

**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
AMENDED
Minute Order and Trial Log**

Date: 11/2/2021

Time in Court: 8:25-8:54am,9:11-10:46,11:23-11:32,11:34-11:50am,11:52-1:28pm,2:04-4:11pm
(TOTAL time: 6 Hrs. 12 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

Counsel for witness Roger Parloff: David Korzenik, Joshua Koltun appeared telephonically

Also present: Elizabeth Holmes (Out-custody)

PROCEEDINGS: Jury Trial (Day 25)

Further Jury Trial held. Testimony held and evidence entered. Further Jury Trial scheduled for Wednesday, November 3, 2021 at 9:00 a.m.

Please see trial log attached.

The following exhibits are marked for IDENTIFICATION:

Plaintiffs: 1992,188,200,201,192,223,259,262,4163,4173,3387,3844,4202,4221,4284,4286,4303, 2172,4162


Defendants: 14210,14212,14076,11249,11253,10588,10570,10571,7079,10572,10573,10574, 14129,14130,14206

The following exhibits are ADMITTED into evidence:

Plaintiffs: **1992,188,200,201,192,223,259,262,4163,4173,3387,3844,4202,4221,4284,4286,4303, 2172**

Defendants:**14212,14076,10588,10570,10571,7079,10572,10573,10574,14129, 14130,14206**

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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: November 2, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
		8:25 am	Court in session outside presence of Jury. Counsel and Defendant are present.	
			Court addresses the parties to plan to discuss the following items: Dkt. 1103 Exclude witness Parloff, Dkt. 1116 Exclude witness BB, and as to witness Mosley Defense objections to documents pertaining to his testimony	
			Defer Dkt. 1116 for the parties to address it tomorrow	
			Defense Counsel John Cline addresses the Court as to Dkt. 1103 to exclude witness Parloff	
			Court addresses trial schedule of Juror with the parties	
		8:54 am	Court takes recess	
		9:11 am	Court in session Counsel and Defendant are present. Jury seated.	
	CX	9:15 am	Cross-examination of W#18 Lisa Peterson resumes by Defense Counsel Lance Wade	
	EX 14210		IDENTIFICATION -	
	EX 14212		ADMITTED – Email chain – From: Rob Schierbeek; To: Matt Brinks, Jeff Lambert; Subject: Cash (Dated 10/6/2014)	
	EX 1992		ADMITTED – Email From: Lisa Peterson; To: Randy Damstra; Subject: None (Dated 9/30/2014)	

TRIAL DATE: November 2, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
	EX 14076		ADMITTED – Letter from Theranos To: Jerry Tubergen (Dated 9/24/2014)	
	EX 11249		IDENTIFICATION -	
	EX 11253		IDENTIFICATION -	
	EX 10588		ADMITTED – Theranos Series C-2 Preferred Stock Purchase Agreement (signed)	
		10:24 am	Cross-examination concludes	
RDX		10:24 am	Re-direct examination of W#18 begins by Government Counsel Robert Leach	
		10:44 am	Jury and witness excused for break	
		10:44 am	Court in session outside presence of Jury addressing an individual in the gallery	
		10:46 am	Court takes recess 30 mins	
		11:23 am	Court in session Counsel and Defendant present. Jury seated.	
RDX			Re-direct examination resumes of W#18	
EX 2065			IDENTIFICATION – Defense objects to the admission of Exhibit 2065	
		11:32 am	Court off the record for Sidebar	
		11:34 am	Court on record at Sidebar	
		11:50 am	Sidebar concludes	
		11:52 am	Court resumes and the Court sustains the objection to Exhibit 2065, it will not be admitted at this time	
	RCX	11:52 am	Re-Cross examination begins of W#18	

TRIAL DATE: November 2, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
		11:54 am	W#18 is excused	
			Government calls next witness	
		11:55 am	W#19 Constance Cullen – sworn	
DX			Direct examination of W#19 begins by Government Counsel Jeffrey Schenk	
EX 188			ADMITTED - Email chain – From: Elizabeth Holmes; To: Constance Cullen; Subject: Follow up to our call w/attachment (Dated 3/6/2009)	
EX 200			ADMITTED - Services Agreement between Schering Corporation (“SPRI”) and Theranos	
EX 201			ADMITTED - Email chain – From: Elizabeth Holmes; To: James McLeod, Constance Cullen; Subject: Follow up (Dated 4/15/2009)	
EX 192			ADMITTED - Email From: Carolyn Balkenhol Re: Appointment for Calendar sent 3/30/2009 for Meeting on 5/5/2009; Subject: Copy – Schering-Plough Folks here – Draft Agenda Attached.	
EX 223			ADMITTED – Email chain – From: Constance Cullen; To: Gary Frenzel; Subject: Assay Development (Dated 6/16/2009)	
EX 259			ADMITTED – Email chain – From: Gary Frenzel; To: Constance Cullen; Subject: Validation Report w/attachment (Dated 12/3/2009)	
EX 262			ADMITTED – Email chain – From: Gary Frenzel; To: Constance Cullen; Subject: Validation Report (Dated 12/9/2009)	
			Direct examination of W#19 concludes	
	CX	12:34pm	Cross-examination of W#19 Constance Cullen begins by Defense Counsel John Cline	
	EX 10570		ADMITTED – Email chain – From: Elizabeth Holmes; To: Constance Cullen; Subject: Follow up to our call w/attachments (Dated 11/12/2008)	

TRIAL DATE: November 2, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
	EX 10571		ADMITTED – Email chain – From: Constance Cullen; To: Elizabeth Holmes; Subject: Follow up to our call (Dated 12/10/2008)	
	EX 7079		ADMITTED – Email chain – From: Elizabeth Holmes; To: James McLeod, Constance Cullen and cc'd Carolyn Balkenhol; Subject: Follow up w/attachments (Dated 4/15/2009)	
	EX 10572		ADMITTED – Meeting Agenda with Theranos and Schering-Plough (Dated 5/5/2009)	
	EX 10573		ADMITTED – Email chain – From: Gary Frenzel; To: Constance Cullen; Subject: Validation Report (Dated 12/3/2009)	
	EX 10574		ADMITTED – Email chain – From: Elizabeth Holmes; To: Constance Cullen; Subject: Follow up (Dated 3/5/2010)	
			Cross examination concludes	
			W#19 is excused	
			Government calls next witness	
			W#20 Daniel Lynn Mosley – Sworn	
DX			Direct examination of W#20 Daniel Mosley begins by Government Counsel Jeffrey Schenk	
EX 4163			ADMITTED - Email From: Daniel Mosley; To: Elizabeth Holmes; Subject: None; Content re Private Placement Memorandum (Dated 7/22/2014)	
		1:26 pm	Jury and witness excused for the break	
		1:27 pm	Court takes up housekeeping matters	
		1:28 pm	Court takes recess 30 mins	
		2:04 pm	Court in session Counsel and Defendant present. Jury seated	
			Direct examination of W#20 resumes	

TRIAL DATE: November 2, 2021			REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
EX 4173			ADMITTED – Letter From: Elizabeth Holmes; To: Daniel Mosley; Subject: None – Enclosure to letter package information (Dated 8/18/2014)	
EX 3387			ADMITTED – Enclosure to Letter From: Elizabeth Holmes; To: Daniel Mosley (Ex. 4173) Materials from Theranos	
EX 3844			ADMITTED – Johns Hopkins Materials	
EX 4202			ADMITTED – Email chain – From: Daniel Mosley; To: Elizabeth Holmes; Subject: None (Dated 9/2/20214)	
EX 5387D			PREVIOUSLY ADMITTED – 2 Text Messages (Pg. 16)	
EX 4221			ADMITTED – Email chain – From: Daniel Mosley; To: Elizabeth Holmes; Subject: None – Content Confidential Disclosure Agreement (Dated 9/18/2014)	
EX 4284			ADMITTED – Email chain – From: Daniel Mosley; To: Elizabeth Holmes; Subject: Meeting las Friday (Dated 10/20/2014)	
EX 4286			ADMITTED – Email chain – From: Sunny Balwani; Subject: Investment Docs (Dated 10/24/2014)	
EX 4303			ADMITTED – Email From: Daniel Mosley; To: Elizabeth Holmes; Subject: Master Signature Pg. (Dated 10/30/2014)	
EX 2172			ADMITTED – Theranos Document Redemption Certification to Mosley From: Elizabeth Holmes (Dated 10/31/2014)	
		3:27 pm	Direct examination concludes	
	CX	3:29 pm	Cross examination of W#20 Daniel Mosley begins by Defense Counsel Lance Wade	
	EX 4162		IDENTIFICATION -	

TRIAL DATE: November 2, 2021		REPORTER(S): Irene Rodriguez	CLERK: Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION
	EX 14129		Email chain – From: Daniel Mosley; To: Elizabeth Holmes; Subject: None Content Follow up re Private Placement materials (Dated 7/31/2014)
	EX 14130		Message Slip From: Daniel Mosley’s Assistant to call Elizabeth Holmes on Monday (Dated 8/14/2014)
	EX 14206		3 Binders of materials submitted to Daniel Mosley in association with the Letter from Theranos Dated 8/18/2014
		4:00 pm	Court admonishes Jury and Jury is excused
		4:01 pm	Witness excused to return tomorrow for further testimony
		4:01 pm	Court in session outside presence of Jury taking up housekeeping matters
			Government addresses the Court re the defense objections as to exhibits related to Daniel Mosley
			Court suggested with Counsel to address the Motion re witness Roger Parloff to be scheduled on Monday, November 8, 2021 in the morning, hearing time to be determined
		4:11 pm	Court adjourns
			Further Jury Trial scheduled for Wednesday, November 3, 2021 at 8:15 am with Counsel and 9:00 am with Jury