

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION
Honorable Edward J. Davila
Courtroom 4 - 5th Floor**

**TITLE: USA v. ELIZABETH HOLMES
CASE NUMBER: 18-cr-00258-EJD-1**

Minute Order and Trial Log

Date: 10/26/2021

Time in Court: 8:31-9:31am,9:41-10:00,10:03-11:02,11:02-11:15,11:42am-12:23pm,
12:23-12:27,12:29-1:32,2:02-4:52pm

(TOTAL time: 7 hrs. 11 mins.)

Courtroom Deputy Clerk: Adriana M. Kratzmann

Court Reporter: Irene Rodriguez

APPEARANCES:

Plaintiff Attorney(s) present: Jeffrey Schenk, John Bostic, Robert Leach, Kelly Volkar

Also present: Agent: Adelaida Hernandez

Defendant Attorney(s) present: Kevin Downey, Lance Wade, Katherine (Katie) Trefz, John Cline, Andrew Lemens

Also present: Elizabeth Holmes (Out-custody)

PROCEEDINGS: Jury Trial (Day 23)

Further Jury trial held. Testimony held and evidence entered. Further Jury Trial scheduled for Wednesday, October 27, 2021 at 9:00 a.m.

Please see trial log attached.

The following exhibits are marked for IDENTIFICATION:

Plaintiffs:1944,5432,2015,2073,4858,2107,2166,2851-1,2851-2,2851-3,3152,2170,1938,4197,
2097,2098,2139,5273


Defendants:12751,10587,11453,11249,14089,14106,12856,14080,13987,14081

The following exhibits are ADMITTED into evidence:

Plaintiffs:**1944,5432,2015,2073,4858,2107,2166,2851-1,2851-2,2851-3,3152,2170,4197,2097,
2098,2139**

Defendants: **12751,14089,14106,12856,14080,13987,14081**

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Adriana M. Kratzmann
Courtroom Deputy
Original: **E-Filed**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HONORABLE EDWARD J. DAVILA

Case Name: USA v. Elizabeth Holmes
Case No: 5:18cr00258EJD-1

TRIAL LOG

TRIAL DATE: October 26, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
		8:31 am	Court in session outside presence of Jury. Counsel and Defendant are present.	
			Counsel addresses Court re objections to evidence with testimony	
		9:31 am	Court takes recess	
		9:41 am	Court held in chambers meeting with Counsel – Court orders portions of transcript to be redacted	
		10:00 am	Court takes recess	
		10:03 am	Court in session. Counsel and Defendant present. Jury seated	
		10:12 am	Government calls next witness	
			W#18 Lisa Peterson – Sworn	
DX		10:13 am	Direct examination of W#18 Lisa Peterson begins by Government Counsel Robert Leach	
EX 1944			ADMITTED – Email From: Jerry Tubergen; To: Dick DeVos; Subject: Adobe Reader user sent you a file w/attachment Theranos (Dated 9/18/2014)	
EX 5432			ADMITTED – Email chain – From: Jerry Tubergen; To: Elizabeth Holmes; Subject: Confidential Disclosure Agreement (Dated 10/3/2014)	
EX 2015			ADMITTED – Theranos Conf call notes (Dated 10/3/2014) By Lisa Peterson	

TRIAL DATE: October 26, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
EX 2073			ADMITTED – Email From: Lisa Peterson; To: Jerry Tubergen; Subject: Theranos Memo w/attachment Theranos Summary October 3, 2014 (Dated 10/12/2014)	
EX 4858			ADMITTED – Theranos Confidential Overview	
		11:00 am	Jury and witness excused for break 30 mins	
		11:01 am	Court in session outside presence of Jury	
			Defense counsel requests meeting in chambers	
		11:02 am	Court takes recess	
		11:02 am	Court meets with Counsel in chambers on record – [Court ordered portion of transcript SEALED due to content cannot be accessed]	
		11:15 am	Meeting concludes off record	
		11:15 am	Court takes recess 25 mins	
		11:42 am	Court in session Counsel and Defendant present. Jury seated	
			W#18 resumes the stand for further direct examination	
EX 2107			ADMITTED – Email chain – From: Sunny Balwani; To: Jerry Tubergen; Subject: Thank you w/attachment (Dated 10/21/2014)	
EX 2166			ADMITTED – RDV Approval Document – New Equity Investment Direct Investment: Theranos, Inc. (Closed 10/31/2014)	
EX 2851- 1			ADMITTED – Mad Money clips played for jury Objections overruled by the Court	
EX 2851- 2			ADMITTED – Mad Money clips played for jury	

TRIAL DATE: October 26, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
EX 2851- 3			ADMITTED – Mad Money clips played for jury	
EX 3152			ADMITTED – 4/18/2016 Today Show Clip of Ms. Holmes – played for Jury Objections overruled	
		12:23 pm	Sidebar	
		12:27 pm	Sidebar concluded	
		12:29 pm	Court resumes in session with Counsel and Defendant. Jury seated	
		12:29 pm	Government resumes to play the clip Exhibit 3152	
		12:34 pm	Direct examination resumes of W#18	
		12:36 pm	Direct examination of W#18 concludes	
	CX	12:37 pm	Cross-examination of W#18 begins by Defense Counsel Lance Wade	
	EX 2170		ADMITTED – Email From: Jerry Tubergen; To: Sunny Balwani; Subject: Executed Document w/attachment (Dated 10/31/2014)	
	EX 1938		IDENTIFICATION -	
	EX 12751		ADMITTED – Email From: Mosely; To: Jerry Tubergen; Subject: Cover Story from Fortune June 2014 w/attachment Theranos .pdf (Dated 9/17/2014)	
	EX 4197		ADMITTED – Letter from Daniel Mosely; To: Henry Kissinger (Dr. Kissinger) Re: Theranos analysis w/enclosure (Dated 9/2/2014)	
	EX 10587		IDENTIFICATION -	
	EX 11453		IDENTIFICATION -	

TRIAL DATE: October 26, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
		1:32 pm	Court takes recess 30 mins.	
		2:02 pm	Court in session Counsel and Defendant present. Jury seated	
			Cross examination resumes of W#18	
	EX 11249		IDENTIFICATION -	
	EX 14089		ADMITTED - Email From: Jerry Tubergen; To: Rick DeVos; Subject: Theranos (Dated 10/24/20214)	
	EX 14106		ADMITTED - Email From: Bob Schierbeck; To: Peter Evans; Subject: Updates Admitted objection partially overruled Paragraph 2 ONLY with redactions (Dated 10/14/2014) Objection by Government	
	EX 2097		ADMITTED – Email From: Quan Mac; To: Lisa Peterson; Subject: Touching base (Dated 10/20/2014)	
	EX 2098		ADMITTED – Email chain – From: Jerry Tubergen; To: Elizabeth Holmes; Subject: Thank you (Dated 10/20/2014)	
	EX 12856		ADMITTED – Email chain – From: Jerry Tubergen; To: Doug DeVos; Subject: Thank you (Dated 10/21/2014)	
	EX 2139		ADMITTED – Email From: Lisa Peterson; To: Sunny Balwani; Subject: RDV Investments (Dated 10/28/2014)	
	EX 14080		ADMITTED – Email From: Subject: Executed Documents (Dated 10/31/2014)	
	EX 13987		ADMITTED – Email chain – From: Andrew Mason; To: Erik Oster; Subject: Signed write-ups (Dated 11/5/2014)	
	EX 14081		ADMITTED – DeVos Family Council Meeting Notes (Dated 12/17/2014) Court admitted with further redactions	

TRIAL DATE: October 26, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
	EX 5273		IDENTIFICATION – Objection by the Government	
		4:02 pm	Jury admonished and excused for the day and witness excused to return for further testimony tomorrow	
		4:02 pm	Court in session outside presence of the Jury taking up objection re Exhibit 5273	
			Court to further review exhibit 5273 and address it with Counsel tomorrow morning	
			Defense Counsel Kevin Downey addresses the Court with objections to evidence with upcoming testimony of witness Alan Eisenman (Exhibits 2216, 2468, and in a limited way 1371) Court to review proposed redactions by defense Court hears arguments about further potential testimony of witness	
		4:45 pm	Court taking up housekeeping matters re schedule of upcoming witnesses	
		4:52 pm	Court adjourns	
			Further Jury Trial scheduled for tomorrow, Wednesday, 10/26/2021 at 8:15 am with Counsel and Jury 9:00 am	