22 suffered damages?

23 A. Yes, ma'am. That's correct.

24 Q. Okay. And you -- but you were able to secure
25 admission to the College of Charleston to complete

1 your academic career, correct?

2 A. Yes, ma'am. I had to take some steps back and
3 fulfill some further requirements, but, yes, ma'am,
4 I was able to complete my undergraduate degree.

5 Q. And you discussed how you were unable to obtain
6 a degree from the prestigious Clemson University,
7 correct?

8 A. Yes, ma'am. That's correct.

9 Q. All right. Did Clemson University ever tell
10 you that you could not return?

11 A. No, ma'am. But there was some contingencies
12 that, frankly, I didn't agree to.

13 Q. Okay.

14 A. I didn't want to put myself through that.

15 Q. Okay. But they didn't tell you you couldn't
16 come back?

17 A. No, ma'am.

18 MS. PORTER: Beg the Court's indulgence. Mark
19 this as Defense Exhibit 6.

20 THE REPORTER: (Complying.)

21 BY MS. PORTER:

22 Q. Do you recognize Defense Exhibit No. 6?

23 A. Yes, ma'am, I do. Can I scan it real quick?

24 Q. Sure.

25 A. Thank you. (Reading.) Okay. Thank you,

1 ma'am.

2 Q. Okay. All right. Yesterday you testified that
3 you self-reported to the College of Charleston; is
4 that correct?

5 A. Yes, ma'am. That's correct.

6 Q. Okay. And you testified that it was upon the
7 advice of counsel; is that correct?

8 A. Yes, ma'am. That's correct.

9 Q. All right. So I want to ask you a couple of
10 questions about that. When you applied to the
11 College of Charleston, you had been subject -- well,
12 this had -- let me back up. On October 27, 2015, an
13 anonymous report was made to Clemson about the
14 sexual encounter between you and Erin; is that
15 correct?

16 A. Yes, ma'am. That's correct.

17 Q. All right. And in the -- when -- when did you
18 apply to the College of Charleston?

19 A. Ma'am, this record says April 16, 2016.

20 Q. All right. And you were still at Clemson at
21 that time, correct?

22 A. Yes, ma'am. That's correct.

23 Q. Okay. And the question on the application, if
24 you'll go to 929 -- page 929.

25 A. Yes, ma'am.

1 Q. The very bottom of that page it asks, "Have you
2 ever been" -- and I'm going to paraphrase --
3 "subject to any disciplinary sanction from any
4 school?" And you answered "no."

5 A. Yes, ma'am. That's correct.

6 Q. Upon advice of counsel, correct?

7 A. Upon the advice of counsel, yes, ma'am. That's
8 correct.

9 Q. Because the decision that Clemson made hadn't
10 been finalized, correct?

11 A. I had not been suspended from Clemson. That's
12 correct.

13 Q. At that -- well, at that time?

14 A. At that time. Yes, ma'am.

15 Q. Okay. All right. Now, you testified yesterday
16 that you self-reported after the suspension was
17 finalized; is that correct?

18 A. Yes, ma'am. That's correct.

19 Q. All right. That's not really true, is it?

20 A. No. We didn't have to self-report. That's
21 correct.

22 Q. I think you said it correct then.

23 A. It was prompted. Yes, we did report it to the
24 College of Charleston.

25 Q. Why was it prompted by the College of

1 Charleston?

2 A. That's a very good question. We had had
3 someone reach out from Clemson to College of
4 Charleston who then contacted me.

5 Q. Okay. So just to be clear because it's a
6 defamation case, Erin Wingo did not contact the
7 College of Charleston, did she?

8 A. Not that I'm aware, ma'am. No.

9 Q. CJ Gahagan did not contact the College of
10 Charleston, did he?

11 A. No, ma'am. Not that I'm aware.

12 Q. David Wingo did not contact the College of
13 Charleston, did he?

14 A. No, ma'am. Not that I'm aware.

15 Q. All right. Were you kicked out of the College
16 of Charleston?

17 A. No, ma'am. I was not.

18 Q. As a matter of fact, you not only were not
19 kicked out of College of Charleston, you were
20 graduated from College of Charleston and received a
21 masters in business administration with a
22 concentration in finance from College of Charleston,
23 correct?

24 A. Yes, ma'am. That's correct. I had to reply to
25 the graduate school of course. Yes, ma'am.

1 Q. And this didn't affect your ability to gain
2 entrance into the College of Charleston or gain
3 entrance into their masters program, did it?

4 A. Well, I think it's important to note on the
5 record that it's not as simple as gaining entrance.
6 To get to a graduate school in particular,
7 especially in a degree such as biochemistry, I
8 really had to put a lot -- a lot of work in.

9 And the one thing that hasn't been noted and I
10 don't plan on touching about it because it's not
11 necessarily relevant to proving my case here, but
12 think about every day bearing the weight and the
13 accountability of other individuals for actions that
14 you did not commit and that were criminal in nature.

15 It doesn't justify -- this right here does not
16 explain what I had to wake up with every single day
17 and burden on myself in order to overcome the
18 adversity that I faced and to become successful.
19 I've refused to quit. That's my nature. So, yes, I
20 was able to get into graduate school, but it was not
21 easy. Anything but that.

22 Q. So you're overcoming this adversity by
23 manipulating the situation and applying to a new
24 school before the decision from Clemson is final?

25 A. No, ma'am. I did not ---

1 MS. LAU: Objection. Mischaracterization.

2 THE COURT: I'm going to -- I'm going to let
3 her ask that question.

4 THE WITNESS: No, ma'am. I did not manipulate
5 the system. I was going under the counsel -- advice
6 from my counsel. I had not been suspended from
7 Clemson at that point. Given my experience at
8 Clemson, I did not want to be at that university at
9 that time because I did not feel safe, but that's
10 different from the prestige and the nature of the
11 university as a whole and what I embodied it to be.

12 BY MS. PORTER:

13 Q. Okay. Just want to be clear. You did not
14 manipulate the system?

15 A. Ma'am, I did not manipulate the system. That's
16 correct.

17 Q. Are you familiar with an e-mail that your
18 mother sent to the FACE, F-A-C-E, group support chat
19 detailing how you manipulated the situation to gain
20 entrance into the College of Charleston?

21 MS. LAU: Objection. This is in violation of
22 your order.

23 THE COURT: Yeah, I'm going to sustain the
24 objection. I mean, it's not -- not an e-mail from
25 him.

1 BY MS. PORTER:

2 Q. Okay. Are you aware -- strike that. Did you
3 work with your mother to apply to the college of
4 Charleston before Clemson's decision was final in
5 order to answer "no" to that question?

6 A. Can you rephrase your question, because I'm
7 kind confused on what exactly you're asking me.

8 Q. Sure. Did you and your attorney and your mom
9 work together to apply to the College of Charleston
10 prior to Clemson's decision being final in order to
11 be able to answer that question "no"?

12 A. I think the main intention for us was to find a
13 way for me to continue my education, to stay my
14 dream of becoming a physician or a dentist and later
15 on an orthodontist. We received advice from my
16 counsel, so that's what my mother thought to do to
17 gain acceptance.

18 MS. PORTER: Thank you. Let's talk about the
19 dental school application.

20 Your Honor, at this time I'd like to enter in
21 State's -- Defendants' Exhibit No. 6 for -- into the
22 evidence.

23 THE COURT: Any objection?

24 MS. LAU: Is she referring to College of
25 Charleston, because we object to that being moved

1 in. She asked about it. We object about it being
2 moved. You can't ask -- you can't have specific "X"
3 under Rule 608. This is bad character evidence.

4 MS. PORTER: It's his application. It's his
5 statement against interest.

6 THE COURT: Let me review it. (Reviewing.)
7 I'm going to allow it in.

8 MS. PORTER: Thank you, Your Honor.

9 (Defendants' Exhibit No. 6 was received into
10 evidence.)

11 BY MS. PORTER:

12 Q. Similarly, on the dental school application,
13 there's a question asking had you ever been subject
14 to a disciplinary action at a school; is that
15 correct?

16 A. Yes, ma'am. That's correct.

17 Q. Okay. And just for the record, the nine
18 schools -- dental schools that you applied to, Erin
19 Wingo never made a comment to any of those schools,
20 did she?

21 A. I would have no way of knowing that, ma'am.

22 Q. CJ Gahagan never made a comment to any of those
23 schools, did she -- did he?

24 A. The same response, ma'am. I have no idea.

25 Q. And David Wingo never made a comment to any of

1 those dental schools, did he?

2 A. Same response, ma'am.

3 Q. Did you ever tell them where you applied?

4 A. No, ma'am. I did not.

5 Q. Okay. Yesterday, you also testified -- and let
6 me -- let me make sure I say it right. I wrote it
7 down -- regarding damages.

8 A. Yes, ma'am.

9 Q. And you -- and you just repeated it a moment
10 ago, the burden that this has had on you.

11 A. Yes, ma'am.

12 Q. All right. And I believe you said that it
13 was -- has been extremely difficult being known as
14 someone who raped another individual, correct?

15 A. Yes, ma'am. That's correct. It's limited my
16 ability to develop relationships.

17 Q. And to socialize, correct?

18 A. Yes, ma'am. That's correct.

19 Q. Okay. Is it fair to say that we have lots of
20 text messages that have been provided between the
21 parties for this case?

22 A. Yes, ma'am. That's fair to say.

23 Q. All right. Do you recall after October of
24 2015, before you left school at Clemson in June of
25 2016 to the end of that school year, do you recall

1 text messages about going out and socializing with
2 your fraternity brothers?

3 A. Yes, ma'am. I do recall.

4 Q. So you didn't have any problem going back to
5 Phi Delta Theta and attending parties, did you?

6 A. No, ma'am. With the fraternity in particular,
7 that had become my family at Clemson. They were my
8 brothers. You know, they knew that I was having a
9 difficult time, so, no, I felt comfortable with that
10 group.

11 Q. But isn't it true that CJ is the only
12 fraternity brother that said to you, "I don't
13 appreciate you taking advantage of a drunk girl,"
14 right?

15 A. Well, as a pledge brother, no, he was the only
16 one who said that.

17 Q. He was the only one? Were there other
18 fraternity brothers that said that to you?

19 A. No, ma'am.

20 Q. As a matter of fact, quite the opposite
21 happened, didn't it? They supported you, didn't
22 they?

23 A. Yes, ma'am. That's correct.

24 Q. Yeah, as a matter of fact, we can go through
25 it, but there are text messages between you and all

1 your fraternity brothers referencing this incident
2 from -- starting on November 5, 2014, through
3 April 28, 2017; isn't that right?

4 A. Yes, ma'am. That's correct.

5 Q. So there are text messages with Christian.
6 Who's Christian?

7 A. Christian Riffy I think is who you're referring
8 to.

9 Q. A pledge brother of yours?

10 A. Pledge brother. Yes, ma'am.

11 Q. Who's Scottie? Is that Scottie Rucks?

12 A. Yeah, Scottie Rucks. Also another pledge
13 brother.

14 Q. Where y'all discuss this incident, is it not?

15 A. You know what, ma'am, yeah, absolutely. There
16 are a select few individuals that I did confide in
17 about this event.

18 Q. All right. How many individuals did you
19 confide with?

20 A. Out of the pledge class, I was pretty close
21 with a lot of the individuals, but I would say
22 there's probably about a handful, either five or six
23 or seven I really did confide in.

24 Q. Okay. So you published to all that handful,
25 five or six, correct?

1 A. Yeah, about the consensual interaction. Yes.
2 Absolutely.

3 Q. Okay. And you also reached out to the
4 entire -- didn't you address your entire pledge
5 class and tell them what was going on?

6 A. At some point, yes, ma'am. I -- I needed
7 people to be able to account for that night and who
8 had witnessed Erin and her state of mind before and
9 after. Yes, ma'am, I did.

10 Q. All right. So you asked for help, correct?

11 A. Yes, ma'am, I did.

12 Q. And that fraternity supported you, correct?

13 A. Yes, ma'am. That's correct. They did support
14 me.

15 Q. And they blackballed CJ, correct?

16 A. Ma'am, with all due respect, I don't think it
17 was specifically about this event as to why he was
18 blackballed. And I can't speak for them, but I
19 don't personally think it's the main factor.

20 Q. Okay. Well, I guess what I'm trying -- and we
21 can go through all these text messages if you'd
22 like, but my -- I guess my real question here,
23 Mr. Pampu, is: You got up on the stand yesterday
24 and you said, "I was prevented from developing a
25 brotherhood at this fraternity" because of what my

1 client said. Do you remember saying that?

2 A. Yes, ma'am. But I was referring to the
3 national fraternity which encompasses organizations
4 on every single institution if that's where they
5 have a chapter across all states in this country.
6 Yes, ma'am.

7 Q. But when, in fact, you just testified that the
8 fraternity supported you. Is that not true?

9 A. Ma'am, it was until they suspended me and
10 removed my membership to the organization.

11 Q. All right. But we don't know why Phi Delta
12 Theta suspended you, do we?

13 A. No, ma'am. I think it's pretty clear why they
14 did.

15 Q. Why did they do that?

16 A. Because David Wingo said I had raped his
17 daughter and then contacted headquarters nationally.

18 MS. PORTER: Your Honor, I think we have a
19 matter of law.

20 THE COURT: Ladies and gentlemen, it's time to
21 take a break, and we'll try to also figure out what
22 our lunch schedule is going to be. So at this time
23 if you'll go back to your jury room and we'll bring
24 you back out in just a few minutes, but do not
25 discuss the case.

1 (At 11:56 a.m., jury left the courtroom.)

2 THE COURT: Yes.

3 MS. PORTER: Dave Wingo provided the outcome
4 letter to Phi Delta Theta.

5 THE COURT: Yeah, but, I mean, we've already
6 addressed -- I thought we addressed that already.

7 MS. PORTER: I guess I'm just preserving the
8 record.

9 THE COURT: Okay.

10 MS. PORTER: I have a duty to defend my client.
11 He has just testified that as a result of Dave
12 Wingo's statement that his daughter was raped, he
13 was expelled from Phi Delta Theta and that's not
14 what happened. What happened is, he provided a
15 letter which encompassed the Clemson findings.

16 THE COURT: Along with a lot of other things.

17 MS. PORTER: Yes. But the Clemson findings is
18 that Erin Wingo was unable to consent to sex. You
19 can't -- it's not in a vacuum. In order to fully --
20 he has testified that as a result of this, he has no
21 national brotherhood and support group and
22 networking group and that he can't get into dental
23 school, so they're -- they're going to be
24 considering whether or not my clients owe him salary
25 for an orthodontist position for the rest of their

1 lives. We have a duty to defend. They owe ---

2 THE COURT: I think you've defended it. I
3 don't think they opened the door by responding to
4 your question. So you protected your record, and
5 I'm going to -- I'm not changing my ruling on that
6 exhibit.

7 MS. PORTER: He testified to it on direct
8 examination.

9 THE COURT: All right. And I made my ruling.

10 MS. PORTER: Okay.

11 THE COURT: How much longer do you plan to be?

12 MS. PORTER: If I could just consult with my
13 co-counsel. I may not -- I may be done.

14 (From 11:58 a.m. to 12:04 p.m., brief recess.)

15 THE COURT: I'm not trying to cut anybody off,
16 but I plan on telling this jury we're going to
17 finish before lunch. I know they may have reply as
18 well.

19 MR. MOORE: My cross-examination is not going
20 to take long.

21 THE COURT: All right. Bring the jury back.
22 Is the plaintiff ready? Go ahead and come back up.

23 THE WITNESS: (Complying.)

24 (At 12:04 p.m., jury entered the courtroom.)

25 THE COURT: All right. Everybody be seated.

1 THE JURORS: (Complying.)

2 THE COURT: All right. Ladies and gentlemen,
3 we've talked to the attorneys. We're going to
4 finish up this witness and then we'll break for
5 lunch. All right. You may proceed.

6 BY MS. PORTER:

7 Q. Mr. Pampu, I just have three more questions for
8 you. Your testimony here today that the false
9 allegations made by my client, Erin Wingo, are what
10 caused you to be suspended from Clemson, correct?

11 A. Yes, ma'am. They worked together, the
12 defendants did. And their false statements led to
13 my suspension from the university and from the
14 fraternity. Yes, ma'am. That's correct.

15 Q. The defendants being Erin Wingo and CJ Gahagan?

16 A. And Dave Wingo. Yes, ma'am.

17 Q. From Clemson?

18 A. From -- from the fraternity, all three, from
19 the university and CJ. Yes, ma'am.

20 Q. Okay. So David Wingo is to blame for Phi Delta
21 Theta and -- and CJ and Erin, correct?

22 A. Yes, ma'am. Like I said, the defendants
23 collectively worked together to have me removed from
24 my fraternity. Erin and CJ worked together to have
25 me removed from Clemson.

1 Q. Okay. Now, you gave a prior statement in
2 February of 2016 in which you said, "I do not
3 believe Erin Wingo is a bad person. I do not
4 believe Erin was intentionally trying to hurt me in
5 any way, shape, or form;" is that correct?

6 A. Yes, ma'am. At that point in time, I did say
7 that because I truly believe that I had been
8 involved in, for a lack of a better word, a love
9 triangle. I thought Erin was trying to preserve her
10 relationship with CJ who she truly cared about. And
11 so at that point in time, yes, I did believe that.
12 Yes, ma'am.

13 Q. You said, "I did not -- I do not -- I did not
14 believe Erin was intentionally trying to hurt me in
15 any way, shape, or form."

16 A. At that point in time, I wanted to believe it
17 because I always give people the benefit of the
18 doubt and try to believe in good people's nature.
19 So, yes, ma'am, that's what I said.

20 MS. PORTER: Thank you. Please answer any
21 questions Mr. Moore has for you.

22 MR. MOORE: May it please the Court?

23 THE COURT: Yes.

24 CROSS-EXAMINATION

25 BY MR. MOORE:

1 Q. Mr. Pampu, you would agree with me that you
2 consider nonconsensual sex to be rape?

3 A. Yes, sir. That's correct.

4 Q. And you would concede, would you not, that you
5 had sexual intercourse with Erin Wingo? Am I
6 correct on that?

7 A. Yes, sir. That's correct.

8 Q. So what we are considering here today with
9 regard to whether rape existed or not, is whether it
10 was consensual on her part; am I right?

11 A. Yes, sir. That's correct.

12 Q. Okay. Let's review a little bit with regard to
13 what happened on the night of I believe
14 October 24th?

15 A. Yes, sir.

16 Q. You're obviously a pledge and you're required
17 to be there early on to setup for the party?

18 A. Yes, sir. That's correct.

19 Q. Pledges are basically gofers for a time period,
20 are they not?

21 A. Yes, sir.

22 Q. Now, you had some -- something to drink prior
23 to Erin arriving at the party; am I right?

24 A. Yes, sir. That's correct.

25 Q. Okay. Were you under the influence?

1 A. Yes, sir. I had been drinking that day.

2 Q. All right. And when she arrived at the party
3 and ultimately came to see you, was she under the
4 influence?

5 A. You know, sir, I hadn't seen her drink anything
6 except for that sip in front of me from her vodka
7 water bottle.

8 Q. Did you consider her to be intoxicated?

9 A. She seemed like she was likely intoxicated.
10 Yes, sir.

11 Q. Okay. Now, when she came to see you, she --
12 she was happy, was she not?

13 A. Yes, sir.

14 Q. Okay. Happy to see you?

15 A. Yes, sir.

16 Q. Wished you happy birthday?

17 A. Yes, sir. That's correct.

18 Q. Okay. And also told you, hey, if you don't
19 give me a birthday kiss, you can't have sex with me?

20 A. Yes, sir. That is correct.

21 Q. Okay. And you gave her a kiss; am I right?

22 A. Yes, sir. I did.

23 Q. Okay. Now, let's just suppose that situation
24 with -- when you've had sex. And I'm not going to
25 go through the details again, but you have sex.

1 Basically, you end up where she is kneeling on the
2 ground as I understand it.

3 A. Sir, can I ask for some clarification? Are you
4 referring to all sexual encounters I've had, or just
5 that night in particular?

6 Q. That night. I'm sorry.

7 A. Yes, sir. That night in particular.

8 Q. She -- when you finish, she is kneeling on the
9 ground?

10 A. Yes, sir. That's correct.

11 Q. Okay. Her pants are around her ankles?

12 A. Yes, sir.

13 Q. Along with her panties?

14 A. Yes, sir.

15 Q. Okay.

16 A. That's correct.

17 Q. All right. And when you climax, you say, okay,
18 we're done?

19 A. Well, at that point in time, yes, sir, I did
20 stop the motion of sex.

21 Q. Okay. You told her to get dressed; am I right?

22 A. I don't recall telling her to get dressed
23 herself.

24 Q. You didn't help her to get dressed then?

25 A. That's correct.

1 Q. Okay. The two of you dress and then you leave
2 to go back to the party as I understand it?

3 A. Yes, sir. That's correct.

4 Q. Okay. And on the way back to the party, she's
5 stumbling; am I correct?

6 A. Sir, we were walking arm-in-arm together. We
7 were both having a hard time walking through the
8 rocky terrain. Yes, sir.

9 Q. But you would agree that you stated before she
10 was stumbling all over the place while you're
11 walking back to the Compound; am I right?

12 A. Yes, sir. And I think you're referring to the
13 text between CJ and I.

14 Q. Correct.

15 A. As I've explained it in other ways, but it was
16 the bad end of being drunk or, you know, she didn't
17 seem okay. You know, I didn't take the time as a
18 19-year-old boy to explain what that meant. It was
19 just an easy way to text it and encompass the
20 purpose of choice.

21 Q. But you did state she was stumbling and you did
22 state that she was crying? You did state that she
23 was very upset; am I right?

24 A. Yes, sir. I said those things relative to her
25 feelings about CJ.

1 Q. Those are true; are they not?

2 A. Yes, sir.

3 Q. Okay.

4 A. I'm not denying that those are true.

5 Q. So if we compare right when she comes to see
6 you to give you the birthday kiss and when you're
7 leaving after sex, she's gone downhill, has she not?

8 A. Sir, as I have explained before, at that point
9 in time, she was very emotional about CJ.

10 Q. Her intoxication had become worse, had it not?

11 MS. LAU: Objection. Facts not in the record.
12 Not established.

13 MR. MOORE: Well, I got the cross-examination,
14 Judge. I get to ask these things.

15 THE COURT: If he knows. What he knows.

16 BY MR. MOORE:

17 Q. Okay. Compare her condition at the time she
18 initially saw you at the party when she's happy,
19 kind of loose because she's intoxicated at that
20 point in time, compared to when you're leaving where
21 you had sex with her. She's now crying. She's
22 upset. She's stumbling all over the place; am I
23 right?

24 A. Sir, yeah, as I said before, she's upset about
25 CJ. I had only seen her take two sips from her

1 water bottle. I couldn't -- from any observable
2 sign that I saw, she was well enough to have sex
3 with me and to consent to it under her own ability.

4 Q. If we compare her from an initial stage to the
5 time you leave to go back to the Compound, she's in
6 a worse condition; is she not?

7 A. Yes, sir. She -- as I said, she's upset about
8 CJ.

9 Q. Okay. She's on the bad end of a drunk; is she
10 not?

11 A. As I've said before, I don't want to repeat
12 myself, but that was a way of saying, yes, she's
13 extremely emotional at that point. Yes, sir.

14 Q. And she said -- you said she's upset about CJ,
15 but, of course, she was happy when she came to see
16 you, was she not?

17 A. See seemed so. Yes, sir.

18 Q. Okay. And that's right after she had left from
19 CJ; am I right?

20 A. Yes, sir.

21 Q. She wasn't crying at that point, was she?

22 A. No, sir. She was not.

23 Q. All right. Now, on the way back to -- to the
24 Compound fraternity area, you tried to call CJ; am I
25 right?

1 A. Yes, sir, I did.

2 Q. So it's about one o'clock, a little bit after
3 as I understand it?

4 A. Yes, sir. That's correct. I did try to call
5 CJ.

6 Q. And when you tried to call CJ, she's still
7 mumbling about CJ at that particular point and
8 crying; am I correct?

9 A. I wouldn't call it mumbling, but she was crying
10 about CJ. Yes, sir.

11 Q. Okay. All right. Eventually, y'all go back to
12 the Compound and you're at the front house, the main
13 house, right?

14 A. Yes, sir. That's correct.

15 Q. Okay. And she goes and sits on the front
16 steps; am I right?

17 A. Yes, sir. That's correct.

18 Q. Now, you just made love to this woman and she's
19 sitting and crying and being very upset, and you
20 left her there on those steps?

21 A. Well, sir, the way you're explaining it, you
22 make it seem like I just ditched her. We had come
23 back. I had explained earlier that I was talking
24 with Ben. We were trying to figure out a ride
25 situation. It wasn't like we got back and I said,

1 okay, goodbye. That's not at all how it happened.

2 Q. You didn't sit there with her while she cried
3 and tried to ease her -- her being upset, did you?

4 A. My understanding is that she was on her phone.
5 She had already told me how she wanted to find CJ,
6 how she wanted to be with CJ, so, no, I let her have
7 her space.

8 Q. You let her have her space and you went back to
9 the party?

10 A. Yes, sir. Afterwards, after I made sure she
11 was going to get a ride home and that she knew she
12 could reach out and call me, yes, sir, I did go back
13 to the party.

14 Q. You didn't wait around for her -- for the car
15 to come pick her up, did you?

16 A. No, sir. I did not. Ben had said that he
17 would make sure they got in the car.

18 Q. Now, let's talk about CJ. Was CJ there at the
19 party when you called him?

20 A. Sir, I'm not sure where he was at that point in
21 time.

22 Q. Okay. He wasn't with y'all then at that point,
23 was he?

24 A. No, sir.

25 Q. Okay. In fact, you hadn't seen CJ from the

1 time that Erin had come up to you initially; am I
2 right?

3 A. Sir, I don't recall seeing CJ before that
4 either.

5 Q. Okay. So you hadn't seen him?

6 A. I had not seen CJ. No, sir.

7 Q. And so CJ is unaware of what -- the first kiss,
8 y'all making out, and then having sex later on down
9 the road. He has no personal knowledge about that,
10 correct?

11 A. As of that night, yes, sir, that's correct.

12 Q. Okay. You did try to call him later that
13 night. And as you mentioned, Erin also texted him
14 shortly after you tried to call him, correct?

15 A. Yes, sir. That's correct.

16 Q. Okay. The next day you send out this nice
17 message of yours about being with a chick outside a
18 garage I believe; am I right?

19 A. Yes, sir.

20 Q. Okay. You didn't name who it was at that
21 particular point in time, did you?

22 A. No, sir. I did not.

23 Q. Obviously, it's Erin though, is it not?

24 A. Yes, sir. It is.

25 Q. Okay. So at that particular point in time

1 until this goes out, CJ has no idea of what's going
2 on; am I correct?

3 A. That's my understanding. Yes, sir.

4 Q. Okay. But then he get -- he sees this because
5 he's in the GroupMe with the other pledges; am I
6 right?

7 A. Yes, sir. That's correct.

8 Q. Okay. And he has this message that you had
9 given initially about having sex with a chick, and
10 then he knows that you had called him on the
11 evening -- the previously evening; am I correct?

12 A. Yes, sir.

13 Q. And he has the time that you called; am I
14 right?

15 A. Yes, sir. That's correct.

16 Q. Okay. He also has the timing of the text from
17 Erin at that point in time, does he not?

18 A. Yes, sir. I mean, I can't speak to that.

19 Q. And they're pretty close together, are they
20 not?

21 A. Yes, sir.

22 Q. Okay. So he puts two-and-two together, does he
23 not, to figure out you had sex with Erin; am I
24 right?

25 A. Sir, I can't specifically say when he made that

1 conclusion, but, yes, at some point in time he put
2 it together.

3 Q. He gets back to you and as you state, he's up
4 your ass about it; am I right?

5 A. Yes, sir.

6 Q. So he's figured it out?

7 A. Yes, sir. That's correct. The next day he
8 did.

9 Q. All right. Once he figures it out, based upon
10 what he told you and texted to you, he then goes to
11 Erin, does he not?

12 A. Sir, I'm -- I'm sorry, sir. Can you repeat
13 that?

14 Q. Sure. Once he's -- once he's gotten this
15 information, the information where you called and
16 the timing of that, the text from Erin on the
17 previous evening, this statement here that's come
18 out the following morning and he's put two-and-two
19 together, then he goes to Erin to figure out, okay,
20 what's happened here?

21 A. Later that day, yes, he did go to Erin.

22 Q. Okay. And Erin contacted you and said, hey,
23 you know, CJ's asking questions about this, right?

24 A. Yes. That's correct.

25 Q. Okay. All right. And when CJ contacts you,

1 he's upset with you because you've taken advantage
2 of her in his mind and -- and -- and that you've
3 taken advantage of a drunk girl; am I correct?

4 A. That is what CJ was saying. Yes. That's
5 correct.

6 Q. And he tells you at that point in time that
7 Erin has told you she cannot remember what happened;
8 am I right?

9 A. As I've outlined earlier, yes, that is correct.

10 Q. Okay. So basically based upon that
11 information, it appears that Erin has been pretty
12 drunk; am I right?

13 A. Based on what they were saying, which had me
14 obviously surprised the next day, yes, that's
15 correct.

16 Q. She's had blackouts as a result of what
17 happened based on what she's saying?

18 A. Sir, yeah, that's correct.

19 Q. Okay. And to have that type of blackout, she
20 has to be pretty drunk, does she not?

21 A. You know what, sir, I can't speak to that in
22 particular. I'm not a specialist, but, yes, you do
23 have to consume alcohol to have a blackout.

24 Q. Okay. And to be unable to consent to sex, you
25 have to have a great deal of alcohol too, do you

1 not?

2 A. I think the important thing is that you would
3 be unable to verbally and physically, meaning
4 nonverbally, consent to sex.

5 Q. My question is this: If you cannot consent to
6 sex because of alcohol consumption, you've had a
7 good bit of alcohol; is that right?

8 A. I think a good bit would be one way to say it.
9 A substantial amount of alcohol I think would be the
10 correct way to say it. Yes, sir.

11 Q. Either way. And by virtue of the fact that she
12 has what she's saying can't remember or blackout
13 regarding this particular evening, she seems to have
14 had a great deal of alcohol consumption; am I right?

15 A. That is what's been said. Yes, sir.

16 Q. Okay. And that's a logical conclusion for
17 someone asking another person about what happened.
18 They say, I can't remember. I had too much to
19 drink. She's blacked out. And she's had too much
20 to drink. That may also impact upon her ability to
21 consent; am I correct?

22 A. It's possible. But, sir, I mean, what I had
23 acted upon that night was everything observable --
24 verbal, nonverbal -- that had presented in front of
25 me. I would have no way of -- if she was able to

1 black -- if she was blacked out and unable to give
2 consent, but even then a blackout does not exclude
3 the fact that you can still speak, you can still
4 have motor skills, you're able to give consent.
5 Memory loss is not contingent upon that.

6 Q. Well, I'm not asking about your expert opinion
7 there. I'm asking about what CJ's perception was at
8 that point in time.

9 A. Yes, sir.

10 Q. His perception is that she had so much to drink
11 that she blacked out and she had so much to drink
12 that she could not consent, correct?

13 A. That was his perception.

14 Q. And that is a very logical conclusion on his
15 part, is it not, with regard to what occurred?

16 A. I think it's without having the full story, but
17 based on the information, yes, sir.

18 Q. Okay. So CJ has contacted you and you tell
19 him, oh, no, she knew exactly what she was doing.
20 He's contacted Erin and she tells him, "I can't
21 remember anything that happened." He has the text
22 from Erin, which are -- have you seen the text from
23 Erin?

24 A. Between CJ and Erin, sir?

25 Q. Yes, sir.

1 A. I can't recall them in particular.

2 Q. Okay. That's fine. But he has those -- those
3 texts to indicate whether she's drunk or not. He's
4 also talked to her sorority sisters about how much
5 she had to drink; am I right?

6 A. Yes, sir. That's correct.

7 Q. Okay. There's not a whole lot more he could've
8 done, is there, to determine whether if the sex was
9 consensual or not?

10 MS. LAU: Objection. Calls for speculation.

11 THE COURT: Sustained.

12 BY MR. MOORE:

13 Q. Well, let me ask it a different way. What else
14 could he have done?

15 A. Well, in particular, not coming at me
16 considering that the consensual event is rape would
17 be the start. Second, there were other individuals
18 that Erin had spoken to that day prior to CJ meeting
19 with Erin. He also could've, instead of coming and
20 accusing me, heard my side of the story too and
21 certainly not inhibited communication between Erin
22 and myself.

23 Q. Did he talk to you about this?

24 A. He did.

25 Q. He texted you about this?

1 A. He texted me about this.

2 Q. He got your side of the story, did he not?

3 A. To a certain extent, yes, sir.

4 Q. You had a chance to give that side of the
5 story, did you not?

6 A. Yes, sir.

7 Q. Did you tell him to go talk to anyone else?

8 A. No, sir. I did not.

9 Q. So do you know whether he knew to talk to
10 anyone else about what had occurred?

11 A. Sir, I can't speak for him personally to that
12 regard.

13 Q. So he made a good faith effort to determine
14 what had happened that night, did he not?

15 A. Sir, based on the information he had, he made
16 his conclusions.

17 Q. Okay. And you can't complain about what
18 activity he undertook to try to determine what
19 occurred, can you?

20 A. No. I can't in particular and that's not
21 necessarily what my claims are about.

22 Q. Okay. Well, your claims are about defamation
23 in particular as I understand it.

24 A. Yes, sir. That's correct.

25 Q. Okay. And you've indicated that CJ published

1 what he thought was rape to two individuals; am I
2 correct?

3 A. Yes, sir.

4 Q. Who are those individuals?

5 A. Two in particular, Jake Edwards and Peter
6 Stamos, among others.

7 Q. Okay. Who is Peter Stamos?

8 A. He was someone who lived on CJ's floor that
9 year in his dormitory.

10 Q. Okay. Have you talked to Peter Stamos since
11 that time?

12 A. Yes, sir. I have.

13 Q. Okay. And have you given your side of the
14 story?

15 A. Yes, sir. But only when prompted.

16 Q. I'm sorry?

17 A. Only when prompted. Yes, sir.

18 Q. Okay. But you told him what was going on?

19 A. Yes. But what I'm referring to was a few years
20 later.

21 Q. All right. And when were these statements
22 made?

23 A. Between Peter and myself?

24 Q. No. I'm sorry. When were the statements made
25 by CJ to Peter?

1 A. It was after and during this either -- it was
2 after the night in question.

3 Q. Was it the next day?

4 A. Sir, I can't say.

5 Q. You don't know?

6 A. I have no idea.

7 Q. Okay. And what did he tell Peter, that he
8 thought you had raped Erin?

9 A. You know, sir, I'm not going to speculate for
10 the Court. We do have documentation that we'll
11 exhibit.

12 Q. No. I want to know what you know.

13 A. Right. And, sir, with that being said, I've
14 left that up to my counsel to be able to articulate
15 that. I can't recall.

16 Q. Now, let me ask the question again: What do
17 you know he told Peter?

18 A. Well, the consensus had been Drew had raped a
19 girl in Phi Del or Drew was the guy in Phi Del who
20 had raped a girl.

21 Q. Raped a girl?

22 A. Yes.

23 Q. Okay.

24 A. Absolutely.

25 Q. All right. And who was the other person?

1 A. The other one was Jake Edwards.

2 Q. Okay. And when did he have communication with
3 Jake Edwards?

4 A. They lived on the same floor, sir. I can't
5 speak to that.

6 Q. Okay. How did he communicate with these two
7 individuals?

8 A. Sir, again, I don't want to speculate, but in
9 person, via text.

10 Q. Did he text them?

11 A. They were friends, so, yes, sir, I do assume
12 so.

13 Q. Okay. So communication was only between CJ and
14 these two individuals as I understand it?

15 A. I believe so, sir.

16 Q. Now, after these texts had been sent, did you
17 or CJ have further conversations?

18 A. Yes, sir. We did.

19 Q. Okay. Did he try to walk you through the
20 Clemson investigation as to what was coming?

21 MS. LAU: Objection.

22 THE COURT: Sustained.

23 BY MR. MOORE:

24 Q. All right. Your damages are, as I understand,
25 to your reputation?

1 A. Yes, sir.

2 Q. Okay. And because of these two texts to these
3 two individuals, is it your position that you were
4 suspended from Clemson?

5 A. Sir, among these texts and communications,
6 there are other individuals, yes, sir.

7 Q. I'm sorry. Say that again.

8 A. Yes, sir. That's correct.

9 Q. So these -- these two texts were the -- were
10 the reason that you got kicked out of Clemson
11 basically?

12 A. Can you clarify which two texts?

13 Q. We're talking about two individuals that CJ
14 communicated with?

15 A. Yes, sir.

16 Q. And you think those two texts are what caused
17 you to be expelled or suspended from Clemson?

18 A. I think what you're asking me is if defamation
19 texts led to my suspension from Clemson -- from
20 Clemson, but there was Erin and CJ working together
21 to have me suspended from Clemson, so it's not
22 particularly ---

23 Q. I'm not sure you're answering my question.
24 What I'm asking you is this: Were the two texts
25 that CJ sent to these two individuals the basis for

1 your being expelled or suspended from Clemson?

2 A. Not exactly, sir, no.

3 Q. Okay. Now, you did get into the College of
4 Charleston?

5 A. Yes, sir, I did.

6 Q. And you graduated from College of Charleston as
7 I understand it?

8 A. Yes, sir. That's correct.

9 Q. Okay. With honors; am I right?

10 A. Magna cum laude. Yes, sir.

11 Q. Okay. Do they have an honorary society at
12 College of Charleston?

13 A. Yes, sir.

14 Q. Were you a member of that honorary society?

15 A. Yes, sir.

16 Q. Okay. And then you went on to get -- get your
17 MBA from College of Charleston; am I right?

18 A. Yes, sir. That's correct.

19 Q. Okay. You're now working?

20 A. Yes, sir.

21 Q. How much are you making per year working?

22 A. My current base salary is at \$72,000.

23 Q. Plus commission?

24 A. Plus commission.

25 Q. Okay. And how much did you make last year?

1 A. Sir, I only started this job in August of this
2 past year.

3 Q. This past year?

4 A. So August of 2021. Yes, sir.

5 Q. So you haven't been there a full year yet?

6 A. No, sir.

7 Q. Okay. And my understanding is, you're -- one
8 of your complaints has to do with regard to
9 admission to dental school as I understand it?

10 A. Yes, sir. That's correct.

11 Q. And your understanding is that the dental
12 schools have rejected you because of the situation
13 at Clemson?

14 A. Yes, sir. That's correct.

15 Q. Okay. Do you know who those dental schools
16 might have contacted regarding that matter?

17 A. I'm not sure who they would've contacted.

18 Q. You can't say then that either CJ or Erin had
19 anything to do with that?

20 A. Sir, I can't say that they directly influenced
21 it.

22 Q. Say that again. I'm sorry.

23 A. I can't say that they spoke to the dental
24 schools directly. No, sir.

25 MR. MOORE: All right. Thank you. I

1 appreciate it.

2 THE COURT: Redirect?

3 MS. LAU: Yes, Your Honor. If I may have just
4 a minute.

5 REDIRECT EXAMINATION

6 BY MS. LAU:

7 Q. Mr. Pampu, at any point, did you ever tell
8 anyone that Erin was stumbling before your sexual
9 encounter with her on October 24, 2015?

10 A. No, ma'am.

11 Q. At any point, did you ever tell anyone that
12 Erin was slurring her words before your sexual
13 encounter with her?

14 A. No, ma'am.

15 MR. MOORE: Your Honor, this is improper
16 redirect. There is no cross-examination on these
17 particular subjects. It's also been brought out on
18 direct-examination.

19 THE COURT: I think there was. I'm going to
20 allow her.

21 BY MS. LAU:

22 Q. On October 25th, the day after your sexual
23 encounter with Erin, do you know what time CJ texted
24 you about his perception, you took advantage of
25 Ms. Wingo? And if you need to refer to an exhibit,

1 please let me know.

2 A. Yeah, if you could show me an exhibit. I know
3 it was in the afternoon.

4 MS. LAU: May I approach?

5 THE COURT: Yes.

6 BY MS. LAU:

7 Q. Showing you what's been marked as Defendants'
8 Exhibit 5.

9 A. Okay. Yes, ma'am. So it's at 5:47 p.m.

10 Q. Thank you. And by this time, were you aware
11 that Mr. Gahagan had discussed the sexual encounter
12 with Erin Wingo?

13 A. Yes, ma'am.

14 MS. PORTER: Your Honor, that's -- that was not
15 brought out on cross.

16 THE COURT: Sustained.

17 BY MS. LAU:

18 Q. Do you believe your sexual encounter with
19 Ms. Wingo was causing a conflict between Erin Wingo
20 and CJ?

21 A. Yes, ma'am.

22 MS. PORTER: Objection. Your Honor, improper
23 redirect.

24 THE COURT: Overruled. You may proceed.

25 MS. LAU: Thank you.

1 THE COURT: Overruled.

2 THE WITNESS: Yes, ma'am. I do.

3 BY MS. LAU:

4 Q. And what was that based on?

5 A. It was based on the fact that shortly after
6 Erin and I had consensual sex, that she, you know,
7 started to cry about CJ and clearly expressed
8 emotions and feelings for CJ.

9 Q. And how about the messages that Ms. Wingo had
10 sent you later that night at -- on October 25th
11 after 6:38 p.m.?

12 A. Yes. Yes, ma'am. There's text messages
13 referring to the fact that Erin was not over CJ.

14 Q. Is that what you meant by your testimony
15 earlier when you testified that your sexual
16 encounter with Erin was becoming something?

17 A. Yes, ma'am. That's correct.

18 Q. I just want to reconfirm. This -- this message
19 that you texted to Mr. Stoddart one-on-one, this was
20 not texted into the group chat by you?

21 A. Yes, ma'am. That's correct.

22 Q. Mr. Pampu, does an ortho -- orthodontist make
23 more than a salesman in your position?

24 A. Yes, ma'am, they do.

25 MS. PORTER: Thank you. I have no further

1 questions.

2 THE COURT: Thank you. You may step down.

3 THE WITNESS: Thank you.

4 (Witness excused.)

5 THE COURT: All right. Ladies and gentlemen,
6 we are at a good point to break for lunch, so be on
7 your own. If you'll come back in your -- be back in
8 your jury room -- it's 12:30 now -- 12:34 -- at
9 1:45. All right. Do not discuss the case. That's
10 important. Don't do any type of research about the
11 case or about the lawyers or anything. Don't pay
12 any attention to any media coverage. If anybody
13 contacts you other than somebody from the clerk's
14 office, please let the bailiffs know. Otherwise, I
15 will see you at 1:45.

16 (At 12:35 p.m., the jury exited the courtroom.)

17 THE COURT: All right. Anything before we
18 break for lunch from the plaintiff? And we've got
19 the people on Webex.

20 MS. LAU: I'm sorry, Your Honor?

21 THE COURT: I said we've got these people on
22 Webex.

23 MS. LAU: Right. Right. I'm fine to argue
24 that now.

25 THE COURT: All right. Anything else from the

1 defense?

2 MR. MOORE: No.

3 THE COURT: All right. Like I said, just be
4 ready to roll at 1:45. Y'all can hang out and do
5 whatever.

6 MS. PORTER: Don't I need to be a part of this
7 motion?

8 THE COURT: Oh, that's right. I forgot that
9 y'all -- y'all keep changing the motion.

10 MS. PORTER: I -- it's not my motion. It's the
11 rest of them.

12 (From 12:35 to 12:46 p.m., brief recess.)

13 THE COURT: All right. We have here Ms. Lau
14 from the plaintiff, and we have Ms. Porter here for
15 the Defendant Wingo. And then I just wanted -- I
16 believe Ms. Lau requested that we have a hearing
17 regarding the order, so I'll hear from her. I guess
18 we will be able to hear you, or she's going to be
19 able to hear you. What you'll have to do is come
20 over here on this computer, and then I'll mute mine
21 and turn on the -- un-mute it down there. I think
22 that will work.

23 MS. LAU: Can you hear me okay, Ms. Keppes?

24 THE WITNESS: Yes.

25 MS. LAU: Okay. So Judge Gravely mentioned,

1 this motion is to allow the -- well, actually this
2 is technically -- we wanted to be able to seek the
3 e-mails that had been identified on Terex's
4 privilege laws and was only provided to us
5 yesterday. And they included 291 e-mails that were
6 held back by Terex for attorney/client privileges
7 between Dave Wingo and one of his attorneys,
8 Ms. Carry Simon. And they -- the substance of the
9 e-mails relate to this case.

10 So we believe that that withholding of those
11 documents are improper, given that that's -- well,
12 (a) it's not Terex's privilege to assert because
13 that is as between Mr. Wingo and his private
14 attorney. And, secondly, that there was no right to
15 private -- or indication or expectation of privacy
16 given that he was using -- Mr. Wingo, that is -- was
17 using his work e-mail to communicate with his
18 lawyers, understanding that there was a Terex policy
19 stating that there is no expectation of privacy
20 through the use of your work e-mail account.

21 In *Hawkins v. Stables*, you know, an implied
22 waiver occurs when the party claiming privilege made
23 any disclosure of a confidential communication to
24 any individual who is not embraced by the privilege.
25 And because Terex had access -- just as much access

1 that Mr. Wingo had to those e-mails, that was why he
2 had waived that privilege. And *Hawkins v. Stables*
3 involved specifically the privilege of
4 attorney/client privilege, not a marital privilege.

5 Moreover, *U.S. v Sinazo* (phonetic), while it's
6 a Second Circuit case deals with this issue
7 specifically because this was not an issue dealt
8 specifically within the Fourth Circuit before or
9 that it was involving an e-mail that an employee
10 received from counsel, an employee's work account,
11 and rendered that it was not privilege, despite the
12 fact that the employee did not request or expect the
13 e-mail because the employee had previously sent
14 e-mails to counsel from that account and the
15 employer had a standing policy of monitoring
16 e-mails, like Terex does here, and that wholly has
17 been followed by four other -- four other states.
18 We've got Washington, Idaho, Texas, Delaware.

19 So it's not -- it's not an argument that hasn't
20 been made before and we've -- we are entitled to
21 those e-mails because that is going to go to our
22 civil conspiracy claim regarding Mr. Wingo. And we
23 will be prejudiced if we are not entitled to those
24 e-mails.

25 THE COURT: All right. Let me hear from

1 Ms. Porter. And, Ms. Keppes, can you hear me? I'm
2 going to hear from Ms. Porter, then I'll hear from
3 you. I'm going to hear from Ms. Porter and then
4 I'll hear from you, Ms. Keppes.

5 THE WITNESS: That's fine. That's fine.

6 MS. PORTER: Can you hear me, Ms. Keppes?

7 MS. LAU: You'll need to un-mute.

8 MS. PORTER: Okay. Can you hear me,
9 Ms. Keppes?

10 THE WITNESS: I can. Yes.

11 MS. PORTER: Great. Your Honor, first of all,
12 I think that there is a Fourth Circuit case on
13 point, and that's *U.S. v. Hamilton*, which is
14 actually cited. This issue is sort of raised
15 regarding spousal privilege and ruled upon by Judge
16 Sprouse. We would argue that that's specifically to
17 spousal privilege.

18 But in their brief or memorandum of law to
19 Judge Sprouse, the plaintiff quotes the *U.S. v.*
20 *Hamilton* case. In particular, that the Fourth
21 Circuit, which we are in and controlled by,
22 establishes a test to determine when this
23 privilege -- attorney/client privilege is waivable
24 or waived. And it's a four-part test.

25 Does the corporation maintain a policy banning

1 personal or other objectionable use?

2 (2) Does the company monitor the use of the
3 employee's computer or e-mail?

4 (3) Do the parties have a right of access to
5 the computer or e-mails?

6 And (4) Did the corporation notify the employee
7 or was the employee aware of the use of monitoring
8 policies?

9 And, you know, I would argue -- and I'm happy
10 to put Mr. Wingo on the stand for the limited
11 purpose of establishing what his understanding of
12 what Terex's policies are, but, again, in this same
13 memorandum, they have gone and found Terex's 2004
14 policy regarding computers, e-mails, and voicemails.
15 And they quote it and so I'm going to quote it here.
16 I will say that the policy has changed, but
17 specifically that this portion is similar in the new
18 policy. And we're not 100 percent sure when the
19 policy changed.

20 But they pull this off the web and they argue
21 that the policy says all Terex e-mail, voicemail,
22 computer, and other communication systems are the
23 property of Terex and should be used only for job
24 related purposes. They bold that and underline it.

25 The next line says, "Except as may be provided

1 to the contrary by applicable local law, all
2 communications and information transmitted,
3 received, or stored through such systems are the
4 property of Terex." That is also bold and
5 underlined. "Incidental and occasional personal use
6 of these systems is permitted." They do not bold or
7 underline that. "But employees should use common
8 sense and good judgment in such events."

9 Now, the privilege is -- sorry. The privilege
10 is Mr. Wingo's and he's asserted it here, and he had
11 a reasonable expectation of privacy. And pursuant
12 to the policy, they are allowed to use it for
13 personal use. So we would argue that he still has
14 an expectation of privacy, that Terex allowed that
15 type of use and goes further to say, "Except as may
16 be provided to the contrary by applicable local
17 law."

18 Well, local law and national law is a very --
19 they have very safe -- very honored, for lack of a
20 better way because I'm tired -- is that this
21 relationship between an attorney and his client or
22 her client is very important and it's privileged.
23 And when you start to pierce it, it is -- it's a
24 dangerous slippery slope.

25 And it's Dave Wingo's understanding that

1 matters and what Terex communicated to him, and it's
2 clear in this policy that that is communicated. And
3 it is on -- if you want to go on the Court's
4 website, it's been filed. And I can tell you the
5 memorandum if you want to look at the specific
6 language, or I can give you the site to the -- to
7 the language in the policy.

8 But, you know, there's been no fraud exception
9 alleged here between his attorney and Dave Wingo.
10 The conspiracy is between -- alleged is between Dave
11 Wingo and CJ Gahagan. It's not even including Betsy
12 Wingo, which, you know, so any communications
13 between him and his attorney, who has represented
14 them since this OCES investigation began through the
15 duration of today, should be privileged. We would
16 ask that you honor that.

17 THE COURT: Mute that one.

18 MS. PORTER: (Complying.)

19 THE COURT: Ms. Keppes?

20 THE WITNESS: No response.

21 THE COURT: I'll be glad to hear from you,
22 Ms. Keppes.

23 THE WITNESS: Thank you, Your Honor. Terex,
24 you know, attorney privilege of Mr. Wingo through
25 the counsel indicated that that was a privilege the

1 wanted to assert. I mean, as far as they're
2 concerned, it's his privilege not ours. We would
3 withhold them on that ground, but we sort of don't
4 have a dog in this fight if you will.

5 THE COURT: It's my understanding too the
6 privilege law, the only documents we're talking
7 about were -- were e-mails between Mr. Wingo and his
8 attorney, and that's what was asserted; is that
9 correct, Ms. Lau? The only document we're talking
10 about they've asserted attorney/client privilege,
11 they are e-mails or some e-mails between Mr. Wingo
12 and his attorney?

13 MS. LAU: Yes.

14 THE COURT: Okay. All right. You want to --
15 any response from you?

16 MS. LAU: Yes.

17 THE COURT: I guess go up here to the -- and
18 un-mute.

19 MS. LAU: Ms. Keppes, can you hear me?

20 THE WITNESS: Yes.

21 MS. LAU: So just to respond to the arguments
22 that were made that there are some exceptions in the
23 Terex policy for incidental use, respectfully, Your
24 Honor, there were 291 e-mails sent just to his
25 attorney and then another 270 sent with others who

1 are not attorneys about this case. This is not a
2 situation, nor is it exemplary of incidental use.
3 These are hundreds of instances. So there was --
4 that is not an argument that really has any support
5 in the documents.

6 Secondly, as far as what's applicable law could
7 provide as far as an exception, I mean, I think the
8 argument that Ms. Porter is trying to make is that
9 somehow the attorney/client privilege is sacrosanct
10 and that there could never be a waiver of that given
11 that language in the policy, and that's not only not
12 true under the case law in the Fourth Circuit and
13 other circuits, but just not the case under that
14 policy. That's not what that was meant to do.

15 So, again, they had a policy in place for their
16 employees, and Mr. Wingo was well aware of that
17 policy. As I understand it, he is fairly high up as
18 an administrator in that company, so he is well
19 aware of what expectation of privacy or lack thereof
20 with respect to his e-mails to others about this
21 case and others including his lawyer.

22 He also had a personal e-mail that he could've
23 very well used and did use for other -- for other
24 e-mails in this case, but didn't use on those 291
25 occasions. So we would argue that we're entitled

1 to -- to that -- those e-mails and that there has
2 not been any case law to say otherwise.

3 MS. PORTER: Very briefly?

4 THE COURT: No.

5 MS. PORTER: It's over seven years of
6 litigation.

7 THE COURT: No. I said nope. Nope means no.
8 I think that's what this case is all about. Sorry.
9 I just -- I'm tired too.

10 All right. You know, in reviewing this and
11 reviewing my previous order, I find that the
12 privilege is appropriate. I don't believe that he
13 waived his privileges because he, under these
14 circumstances, was using the company e-mail or
15 company computer. Under the elements, it's cited in
16 *U.S. v. Hamilton*.

17 An additional matter, you know, the fact that
18 we're in day two of trial, to open this up at this
19 point too I think would be problematic, so I'm going
20 to deny your request for those documents.

21 MS. PORTER: Thank you, Your Honor.

22 THE COURT: All right. Ms. Keppes, that's all
23 and we're going to end this part of the hearing.

24 THE WITNESS: Great. Thank you very much, Your
25 Honor.

1 THE COURT: All right. I'm going to tell the
2 jury, I want to make sure everyone has a sufficient
3 lunch. Will y'all tell them that our matters went a
4 little longer than expected? All right.

5 (From 1:01 to 1:56 p.m., lunch recess.)

6 THE COURT: All right. Plaintiff ready?

7 MS. LAU: We are.

8 THE COURT: Defense ready?

9 MR. MOORE: Yes, sir.

10 THE COURT: All right. Bring the jury in.

11 (At 1:56 p.m., jury entered the courtroom.)

12 THE COURT: All right. Ladies and gentlemen,
13 first of all, sorry about the little delay. Our
14 little matters in court during lunch took a little
15 bit longer than I anticipated as far as some of the
16 things we had to go over. I wanted to make sure
17 everybody had full minutes for lunch, but I do
18 apologize. I didn't realize it was going to be
19 running as late we did, so...

20 All right. Plaintiff, you may call your next
21 witness.

22 MS. LAU: Your Honor, we call Erin Wingo to the
23 stand.

24 THE COURT: All right. Ms. Wingo, if you'll
25 come around and be sworn.

1 THE WITNESS: (Complying.)

2 THE CLERK: Can you raise your right hand?

3 THE WITNESS: (Complying.)

4 THE CLERK: Do you solemnly swear that the
5 testimony you're about to give in this case will be
6 the truth, the whole truth, and nothing but the
7 truth so help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Please state your full name for the
10 record.

11 THE WITNESS: Erin Elizabeth Wingo.

12 ERIN WINGO,
13 having been produced and first duly sworn as a
14 witness on behalf of the Plaintiff, then testified
15 as follows:

16 DIRECT EXAMINATION

17 BY MS. LAU:

18 Q. Good afternoon, Ms. Wingo.

19 A. Good afternoon, Ms. Lau.

20 Q. I'm going to be asking you some questions
21 regarding an incident relating to October 24, 2015.

22 A. Okay.

23 Q. In the fall of 2015, you were a freshman at
24 Clemson University, right?

25 A. Yes, ma'am.

1 Q. You were pledging the sorority Gamma Phi Beta
2 that fall?

3 A. Yes, ma'am.

4 Q. And you lived in the dorms on Clemson campus
5 during your freshman year, correct?

6 A. Yes, ma'am.

7 Q. That was Manning Hall?

8 A. I actually lived in three different dorms.
9 Well, two dorms, three rooms.

10 Q. In the -- well, in October of 2015, were you
11 living in Manning Hall?

12 A. Yes, ma'am.

13 Q. Prior to 20 -- October 24, 2015, you had
14 experienced a blackout before, correct?

15 A. Yes, ma'am.

16 Q. More than once?

17 A. I don't recall.

18 Q. Is there a document that will refresh your
19 recollection?

20 A. Not one I can name off the top of my head, but
21 if you have one I'd be happy to see it.

22 MS. LAU: May I approach the witness?

23 THE COURT: You may.

24 BY MS. LAU:

25 Q. Referencing Ms. Wingo's deposition on October

1 20, 2020. I'll get a clean copy for you.

2 A. No problem. Take your time.

3 Q. Ms. Wingo, is that a transcript of your
4 deposition on October 20, 2020, in this case?

5 A. Yes, ma'am.

6 Q. Will you please turn to page 42 for me?

7 A. Just give me one second, please. I'm here.

8 Q. And will you please look -- look down at line
9 19?

10 A. Yes, ma'am.

11 Q. And that question was, "When was the first time
12 you blacked out?" And can you read your answer,
13 please?

14 A. October of 2015.

15 Q. And I asked, "Do you remember that date?"

16 A. "No, ma'am, I don't."

17 Q. And I asked, "Was it some time before 20 --
18 October 24, 2015?

19 A. "Yes, ma'am, it was."

20 Q. And I asked, "How many times have you ever
21 blacked out?"

22 A. To current date or to up until?

23 Q. I'm just reading the transcript.

24 A. Oh, okay. "Four or five."

25 Q. Thank you. And you -- you believe it's

1 possible for someone to act and appear normal in a
2 blackout state even if the person doesn't remember
3 doing so?

4 A. Sure. It's possible.

5 MS. PORTER: Your Honor, I'm going to object to
6 this line of questioning. I think it goes to the
7 ultimate issue, which is what the jury is supposed
8 to decide and I'd ask that that be stricken.

9 MS. LAU: This is Ms. Wingo's sworn testimony.
10 I can point it out.

11 THE COURT: What was your question?

12 MS. PORTER: It's a deposition, and the rules
13 of evidence are different in a deposition than in
14 trial.

15 MS. LAU: It's her belief.

16 THE COURT: I'm going to -- I'm going to allow
17 it.

18 BY MS. LAU:

19 Q. Ms. Wingo, you were reported to Clemson for an
20 alcohol violation during your freshman year,
21 correct?

22 MS. PORTER: Objection.

23 THE COURT: Yeah, sustained.

24 BY MS. LAU:

25 Q. Ms. Wingo, you first met Andrew Pampu in the

1 fall of 2015?

2 A. Yes, ma'am.

3 Q. And you thought Mr. Pampu was attractive?

4 A. Yes, I did.

5 Q. On or about September 10, 2015, you made out
6 with Mr. Pampu, right?

7 A. I believe so. Yes.

8 MS. PORTER: Your Honor, she's on direct
9 examination. I ask that she not lead the witness.

10 THE COURT: I believe if it's opposing party
11 under the rules, she's allowed to lead the witness.

12 MS. LAU: Thank you, Your Honor.

13 BY MS. LAU:

14 Q. And you understand "made out" to mean kiss,
15 correct?

16 A. Yes, ma'am.

17 Q. Mr. Gahagan found out about this encounter,
18 right?

19 A. I believe he did. Yes, ma'am.

20 Q. And he was furious?

21 A. I wouldn't describe it as furious.

22 MS. LAU: I ask for the Court's indulgence for
23 a moment.

24 BY MS. LAU:

25 Q. You never -- Ms. Wingo, you never told or

1 texted someone that, "Don't hate me if I tell CJ"?

2 A. I believe I did tell someone that. Yes.

3 Q. And you never texted a friend of yours that CJ
4 found out and was furious?

5 A. Do you have something that would be able to
6 refresh my memory?

7 Q. So you don't recall it independently as you sit
8 here today?

9 A. No, ma'am. It's been seven years.

10 Q. We'll come back to that.

11 A. Okay.

12 Q. You were dating the defendant Colin J. Gahagan
13 in the fall of 2015, right?

14 A. I wouldn't describe it as dating.

15 Q. You had a physically intimate relationship with
16 Mr. Gahagan in the fall of 2015, correct?

17 A. Yes, ma'am.

18 Q. Okay. You know -- withdrawn. You first met CJ
19 in August of 2015, correct?

20 A. I'm not -- I can't say if it was August, but it
21 was in the summertime.

22 Q. Prior to October -- withdrawn. Your
23 relationship with CJ was not exclusive, right?

24 A. No, ma'am. Not at that time.

25 Q. In other words, you and CJ were not monogamous?

1 A. Correct.

2 Q. But CJ would've been jealous if you had sex
3 with another man, right?

4 A. I can't say ---

5 MS. PORTER: Objection, Your Honor. It calls
6 for speculation and the protective order.

7 THE COURT: Sustained.

8 BY MS. LAU:

9 Q. Were you aware of any boundaries in your
10 relationship involving CJ?

11 A. I believe CJ and I may have discussed them, but
12 I don't recall exactly what they were.

13 Q. Did you previously testify that the only
14 boundary in your relationship was no going home with
15 another person?

16 A. Could you point me to a page, please?

17 Q. Do you still have your transcript?

18 A. Yes, ma'am.

19 Q. Okay. Will you please flip to page 52, line
20 20. Actually, just go up ahead. So I -- I asked
21 you, "Did you and CJ ever discuss the boundaries of
22 what each of you considered appropriate sexual
23 conduct with others prior to December 2015"? And
24 what did you say?

25 A. "Yes, ma'am."

1 Q. And I asked, "What was that?"

2 A. "I think the only boundary was no going home
3 with another person."

4 Q. Thank you. You wanted a more serious
5 relationship with CJ during this time period,
6 correct?

7 A. Absolutely.

8 Q. But CJ did not?

9 A. Not that he told me.

10 Q. Prior to October 24, 2015, you attended at
11 least one party at Phi Delta's house?

12 A. I believe so.

13 Q. And Phi Delta Theta's house is also known as
14 the "Compound"?

15 A. Yes, ma'am.

16 Q. On October 24, 2015, you became aware that Phi
17 Delta Theta would be throwing a party at the
18 Compound, right?

19 A. Yes, ma'am.

20 Q. And October 24th was a Saturday?

21 A. I believe so. Yes, ma'am.

22 Q. And you planned on going?

23 A. Yes, ma'am.

24 Q. You discussed attending your plans to attend in
25 text messages with CJ earlier that day, right?

1 A. Yes, ma'am. I believe so.

2 MS. LAU: I'm going to be marking this document
3 as Plaintiff's 3. Showing it to defense counsel.
4 May I approach the witness?

5 THE COURT: You may.

6 THE WITNESS: Thank you.

7 MS. LAU: Ms. Wingo ---

8 MS. PORTER: Your Honor, may we approach
9 briefly?

10 THE COURT: Yes.

11 (Sidebar discussion.)

12 BY MS. LAU:

13 Q. Ms. Wingo, are you looking at Plaintiff's 3?

14 A. Yes, ma'am.

15 Q. Have you seen this document before?

16 A. I've seen these text messages before. Yes,
17 ma'am.

18 Q. And these are text messages between you and CJ?

19 A. Yes, ma'am.

20 Q. Is this a true and accurate copy of your
21 messages with CJ?

22 A. As much as I know. Yes, ma'am.

23 MS. LAU: I'd like to move Plaintiff's 3 into
24 evidence, please.

25 THE COURT: Subject to any redactions that are

1 needed?

2 MS. LAU: Yes.

3 MS. PORTER: Without objection to the
4 redaction.

5 (Plaintiff's Exhibit No. 3 was received into
6 evidence, subject needed redactions.)

7 BY MS. LAU:

8 Q. Ms. Wingo, can you -- can you look down at the
9 fourth message on -- sorry. Let's start with the
10 third. Can you look down at the third message on
11 that page and that's from you to CJ?

12 A. Yes, ma'am.

13 Q. Can you read that out loud?

14 A. "When are you going out tonight?"

15 Q. And this was sent on October 24, 2015, 11:43
16 p.m.?

17 A. Umm...

18 Q. Actually, it was minus four hours, wasn't it?
19 This is produced in UTC time?

20 A. Uh-huh.

21 Q. And so minus four hours would've been eastern
22 standard time?

23 A. So 7:00. Okay. Yeah, I believe 7:00.

24 Q. Okay. That was around 7:44 p.m.?

25 A. Yes, ma'am. I believe so.

1 Q. And CJ responds 7:44 p.m. eastern time, "I have
2 to be at the Compound by 10:30. It'll probably be
3 shitty until at least 11:00," correct?

4 A. Yes, ma'am.

5 Q. And then why don't you read aloud what you say
6 next.

7 A. "Yeah, we weren't going to come until at least
8 then."

9 Q. Okay. And CJ says, "Okay. Are there any other
10 parties tonight you guys are thinking about going to
11 or just us, because I'm guessing that we're going to
12 run out fairly quickly tonight." Did you understand
13 what he was referring to by saying "we're gonna run
14 out"?

15 A. Yes, ma'am. To the best of my knowledge when I
16 was a freshman at Clemson, Phi Delta Theta parties
17 were known for running out of the beer that they
18 supplied. So if myself or any of my friends were
19 attending a party, CJ would text us ahead of time
20 and make some mention about that.

21 Q. Thank you. And next you say at 11:48 p.m. --
22 I'm sorry. Still not doing the conversion. That's
23 in UTC time, 7:48 p.m.?

24 A. Uh-huh.

25 Q. Please read aloud to the jury what you said?

1 A. "Will you be getting more? And Pike is doing
2 something, but no one wants to go."

3 Q. And what did you understand to be asking CJ
4 about in that message?

5 A. I was asking if they were going to run out or
6 if there was a plan for pledges to go and buy more
7 beer. That's typically how the fraternity would
8 obtain beer.

9 Q. Okay. Prior to the party, you went to Rachel
10 Corbin's room in McCabe Hall, correct?

11 A. Yes, ma'am.

12 Q. Rachel was one of your close friends at the
13 time?

14 A. At the time. Yes, ma'am.

15 Q. And she was also pledging the same sorority as
16 you?

17 A. Yes, ma'am.

18 Q. Olivia Pescatore was also there at Rachel's
19 dorm?

20 A. Yes, ma'am.

21 Q. And Haley Sinclair?

22 A. Yes, ma'am.

23 Q. Drew Pampu wasn't there, right?

24 A. No, ma'am. He was not.

25 Q. Neither was CJ, right?

1 A. No, ma'am. He was not.

2 Q. You got to Rachel's dorm around 9:30 p.m. that
3 night?

4 A. I believe around 9:30, 9:45ish.

5 Q. And you pre-gamed before the party at Rachel's
6 room; is that right?

7 A. Yes, ma'am.

8 Q. You consumed alcohol there?

9 A. Very much so. Yes, ma'am.

10 Q. You said you consumed nine shots, correct?

11 A. Yes, ma'am.

12 Q. And when you say "take a shot or a shot," you
13 mean with regard to consuming alcohol, right?

14 A. Correct.

15 Q. And by shot, you meant 1.5 ounces?

16 A. I didn't measure, so I couldn't tell you
17 exactly how much I poured.

18 Q. You gave a second day of deposition testimony
19 in this case on October 21, 2020, correct?

20 A. Yes, ma'am, I did.

21 Q. Okay. And before you gave that testimony, you
22 were sworn under oath to tell the truth?

23 A. Yes, ma'am.

24 Q. Just like you were today before you are
25 providing testimony to the jury, correct?

1 A. Yes, ma'am.

2 Q. Okay. And October 21, 2020, was fresher in
3 time than today, correct?

4 A. Yes, ma'am.

5 Q. Can you please look at page 328?

6 A. Okay.

7 Q. Actually, I may not have given it you.

8 A. Yeah, I only go up to mid-60s or 62 I think.

9 Q. Give me one minute and I'll give you day two.

10 A. No problem. Take your time. It's a big
11 transcript. What page is that again?

12 Q. We're going to turn to page 328.

13 A. Okay. Thank you. Just one second. I'm here.

14 Q. Okay. Ms. Wingo, I asked you on line 14 what
15 does shot mean to you, and can you read your
16 response please for the jury?

17 A. "It means the standards one-and-a-half-ounce
18 pour."

19 Q. Thank you. You are 5'2" in height, correct?

20 A. Yes, ma'am.

21 Q. And at the time you were between 114 to
22 118 pounds?

23 A. Yes, ma'am.

24 Q. And you were aware that consuming alcohol was
25 in violation of Clemson's policies that night?

1 A. Yes, ma'am.

2 Q. Just -- withdrawn. You left McCabe Hall to go
3 to the Compound around 10:30?

4 A. Between 10:30 and 11:00. I can't tell you what
5 time exactly.

6 Q. And the walk from McCabe Hall to the Compound
7 would've been around ten minutes?

8 A. I can't tell you that exactly.

9 Q. Can you please look at your testimony on page
10 71 of day one on October 20, 2020? Perhaps that
11 might refresh your memory.

12 A. Okay. Thank you so much. Give me one second,
13 please. And what line?

14 Q. Yes. That would be line -- lines 23 through
15 25.

16 A. Okay. There it is.

17 Q. Does that refresh your memory as to how long
18 the walk from McCabe Hall to the Compound would be?

19 A. Yes, ma'am. I said it was ten minutes. "I
20 believe it was around ten minutes, but I wouldn't
21 set a timer and hold me to it."

22 Q. Do you remember making a stop at Johnstone Hall
23 so someone could use the bathroom, right?

24 A. Yes, ma'am.

25 Q. Given your estimate of what time you left

1 McCabe Hall and how long the walk would've taken,
2 you would've arrived at the Compound around
3 11:42 p.m.?

4 A. I believe. I mean, what's being counted in
5 that?

6 Q. Well, you said that you -- you left around
7 10:30?

8 A. Uh-huh.

9 Q. And it would've been a ten-minute walk or so?

10 A. Okay.

11 Q. So would that have marked your arrival around
12 11:42 or 11:40 p.m.?

13 A. 11:00?

14 Q. Oh, I'm sorry. That might be a
15 mis-transcription on my part. Did you leave McCabe
16 Hall to the Compound -- to go to the Compound at
17 10:30 or 11:30?

18 A. I -- I believe it's between 10:30 and 10:45,
19 but, again, I was drinking so I couldn't tell you
20 for sure.

21 Q. Okay. Well, what time do you recall arriving
22 at the Compound?

23 A. I couldn't tell you what time I arrived. I
24 don't recall.

25 Q. Is there a document that refresh -- would

1 refresh your recollection?

2 A. If you have any prior testimony that may be
3 able to help or a text message.

4 Q. Did you previously make a statement that you
5 arrived at the party at 10:45?

6 A. Do you have a statement I can refresh my memory
7 with?

8 MS. LAU: May I approach?

9 THE COURT: Yes.

10 THE WITNESS: Thank you so much.

11 THE COURT: Let them know what you're referring
12 to.

13 MS. LAU: Oh, sorry.

14 MS. PORTER: It's December 10th. Got it.

15 BY MS LAU:

16 Q. So does that document refresh your memory as to
17 the approximate time of your arrival at the
18 compound?

19 A. Yes, ma'am. It says here Brittany indicated
20 that around 10:45 was their time to arrive at the
21 party, but I don't have an independent recollection
22 of what time we arrived at.

23 Q. Okay. You carried alcohol with you while you
24 walked to the Compound, correct?

25 A. Yes, ma'am, I did.

1 Q. In an empty water bottle?

2 A. Yes, ma'am.

3 Q. It was not a full bottle, right?

4 A. Not at that time. No, ma'am.

5 Q. Was it scrunched up in some way?

6 A. Yes, ma'am. I squeezed all the extra air out
7 of it so it would fit in my back pocket.

8 Q. You told your friends you wanted to give
9 Mr. Pampu a birthday kiss while you were walking to
10 the Compound, right?

11 A. I don't remember saying that.

12 Q. Please turn to your testimony on October 20,
13 2020, page 76.

14 A. Okay.

15 Q. Lines 21 through 24.

16 A. Okay.

17 Q. And I asked, "At any point that evening on
18 October 24th, did you tell your friends that you
19 wanted to give Mr. Pampu a birthday kiss while at
20 the Compound." And what did you say?

21 A. "I believe so."

22 Q. When you first arrived at the Compound, you
23 went to see CJ first?

24 A. Yes, ma'am.

25 Q. CJ was in the front house of the Compound,

1 correct?

2 A. Yes, ma'am.

3 Q. And you walked over to CJ alone, right?

4 A. To the best of my knowledge. Yes, ma'am.

5 Q. These will be easier for the jury to see and
6 for you.

7 A. Sure.

8 Q. Okay. Ms. Wingo, this has been previously
9 introduced as Plaintiff's -- I'm sorry -- Defense 1.

10 MS. PORTER: Yes. Is that just the Compound?

11 MS. LAU: Yes.

12 MS. PORTER: Defense 1.

13 BY MS. LAU:

14 Q. This appears to be a drawing of the Compound.
15 Does this drawing and the three houses on the
16 Compound, does that, to the best of your knowledge,
17 appear to be accurate as far as situationally where
18 the houses were and what the Compound looked like?

19 A. Yes, ma'am. I believe so.

20 Q. Okay. And so when you first saw CJ, where on
21 the Compound did you see CJ?

22 A. I walked through that front entrance gate over
23 to your right.

24 Q. (Indicating.)

25 A. Further over.

1 Q. (Indicating.)

2 A. Yes, ma'am. And I walked through that entrance
3 and I had taken a left and walked into the front
4 house.

5 Q. Okay. And CJ was inside the front house at
6 that time?

7 A. Yes, ma'am. He was.

8 Q. Okay. Was CJ with anyone at the time?

9 A. There were people around, but I don't know or I
10 can't recall if he was sitting with anybody.

11 Q. And you drank with CJ at the Compound?

12 A. Yes, ma'am, I did.

13 Q. CJ saw you take two poles from your water
14 bottle?

15 A. I believe so.

16 Q. Drew was not with you when you took those two
17 poles from your water bottle?

18 A. Drew was not in front of my vision.

19 Q. At some point CJ told you to go find somebody
20 else, right?

21 A. That's what I thought he said. Yes, ma'am.

22 Q. You were upset by CJ's statement, right?

23 A. My feelings were hurt. Yes, ma'am.

24 Q. Well, did you state that nobody likes to be
25 told to find somebody else?

1 A. That's true. Yes, ma'am.

2 Q. At some point you parted ways from CJ at the
3 party, correct?

4 A. Yes, ma'am.

5 Q. You went to go find Drew?

6 A. I don't know if that's exactly the next thing I
7 did, but that did happen after.

8 Q. At some point you met Drew at the Compound?

9 A. Correct. Yes, ma'am.

10 Q. And you asked someone to help you locate him?

11 A. Yes, ma'am, I did.

12 Q. And that person was Ben Zboray, right?

13 A. Yes, ma'am. To the best of my knowledge.

14 Q. And you remember specifically asking, "Can you
15 help me find Drew," right?

16 A. Yes, ma'am.

17 Q. Without Ben's help, you did not know where Drew
18 was situated at the party?

19 A. I don't remember anything but looking at my
20 feet.

21 Q. You told Ben why you wanted to find Drew,
22 right?

23 A. I don't remember what I said to Ben after
24 asking him to help me find Drew.

25 Q. Can you please turn to page 84 of your

1 deposition testimony in October 20, 2020?

2 A. Yes, ma'am.

3 Q. On line 3, I asked, "Did you tell him" -- and
4 by "him," I'm referring to Ben -- "why you wanted to
5 find Drew?"

6 A. And I said -- I believe I said I wanted to give
7 him a birthday kiss, but I can't say that for sure.

8 Q. Eventually, you meet up with Drew, correct?

9 A. Yes, ma'am.

10 Q. And when you met up with Drew, you are now
11 located behind the front house?

12 A. Somewhere off to the diagonal, like to the
13 northeast, somewhere in that area.

14 Q. Okay. And when you found Drew, you hugged him,
15 right?

16 A. I remember grabbing onto his arm. It might've
17 been a side hug. There might've been a full hug. I
18 couldn't tell you, but I do remember grabbing onto
19 his arm.

20 Q. You don't recall drinking with Drew at that
21 point, right?

22 A. No, ma'am.

23 Q. Did you ever tell Drew what you drank at McCabe
24 before you saw him that night?

25 A. I don't know what I told Drew.

1 Q. Well, did you send him any text messages before
2 that point to indicate what you had drank at McCabe
3 Hall?

4 A. No, ma'am. I did not text him.

5 Q. Or text him or indicate any other verbal way
6 what you had drank with CJ?

7 A. I don't remember really anything after grabbing
8 onto Drew's arm, so I couldn't tell you what I told
9 him.

10 Q. You remember portions of your encounter with
11 Drew, right?

12 A. Some.

13 Q. But you don't remember having sex with Drew?

14 A. I remember the encounter itself. I don't
15 remember how it started. I don't remember when it
16 ended. I don't know how long it took.

17 Q. Do you need a minute, Ms. Wingo?

18 A. I'd really like to just keep going.

19 Q. There's a tissue right behind you if you need
20 it.

21 A. Thank you so much.

22 Q. You are now aware of the location where you and
23 Drew had sexual intercourse on October 24, 2015,
24 right?

25 A. I believe I know the approximate location.

1 Q. I believe this might be Defendant's 2. So this
2 is a bigger blowup of Plaintiff's 1. Now, does this
3 map, this Google map, help indicate to you the
4 location of where the sexual encounter occurred?

5 A. Could you bring it closer?

6 Q. Yeah, absolutely.

7 A. Thank you so much. Yes, ma'am. Where I
8 believe it happened.

9 Q. Okay. Can you point out to me the area that
10 you believe it occurred?

11 A. I believe it occurred somewhere in this general
12 area.

13 Q. And so you're referencing this "X" here?

14 A. A larger circle, but, yes, ma'am, the "X."

15 Q. It was near a shed, correct?

16 A. To the best of my knowledge.

17 Q. And the path that you and Drew took to walk
18 from the Compound to the shed was about a quarter to
19 a half mile?

20 A. I have no idea.

21 Q. But you cannot dispute the path that you and
22 Drew took was about a quarter to a half mile?

23 A. I can't dispute it. No, ma'am.

24 Q. On that night, were you walking without
25 assistance to that shed?

1 A. I don't know.

2 Q. But you can't dispute the possibility that you
3 were?

4 A. It's possible.

5 Q. During the walk to the shed, you drank from
6 your water bottle filled with vodka?

7 A. I have no idea.

8 Q. But you can't dispute the possibility that you
9 did?

10 A. Correct.

11 Q. And during the walk to the shed, you offered
12 Drew vodka from your water bottle?

13 A. I've got no idea.

14 Q. But you can't dispute the possibility that you
15 did?

16 A. That's correct.

17 Q. And once at the shed, did you take your clothes
18 off without assistance?

19 A. I don't know.

20 Q. You can't dispute the possibility that you did?

21 A. (No response.)

22 Q. And you were take -- when you were taking your
23 clothes off -- I'm sorry.

24 A. I can't dispute the possibility.

25 Q. Would you like another minute?

1 A. It's the hardest part.

2 Q. And when you were taking your clothes off, did
3 Drew ask you, "What are you doing?"

4 A. I don't know.

5 Q. You can't dispute the possibility that he asked
6 you, "What are you doing?"

7 A. He very well could have said it.

8 Q. Do you recall telling Drew, "So I can have
9 sex"?

10 A. I don't remember.

11 Q. Okay. You can't dispute the possibility that
12 you did tell Drew, "So we can have sex"?

13 A. Maybe.

14 Q. Do you recall Drew asking, "Are you sure"?

15 A. I don't know.

16 Q. You can't dispute the possibility that he asked
17 you, "Are you sure"?

18 A. He might have said it.

19 Q. And did Drew tell you -- I'm sorry. Did you
20 tell Drew, "Yes. It's fine," or something to that
21 effect?

22 A. I don't know.

23 Q. But you can't dispute the possibility that that
24 is what you said?

25 A. It may have happened.

1 Q. And did Drew ask if you should use a condom?

2 A. I don't know.

3 Q. But you can't dispute the possibility of that
4 he asked you whether he should use a condom?

5 A. I can't dispute it.

6 Q. And then you said, "Yeah, you can"?

7 A. I don't know.

8 Q. You can't dispute that possibility that that's
9 what you said?

10 A. I can't dispute it.

11 Q. Then sexual intercourse occurred?

12 A. To the best of my knowledge.

13 Q. And you were standing with your hands on the
14 side of the shed while Drew was behind you?

15 A. The only thing I remember is being pushed up
16 against the shed with my forearms in front of me and
17 him being behind me and me biting my arm, so that's
18 all -- that's what I remember.

19 Q. And at some point, both of you get down on your
20 knees to continue having sex?

21 A. I don't know.

22 Q. And you can't dispute the possibility that
23 occurred?

24 A. I can't dispute it.

25 Q. Once the sexual intercourse was over, you put

1 your clothes back on?

2 A. I don't know.

3 Q. You can't dispute the possibility that you did?

4 A. I can't dispute it.

5 Q. And after your clothes are back on, you begin
6 talking about CJ and asking why he didn't love you?

7 A. I don't remember.

8 Q. But you can't dispute the possibility that you
9 did?

10 A. I can't dispute it.

11 Q. And you and Drew began walking back to the
12 compound?

13 A. I believe so.

14 Q. You wanted to find CJ at that point, right?

15 A. I think so.

16 Q. When you got to the Compound, you went to the
17 front steps of the front house?

18 A. I remember Drew sitting me on the steps.

19 Q. These -- these steps right here (indicating)?

20 A. Yes, ma'am. Those steps.

21 Q. Your original plan that night was to go back to
22 Cope Hall with CJ after the party?

23 A. Yes, ma'am.

24 Q. Cope Hall is where CJ resided on campus,
25 correct?

1 A. Yes, ma'am.

2 Q. You found out that CJ was no longer at the
3 party at that point, right?

4 A. I couldn't tell you what I found out and what I
5 didn't.

6 Q. I want you to turn to your deposition
7 transcript on October 20, 2020, page 101.

8 A. Okay.

9 Q. I'm sorry, 108.

10 A. I'm here.

11 Q. Okay. Actually, you know, let's go back to 107
12 just because that first top line starts at the
13 bottom of page 107.

14 A. Okay.

15 Q. Can you please read out to the jury from line
16 25 on page 107 through page 108 to line 5?

17 A. "When I was sitting on the front steps, I
18 texted, 'On the front steps,' and he asked, 'Where?'
19 to the best of my knowledge. I didn't review the
20 rest of ESI you previously asked me to look at, but
21 to the best of my knowledge, I told him where I was
22 and he said he left."

23 Q. Thank you.

24 A. But I don't remember if I knew that at the
25 time, or if I was later shown the messages.

1 Q. You were crying and upset at this point, right?

2 A. Yes, ma'am.

3 Q. You believe you messed up the plan that night,
4 right?

5 A. I think so. Do you have something that could
6 refresh my memory?

7 Q. Can you please turn to page 109 of your
8 deposition on October 20th?

9 A. Yes, ma'am.

10 Q. And can you read your answer on line 3?

11 A. "Because I wanted CJ, and I had messed up the
12 plan."

13 Q. And I asked you, "How did you mess up the
14 plan?"

15 A. "I didn't go home with CJ."

16 Q. Drew was no longer with you at that point on
17 the front steps, correct?

18 A. No, ma'am. He left me there.

19 Q. Rachel Corbin was at the front steps, right?

20 A. I don't remember if Rachel was there. I don't
21 remember seeing her.

22 Q. But you can't dispute the possibility that she
23 was?

24 A. She might have been.

25 Q. And Ben Zboray was at the front steps, right?

1 A. I don't remember.

2 Q. And you can't dispute the possibility that he
3 was?

4 A. He might've been.

5 Q. Same question for Olivia Pescatore?

6 A. I don't remember.

7 Q. But you can't dispute the possibility that she
8 was?

9 A. Correct.

10 Q. While on the front steps of the front porch,
11 you didn't tell anyone that Drew raped you, right?

12 A. No, ma'am.

13 Q. Or that he sexually assaulted you?

14 A. No, ma'am.

15 Q. At some point, you leave the Compound?

16 A. Yes, ma'am.

17 Q. Got into a car?

18 A. I believe so. Yes, ma'am.

19 Q. You were seated in the backseat of that car,
20 right?

21 A. To the best of my knowledge. Yes, ma'am.

22 Q. And Rachel, Olivia, and Haley and Ben also got
23 into that car, right?

24 A. I think so.

25 Q. But Drew was not in that car?

1 A. No, ma'am. He was not.

2 Q. Jon Stoddart was driving that car, right?

3 A. I didn't know that until later, but, yes,
4 ma'am.

5 Q. You went back to Manning Hall that night?

6 A. Yes, ma'am.

7 Q. That was your dorm?

8 A. Yes, ma'am.

9 Q. And you did not go to CJ's dorm, Cope Hall?

10 A. No. I was -- no.

11 Q. The car ride from the Compound to Manning Hall
12 was about five to seven minutes?

13 A. I think so.

14 Q. While in the car, you did not tell anyone Drew
15 raped you, right?

16 A. I don't remember the car ride.

17 Q. You did not tell anyone that he had sexually
18 assaulted you?

19 A. I don't remember the car ride.

20 Q. After you got to your dorm, you realized that
21 you did not have your room key, right?

22 A. Correct.

23 Q. You had to get assistance from your RA to open
24 the door because you did not have your room key?

25 A. My friends did.

1 Q. And who was your RA at that time?

2 A. Leslie Snider.

3 Q. And Leslie helped you get into your room that
4 night, right?

5 A. I don't know if she helped me get in. I know
6 that she helped my friends get a key for me to be
7 able to get into the room, but I don't know if she
8 specifically helped me get in.

9 Q. Well, would you agree that if she provided a
10 key to your friends to help you get in the dorm that
11 that would be help?

12 A. Yes, ma'am. I must've misinterpreted your
13 question.

14 Q. And you remember she told you, you would need
15 to pay \$75 because of that key opening?

16 A. I don't really remember what she told me, but
17 there was a sticky note in the morning when I woke
18 up on my desk telling me that.

19 Q. Can you go to your deposition on October 20th,
20 page 118, please?

21 A. (Complying.)

22 Q. Please read out line 25.

23 A. "What's your next memory?"

24 Q. And then can you turn to the next page 119 of
25 that transcript? Please read your answer.

1 A. "Leslie letting me into my room and telling me
2 that I was going to have to pay \$75 to have my
3 key -- or my door handle rekeyed, and then Olivia
4 and Haley helped me change and I went to sleep."

5 Q. Thank you. You didn't tell Leslie that you had
6 been sexually assaulted that night?

7 A. I don't know what I told Leslie.

8 Q. Or that you had been raped?

9 A. I don't know what I told her.

10 Q. Ms. Snider did not write you up for underage
11 drinking or anything, did she?

12 A. To the best of my knowledge, she didn't.

13 Q. She did not file a police report -- withdrawn.
14 At some point, you went to sleep?

15 A. Yes, ma'am.

16 Q. You wake up the next morning around 8:00 a.m.;
17 is that right?

18 A. I believe so.

19 Q. And that was a Sunday on October 25th?

20 A. Yes, ma'am.

21 Q. You saw sticky notes in your room with messages
22 written by your friends?

23 A. Yes, ma'am. They were in a line on my desk.

24 Q. The messages were written by Haley and Olivia?

25 A. They were.

1 Q. And they were about the night before?

2 A. Some of them may have been, but I don't think
3 all of them were.

4 Q. One of the messages was about losing your key,
5 right?

6 A. Yes, ma'am.

7 Q. Another sticky note message is about deleting
8 messages from CJ from the night before, right?

9 A. Yes, ma'am.

10 Q. The sticky note message explained that you and
11 CJ had gotten into a fight the night before?

12 A. Yes, ma'am.

13 Q. And the message explained that Haley had to
14 delete the text messages off your phone so you
15 wouldn't know what you said or what he said?

16 A. Yes, ma'am.

17 Q. At 12:40 a.m. -- withdrawn. But you did
18 actually end up seeing the messages that were
19 deleted off of your phone?

20 A. Yes, ma'am. They came through on my computer
21 because my computer and phone are linked.

22 MS. LAU: I'm going to mark this document as
23 Exhibit 4. May I approach?

24 THE COURT: You may.

25 BY MS. LAU:

1 Q. Ms. Wingo, what is this document?

2 MS. PORTER: Your Honor, may we approach again?

3 THE COURT: Come to my office.

4 (Sidebar discussion.)

5 BY MS. LAU:

6 Q. Ms. Wingo, what are -- what is this document?

7 A. It's the text messages between me and CJ.

8 Q. And this a true and accurate copy of those text
9 messages?

10 A. To the best of my knowledge.

11 THE COURT: I believe y'all had consented to it
12 with redactions.

13 MR. MOORE: That's correct.

14 THE COURT: No objection, except as to the
15 redactions?

16 MR. MOORE: Correct.

17 MS. LAU: Okay.

18 MS. PORTER: Is she entering it into evidence?

19 MS. LAU: Yeah, I'd like to -- I'd like to
20 enter it into evidence.

21 MS. PORTER: With redactions?

22 THE COURT: Right.

23 MS. PORTER: Okay.

24 THE COURT: Just trying to shortcut it.

25 MS. LAU: Thank you.

1 (Plaintiff's Exhibit No. 4 was received into
2 evidence.)

3 BY MS. LAU:

4 Q. So, Ms. Wingo, when you take a look at the
5 third message -- I'm sorry. Yes, the third message
6 there, and that -- that's a text message from CJ to
7 you on October 25, 2015. And it says 4:42 a.m. UTC,
8 so that would've made it 12:42 am, eastern time,
9 correct?

10 A. Yes, ma'am.

11 Q. And what does it say?

12 A. It says, "Seriously, dot, dot, dot."

13 Q. Okay. Now read the next message that he sends
14 to you at 12:44 a.m.

15 A. "Okay. This is over."

16 Q. And then the next message down at 12:45 a.m.,
17 he sends you another message.

18 A. "Going home to my own bed. The chance is
19 gone."

20 Q. And the next message after that at 12:49 a.m.,
21 read that, please.

22 A. "Done. Rachel told me to decide what I wanted,
23 and after this it's nothing."

24 Q. We're going to skip that message right after
25 that. Let's read the next message at 12:56 a.m.

1 A. "If I ever see you in Cope again, it won't be
2 pretty. Trust me when I say this, this will never
3 happen again. Stay away from Cope. Stay away from
4 the Compound. Stay away from me. I can't believe I
5 bought you a birthday gift. I should've known."

6 Q. Then the next message is from you, and that's
7 at 1:00 a.m. eastern time?

8 A. I believe so.

9 Q. And you text him with what?

10 A. I said, "Front steps."

11 Q. And he texts you back at 1:02 a.m., and what
12 does he say?

13 A. "Of?"

14 Q. And you text him back 12:03 a.m. -- sorry.
15 1:03 a.m., and what do you say?

16 A. "The Compound, please."

17 Q. You sent a series of text messages to CJ that
18 morning after you first woke up, right?

19 A. I believe so.

20 Q. And it was after you had reviewed these
21 messages that he had sent you starting at 12:40
22 a.m.?

23 A. I believe so.

24 MS. LAU: Mark this document as Plaintiff's 5.
25 May I approach?

1 THE COURT: You may.

2 THE WITNESS: Thank you.

3 BY MS. LAU:

4 Q. And what is this document, Ms. Wingo?

5 A. I think it's some more text messages between
6 myself and CJ.

7 Q. Is this a true and accurate copy of those
8 messages?

9 A. To the best of my knowledge.

10 Q. Please read out that first message on the top
11 of the page from you to CJ at 7:58 eastern time.

12 A. "What, period, happened, period."

13 Q. And then read the next one at 8:00 a.m. from
14 you to CJ.

15 A. "All I remember is crying. Pretty sure you
16 texted me pissed off, but I have no texts to prove
17 it because I think Olivia deleted them, and all I
18 know is that I love you and I need you. So what
19 happened?"

20 Q. And at 8:13 a.m. eastern time, what do you
21 write to him?

22 A. "And I have the messages."

23 Q. And by "the messages," you're referring to the
24 angry messages he had sent you at 12:40 a.m.

25 A. I believe it's referring to the whole

1 conversation.

2 Q. And at 8:18 a.m., still no response from CJ.
3 You write again to CJ and please read that response.

4 A. "They're on my computer. Even though you
5 wanted them deleted off my phone, I still have them.
6 If you want nothing to do with me still, then I'll
7 walk away. But when I tell you I love you, I mean
8 it. So when I say I want to tell you -- I want you
9 to tell me to be yours and to care about what I do,
10 I want that too. I want to be yours and only yours,
11 and you won't ask me to do that and I don't know
12 why."

13 Q. And then at 9:09 a.m., you still haven't heard
14 from CJ yet, right?

15 A. Correct.

16 Q. You write to him again?

17 A. Yes, ma'am.

18 Q. What do you say?

19 A. "I need you."

20 Q. Then at 9:24 a.m., you write again. What do
21 you say?

22 A. "All I want is you and I suck at showing that
23 when I'm drunk, but all I want is you and that's all
24 I've wanted since being here. But like I said, I'll
25 walk away if that's what you want."

1 Q. And at 9:28 a.m., still no response from CJ,
2 right?

3 A. Mmm-hmm.

4 Q. But you write to him again. What do you say?

5 A. "I cried over you last night all night. I
6 don't know how I fell asleep because I was crying,
7 but I'll shut up now."

8 Q. And then at 10:48 a.m., you still haven't heard
9 from CJ, right, but you write to him again?

10 A. Yes, ma'am.

11 Q. And please read out your response or your
12 statement.

13 A. "I love you and I want you, so that's all I can
14 give and say -- give and say, but I'll do what you
15 want me to. I just can't keep playing this game and
16 kidding myself into thinking it'll work out if you
17 aren't feeling the same."

18 Q. At 10:55 a.m., CJ finally responds?

19 A. Yes, ma'am.

20 Q. What does he say?

21 A. "Not the time to say I love you. I'm going to
22 the Compound to clean now. We'll talk when I get
23 back."

24 Q. You did not text CJ that you were raped that
25 morning, did you?

1 A. No, ma'am. I did not.

2 Q. Or that you were sexually assaulted?

3 A. No, ma'am.

4 Q. Or that you didn't remember anything from the
5 night before?

6 A. I mean, I asked him what happened.

7 Q. You did not specifically state that you did not
8 remember anything from the night before?

9 A. Not that I can -- I can't -- I didn't use those
10 exact words. No, ma'am.

11 Q. Then at 10:04 a.m., you sent a message to Drew,
12 right?

13 A. Yes, ma'am.

14 MS. LAU: I'm going to be marking this document
15 as Plaintiff's 6. May I approach?

16 THE COURT: You may.

17 BY MS. LAU:

18 Q. Ms. Wingo, what is that document?

19 A. It looks like text messages.

20 Q. And these are text messages from yourself?

21 A. Yes, ma'am. It looks like they all -- I was
22 the one who authored all of these.

23 Q. And who are they to?

24 A. I don't know these phone numbers off the top of
25 my head.

1 Q. Can you tell from the language of the message
2 or any of the messages who you were texting with?

3 A. I can only tell you about the second and third
4 message on the page.

5 Q. Okay. And who were the second and third
6 messages to?

7 A. I believe they were to Drew.

8 Q. Okay. And that's a true and accurate copy of
9 your messages to Drew, the second and third ones?

10 A. Yes, ma'am. To the best of my knowledge.

11 Q. And what does it say you sent to Drew at 10:04
12 a.m. on October 25th?

13 A. "Do not tell CJ what happened."

14 BY MS. LAU: I'd like to move Plaintiff's 6 into
15 evidence, please?

16 THE COURT: Any objection?

17 MS. PORTER: With some redactions.

18 THE COURT: All right. Six subject to
19 redactions.

20 (Plaintiff's Exhibit No. 6 was received into
21 evidence, subject to redactions.)

22 BY MS. LAU:

23 Q. You were concerned about CJ finding out about
24 the sexual encounter from the night before with
25 Drew, right?

1 A. I didn't remember everything that happened.
2 And you know like when you wake up in the morning
3 and you just have like a gut feeling that something
4 bad happened? That's how I woke up. And I didn't
5 remember everything, but I knew whatever it was, I
6 was worried it was going to hurt CJ.

7 Q. CJ would've been upset if you had sex with
8 Drew, right?

9 A. I can't speak for him.

10 Q. Well, you understood that -- I believe you
11 testified earlier that if you had sex with another
12 man that CJ would've been upset, right?

13 A. I don't know if he would be upset. It was just
14 one of the boundaries we had talked about.

15 Q. And that's why you told Drew, "Do not tell CJ
16 what happened," right?

17 A. I was worried whatever happened would hurt CJ.

18 Q. You wanted a more serious relationship with CJ?

19 A. Yes, ma'am.

20 Q. At some point, you go back to sleep; is that
21 right?

22 A. Yes, ma'am.

23 Q. You woke up again around 11:00 a.m.?

24 A. I believe so.

25 Q. And you saw Jami Hafner in person that morning

1 after you woke up, right?

2 A. At some point, yes, ma'am.

3 Q. And then who is Jami Hafner?

4 A. She was one of my close friends.

5 Q. Jami came to your room, right?

6 A. Yes, ma'am.

7 Q. And you told Jami you had sex with Drew Pampu
8 the night before?

9 A. I if I told Jami anything, I believe I said I
10 think I had sex.

11 Q. You did not tell Jami that Drew raped you,
12 right?

13 A. No, ma'am.

14 Q. Or that he sexually assaulted you?

15 A. I did not use those words.

16 Q. Later that day on October 25th, you spoke to CJ
17 some time between 5:00 and 5:30?

18 A. I believe so.

19 Q. That was in person in your dorm at Manning?

20 A. Yes, ma'am.

21 Q. CJ asked you if you remembered anything from
22 the night before, right?

23 A. I believe so.

24 Q. You told him you didn't remember much?

25 A. Yeah, I think so. I don't know if that's

1 exactly how I phrased it.

2 Q. Then he showed you a group of -- a group chat
3 message between Phi Delta Theta pledge brothers from
4 the earlier -- from earlier that morning, correct?

5 A. Yeah.

6 Q. That was the first time you became aware of the
7 group chat message, right?

8 A. That was the first time I became aware of the
9 group chat message, and that's how I found out I was
10 raped.

11 Q. You told CJ that some of the things -- or --
12 withdrawn. You told CJ some of the things you
13 remembered from that night, right?

14 A. I told him I believe what I remember -- I only
15 remembered some of the night, so I believe I told
16 him what I remembered.

17 Q. But you did not tell him everything you
18 remembered from the night before, did you?

19 A. I don't remember exactly what I told him.

20 Q. Can you turn to page 168 of your transcript
21 from your deposition on October 20, 2020?

22 A. Okay. Sorry. I just don't want to lose any of
23 these pages. Okay. I'm here.

24 Q. And can you take a look at line 7 -- I'm
25 sorry -- line 4?

1 A. Okay.

2 Q. And I asked you, "Did you tell CJ what you did
3 remember about the night?" And what did you say?

4 A. "I believe so."

5 Q. And I asked you, "What did you tell him?"

6 A. "That I remembered seeing him and I really
7 didn't remember anything else until I left the party
8 with my friends."

9 Q. And then I said, "But that -- I said, "But that
10 wasn't true at the time," right?

11 A. Correct.

12 Q. And what did you say on line 13 to 14? I'm
13 sorry. You said, "Correct." And I said, "Did you
14 remember other things that happened in between
15 seeing him and you leaving the party?"

16 A. "Yes, ma'am."

17 Q. And I asked you, "Why didn't you tell him about
18 those other things?" And what did you say?

19 A. "I was embarrassed. I wasn't ready to tell
20 him. I was worried -- I would add to that, that I
21 was worried."

22 Q. There were times you could interpret that CJ
23 was jealous during the time you knew him, right?

24 A. I can't recall a specific time frame.

25 Q. Well, I didn't ask you if there was a specific

1 time, but you do remember there were times when CJ
2 was jealous?

3 A. Well, I don't want to make a general statement
4 if I don't have a specific time I can state to.

5 Q. Turn to page 169, please, of your transcript.

6 A. Yes, ma'am.

7 Q. Line 10, I asked you, "So there were times when
8 you could interpret that CJ was jealous during the
9 time you knew him?" And what did you say?

10 A. "Based on my interpretation, yes, but he might
11 not have been jealous and I could've been wrong."

12 Q. Aside -- sorry. Withdrawn. You did not tell
13 CJ that Drew raped you?

14 A. Not then. No, ma'am.

15 Q. That something bad happened?

16 A. Not then. No, ma'am.

17 Q. At 5:10 p.m., you texted Jami Hafner that CJ
18 knows about Drew, right?

19 A. Yes, ma'am.

20 Q. You sent this to Jami after you saw the group
21 chat, right?

22 A. I can't recall.

23 Q. Well, how would you know if CJ knew about Drew
24 without seeing that group chat?

25 A. I mean, I can't recall if there was like a

1 discussion before he showed me. I don't think he
2 just walked into my dorm room and like threw up his
3 phone and showed me what happened. So he could've
4 said something and showed me how he knew.

5 Q. Well, do you remember him having a discussion
6 about the interaction with you and Drew the night
7 before prior to showing you the group chat?

8 A. I don't remember much. It's been a long time.

9 Q. While CJ was in your room that day on
10 October 25, Sunday, he said, "If you don't remember,
11 it's rape," right?

12 A. I can't quote him on what he said.

13 MS. LAU: Just a moment, Your Honor.

14 BY MS. LAU:

15 Q. Did you previously make a statement in
16 December 2015, "If you don't remember -- CJ told
17 Erin, if you don't remember, it is rape"?

18 A. I have that. I think I'm holding the same
19 thing as you are, but what page is it?

20 Q. Six on the bottom right-hand corner.

21 A. These don't have page numbers.

22 MS. LAU: May I approach?

23 THE COURT: You may.

24 THE WITNESS: I don't want to waste your time.

25 BY MS. LAU:

1 Q. Does seeing that statement refresh your
2 recollection as to whether you said previously that
3 CJ told you, "If you don't remember, it's rape"?

4 A. I believe he said something along those lines,
5 but I don't know if that's like the exact way he --
6 he phrased it.

7 Q. This was the first time the term "rape" was
8 used to describe your sexual encounter with Drew the
9 night before, right?

10 A. I believe so.

11 Q. You never used that term with CJ that day,
12 correct?

13 A. No, ma'am.

14 Q. Or with anyone else up until that point?

15 A. No, ma'am. It felt really yucky.

16 Q. Then at 6 -- withdrawn. After your
17 discussion -- your in-person discussion with CJ on
18 October 25th, you didn't tell Drew that he sexually
19 assaulted you, did you?

20 A. No, ma'am.

21 Q. Or that he raped you?

22 A. No, ma'am.

23 Q. At some time after October 25th, you
24 communicated with Haley and Olivia about the sexual
25 encounter with Drew, right?

1 A. I believe so.

2 Q. You didn't tell them that Drew raped you?

3 A. No, ma'am. I did not use those words, I don't
4 believe.

5 Q. At some point after October 25th, you spoke
6 with Rachel about the sexual encounter with you and
7 Drew, right?

8 A. I think so.

9 Q. Do you remember walking to a new member meeting
10 for your sorority together with Rachel?

11 A. I don't remember now. It's been such a long
12 time.

13 Q. Do you remember whether you had new member
14 meetings on Mondays for your sorority?

15 A. I can tell you typically we had new member
16 meetings on Mondays.

17 Q. Well, any point -- or at some point after
18 October 25th when you spoke with Rachel for the
19 first time about the sexual encounter with Drew, did
20 you tell her that you had been raped?

21 A. Do you have something that could refresh my
22 memory? I don't remember what words were used.

23 Q. So you don't remember at all whether you told
24 Rachel initially for the first time you saw her
25 after the sexual encounter whether you had been

1 raped?

2 A. I can't recall what words I used.

3 Q. Rape is a crime, right?

4 A. Yes, ma'am.

5 Q. It's a crime in South Carolina?

6 A. Best of my knowledge.

7 Q. Mr. Pampu was never arrested for rape regarding
8 this incident, correct?

9 A. Not to my knowledge.

10 Q. Never criminally charged with rape regarding
11 the sexual encounter?

12 A. Not to my knowledge.

13 Q. Never convicted of rape by a criminal court
14 regarding this encounter?

15 A. Not to my knowledge.

16 Q. Never found responsible of rape in any civil
17 action?

18 A. Not to my knowledge.

19 Q. Who is Ashley Hodge?

20 A. She is still one of my best friends to today.
21 I met her in my first year of college.

22 Q. You told Ashley Hodge that Drew raped you,
23 right?

24 A. Yes, ma'am. I had a meeting with Clemson and I
25 was distraught, and she came and picked me up from

1 that meeting and I explained to her what happened.

2 Q. You told Ashley Hodge that Drew had raped you
3 on more than one occasion, right?

4 A. Do you have something that could refresh my
5 memory, because I don't remember the words I've used
6 throughout the years.

7 MS. LAU: Give me one minute.

8 THE WITNESS: Take your time. I know I'm
9 asking you to refresh my memory it's been so long,
10 so I appreciate that.

11 BY MS. LAU:

12 Q. Okay. Can you please take a look at your
13 deposition testimony from October 20, 2020, page
14 20 -- page 231?

15 A. Okay.

16 Q. Sorry. 230.

17 A. Perfect. I hadn't moved the stack yet.

18 Q. Okay. Tell me when you're there.

19 A. I am here.

20 Q. Okay. And I asked you on line 17, "And is this
21 one of the instances where you tell her about rape,
22 referring to Drew?"

23 A. "Yes, ma'am."

24 Q. And then I asked you, "Were there -- was there
25 any other occasion when -- where you told Ashley in

1 person or in a message in writing that Drew raped
2 you?" And what did you say?

3 A. "There are probably a lot of occasions. I just
4 don't remember the words I've used."

5 Q. You told your mother, Elizabeth Wingo, that
6 Drew raped you, right?

7 A. I don't -- I remember the phone call. I don't
8 remember exactly the words I've used.

9 Q. I'm talking about at any point.

10 A. Oh, yes, ma'am. I have said so.

11 Q. And you told your mother more than 20 times
12 that Drew raped you, right?

13 A. Yes, ma'am. She is my mom.

14 Q. You told your father, Dave Wingo, that Drew
15 raped you?

16 A. Yes, ma'am. I did.

17 Q. Around 50 times?

18 A. I mean, if that's the estimation I've given
19 before. It's been seven years, so a lot of times.
20 It's been a long conversation.

21 Q. Would you like your memory refreshed as to what
22 you said previously?

23 A. If you have something, I'd love to see it.

24 Q. Give me one second.

25 A. Take your time.

1 Q. Well, you don't dispute that you had previously
2 testified at your deposition that you told your
3 father around 50 times that Drew raped you, do you?

4 A. Yes, ma'am. I mean, he is involved in this
5 litigation with me, so...

6 Q. You do dispute that?

7 A. Oh, no, no, no. I don't dispute that. Sorry.

8 Q. You told your twin sister, Maggie Wingo, that
9 Drew raped you, right?

10 A. Yes, ma'am. I needed support.

11 Q. More than 20 times?

12 A. I think I just saw that page, if I could
13 refresh my memory.

14 Q. Sure.

15 A. Thank you. Yeah, probably more than 20.

16 Q. And who is Vicki Santoro?

17 A. My best friend from my high school.

18 Q. You told Vicki Santoro that Drew wrote -- it's
19 late in the day. You told Vicki Santoro that Drew
20 raped you?

21 A. Yes, ma'am.

22 Q. More than five times?

23 A. I don't recall the words I've used, but here
24 I'm looking right at the page. It's probably more
25 than five. Yes, ma'am.

1 Q. And speaking of Vicki Santoro, I did find that
2 document I was looking for earlier. I'd like to ask
3 you a question related to that.

4 A. Oh, okay. The -- the Plaintiff's 6?

5 Q. I actually have a new exhibit for you.

6 A. Oh, okay.

7 MS. LAU: It's going to be Plaintiff's 7. May
8 I approach?

9 THE COURT: You may.

10 THE WITNESS: Thank you so much.

11 MS. LAU: You're welcome.

12 BY MS. LAU:

13 Q. Bear with me because the font size is very
14 small on this.

15 A. That's okay. As long as I can hold it up
16 close, we're good.

17 Q. Okay. Can you please turn to page 2 of that --
18 well, first, let's establish what this is. Are
19 these text messages between you and Vicki Santoro?

20 A. I can't -- I don't know if all of them are text
21 messages between myself and Vicki because some of
22 these numbers are unidentified, but a few of them
23 are.

24 Q. Do you see on the first page on the bottom, the
25 second entry on the first page?

1 A. Yes, ma'am.

2 Q. It has a sender and a receiver?

3 A. Yes, ma'am.

4 Q. And who's the receiver?

5 A. Vicki Santoro.

6 Q. And then when you flip to the second page of
7 that exhibit, you see the sender and receiver?

8 A. Yes, ma'am.

9 Q. And the receiver is?

10 A. Vicki Santoro.

11 Q. Okay. So I want you to look at page 2. These
12 are messages with you and Vicki Santoro?

13 A. A true and accurate copy to the best of my
14 belief.

15 MS. LAU: Thank you. I'd like to move
16 Plaintiff's 7 into evidence.

17 THE COURT: Any objection?

18 MS. PORTER: I don't have any objection to the
19 text messages with Vicki Santoro, but there are
20 other text messages contained in this packet.

21 MS. LAU: I'm just asking her about Vicki
22 Santoro.

23 THE COURT: All right. Subject to redaction?

24 MS. PORTER: No objection with redactions.

25 THE COURT: Right.

1 (Plaintiff's Exhibit No. 7 was received into
2 evidence, subject to redactions.)

3 BY MS. LAU:

4 Q. Ms. Wingo, can you please turn to page 2 of the
5 exhibit?

6 A. Yes, ma'am.

7 Q. Okay. And that was sent on September 11, 2015,
8 at 9:09 p.m. to Vicki Santoro?

9 A. Yes, ma'am.

10 Q. And what does it say?

11 A. "His pledge brother and I made out last night,
12 and CJ is furious with Drew."

13 Q. And do you believe that this message was
14 referring to the kissing encounter you had with Drew
15 in September of 2015?

16 A. Yes, ma'am. But I believe I probably
17 overexaggerated CJ's response.

18 Q. Who is Jordan Saber?

19 A. Jordan Saber is my big sister from my sorority.

20 Q. And you told Jordan Saber that Drew raped you,
21 right?

22 A. I don't recall the exact words that I have
23 said.

24 Q. At any time?

25 A. I would say it is likely that I have said the

1 word "rape" to her.

2 Q. More than five times?

3 A. Can I reference my deposition if you don't
4 mind?

5 Q. Absolutely.

6 A. Thank you. Yes, ma'am. Probably more than
7 five times. I mean, I just -- she -- right around
8 that time frame, she had just become my official big
9 sister and so I confided in her.

10 Q. Who is Rob Hellbock?

11 A. Rob Hellbock was CJ's roommate.

12 Q. You told Rob Hellbock that Drew raped you,
13 right?

14 A. I -- again, I don't recall the words that I've
15 used. I think I may have said it once. Rob and I
16 really didn't talk about it.

17 Q. But you did tell him at least once that Drew
18 raped you, right?

19 A. I believe so.

20 Q. Who is Jay Smullens?

21 A. Jay Smullens was Drew's roommate.

22 Q. You told Jay that Drew raped you, right?

23 A. He had seen me on Monday morning following and
24 texted me because I looked like trash at breakfast,
25 and I had confided in him asking him for support.

1 Q. You told Jay more than one time that Drew raped
2 you?

3 A. Oh, I don't remember.

4 Q. You don't dispute that you had testified
5 previously that you told him more than one time that
6 Drew raped you?

7 A. Could you point me to a page? I'm sorry.
8 There's a lot of people.

9 Q. Can you look at your testimony on October 20,
10 2020, page 245, please?

11 A. Okay. Great. Thank you.

12 Q. And if you look at line 3, I asked, "Okay. How
13 about Jay Smullens? Did you ever tell him that Drew
14 raped you?"

15 A. And I said, "Yes, ma'am."

16 Q. And I asked you, "How many times?"

17 A. I said, "Maybe once or twice. I don't
18 definitively remember that many times."

19 Q. You told Rachel Corbin that Drew raped you,
20 right?

21 A. I believe so.

22 Q. At least one time?

23 A. I think so.

24 Q. You told Haley Sinclair that Drew raped you,
25 right?

1 A. Yes, ma'am. She was my roommate.

2 Q. More than five times?

3 A. We lived together, but, again, I really didn't
4 talk about it that much with her. She was aware, so
5 maybe more than five times. I couldn't give you the
6 best estimate now.

7 Q. You told CJ that Drew raped you, right?

8 A. I did.

9 Q. More than 100 times, right?

10 A. It's been a long time, so I can't tell you how
11 many -- how many times I may've said it in
12 conversation.

13 Q. Can you turn to your testimony on page 248,
14 please?

15 A. Yes, ma'am. And you're looking at the bottom?

16 Q. I'm looking at lines 16 through 21. And I
17 asked you on 16, "CJ Gahagan?"

18 A. "Many times."

19 Q. "More than 50," I asked?

20 A. "Absolutely."

21 Q. "More than a hundred," I asked?

22 A. "It's probable."

23 Q. Who's Ally Wagner?

24 A. Ally Wagner was another girl. There was a
25 group of the five of us. It was myself, Olivia,

1 Haley, Ally, and Rachel. Rachel -- or Ally was one
2 of the girls in our group, so she was one of my
3 friends.

4 Q. You told Ally Wagner that Drew raped you?

5 A. Yes, ma'am.

6 Q. At least one time, if not more?

7 A. I may have told her once or twice. I mean,
8 they were my group of friends, so...

9 Q. Who's Emily Hellbridge?

10 A. Emily's my cousin.

11 Q. And you told Emily that Drew raped you?

12 A. Yes, ma'am. That Thanksgiving we were having
13 everybody at my house. And so, needless to say, I
14 was in a real emotional state and I wanted my family
15 to know.

16 Q. You told her between 5 and 50 times?

17 A. Yes, ma'am. I let her know because of what I
18 was experiencing at Clemson.

19 Q. Who is Colleen Dove?

20 A. Colleen Dove?

21 Q. Sorry. Dove.

22 A. It's okay. That's also my cousin.

23 Q. And you told Colleen that Drew raped you?

24 A. She was also attending that Thanksgiving. Yes,
25 ma'am.

1 Q. You told her at least once, if not more?

2 A. I think so. I can't tell you what words I've
3 used.

4 Q. Who is Briana Berry?

5 A. She was my bible study leader.

6 Q. And you told Briana that Drew raped you?

7 A. She was one of the -- my rocks when I first
8 became a Christian after all of this happened, so,
9 yes, ma'am, I did confide in her.

10 Q. You told her at least three to four times,
11 right?

12 A. I believe so. I can't tell you exactly how
13 many.

14 Q. Who is Amelia Ales?

15 A. Amelia Alles?

16 Q. Alles.

17 A. It's okay. There's some weird names. She was
18 also one of my friends. I became closer with her at
19 the end of my freshman year, beginning of sophomore
20 I think.

21 Q. You told -- you told Amelia that Drew raped
22 you?

23 A. We were very, very close for a period of time
24 there, so, yes, ma'am, I did tell her.

25 Q. You told her between 5 and 25 times?

1 A. I would say at least -- probably at least five
2 times. I don't know if it's at many as 25 times. I
3 didn't necessarily have to say it again.

4 Q. Can you turn to your testimony on page 252,
5 please?

6 A. Yes, ma'am.

7 Q. On line 19, I asked you what you told
8 Amelia ---

9 A. Yes, ma'am.

10 Q. --- about Drew. And I asked if you told her
11 that Drew raped you -- Drew Pampu raped you, and
12 what did you say?

13 A. I said, "Yes, ma'am. I don't know if I used
14 his last name. If I had mentioned anything, I said
15 his first name."

16 Q. But you don't dispute that I asked you on
17 October 20, 2020, "And did you tell her that Drew
18 Pampu raped you?"

19 A. I don't dispute that that's my answer. I want
20 to clarify that when you stated Drew Pampu, I didn't
21 interpret your question to ask me if I had used both
22 his first name and his last name. So I apologize
23 for that miscommunication there. I don't -- I can't
24 tell you if I -- if I said Drew or Drew Pampu.

25 Q. Well, does Amelia know who Drew Pampu is?

1 A. She knows who Drew is. I don't know if she
2 knows who Drew Pampu is.

3 Q. You attended parties at the Compound after
4 October 24, 2015, right?

5 A. Yes, ma'am.

6 Q. You attended at least two parties at the
7 Compound after October 24, 2015?

8 A. Yes, ma'am.

9 Q. One of those parties occurred one week after
10 your sexual encounter with Drew, right?

11 A. Yes, ma'am.

12 Q. That was October 31?

13 A. Yeah, Halloween.

14 Q. And you also went to a party at the Compound on
15 November 8th, the following week after that?

16 A. I think it was the 7th.

17 Q. Was that the following week after?

18 A. It was. It was.

19 THE COURT: Are you in a good place to take a
20 break?

21 MS. LAU: Oh, yeah.

22 THE COURT: Okay.

23 MS. LAU: Sure.

24 THE COURT: Because we've been going about an
25 hour.

1 MS. LAU: Sure. Yeah, we could take a break.

2 THE COURT: All right. Ladies and gentlemen,
3 let's take our afternoon break. And do not discuss
4 the case. We'll bring you back out in just a few
5 minutes.

6 (From 3:23 to 3:37 p.m., afternoon break.)

7 THE COURT: All right. Plaintiff ready?

8 MS. LAU: I am.

9 THE COURT: Defense ready?

10 MS. PORTER: Yes, sir.

11 THE COURT: Are you ready?

12 THE BAILIFF: Yes, sir, Judge.

13 THE COURT: All right. Bring them in.

14 (At 3:38 p.m., jury entered the courtroom.)

15 THE COURT: All right. Please be seated.

16 THE JURORS: (Complying.)

17 THE COURT: Please proceed.

18 MS. LAU: Your Honor, we're marking them --
19 this document as Plaintiff's 8. Showing this to
20 defense counsel. May I approach?

21 THE COURT: You may.

22 THE WITNESS: Thank you so much.

23 BY MS. LAU:

24 Q. Do you know what this document is, Ms. Wingo?

25 A. It looks like text messages between myself and

1 CJ.

2 Q. Okay.

3 MS. PORTER: Your Honor, I'm sorry to -- can we
4 have a quick sidebar?

5 (Sidebar discussion.)

6 MS. PORTER: Okay. Never mind. Sorry.

7 MS. LAU: At this time we'd like to move into
8 evidence Plaintiff's 8.

9 THE COURT: All right. Any objection?

10 MS. PORTER: As long as the redactions.

11 THE COURT: With redactions.

12 (Plaintiff's Exhibit No. 8 was received into
13 evidence, subject to redactions.)

14 BY MS. LAU:

15 Q. Ms. Wingo, earlier I asked you if you had
16 attended any parties at the Compound after
17 October 24, 2015. Do you recall that?

18 A. Yes, ma'am.

19 Q. Okay. And you said that you attended at least
20 two other parties?

21 A. Yes, ma'am.

22 Q. And one of them was on October 31, Halloween,
23 and the other was November 8th or 7th?

24 A. Yes, ma'am.

25 Q. Okay. Can you turn to page 2 of the document

1 you've got in front of you, Plaintiff's 8?

2 A. Mmm-hmm.

3 Q. And that's a message from you on October 8,
4 2015, at -- oh, I'm sorry -- November 7, 2015, at
5 9:17 a.m., eastern time if you do the conversion,
6 right?

7 A. Are you talking about the top message?

8 Q. The top message.

9 A. Okay. Yes, ma'am.

10 Q. And what do you say there?

11 A. "I don't want to miss the big party."

12 Q. Okay. And are you referring to the party at
13 the Compound on November 7, 2015?

14 A. Yes, ma'am. It was FSU weekend, so they were
15 hosting a huge tailgate for after the party -- after
16 the game.

17 Q. Thank you. You continued to consume alcohol
18 after October 24, 2015, right?

19 A. Yes, ma'am.

20 Q. And you continued to -- well, you -- you
21 consumed alcohol on a weekly basis after October
22 24th, right?

23 A. I wouldn't say continuously on a weekly basis,
24 but there were periods of time where I did. Yes,
25 ma'am.

1 Q. Okay. Can you take a look at your testimony on
2 October 20, 2020, page 201?

3 A. Yes, ma'am.

4 Q. Tell me when you get there.

5 A. Okay. Just one second. Yes, ma'am.

6 Q. Okay. If you take a look at my question to you
7 on line 22nd -- line 22, I asked you, "Did you
8 consume alcohol at any point after October 24,
9 2015?"

10 A. "Yes, ma'am."

11 MS. PORTER: Your Honor, relevance.

12 MS. LAU: I'm trying to establish what -- what
13 her -- what happened.

14 THE COURT: I'll let you go into it a little
15 bit, but you know.

16 BY MS. LAU:

17 Q. And I asked you, "On how many occasions?"

18 A. And I said, "A lot."

19 Q. And I asked you, "On a weekly basis?" and what
20 did you say?

21 A. "If I were to consume alcohol, it would've been
22 on a weekly basis, probably once a week, but there
23 were plenty of times where I went months without
24 consuming any alcohol."

25 Q. After October 24th, you continued to get

1 blackout drunk after -- sorry. Withdrawn. After
2 October 24th, you continued to get blackout drunk,
3 right?

4 A. I ---

5 MS. PORTER: Objection, Your Honor. Relevance.

6 THE COURT: Where is this going? Do you need
7 some water? All right. Objection's for relevance.

8 MS. LAU: Just trying to establish what -- what
9 happened after the fact, after about October 24th.
10 There's a whole line of questioning that goes to
11 this and the motive, especially with -- this goes to
12 motive.

13 THE COURT: Okay. I'm going to allow -- I'm
14 going to let her go into it.

15 MS. PORTER: Drinking after the incident goes
16 to motive?

17 MS. LAU: She's claiming that she got blackout
18 drunk on the occasion at issue. I'm trying to
19 establish whether there were any other times, how
20 many times.

21 THE COURT: I mean, I ruled that she can go
22 there.

23 BY MS. LAU:

24 Q. Ms. Wingo, after October 24th, you continued to
25 get blackout drunk, right?

1 A. It happened a few more times between, call it
2 October 25th and the date of this deposition.

3 Q. At least three times?

4 A. I believe only three times.

5 Q. Do you believe that drinking any amount of
6 alcohol can incapacitate a person to the point of
7 not being able to consent?

8 MS. PORTER: Your Honor?

9 THE COURT: I'll sustain that objection.

10 BY MS. LAU:

11 Q. Have you ever lied to your parents?

12 A. Yes, ma'am.

13 MS. PORTER: Your Honor, objection. Relevance.
14 It's not properly before the Court for prior bad
15 acts.

16 THE COURT: Yeah, let's move on.

17 BY MS. LAU:

18 Q. Ms. Wingo, you discussed with your father,
19 Defendant Dave Wingo, the submission of the claim to
20 Phi Delta Theta regarding your sexual encounter?

21 A. I mean, we -- we talked about it. I don't
22 necessary recall what the conversation was, if it
23 was, you know, let's submit a claim or what it was
24 necessarily about, but we did discuss it.

25 Q. Then this was some time after February 2016?

1 A. I think so. I don't recall.

2 Q. And your father submitted a claim to Phi Delta
3 Theta on your behalf?

4 A. My father -- I wouldn't -- I mean, he contacted
5 Phi Del at Nationals, but that's like the -- that's
6 mostly what I know about what happened with that. I
7 was not directly involved with that discussion
8 between Phi Del and my dad for most of it.

9 Q. But for some of you were, right?

10 A. Some of it, but I don't know how much of it was
11 substantive.

12 Q. And your -- your claim was based on conduct
13 unbecoming of a member of the fraternity?

14 A. Yes, ma'am.

15 MS. PORTER: Your Honor, renew my objections.

16 THE COURT: All right.

17 MS. LAU: This goes to our civil conspiracy
18 claim. We've got to be able to ask it.

19 BY MS. LAU:

20 Q. You said, Ms. Wingo, that there was a good
21 claim to submit there, right?

22 A. I said what?

23 Q. Did you say to your father that there was a
24 good claim to submit to Phi Delta Theta?

25 A. Well, I don't know if I -- I don't believe I

1 said that. Do you have something that could refresh
2 my memory?

3 Q. Okay. Can you take a look at your deposition
4 testimony from October 21, 2020?

5 A. Uh-huh.

6 Q. Page 272, please.

7 A. Okay. Yes, ma'am.

8 Q. Okay. And on line 9, I asked you, "So did you
9 tell your father to submit the claim to Phi Delta
10 Theta against Mr. Pampu?"

11 And I guess I'm going to direct this question
12 to the judge. We may have to take a -- I may have
13 to take a sidebar on this one.

14 THE COURT: I was to going to say, I'm not
15 going to answer it.

16 (Sidebar discussion.)

17 BY MS. LAU:

18 Q. Did you receive multiple updates from your
19 father about the Phi Delta Theta claim?

20 A. I can't recall how many updates I received.

21 Q. Was it more than one?

22 A. Yes. I believe so.

23 Q. After your claim was submitted to Phi Delta
24 Theta, was Mr. Pampu removed from Phi Delta Theta?

25 A. I -- I now know that. I don't know when that

1 occurred.

2 Q. But it was some time after your claim was
3 submitted to Phi Delta Theta, correct?

4 A. Yes, ma'am. To the best of my knowledge.

5 Q. Some time after October 24th -- withdrawn. You
6 discussed with Mr. -- you discussed with CJ having
7 Drew kicked off campus, right?

8 A. Could you point me to what you're referencing,
9 please?

10 Q. Do you recall ever discussing that goal with
11 Mr. Gahagan?

12 A. I recall discussing that I wanted a safer
13 campus. So however that came about, that was my
14 goal, to have a safe campus.

15 Q. And would having a safe campus mean Drew was no
16 longer on campus?

17 A. It could, but that wasn't my decision to make.

18 Q. But you -- you agree that is one way that you
19 would be safer on campus, according to you and your
20 belief?

21 A. I believe that if I didn't have to see him and
22 he wasn't around campus, I was no longer going to be
23 subjected to continual trauma.

24 Q. And you discuss that goal with CJ multiple
25 times?

1 A. I believe I discussed it generally, not
2 specifically.

3 MS. LAU: Okay. One moment. No further
4 questions for this witness.

5 THE COURT: Do you want to cross or reserve?

6 CROSS-EXAMINATION

7 BY MS. PORTER:

8 Q. October 24, 2015, fair to say that thus far has
9 been the worst day of your life?

10 A. Without a doubt.

11 Q. On October 24, 2015, did you make plans to meet
12 your sorority sisters Rachel Corbin, Haley Sinclair,
13 and Olivia Pescatore at McCabe dorm?

14 A. Yes, ma'am.

15 Q. And did you go to Rachel Corbin's dorm room at
16 approximately 9:30 that evening?

17 A. Yes, ma'am.

18 Q. And this was kind of glossed over, so let's --
19 let's ask some details. We're here about the facts.
20 Were you sober when you went to Rachel Corbin's dorm
21 room?

22 A. Yes, ma'am.

23 Q. And while you were at Rachel Corbin's dorm
24 room, did you consume liquor?

25 A. A lot of liquor.

1 Q. Can you please tell the jury what type of
2 liquor you drank?

3 A. Well, being a college freshman, you don't
4 necessarily get your hands on anything good to
5 drink. So I took four shots of Fireball over
6 FaceTime with my sister, and I was freehanded
7 pouring mango pineapple SVEDKA into a cup. And I'm
8 mixing it -- I made two mixed drinks with what I
9 would estimate to be about five shots of liquor,
10 but, again, I wasn't measuring. It's sort of like
11 when you add garlic to a recipe, you measure pretty
12 hard. When in doubt, I measured and I just pour it
13 until it looked good. So I couldn't tell you how
14 much I actually poured into those two drinks.

15 Q. You called your sister on FaceTime when you
16 were there with your sorority sisters?

17 A. Yes, ma'am.

18 Q. And were there other people in the FaceTime
19 with your sister, Maggie?

20 A. Yes, ma'am.

21 Q. Do you recall how many shots you took
22 specifically with your sister?

23 A. I think I took -- I know I took one with her.
24 I don't remember if I took one or two.

25 Q. And then did you take shots with the other

1 girls with Maggie Wingo -- well, where did Maggie go
2 to school?

3 A. My sister went to the Ohio State University.

4 Q. All right. So she had some friends in Ohio --
5 at the Ohio State University on the call with her?

6 A. Yes, ma'am, she did.

7 Q. Okay. And they're all -- y'all were seeing
8 each other because you're on FaceTime, right?

9 A. We're all crowded around trying to get into the
10 camera.

11 Q. Okay. Whose Fireball was it?

12 A. Rachel's.

13 Q. And was it a pint? a liter? a fifth? What was
14 it?

15 A. I think it was a fifth.

16 Q. So a fifth, 700 milliliters of Fireball?

17 A. If that is what a fifth is, then yes.

18 Q. Okay. Fair enough. All right. So left me ask
19 you this: When you're on FaceTime with Maggie and
20 her friends and you're taking these shots, are you
21 turning the bottle up or are you pouring it in a
22 shot glass? Do you remember?

23 A. I think I was pouring it into a shot glass.

24 Q. Okay. And you had -- was it a red solo cup
25 that you were mixing these drinks in?

1 A. Might've been, but I -- I don't remember.

2 Q. Okay. But it's a cup?

3 A. Yes.

4 Q. So you're -- are you free pouring the SVEDKA
5 vodka into the mixed drinks?

6 A. Yes, ma'am.

7 Q. Okay. So it's fair to say that, yeah, you know
8 how much an ounce is, but you don't know how much
9 liquor you consumed in that room?

10 A. Correct. That's fair.

11 Q. Okay. All right. But at least two liquor
12 drinks that you mixed?

13 A. Yes, ma'am.

14 Q. And at least four shots?

15 A. Yes, ma'am.

16 Q. And you said -- well, I believe you said this
17 previously, that you're -- you're a pretty heavy
18 pour, so somewhere between one and two shots per
19 mixed drink?

20 A. The goal was always to, you know, make your
21 drinks worthwhile.

22 Q. And part of that is because Phi Delta Theta ran
23 out of beer, right?

24 A. Yes, ma'am.

25 Q. So when you pre-partied, you were pre-partying

1 to get -- to feel good and to be drunk that lasted
2 the evening, correct?

3 A. Yes, ma'am.

4 Q. Because you weren't guaranteed to get any more
5 drinks at Phi Delta Theta?

6 A. Correct.

7 Q. All right. And some time around between 10:30
8 and 11:00, y'all leave to walk to the Compound; is
9 that correct?

10 A. Yes, ma'am.

11 Q. All right. Now, so you get there at 9:30, so
12 you're there about an hour; is that fair? Is that
13 what you recall?

14 A. About an hour, I think. Yes, ma'am.

15 Q. Okay. Did Rachel drink?

16 A. Yes, ma'am.

17 Q. Did Olivia drink?

18 A. Yes, ma'am.

19 Q. Did Haley drink?

20 A. Yes, ma'am.

21 Q. All right. Were they drinking liquor?

22 A. I believe so. Yes, ma'am.

23 Q. Do you remember what they were drinking?

24 A. I don't recall what they were drinking that
25 night, but their typical choices were vodka of some

1 kind.

2 Q. Okay. And y'all all walked to the Compound,
3 correct?

4 A. I believe so. Yes, ma'am.

5 Q. Okay. And on this walk to the Compound, you
6 say, "I want to give Drew a birthday kiss"?

7 A. I believe so, but I don't really remember it.

8 Q. Have you been told that by these girls?

9 A. I -- I think they told me or I found out later
10 that that was said.

11 Q. But you don't have a recollection of that?

12 A. No, ma'am.

13 Q. Okay. All right. And then when you -- you get
14 to the Compound, you -- well, back up. There's been
15 testimony about a water bottle -- 16.9-ounce water
16 bottle.

17 A. Yes, ma'am.

18 Q. That was full of vodka?

19 A. Yes, ma'am.

20 Q. All right. Well, I want you to clear this up
21 for the jury.

22 A. Yeah.

23 Q. Was it full of vodka?

24 A. Can I point?

25 Q. We'll make it an exhibit.

1 A. I think I filled the bottle probably to at
2 least above the label line, so probably about here
3 (indicating) when I first filled the bottle up.

4 Q. Where did you get the vodka that you put in the
5 bottle?

6 A. Olivia had a handle in her room, and so I took
7 an empty water bottle and poured vodka to fill up
8 the water bottle.

9 Q. Okay. And what was the purpose of doing that?

10 A. So I would have alcohol to drink that night
11 when we were pre-gaming. And then whatever I didn't
12 drink during pre-gaming, I was going to bring it
13 with me to the party. Because like you said, Phi
14 Delt was known to run out of beer, so we typically
15 brought our own drinks with us if we could.

16 Q. Okay. And during the pre-game in McCabe dorm,
17 did you pour the mixed drinks out of that bottle?

18 A. Yes, ma'am.

19 Q. All right. So what was remaining is what was
20 squished up and put in your pocket as you walked to
21 the compound?

22 A. Yes, ma'am.

23 Q. Okay. And when you get to the compound, you --
24 y'all come in the front house; is that correct?

25 A. We come in the -- the gate off to the right of

1 the front house.

2 Q. All right. But then you went into the front
3 house, correct?

4 A. Yes, ma'am.

5 Q. And that's where you saw CJ?

6 A. Yes, ma'am.

7 Q. And you did -- you drank from -- did you have a
8 shot glass in the other pocket?

9 A. Nope. Just a water bottle.

10 Q. So you just drank out of the water bottle?

11 A. Yes, ma'am.

12 Q. Okay. But it was vodka in the water bottle?

13 A. Yes.

14 Q. All right. And he drank some too?

15 A. He drank something. I don't remember if it was
16 my water or -- my water bottle or if it was his own
17 drink, but he -- he drank with me.

18 Q. Okay. Now, Ms. Lau asked you if you went -- me
19 and Drew -- CJ hurts your feelings and tells you to
20 go find somebody else, right?

21 A. That's what I thought he said. Yes, ma'am.

22 Q. All right. And Ms. -- Ms. Lau asked you if you
23 went straight to Drew?

24 A. Correct.

25 Q. And you said, "I don't know if I went straight

1 to him." Do you recall going to use the restroom
2 upstairs in the front house before going to find
3 Drew?

4 A. I recall standing on the -- the, like, outdoor
5 patio. Off to the side of the front house, there's
6 like this blue light shining. I remember the blue
7 light. And I -- it sounds familiar, the going to
8 the restroom, but I think that was affirmed later
9 by ---

10 Q. So you don't have a recollection of that?

11 A. No, ma'am.

12 Q. Okay. All right. You asked Ben to help you
13 find Drew?

14 A. Yes, ma'am.

15 Q. All right. And you're out in the common area
16 or the outside in between all the houses on -- at
17 the Compound at this time, correct?

18 A. I think so. I think I was still closer to the
19 front house. I couldn't tell you exactly where I
20 was.

21 Q. Is this the porch that you were referencing a
22 moment ago?

23 A. Yes, ma'am.

24 Q. So the porch is on the side near the gate that
25 y'all came in?

1 A. Yes, ma'am.

2 Q. Okay. So somehow you find Ben and ask him to
3 help you find Drew, correct?

4 MS. LAU: Objection. Can't ask leading
5 questions on cross-examination of her own witness.

6 THE COURT: I think you can.

7 MS. LAU: *State v. Hoffman*. When the witness
8 is friendly to the cross-examiner, it can't be
9 leading.

10 THE COURT: There's 611 questions allowed on
11 cross-examination, so I'm going to allow it.

12 MS. PORTER: Thank you.

13 BY MS. PORTER:

14 Q. So you find Ben Zboray and ask him to help you
15 find Drew; is that correct?

16 A. I think Ben was standing. I didn't have to go
17 far to find Ben. I think he was just right there,
18 so I didn't necessarily go find him, but I did ask
19 him. Yes, ma'am.

20 Q. Okay. Why?

21 A. Honestly, when I think back to that moment, I
22 remember looking down at my shoes.

23 Q. So at that point you were feeling the effects
24 of the alcohol substantially; is that correct?

25 A. Absolutely. Yes, ma'am.

1 Q. Okay. And he, Ben, took you to find Drew?

2 A. Yes, ma'am.

3 Q. I'm not -- I'm not going to walk you through
4 what happened. Ms. -- Ms. Lau's already walked you
5 through all the possibilities. What I'd like you to
6 do today here is, tell this jury what you remember.
7 Take your time.

8 A. So Ben brought me over to where Drew was
9 standing. I remember him being like in a group of
10 people. I think he was like -- if you're looking at
11 the circle, he was on the left side of the circle,
12 like more toward the middle between the houses.

13 I remember grabbing onto his arm when I got
14 over there. And I remember looking across from me
15 and just seeing some fraternity guy with a coozie, a
16 blue coozie. I was a freshman in college and I
17 thought it was the coolest thing that somebody had
18 brought a coozie to a party.

19 The next thing I remember is being behind the
20 doll house, and I remember being up against a fence.
21 Drew was in front of me. And when I tell you I
22 remember these things, I'm not telling you like I
23 can walk through this and -- and play it like a
24 movie. It's like a picture.

25 Q. Like individual snapshots? Polaroids of the

1 event?

2 A. Yes, ma'am.

3 Q. Okay.

4 A. So I remember being up against that fence. I
5 remember Drew being in front of me, and I remember
6 looking off like to the left-hand side and there
7 being another couple or a couple of people. And I
8 remember thinking, why aren't you asking what's
9 going on? Why aren't you saying anything?

10 The next thing I remember is, again, another
11 snapshot of just like a break in a fence, a
12 chain-link fence.

13 After that, I remember being hit, being slapped
14 on my behind and it brought me back from wherever I
15 was blacked out. I also remember me falling off the
16 side of the shed and Drew pulling me back up and
17 saying, "I'm not done yet."

18 After that, I remember sitting on the ground
19 with my hands still around my ankles. And then the
20 next thing I remember is walking down the sidewalk
21 or whatever it was holding onto Drew's arm crying.

22 We got back to the Compound and I remember he
23 sat me on the front steps, and he said, "Call me if
24 you need anything," and left. I guess my friends
25 got me into a car to go home.

1 When I got home, I threw up next to a tree that
2 was outside my building. And I got inside the
3 building. And I don't remember how I got up to my
4 room, but I remember being hysterical. And I
5 remember sitting and crawling in my hallway across
6 from my dorm room, crawling into the bathroom to
7 throw up because one of my friends was wanting me to
8 throw up. I think I threw up four times.

9 One of my other friends had gotten in touch
10 with my RA whose door was next to mine, and talked
11 to her about getting me a key because I'd lost my
12 key. I didn't realize it.

13 And then I remember my door being open and it
14 being light in the hallway behind me and dark in my
15 room. And when I woke up the next morning, I was in
16 pajamas in my bed and I had a line of sticky notes
17 telling me that I'd lost my key. It was going to
18 cost \$75 to rekey my door. I had 72 hours to return
19 my key and that a bunch of text messages had been
20 deleted with CJ because we had gotten into a huge
21 fight.

22 Q. Did the sticky notes help you piece together at
23 least the -- some of the events of the evening of
24 the 24th, early morning hours of the 25th?

25 A. They helped me realize what had happened

1 because I had gotten home, but I remember being
2 really confused about why CJ and I had gotten into a
3 fight. I didn't know what we fought about. I knew
4 it was bad because I wasn't at Cope.

5 Q. Did you also have suspicion that something else
6 bad had happened?

7 A. I woke up feeling like my world had changed.
8 Like I said, you know when you just wake up and you
9 have that pit in your stomach and you just want to
10 throw up? I didn't even -- I couldn't tell you what
11 it was. I could tell you that I had been so deeply
12 violated and just whatever had happened that night
13 before, awful, and I didn't remember most of it.

14 Q. Did you continue to throw up the remainder of
15 Sunday, October 25th?

16 A. All day.

17 Q. Were you able to eat or drink anything without
18 throwing up on Sunday, October 25th?

19 A. Not until like 9:00 o'clock at night.

20 Q. Were you able to attend your sorority meeting
21 on Sunday, October 25th?

22 A. No, ma'am.

23 Q. Did Jami Hafner come to your room midmorning on
24 October 25, 2015?

25 A. Yes, ma'am.

1 Q. Okay. And did you talk to Jami Hafner about
2 how you were feeling?

3 A. I think I told her that I think I had sex with
4 Drew.

5 Q. Were you sure?

6 A. No.

7 Q. When did you become sure that you had had sex
8 with Drew Pampu by a shed?

9 A. When I saw the message that he sent Jon
10 Stoddart that got sent in the group chat. CJ showed
11 it to me that day.

12 Q. Is that when it all came together for you?

13 A. Not every piece of it came together, but from
14 what I could remember, the little bits, I just...

15 Q. All right. And you met with -- you've already
16 gone over meeting with CJ that evening?

17 A. Yes, ma'am.

18 Q. After being shown the GroupMe text, did you
19 have a text with Haley ---

20 A. Yes, ma'am.

21 Q. --- Sinclair?

22 A. Yes, ma'am.

23 Q. And was Olivia Pescatore also on that text
24 chain?

25 A. Yeah. Yes, ma'am. They had gotten me home

1 that night before.

2 Q. So Haley and Olivia had taken care of you; is
3 that right?

4 A. Yes, ma'am.

5 Q. And did you ask them in this text message --
6 well, let me ask this: Did one of them ask you what
7 happened with Drew?

8 A. Do you have something that could refresh my
9 memory?

10 Q. I do. Defense Exhibit No. 8 for identification
11 purposes. And, again, these are redacted, so it's
12 how we received them. I'm going to show you at the
13 bottom is labelled P584 of Exhibit Number 8 for
14 identification purposes. Can you read that and see
15 if that refreshes your memory?

16 A. Yes, ma'am.

17 Q. Will you read your response to the question --
18 well, do you recall which one -- was it Olivia or
19 Haley who asked you what happened?

20 A. I don't remember.

21 Q. Okay. Can you tell us what your response was?

22 A. "I hooked up with him and had sex apparently
23 and I don't remember it."

24 Q. Okay. Did you use "rape" there?

25 A. No, ma'am.

1 Q. Do you remember approximately how many times
2 you threw up?

3 A. I think it was somewhere around 20.

4 Q. Does that include the night of and the next
5 day?

6 A. Yes, ma'am.

7 Q. After finding out or after reviewing the
8 GroupMe text message that Jon Stoddart sent, do you
9 recall texting Jordan Sapier, Vicki Santoro, and
10 Lucas Feira at approximately 6:47 p.m.?

11 A. Yes, ma'am.

12 Q. What did you text -- well, first of all, Jordan
13 Sapier you testified is one of your best friends
14 from Clemson at the time, correct?

15 A. Yes, ma'am.

16 Q. She's your big sister in the sorority, correct?

17 A. Yes, ma'am.

18 Q. And Vicki Santoro is one of your best friends
19 from high school, correct?

20 A. To this day. Yes, ma'am.

21 Q. All right. And where was Vicki at that time?
22 Where -- where was she living?

23 A. Massachusetts.

24 Q. Massachusetts. All right. How about Lucas
25 Feira? Is he -- he's one of your close friends from

1 high school as well?

2 A. Yes, ma'am.

3 Q. Are you still in touch with him to this day?

4 A. Yes, ma'am.

5 Q. All right. And where does he live?

6 A. Connecticut; Long Island. He's got two
7 residences.

8 Q. All right. And neither one of them ever lived
9 in South Carolina; is that correct?

10 A. No, ma'am.

11 Q. And where is Jordan Sapier from?

12 A. From Chicago.

13 Q. And is she living in South Carolina today?

14 A. No, ma'am. She's in Chicago.

15 Q. Back in Chicago?

16 A. Yes, ma'am.

17 Q. Okay. What do you recall texting them?

18 A. I think I said something like "ten shots deep."
19 I had -- I can't recall the exact words, but
20 something about drinking a ton and then hooking up
21 with Drew but not remembering it.

22 Q. Beg the Court's indulgence. All right. Well,
23 I won't belabor the point, but you -- you texted
24 both of them about ten shots deep and not
25 remembering having sex that evening, correct?

1 A. Correct.

2 Q. And did you use Drew's full name in that text?

3 A. No, ma'am.

4 Q. What did you use?

5 A. I think I just said Drew.

6 Q. Okay. And did you also discuss how sick you
7 were that evening?

8 A. I believe so.

9 Q. Okay. Did you ever tell either one of them or
10 either of the three of them that day that he raped
11 you?

12 A. No, ma'am.

13 Q. But you certainly discussed how much you had to
14 drink and not remembering the sex, correct?

15 A. Correct.

16 Q. And did they send you follow-up texts asking
17 questions?

18 A. Yes, ma'am.

19 Q. And did you answer those questions?

20 A. I did. Yes, ma'am.

21 Q. In any of those answers did you say, "Drew
22 raped me"?

23 A. Not to my knowledge. No, ma'am.

24 Q. So you had had a horrific day on the 25th, hung
25 over, throwing up, correct?

1 A. Yes, ma'am.

2 Q. And you get shown a text message which was
3 broadcast to 31 people that confirmed your worst
4 fear that you had been taken advantage of, correct?

5 A. Next to a trash can or a dumpster rather. Yes,
6 ma'am.

7 Q. And you're reaching out to three of your best
8 friends as a result; is that correct?

9 A. Yes, ma'am.

10 Q. When you woke up that Sunday morning, do you
11 think you were still drunk?

12 A. Most likely.

13 Q. On Monday, October 26th, did you go eat
14 breakfast with a group of individuals?

15 A. Yes, ma'am. I ate breakfast with the same
16 group of people every Monday morning.

17 Q. Okay. And who did you eat with?

18 A. Ashley Hodge. Jay Smullens. I think Jake
19 Edwards. I can't remember the rest of the people
20 off the top of my head.

21 Q. And at that breakfast, did you tell anybody
22 that CJ raped you?

23 A. You mean, Drew?

24 Q. I'm sorry, CJ. That -- that Drew raped you?

25 A. No, ma'am. I did not.

1 Q. Okay. After that breakfast, did Jay Smullens
2 contact you?

3 A. He did. He texted me.

4 Q. And what did he ask you in his text?

5 A. He asked me if I was okay because I looked
6 really bad.

7 Q. And did you respond to that text?

8 A. Yes, ma'am.

9 Q. And did you ask him, "I'll tell you what's
10 wrong if you don't judge me"?

11 A. I believe that's how I phrased it. Yes, ma'am.

12 Q. And did he say, "No judgment here. Tell me
13 what's wrong," roughly?

14 A. Yes, ma'am. That's what I believe he said.
15 Yes, ma'am.

16 Q. What did you tell him?

17 A. I told him that I had had sex with Drew, which
18 was embarrassing because they were roommates, but
19 that I didn't remember it and I was sick as all get
20 out. I was embarrassed and I was ashamed.

21 Q. And did Drew -- Jay console you?

22 A. He was really supportive. He shared that he
23 had a really tough time in a similar situation and
24 understood how difficult it was.

25 Q. And did y'all -- did you rely on him throughout

1 the rest of that semester and year to support you
2 through this?

3 A. I relied on him I think through the rest of
4 2016. We -- I don't think we were -- we really
5 talked once -- or through the rest of 2015. I don't
6 think we talked much during 2016 and beyond, but he
7 was always there when I needed him.

8 Q. And did y'all from time to time get in the car
9 and drive just to get away from things?

10 A. Yeah. Jay was on the hockey team at Clemson,
11 so he knew the drive to and from Clemson from Bon
12 Secour where they practiced really, really well.
13 We'd get in the car and we'd throw on some music and
14 we'd drive. We wouldn't talk. We would just drive.

15 Q. Is it fair to say that Jay saw you on Monday,
16 October 26th, and knew something terribly bad was
17 wrong?

18 A. I believe so. Yes, ma'am.

19 Q. All right. So Ms. Lau asked you about a
20 conversation you had with Ashley Hodge.

21 A. Yes, ma'am.

22 Q. Do you recall what day that conversation took
23 place?

24 A. October 27, 2015, in the afternoon.

25 Q. Seven years after the fact, how do you recall

1 that day?

2 A. It was not a fun day.

3 Q. Is that the day that there was an anonymous
4 report made to Clemson that you had been raped?

5 A. Yes, ma'am. That is the day.

6 Q. And were you called in for a meeting?

7 A. Yes, ma'am, I was.

8 Q. And did you ask Ashley Hodge to pick you up
9 from that meeting and help get you home?

10 A. I was -- I cried throughout that entire
11 meeting. I don't think I said a single word. I
12 just cried, so I needed somebody to help me get back
13 to someplace I could be safe and be normal, be
14 whatever I needed to be at that time.

15 Q. So when you talked to Ashley, was part of your
16 discussion explaining what was going on?

17 A. Yes, ma'am.

18 Q. Is that the first time you used the word
19 "rape"?

20 A. I believe so. Yes, ma'am.

21 Q. Ms. Lau has gone through Vicki Santoro, Jordan
22 Sapier, Rob Helbot, Jay Smullen, your sister Maggie,
23 your cousins, Rachel and Haley, Alec Wagner, all of
24 these individuals. How many times have you talked
25 to them about -- used the word "rape"? Let's

1 clarify that.

2 A. Okay.

3 Q. When you would have, let's say, after this
4 initial conversation with Ashley Hodge, any
5 follow-up conversations, the 50 times you talked
6 about it with your father over the last seven years?

7 A. Yes, ma'am.

8 Q. Are you discussing the circumstances
9 surrounding the event and the subsequent litigation,
10 or are you just out there saying, "Drew raped me"?

11 A. The former. I didn't really need to say it
12 more than once for people to understand that there
13 was a related conversation. They knew what I was
14 talking about.

15 Q. So it's not like you said to Ashley Hodge,
16 "Drew raped me 50 times"?

17 A. No. No. That's not -- that's not it.

18 Q. You didn't say to your dad, "Drew raped me 50
19 times"?

20 A. No.

21 Q. Tell this jury about the phone conversation you
22 had with your mother on October 27, 2015.

23 A. Ashley had picked me up from that initial
24 meeting and took me back to her dorm room because CJ
25 was in class. And CJ came and picked me up from

1 Ashley and brought me back to his room and I sat on
2 the floor in the middle of his dorm room. I called
3 my mom and said, "I have to tell you something
4 really bad that happened, but I need you to let me
5 finish first before you say anything," and I told
6 her what happened. And I don't remember -- I
7 remember her being supportive. I remember her being
8 there, but I don't remember all of what we talked
9 about.

10 Q. Did you ask her to tell your father for you?

11 A. I did. I couldn't tell my dad.

12 Q. What did your mom do as a result of this phone
13 conversation?

14 A. I didn't want to talk about it. I didn't want
15 anything to do with this.

16 My dad said, "Your mother is coming down to see
17 you tomorrow."

18 I said, "Do not send mom. I do not want to see
19 anybody."

20 He said, "Your mother is coming." The next day
21 my mom showed up like 10:00 a.m. in the morning.

22 Q. Did she stay with you a couple of days?

23 A. I think she stayed with me through the weekend.

24 Q. Did she get you in to see a counselor?

25 A. Yes, ma'am.

1 Q. And have you spent time with the counselor to
2 deal with this situation?

3 A. I spent a lot of hours with that counselor.

4 Q. And has she given you tools to help you deal
5 with this?

6 A. Yes, ma'am.

7 Q. Ms. Lau also asked you about continuing to go
8 to parties at the compound after October 24, 2015.

9 A. Yes, ma'am.

10 Q. Why would you go back to the compound for a
11 party?

12 A. Because I wanted to be normal. After all, my
13 friends were going to parties and I did not want to
14 give anyone any reason to think that anything had
15 happened to me. I just wanted to be normal.

16 Q. Did you ever go back to the Compound by
17 yourself?

18 A. No. No, ma'am.

19 Q. So your sorority sisters were going, and you
20 went along?

21 A. Yes, ma'am.

22 Q. Beg the Court's indulgence. I just have two
23 more questions for you, Ms. Wingo. Did you ever
24 file a report with any law enforcement agency
25 against Drew Pampu?

1 A. No, ma'am.

2 Q. Did you ever file any civil lawsuit in any
3 civil court against Drew Pampu?

4 A. No, ma'am.

5 Q. Why not?

6 A. To prevent this. So that I didn't have to sit
7 here and talk to 12 strangers about the worst day of
8 my life.

9 MS. PORTER: Thank you. Please answer any
10 questions Mr. Moore has for you.

11 CROSS-EXAMINATION

12 BY MR. MOORE:

13 Q. I promise I will be mercifully short.

14 A. Okay.

15 Q. But I have to ask you some questions with
16 regard to CJ's viewpoint on all of this.

17 A. Sure.

18 Q. And so let me start off by asking this: My
19 understanding is that you and CJ were at this time
20 best friends?

21 A. Yes, sir.

22 Q. In actuality, y'all were more, were you not?

23 A. Yes, sir.

24 Q. Okay. And, in fact, you knew you were having
25 some romantic feelings towards him at that time?

1 A. Yes, ma'am.

2 Q. He wasn't telling you that, but you felt that;
3 am I right?

4 A. I mean, I thought so, but like you said, he
5 never said it to me.

6 Q. Okay. Now, when you woke up on the morning of
7 October 25, did you feel like a bunch of hammers
8 were hitting you upside the head?

9 A. I mean, I was still drunk I think, so really
10 the only thing I felt was nausea.

11 Q. Okay. Nausea. You actually vomited some? You
12 had a bad headache?

13 A. I couldn't lift my head off the pillow.

14 Q. Okay. And as a result, it makes it hard to
15 remember what's happened the previous evening as I
16 understand it?

17 A. Yes, sir. I think so.

18 Q. Okay. At that point, did you feel as if you
19 had been violated physically?

20 A. Yes, sir.

21 Q. Okay. But you didn't know what had happened at
22 that juncture?

23 A. Correct.

24 Q. Okay. Now, eventually I believe CJ did come
25 over, did he not?

1 A. He did.

2 Q. Okay. And he actually confronted you with this
3 text that indicated that actually had originated
4 with Drew where he indicated he had taken a chick
5 outside and had sex with her outside the Chipotle
6 trash can as I understand it?

7 A. Yes, sir.

8 Q. Okay. And by that time, CJ had put together
9 what had happened I believe; am I right?

10 A. I think so.

11 Q. Okay. So CJ saw this text. He also had
12 received some texts from you; am I right?

13 A. Yes, sir.

14 Q. Do you remember those -- doing those texts at
15 all?

16 A. No, sir.

17 Q. Okay. But he -- he showed the texts and it
18 reminded you as to what happened I believe, correct?

19 A. The texts between me and him?

20 Q. Yes.

21 A. I had seen them on my computer earlier.

22 Q. Okay. So -- so you knew once you got up that
23 those texts had come out?

24 A. Correct.

25 Q. All right. And did he tell you that he'd also

1 received a telephone call from Drew about the same
2 time he was sending the text out?

3 A. I -- I remember Drew being on the phone and I
4 think I knew it was CJ, but that next morning I
5 don't remember if CJ confirmed that or when it came
6 back to me.

7 Q. Okay. So at the time CJ came over at basically
8 noon or after on the morning -- on the evening of
9 the 25th, he sees you and you're in a bad state with
10 regard to having too much to drink the night before?

11 A. Yes, sir.

12 Q. With a hangover, nausea, and vomiting?

13 A. Yes, sir.

14 Q. Okay. So the indication is that you had a lot
15 to drink?

16 A. Yes, sir.

17 Q. Okay. And when he asked you what happened the
18 night before, you told him you couldn't remember; am
19 I right?

20 A. Yeah, I said I didn't remember everything.

21 Q. Okay. You basically had a blackout or a
22 brownout or whatever you want to call it?

23 A. I would lean more towards black, but, yes, sir.

24 Q. And then he asked you as to whether you had sex
25 or an encounter with Drew?

1 A. I -- I think he had asked me if I remembered
2 leaving.

3 Q. Okay. All right. Did he show you the text
4 that Drew had sent out?

5 A. Yes, sir.

6 Q. Okay. And you told him you didn't remember any
7 of this?

8 A. I said I think I remember some parts of it, but
9 not all of it.

10 Q. And you had gone through that ---

11 A. Correct.

12 Q. --- on cross-examination as to what you could
13 remember?

14 And my understanding what you're describing are
15 kind of memory flashes. You could see a flash of a
16 fence, a flash of you leaning up against a shed,
17 that type thing? Nothing more than a few seconds at
18 a time?

19 A. Correct. Yes, sir.

20 Q. All right. And you're trying to put all these
21 flashes of memory together. And what -- and then
22 what CJ brings in with regard to this text, pretty
23 much brings it together at that point in time as to
24 might've happened; am I correct?

25 A. Correct. Yes, sir.

1 Q. Okay. Now, so based upon his conversation with
2 you and now he's got these texts that you sent out,
3 and I'm going to show you what's marked as Exhibit
4 No. 4 and I will tell you I'm going to skip over
5 some because some of this has to be redacted.

6 A. Okay. Yes, sir.

7 Q. Okay. Now, the first series of entries there
8 are from CJ, correct?

9 A. Yes, sir.

10 Q. Okay. He -- he -- first -- the first entry
11 there is at -- we put it at eastern standard time,
12 rather than universal. It's at 12:40 I believe,
13 correct?

14 MS. LAU: Could you just establish what we're
15 looking at?

16 MR. MOORE: I'm sorry. What number is that?

17 THE WITNESS: It's Plaintiff's 4.

18 MR. MOORE: My apologies.

19 BY MR. MOORE:

20 Q. So that he starts trying to find you at that
21 point in time; am I right?

22 A. It looks like it. Yes, sir.

23 Q. 12:40. "Where are you," correct?

24 A. Yes, sir.

25 Q. And then he later -- a few minutes later,

1 "Seriously?" because you had not responded, correct?

2 A. Correct.

3 Q. And then there's several more texts there. And
4 then let's go over. You finally respond at one
5 o'clock; am I correct?

6 A. Yes, sir.

7 Q. So about 20 minutes later?

8 A. Yes, sir.

9 Q. Okay. And your response is to that first text
10 I believe, but all you say is "front steps"?

11 A. Yes, sir.

12 Q. You don't say what front steps you -- where you
13 are or anything else? You just say "front steps"?

14 A. Yes, sir.

15 Q. Okay. Now, do you remember this at all, or is
16 this just memory from looking at these texts?

17 A. I remember sitting on the front steps holding
18 my phone in front of me, but I was crying and I
19 couldn't focus, so I don't remember ---

20 Q. Okay.

21 A. --- specifically sending this text.

22 Q. Okay. So based upon that information, now --
23 now CJ knows that, number one, you're crying at the
24 time, you've had too much to drink, you're having
25 problems focusing. And then the next day, you can't

1 remember any of this, correct?

2 A. Yes, sir.

3 Q. Am I correct?

4 A. Yes, sir.

5 Q. Okay. All right. And then you -- you -- he
6 says, "Of?" You know, front steps of what? And you
7 said, "The Compounds, pleural, please," correct?

8 A. Yes, sir.

9 Q. One typo. And PLS I assume is please; am I
10 right?

11 A. Yes, sir. It is.

12 Q. You're talking to a 67-year-old man, so we
13 don't keep up with this stuff.

14 All right. Then -- then the -- he talks to you
15 about where you're going that evening because you're
16 asking him to come and get you and take him back to
17 his place I believe; am I right?

18 A. Yes, sir.

19 Q. Okay. He tells you you're getting a ride back
20 to Manning. You don't respond, do you?

21 A. No, sir.

22 Q. Okay. He's got a -- he's got to send another
23 text to you to get your attention to respond at that
24 point in time?

25 A. Yes, sir.

1 Q. Okay. Now, the one I want you to look at is
2 the one that is next to the last, I think, line on
3 there from you to CJ. And what you have there is
4 "please" abbreviated again?

5 A. Yes, sir.

6 Q. "12 Manning and I can't, ma'am, it ought to
7 cop." Is that what you got there?

8 A. Yes, sir.

9 Q. Okay. It's kind of gibberish, isn't it?

10 A. Yes, sir.

11 Q. You're having problems typing at that point in
12 time?

13 A. It looks like it.

14 Q. Okay. "Please one." I guess you're trying to
15 say come; is that right?

16 A. I ---

17 Q. You don't know?

18 A. I don't know.

19 Q. Okay. "To Manning." Where is Manning? Is
20 that -- is that where CJ stayed or is that where you
21 stay?

22 A. That's where I lived.

23 Q. Okay. "And I can't, ma'am, it -- it ought to
24 cop." What's cop? Is that Cope?

25 A. I would think so.

1 Q. Okay. And ought is probably two backwards I
2 assume?

3 A. I think I was trying to say I can't make it
4 over to Cope.

5 Q. Okay. All right. Didn't do a real good job of
6 it though?

7 A. No.

8 Q. Okay.

9 A. Not -- not really.

10 Q. So, basically, at that point in time, you're
11 having a problem typing in your text; am I correct?

12 A. Yes, sir.

13 Q. Okay. So that's another piece of evidence we
14 have there that when CJ looks into this matter, what
15 he sees is that, number one, you're sitting on a
16 porch. You're crying. You can't focus. Now you
17 can't text properly.

18 The next day you wake up, you have a blackout.
19 You can't figure out what's going on until you have
20 some flashes of memory, and then CJ comes over with
21 the text and it kind of comes together at that point
22 in time; am I right?

23 A. Yes, sir.

24 Q. Okay. However, you don't have a complete
25 memory as to what went on still; am I right?

1 A. To this day, I don't know.

2 Q. Okay. Just basically as we say, either a
3 brownout or a blackout?

4 A. Yes, sir.

5 Q. Okay. Now, CJ also, to your knowledge, went
6 and talked to Drew about this; am I right?

7 A. Yes, sir.

8 Q. Okay. So investigated both you and Drew?

9 A. Yes, sir.

10 Q. All right. And, of course, the only people who
11 really involved in the sex act were you and Drew,
12 correct?

13 A. Yes, sir.

14 Q. Nobody else witnessed the thing and, certainly,
15 CJ didn't witness because he's not there?

16 A. I know CJ didn't witness it. I don't remember
17 most of it, so I believe nobody else was there.

18 Q. Okay. Now, let's back up a little bit. Before
19 you go to the Compound fraternity house ---

20 A. Yes, sir.

21 Q. --- you were with your girlfriends drinking?

22 A. Yes, sir.

23 Q. Okay. And you're doing shots as I understand
24 it?

25 A. Yes, sir.

1 Q. Okay. Now there's been some discussion as to
2 whether there's an ounce or an ounce and a half.
3 Are you really paying that much attention as to
4 how -- what you're using or how many you're doing?

5 A. No, sir. If it looked like a shot glass, we
6 used it to pour.

7 Q. Okay.

8 A. But that night, I wasn't measuring.

9 Q. You're drinking to be drinking and basically
10 get a buzz on at that point time, right?

11 A. Correct. Yes, sir.

12 Q. Okay. You're not worried about how many -- how
13 many shots you're doing or how many drinks you're
14 doing or what size you're doing or that type of
15 thing ---

16 A. Correct.

17 Q. --- correct? All right. Now, when you leave
18 that dormitory and go over to -- to the Compound,
19 are you under the influence at that point in time?

20 A. I don't remember most of that walk.

21 Q. You don't remember the walk at all?

22 A. I remember stopping at Johnstone ---

23 Q. Okay.

24 A. --- for somebody to go to the bathroom, but I
25 don't remember anything for the rest of the walk

1 until we got to the Compound.

2 Q. Okay. You got to the Compound, do you remember
3 dealing with CJ?

4 A. I remember seeing him in the front house. Yes,
5 sir.

6 Q. Okay. And then CJ tells you to go have fun
7 with your friends, and you go at that point to find
8 Drew; am I right?

9 A. Yes, sir.

10 Q. With the help of Ben?

11 A. Yes, sir.

12 Q. Okay. All right. And then from that time
13 forward, you don't have a whole lot of memory of
14 what's going on that day?

15 A. No, sir.

16 Q. Now, my memory is one of the -- the memory
17 flashes is that you're completing the sex; am I
18 right?

19 A. Could you be ---

20 Q. Sure. Let me -- let me complete. You're
21 completing the sex and Drew says, "I'm finished,"
22 correct?

23 A. What I remember is him saying, "Stand up for
24 me. I'm not done yet."

25 Q. Okay. All right. And then y'all walked back

1 to the Compound, correct?

2 A. I believe so. Yes, sir.

3 Q. Do you remember any of that?

4 A. Like I said, I remember hanging onto Drew's arm
5 and we're walking down the sidewalk and him being on
6 the phone.

7 Q. Okay. And then once you got to the fraternity
8 house or the Compound, do you recall sitting on the
9 steps?

10 A. Yes, sir.

11 Q. Okay. Crying?

12 A. Yes, sir.

13 Q. Trying to text?

14 A. Yes, sir.

15 Q. All right. Does Drew stick around?

16 A. No, sir.

17 Q. Okay. Did he come and say, "You're going to be
18 alright" and then leave?

19 A. I remember him saying only, "Text me if you
20 need anything."

21 Q. Okay. And then he left?

22 A. Yes, sir.

23 Q. And this is before you got a ride over to
24 your -- your dormitory, correct?

25 A. Yes, sir.

1 Q. Okay. So he didn't wait around for you to have
2 the ride back?

3 A. No, sir.

4 Q. Okay. On the ride back, do you recall getting
5 sick?

6 A. I believe I got sick. I threw up in the
7 backseat.

8 Q. Okay. All right. And then once you got back,
9 you had problems getting into your room because you
10 lost your key?

11 A. Yes, sir.

12 Q. Where'd you keep your key?

13 A. I put my key in my bra that night.

14 Q. Okay. And you don't recall when you would've
15 lost it one way or the other?

16 A. I've got no idea where it went.

17 Q. Okay. But, certainly, you would have known if
18 you just inadvertently dropped it if you weren't
19 under the influence?

20 A. Absolutely.

21 Q. Okay. All right. Now, we've kind of gone
22 through the process of what CJ would've done and
23 what he could've found out. Did you and CJ enter
24 into any agreement to try to harm Drew?

25 A. Absolutely not.

1 MR. MOORE: Thank you.

2 THE COURT: Redirect?

3 MS. LAU: One moment, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. LAU:

6 Q. Ms. Wingo, you have testified on
7 cross-examination that you filled up your water
8 bottle, your empty water bottle, with vodka and you
9 motioned to the jury where you filled it up,
10 correct?

11 A. Yes, ma'am.

12 Q. And you motioned to about three-quarters of the
13 way?

14 A. Definitely above the label line, so somewhere
15 in that vicinity.

16 Q. Okay. And -- but I thought you said that you
17 crushed it to get all the air out so you could put
18 it in your pocket to walk over to the Compound. Is
19 that -- is that true?

20 A. Yes, ma'am.

21 Q. Okay. You also testified to some -- some
22 details that you do recall from your encounter with
23 Drew that night, correct?

24 A. Yes, ma'am.

25 Q. And I believe you had testified that you fell

1 off the side of the shed at one point?

2 A. I remember falling over.

3 Q. That's a specific memory you have, Ms. Wingo?

4 A. It's one of the snapshots I have.

5 Q. Do you recall a time on December 3, 2015, where
6 you were also asked to provide your statements
7 recalling what you remembered from that night and
8 the encounter?

9 A. I believe so. Yes, ma'am.

10 Q. Okay. And is there a reason why you did not
11 say at that time that you fell off the side of a
12 shed?

13 A. I believe I don't -- I didn't realize I didn't
14 say that. I believe that I fell off and I remember
15 being -- or falling over and being picked back
16 up ---

17 Q. Okay.

18 A. --- back against the shed.

19 Q. Well, why don't I read this to you to refresh
20 your memory?

21 A. Sure.

22 MS. PORTER: What are we reading?

23 MS. LAU: Sure. This is December 23, 2015.

24 MS. PORTER: I have it.

25 MS. LAU: You have it?

1 MS. PORTER: Yes, I have it. Sorry.

2 MS. LAU: Thank you.

3 BY MS. LAU:

4 Q. Do you recall making a statement that you
5 recalled walking through the woods towards a
6 chain-link fence?

7 A. Yes, ma'am.

8 Q. Being pushed up against a wall?

9 A. Yes, ma'am.

10 Q. Being told, "Stand up for me"?

11 A. Yes, ma'am.

12 Q. Being told, "Put your pants back on. We're
13 done"?

14 A. Yes, ma'am.

15 Q. Crying uncontrollably?

16 A. Yes, ma'am.

17 Q. Seeing her phone and water bottle on the
18 ground?

19 A. I believe so.

20 Q. Which he picked up and gave to her?

21 A. I think so.

22 Q. Having dirt in her pant pocket?

23 A. If that was my testimony then, yes, ma'am.

24 Q. But you didn't say in this statement that you
25 fell off the side of a shed, right?

1 A. I would have to see the statement.

2 MS. LAU: May I approach?

3 THE COURT: You may.

4 THE WITNESS: Thank you. Okay. The second
5 bullet point says, "Being pushed up against a wall
6 and falling down."

7 BY MS. LAU:

8 Q. But does it say you fell off the side of a shed
9 as you did state -- state today for the jury?

10 A. In not as many words. No, ma'am.

11 Q. And December 3, 2015, was a time that was
12 closer in time to the encounter, correct?

13 A. Yes, ma'am.

14 Q. So is it fair to say you remember more now than
15 you did back when it was sooner -- closer to the
16 event itself?

17 A. I would say that it's -- my testimony has been
18 fairly consistent from day one, so I remember what I
19 remember then.

20 Q. You also testified that you remember opening
21 the door to your dorm when you finally got to
22 Manning Hall that night and that the light -- you
23 remember light behind you and the dark in front of
24 you. Do you remember that testimony today?

25 A. Yes, ma'am.

1 Q. Did you ever provide that statement to anybody
2 prior to today?

3 A. Not in those words, no, ma'am.

4 Q. Is that a new -- a new memory that you have
5 come to today?

6 A. No, ma'am.

7 Q. You testified a moment ago that -- you
8 testified a moment ago that you believed that
9 something bad had happened when you called your mom
10 and that's what you told her, right?

11 A. I don't remember the exact words I used. I
12 remember telling her that I needed to talk to her
13 about something and I needed to get it all out
14 before she said anything.

15 Q. Okay. Well, just a moment ago I believe you
16 testified that you called your mom and you told her
17 something bad had happened. You don't recall making
18 that statement a little moment ago?

19 A. I may have said -- said that in those words in
20 that phone call, but like I said, I don't recall
21 exactly how I phrased it to her on the phone.

22 Q. You also say that you didn't remember the
23 sexual encounter with Drew, right?

24 A. I didn't remember all of it.

25 Q. How do you know something bad had happened?

1 A. Like I said, I mean, when something awful and
2 terrible happens to you and you don't remember what
3 happened, it -- just because your memory -- you
4 don't have it in your memory doesn't mean that your
5 body doesn't go through physical changes, your brain
6 doesn't change. I mean, it's -- your body can tell
7 you things that's happen -- that have happened that
8 you may not remember, and that's exactly how I felt
9 the next day.

10 Q. Or on the day that you spoke with your mother,
11 correct?

12 A. Well, by that point, I had already -- I already
13 knew the feelings I was sitting in, and, yes, ma'am,
14 that feeling continued. But at least at that point
15 I had, you know, a little more solidification about
16 what had happened because somebody unanimously
17 reported it to Clemson.

18 Q. You testified a moment ago that you were
19 crawling on the floor in your dorm room hallway when
20 you got back to Manning before your friend went to
21 your RA, Leslie Snider, to let you into your room,
22 right?

23 A. Yes, ma'am.

24 Q. Leslie did not ask you if you needed medical
25 assistance when she saw you, did she?

1 A. I don't remember what she said to me.

2 Q. Are you aware of any medical assistance being
3 provided to you in that moment?

4 A. No. I'm not aware of any.

5 Q. Any paramedics showing up to give you medical
6 care?

7 A. No, ma'am. I'm not aware of any.

8 Q. Being sent to the health center for medical
9 attention?

10 A. I'm not aware -- I mean, I don't remember going
11 to the health center.

12 Q. You didn't go to the health center regarding
13 this sexual encounter, did you?

14 A. I did actually.

15 Q. Did you go there for a rape kit?

16 A. I had already showered and thrown out my
17 clothes at that point, so there was no material to
18 collect.

19 Q. So that wasn't your intention when you went to
20 the medical center -- or I'm sorry -- the health
21 center to get a rape kit?

22 A. Could you ---

23 Q. Was it your intention to get a rape kit done
24 when you went to the health center?

25 A. It wasn't a -- it wasn't an option for me.

1 Q. Was it an option that you had contemplated
2 right after the sexual encounter?

3 A. Like I said, I woke up still drunk and I
4 couldn't remember a lot of what had happened, so it
5 took me a while to piece together everything.

6 Q. You testified earlier there were two people in
7 your line of sight during the sexual encounter who
8 did not interrupt the encounter, right?

9 A. Correct.

10 Q. Is it possible that these two -- that these two
11 people did not say or do anything because you were
12 willingly participating in the encounter?

13 MS. PORTER: Objection, Your Honor. Calls for
14 speculation.

15 THE COURT: Yeah, sustained.

16 BY MS. LAU:

17 Q. If it appeared to be that you were a willing
18 participant to observe ---

19 MS. PORTER: Objection.

20 THE COURT: Sustained.

21 BY MS. LAU:

22 Q. You testified that in the days after the sexual
23 encounter you characterized the sexual encounter as
24 "hooking up" or "sex," right?

25 A. Yes, ma'am.

1 Q. Not "rape," right?

2 A. I did not use that word yet, no, ma'am.

3 Q. But some time after CJ had visited you in your
4 room on October 25th at about 5:30 p.m., some time
5 after that you had started to use the term "rape" to
6 describe the sexual encounter?

7 A. I believe the first time I used the word rape
8 was two days later on October 27th.

9 Q. When you found out about the message that
10 Mr. Pampu had sent to Jon Stoddart and that Jon --
11 who -- and who then sent it to the group chat, you
12 stated that you were embarrassed, right?

13 A. Absolutely. Yes, ma'am.

14 Q. Ashamed?

15 A. Yes, ma'am.

16 Q. Regretful?

17 A. I don't know if I would use the word regretful.

18 Q. You testified that ---

19 MS. PORTER: Your Honor, this is improper
20 redirect. She went over this on direct.

21 THE COURT: Yeah, let's limit it to proper
22 scope of redirect.

23 MS. LAU: I don't have much more anyway.

24 THE COURT: Okay.

25 BY MS. LAU:

1 Q. You testified that the next morning or later
2 that morning on October 25th when you woke up at
3 around 8:00 a.m., you felt like you were still
4 drunk?

5 A. Yes, ma'am.

6 Q. You felt like you couldn't move your head off
7 the pillow?

8 A. Without throwing up, yes, ma'am.

9 Q. But you sent -- you still sent eight messages
10 to CJ right around that time, right?

11 A. I could've been laying in bed when I sent those
12 messages. Yes, ma'am.

13 Q. Some of them paragraphs long, right?

14 A. Some of them laying in bed.

15 Q. While drunk?

16 A. Well, I wasn't, you know, uncontrollably crying
17 and had more time to be able to correct my spelling
18 mistakes.

19 Q. By the way, when you met Jami Hafner that --
20 later that morning ---

21 A. Yes, ma'am.

22 Q. --- on October 25th, that was in person, right?

23 A. Yes, ma'am. Yes. Yes.

24 Q. And that was before CJ had showed you the
25 GroupMe message, right?

1 MS. PORTER: Your Honor, she's gone over this
2 on direct.

3 MS. LAU: This is in response to David Moore's
4 cross-examination.

5 THE COURT: Right. I'm going to allow it.

6 THE WITNESS: I had not seen the text message
7 or the screen shot of the text message yet.

8 BY MS. LAU:

9 Q. Right. And you had told her that you had sex
10 with Drew?

11 A. Like I said earlier, if I -- if I said anything
12 to her, I said I think I had sex.

13 MS. LAU: That's all I have for this witness.

14 THE COURT: Thank you. You may step down.

15 THE WITNESS: Thank you.

16 (Witness excused.)

17 THE COURT: All right. Ladies and gentlemen,
18 we'll close up for the day. And based on your
19 request for lunch and, actually, that works out
20 pretty good. Then we'll be -- maybe have a shorter
21 lunch and keep this case moving tomorrow, so we will
22 have lunch. Just to let you know that normally it's
23 pizza, so if you need something other than that, let
24 us know.

25 But, anyway, y'all have a good evening. My

1 four rules: Do not discuss the case among
2 yourselves, with anybody. Again, any discussion at
3 all is totally improper.

4 Also, do not do any type of research about this
5 case. Do not pay any attention to any media
6 coverage, if there is, any out there, social media,
7 TV, or otherwise.

8 If anybody contacts you other than the --
9 somebody from the clerk's office, please let the
10 bailiffs know. Does nine o'clock still work for
11 y'all tomorrow?

12 THE JURORS: (Affirmative responses.)

13 THE COURT: All right. We'll see you at nine
14 o'clock right here. Bring your raincoats.

15 (At 5:05 p.m., jury was excused for the day.)

16 THE COURT: All right. And make -- make sure
17 that y'all have all these properly redacted exhibits
18 before it gets too far down the road, so make sure
19 y'all look at that maybe first thing in the morning.

20 (At 5:06 p.m., proceedings concluded for the
21 day.)

22 March 23, 2022

23 THE COURT: Everybody ready?

24 MS. LAU: I believe I mentioned on Monday that
25 he's really a rebuttal witness to the defense's

1 case, so we would just like to alert the Court that
2 we want to reserve that right to call him at the end
3 of defense's case when they rest. And I don't know
4 if you're going to hear any argument on the
5 other ---

6 THE COURT: Are you going to put him up this
7 morning too?

8 MS. LAU: No.

9 THE COURT: Okay.

10 MS. LAU: We would only call him once. We're
11 trying to be economical.

12 THE COURT: Okay. I mean, that's something
13 then -- I mean, I guess you're just alerting me?

14 MS. LAU: Correct.

15 THE COURT: Yeah, let's not -- we don't need to
16 take that up now.

17 MS. LAU: Well, I believe the defense was going
18 to challenge him, so can we bring that to head?

19 THE COURT: Well, not like -- I mean, with the
20 jury waiting now.

21 MS. LAU: Okay.

22 THE COURT: I mean, unless that's -- unless
23 that's something we need to do right this second.

24 MR. GRANTLAND: We can do it whenever the Court
25 wants to.

1 THE COURT: Okay. I mean, I just -- if he's
2 not coming up -- if you're not going to need the
3 information at this point, either do it at lunchtime
4 or the end of the day or at some point.

5 MS. LAU: We just don't want to be in a
6 position where we can't call him at all.

7 THE COURT: No, I understand. I mean, before
8 you rest, I mean, I'll hear from you before you
9 rest. I mean, you're not resting today, are you?

10 MS. LAU: No.

11 THE COURT: I'll make sure you have it. I just
12 don't ---

13 MS. LAU: Okay.

14 THE COURT: --- with the jury sitting there
15 telling them we were coming at 9:00, I don't want to
16 get too much involved.

17 MS. LAU: Sure.

18 THE COURT: But I want to make sure that you're
19 protected on everything. You're ready to call your
20 first witness?

21 MS. LAU: Yes, we are.

22 THE COURT: Okay. All right. Bring them in.

23 (At 9:03 a.m., jury entered the courtroom.)

24 THE COURT: Good morning, ladies and gentlemen.
25 I know it's kind of rough getting in here this

1 morning. It's a little wet. And as we've
2 indicated, we have made arrangements for lunch. And
3 that will kind of depend where we are for testimony,
4 but we've definitely made arrangements for that.

5 So with that being said, the plaintiff is still
6 in their case in chief, so, Plaintiff, you may call
7 your next witness.

8 MS. LAU: The plaintiff call Colin J. Gahagan
9 to the stand.

10 THE COURT: Mr. Gahagan, please come forward to
11 be sworn in.

12 THE WITNESS: (Complying.)

13 THE CLERK: If you would, raise your right
14 hand.

15 THE WITNESS: (Complying.)

16 THE CLERK: Do you solemnly swear that the
17 testimony you're about to give in this case will be
18 the truth, the whole truth, and nothing but the
19 truth so help you God?

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: State your full name for the
22 record.

23 THE WITNESS: Colin J. Gahagan.

24 COLIN J. GAHAGAN,
25 having been produced and first duly sworn as a