

Exhibit M

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,)
) No. CR-18-0422-PHX-SMB
 Plaintiff,)
)
 vs.) Phoenix, Arizona
) September 14, 2021
Michael Lacey,) 9:03 a.m.
James Larkin,)
Scott Spear,)
John Brunst,)
Andrew Padilla,)
Joye Vaught,)
)
 Defendants.)

)

BEFORE: THE HONORABLE SUSAN M. BRNOVICH, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL - DAY 8

Official Court Reporter:
Christine M. Coaly, RMR, CRR
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, Spc 37
Phoenix, Arizona 85003-2151
(602) 322-7248

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

A P P E A R A N C E S

For the Government:

U.S. ATTORNEY'S OFFICE

By: **Mr. Peter S. Kozinets**

Mr. Kevin M. Rapp

Ms. Margaret Wu Perlmeter

Mr. Andrew C. Stone

40 North Central Avenue, Suite 1200

Phoenix, Arizona 85004

U.S. DEPARTMENT OF JUSTICE

By: **Mr. Reginald E. Jones**

1400 New York Avenue, NW, Suite 600

Washington, DC 20530

For the Defendant Lacey:

LIPSITZ GREEN SCIME CAMBRIA

By: **Mr. Paul J. Cambria, Jr.**

Ms. Erin E. McCampbell-Paris

42 Delaware Avenue, Suite 120

Buffalo, NY 14202

For the Defendant Larkin:

BIENERT KATZMAN

By: **Mr. Thomas H. Bienert, Jr.**

Ms. Whitney Z. Bernstein

903 Calle Amanecer, Suite 350

San Clemente, CA 92673

1 For the Defendant Spear:

2 FEDER LAW OFFICE
3 By: **Mr. Bruce S. Feder**
4 2930 East Camelback Road, Suite 160
5 Phoenix, AZ 85016

6 For the Defendant Brunst:

7 BIRD MARELLA BOXER WOLPERT NESSIM DROOKS
8 LINCENBERG & RHOW
9 By: **Mr. Gopi K. Panchapakesan**
10 **Mr. Gary S. Lincenberg**
11 1875 Century Park E, Suite 2300
12 Los Angeles, CA 90067

13 For the Defendant Padilla:

14 DAVID EISENBERG, PLC
15 By: **Mr. David S. Eisenberg**
16 3550 North Central Avenue, Suite 1155
17 Phoenix, AZ 85012

18 For the Defendant Vaught:

19 JOY BERTRAND, LLC
20 By: **Ms. Joy M. Bertrand**
21 P.O. Box 2734
22 Scottsdale, AZ 85252
23
24
25

P R O C E E D I N G S

1 THE COURT: Thank you. Please be seated.

2 All right. So I told you last night that I was taking
3 the motion for a mistrial under advisement last night.
4

5 I've reviewed the transcripts from the last couple of
6 days, and I'm going to grant the motion for mistrial.

7 I, at the beginning of this case, gave the government
8 some leeway, because child sex trafficking and sex trafficking
9 are forms of prostitution. Yet in the opening, and with every
10 witness thereafter, it seems, the government has abused that
11 leeway.

12 The government, as prosecutors, are held to a higher
13 standard, and their goal is not to win at any cost, but to win
14 by the rules, to see that justice is done. And if the
15 government can prove that the defendants knowingly facilitated
16 a business enterprise involved in prostitution and trafficking,
17 then they will be punished, but it should be done correctly.

18 Just as a few examples, just after we had a discussion
19 about the expert Christina Decoufle, Meg Perlmeter and the
20 government agreed to minimize the focus on child sex
21 trafficking and refer to the more general sex trafficking.
22 Mr. Jones then proceeded to question Dr. Cooper solely on child
23 sex trafficking.

24 There was an order that the government stay away from
25 the day in the life of a prostitute or victim. With Jessika

1 Svendgard, the government solicited answers that went into the
2 abuse by her trafficker, many of those were objected to and
3 sustained, but then those errors -- well, that was errors
4 committed on top of the opening statement, which was close to
5 causing a mistrial.

6 Also, with Jessika Svendgard, the government
7 emphasized the 105 days over, and over, and over again. She
8 also talked about being raped more than once, which raises a
9 whole new emotional response from people.

10 In addition to Dr. Cooper just emphasizing child sex
11 trafficking above everything else, she talked about the
12 overwhelming majority of victims being trafficked that she
13 talked to were trafficked on Backpage, which although may be
14 true, is similar to the reputation evidence that we talked
15 about prior to trial, which I said would be allowed as long as
16 it was tethered to some communication with the defendants, and
17 that was not tethered to any communication with the defendants.

18 And I believe there were other witnesses that also
19 talked about the reputation of Backpage untethered from
20 communications with the defendants. So although I don't see
21 any of these as intentional misconduct, the cumulative effect
22 of all of that is something that I can't overlook and won't
23 overlook.

24 So the motion for mistrial is granted.

25 I will call the jury in to dismiss them, and then we

1 will set a date a couple weeks out to talk about when we can
2 reconvene.

3 Does anybody have any questions?

4 (No response.)

5 THE COURT: All right. Can you see if we have all our
6 jurors.

7 MR. LINCENBERG: Your Honor, can we just have a moment
8 to confer on one issue?

9 Can I have a moment to confer with defense counsel,
10 please?

11 THE COURT: Sure. We're just going to call and see if
12 all our jurors are here.

13 MR. LINCENBERG: Thank you, Your Honor.

14 (An off-the-record discussion was held between defense
15 counsel.)

16 THE COURT: Was there anything you needed to raise
17 with me?

18 MR. LINCENBERG: No, Your Honor.

19 THE COURT: We're missing one juror, so I'm going to
20 step out for a minute.

21 (9:09 a.m., court stands in recess.)

22 (9:16 a.m., the jurors entered the courtroom.)

23 THE COURT: Thank you. Please be seated.

24 All right. We're back on the record with the jury
25 present.

1 Ladies and gentlemen of the jury, a mistrial has been
2 declared in this case, so you're excused from service on this
3 case. So you're now free to go.

4 You're also released from the admonition, so you can
5 talk about the case or not talk about the case.

6 I would just caution you, if you're talking to press,
7 you've only heard a small portion of the case, so keep that in
8 mind with any discussions you have or choose not to have. But
9 thank you for your time and attention to this matter, you were
10 all very diligent, and I appreciate your time and so do the
11 parties.

12 Thank you. If you would leave your notes in the jury
13 room, we'll take them and destroy them.

14 (9:17 a.m., the jurors exited the courtroom.)

15 THE COURT: All right. Please be seated.

16 Okay. I'd like to set a date in maybe three weeks
17 when we can discuss a new trial date.

18 MS. BERTRAND: Your Honor, will that be by
19 teleconference or will that be in person --

20 THE COURT: In person.

21 MS. BERTRAND: -- for the lawyers?

22 THE COURT: In person.

23 MS. BERTRAND: Okay.

24 COURTROOM DEPUTY: October 5th is exactly three weeks
25 from today.

1 THE COURT: Since it's in person, is a Monday or
2 Friday better, or does it matter? Nobody has a preference?

3 MS. BERNSTEIN: It doesn't matter, Your Honor.

4 THE COURT: Okay.

5 COURTROOM DEPUTY: So Monday is --

6 THE COURT: Does the 5th work? We can do it at 11:00,
7 October 5th at 11:00 a.m.

8 MR. LINCENBERG: Tuesday the 5th, that works for us.

9 MR. EISENBERG: It works for me, Your Honor.

10 MS. BERTRAND: Yes, Your Honor.

11 THE COURT: Okay. I'm not hearing any objection from
12 the government so...

13 MR. RAPP: No objection.

14 THE COURT: October 5th at 11:00.

15 Okay. We're at recess. Thank you.

16 For the record, IM 16, although it wasn't admitted,
17 was marked for identification as Exhibit 6157.

18 We're at recess.

19 (Proceedings concluded at 9:19 a.m.)

20 * * *

C E R T I F I C A T E

I, CHRISTINE M. COALY, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion of
the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control.

DATED at Phoenix, Arizona, this 24th day of
September, 2021.

/s/ Christine M. Coaly
Christine M. Coaly, RMR, CRR