

**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: 9/22/2021

Time in Court: 8:40-8:53am,9:47-11:08,11:53am-1:53pm,2:07-4:14pm

**(TOTAL time: 5 hrs. 41 mins.)**

Courtroom Deputy Clerk: Adriana M. Kratzmann

Court Reporter: Irene Rodriguez

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**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

Also present: Elizabeth Holmes (Out-custody)

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**PROCEEDINGS: Jury Trial (Day 9)**

Further Jury trial held. Testimony held and evidence entered. Further Jury Trial scheduled for Friday, September 24, 2021 at 9:00 a.m.

**Please see trial log attached.**

**The following exhibits are marked for IDENTIFICATION:**

Plaintiffs: 3481,5386,5387,5387B Pgs.1-30,5404,5409,5407,1106,1172A (89 pgs. Excerpts of 1172),1776,4196,5408,2611,4553,2932


Defendants: 10507,10520,13807,13792,10516,10509,10510,11200,10457,10506,10523,7717,10512,7653,10524

**The following exhibits are ADMITTED into evidence:**

Plaintiffs: **5387B Pgs.1-30,5404,5409,5407,1106,1172A (89 pgs. Excerpts of 1172),1776,4196,5408,2611,4553,2932**

Defendants: **10507,10520,10516,10509,10510,10506,10523,10512,7653,10524**

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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**

<b>TRIAL DATE:</b> September 22, 2021			<b>REPORTER(S):</b> Irene Rodriguez	<b>CLERK:</b> Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
		8:40 am	Court in session outside presence of Jury – Counsel and Defendant are present	
			Court hears from Defense Counsel re objections to evidence of the upcoming witness	
			Counsel provides the exhibits (text messages) with the specific objections for the Court’s review	
		8:53 am	Court in recess	
		9:47 am	Court in session outside presence of Jury – Counsel and Defendant are present	
			Court provided Counsel with the exhibits that would be admissible and those not admissible	
			Court heard additional objections under Rule 404b from Defense Counsel re additional exhibits	
		10:07 am	Jury seated. Court in session	
		10:07 am	Government calls next witness W#6	
			W#6 Justin Offen – Sworn	
DX		10:10 am	Direct examination of W#6 begins by Government Counsel Robert Leach	
EX 3481			IDENTIFICATION – Pages 1 -589 Text Messages	

<b>TRIAL DATE:</b> September 22, 2021			<b>REPORTER(S):</b> Irene Rodriguez	<b>CLERK:</b> Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
EX 5386			IDENTIFICATION - DEMONSTRATIVE - PWC Diagram – Displayed	
EX 5387			IDENTIFICATION – Recreated Spreadsheet Pages 1 -449	
EX 5387 B			ADMITTED - Subset of Exhibit 5387 (Redacted Form)	
EX Pg.2			ADMITTED – Pg. 2 of Exhibit 5387B - Text messages Bates#0000032	
EX. Pg.3			ADMITTED – Pg. 3 of Exhibit 5387B - Text messages Bates#0000042	
EX Pg. 4			ADMITTED – Pg. 4 of Exhibit 5387B - Text messages Bates#0000067	
EX Pg.5			ADMITTED – Pg. 5 of Exhibit 5387B - Text messages Bates#0000068	
EX Pg. 6			ADMITTED – Pg. 6 of Exhibit 5387B - Text messages Bates#0000069	
EX Pg. 7			ADMITTED – Pg. 7 of Exhibit 5387B - Text messages Bates#0000076	
EX Pg. 8			ADMITTED – Pg. 8 of Exhibit 5387B - Text messages Bates#0000087	
EX Pg. 9			ADMITTED – Pg. 9 of Exhibit 5387B - Text messages Bates#00000175 (Court overruled objection – Admitted for knowledge and notice only)	
EX Pg. 10			ADMITTED – Pg. 10 of Exhibit 5387B - Text messages Bates#00000176	
EX Pg. 11			ADMITTED – Pg. 11 of Exhibit 5387B - Text messages Bates#00000185 (Court overruled objection – Admitted for knowledge and notice only)	

<b>TRIAL DATE:</b> September 22, 2021			<b>REPORTER(S):</b> Irene Rodriguez	<b>CLERK:</b> Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
EX Pg. 12			ADMITTED – Pg. 12 of Exhibit 5387B - Text messages Bates#00000190	
		11:06 am	Court takes recess 45 mins	
			Jury excused and witness stands down	
		11:07 am	Court in session outside presence of Jury with Counsel and Defendant	
		11:08 am	Court takes recess	
		11:53am	Court in session outside presence of Jury with Counsel and Defendant	
			Court takes up housekeeping matters re witness scheduling	
		12:00pm	Jury seated	
			Court informs Jury that witness will be called out of order and W#6 testimony will pause	
			Government calls next witness W#7	
			W#7 General James Mattis – Sworn	
DX			Direct examination of W#7 begins by Government Counsel John Bostic	
EX 5404			ADMITTED – Email From: Elizabeth Holmes; To: General James Mattis; Subject: Note for General Mattis (Dated 11/20/2011)	
EX 5409			ADMITTED – Email From: Elizabeth Holmes; To: General James Mattis; No Subject: (Dated 3/27/20213)	
EX 5407			ADMITTED – Email From: Elizabeth Holmes; To: General James Mattis; Subject: Theranos (Dated 9/6-9/8/2013)	
EX 1106			ADMITTED – Wall Street Journal Article (Dated 9/8/2013) Entitled: Elizabeth Holmes: The Breakthrough of Instant Diagnosis	

<b>TRIAL DATE:</b> September 22, 2021			<b>REPORTER(S):</b> Irene Rodriguez	<b>CLERK:</b> Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
EX 1172 A			ADMITTED – Pgs. 89 (Excerpt of Exhibit 1172) Theranos Board of Director Meeting Slides (Dated 10/8/2013)	
EX 1776			ADMITTED – Article in Fortune Magazine – Entitled This CEO Out for Blood By: Roger Parloff (Dated 6/12/2014)	
EX 4196			ADMITTED – Email From: Elizabeth Holmes; To: General James Mattis; No Subject: (Dated 9/14/2014)	
EX 2611			ADMITTED – Theranos Board of Director Meeting – Agenda/Slides (Dated 7/14/2015)	
EX 4553			ADMITTED – Email From: Elizabeth Holmes; To: Members of the Board; Subject: Statement From: Theranos 10/16/2015 (Email dated 10/17/2015)	
EX 2932			ADMITTED – Email chain To Members of the Board – Subject: Integrity of Lab Data (Dated 10/29/2015)	
		1:53 pm	Court takes 10 min recess	
		2:07 pm	Court in session. Counsel and Defendant present. Jury seated	
	CX	2:08 pm	Cross examination of W#7 begins by Defense Counsel Kevin Downey	
	EX 10507		ADMITTED – Email From: General James Mattis; To: Robert Hogue; Subject: Safe Harbor Ltr (Dated 7/19/2013)	
	EX 10520		ADMITTED – Pg. 4 Exhibit A & B ONLY attachment to Email (Dated 2/1/2014)	
	EX 13807		IDENTIFICATION – Document re New Directors	
	EX 13792		IDENTIFICATION – Document Re Intellectual Property Discussion	
	EX 10516		ADMITTED – Intellectual Property Portfolio Status Report for Meeting of the Board of Directors (Dated 10/8/2013)	

<b>TRIAL DATE:</b> September 22, 2021		<b>REPORTER(S):</b> Irene Rodriguez		<b>CLERK:</b> Adriana M. Kratzmann	
PLF	DEFT	TIME	DESCRIPTION		
	EX 10509		ADMITTED – Email From: General James Mattis; To: Elizabeth Holmes; Subject: Newark Visit (Dated 7/16/2014)		
	EX 10510		ADMITTED – Email From: Elizabeth Holmes; To: General James Mattis; Subject: Thoughts on tomorrow – BOD Committee (Dated 2/12/2015)		
	EX 11200		IDENTIFICATION - Document		
	EX 10457		IDENTIFICATION – Email (Dated 12/3/2012)		
	EX 10506		ADMITTED – Email From: General James Mattis; To: R. Bechtel, E. Holmes, Bois; Subject: Statement From Theranos (Dated 10/18/2015)		
	EX 10523		ADMITTED – Email Chain Theranos From: General James Mattis; To: Elizabeth Holmes; Subject For Our Shareholders (Dated 11/2/2015)		
	EX 7717		IDENTIFICATION – Evaluation of Miniaturized Clinical Lab System (Dated 12/20/2017)		
	EX 10512		ADMITTED – Email chain From: General James Mattis; To: Elizabeth Holmes; Subject: Theranos Scientific Meeting 2/28 (Dated 2/29/2016) Government objection to admission, Court overruled objection Admitted Not for Truth of the Matter but for State of Mind of Defendant		
	EX 7653		ADMITTED – Email chain From: Elizabeth Holmes; To: D. Boies, et al., Subject: Friday Meeting w/attachment (Dated 3/1/2016) Government objection to admission, Court overruled objection Admitted Not for Truth of the Matter but for State of Mind of Defendant		
	EX 10524		ADMITTED – James Mattis Theranos Board of Directors Resignation Letter (Dated 12/16/2016)		
		3:32 pm	Cross examination concludes of W#7		
RD X		3:32 pm	Re-Direct examination of W#7 begins by Government Counsel John Bostic		
		3:39 pm	Re-Direct examination of W#7 concludes		

<b>TRIAL DATE:</b> September 22, 2021			<b>REPORTER(S):</b> Irene Rodriguez	<b>CLERK:</b> Adriana M. Kratzmann
PLF	DEFT	TIME	DESCRIPTION	
		3:39 pm	W#7 excused	
		3:42 pm	W#6 Justin Offen resumes the stand for further direct examination	
DX			Direct examination resumes of W#6 by Government Counsel Robert Leach	
EX 5387 B			ADMITTED – Pages 1 – 30 (Redacted) Text Messages	
EX 5387 A			ADMITTED (provisionally not to authenticity per Rule 901,902) – (Redacted) Text Messages This exhibit will not be posted at this time for public access	
	CX	4:02 pm	Cross examination of W#6 begins by Defense Counsel Katie Trefz	
		4:11 pm	Cross examination concludes of W#6	
	EX 3481		IDENTIFICATION – Text Messages	
		4:11 pm	W#6 excused	
		4:12 pm	Court admonishes the Jury and Jury is excused	
		4:13 pm	Court in session outside presence of Jury taking up housekeeping matters	
		4:14 pm	Court is adjourned	
			Further Jury Trial scheduled for Friday, September 24, 2021 at 9:00 a.m.	