

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

JUDGE PHILIP A. BRIMMER

COURTROOM MINUTES

Courtroom Deputy: Kathy Preuitt-Parks
Court Reporter: Janet Coppock

Date: January 26, 2012
Time: 7 hours and 10 minutes

CASE NO. 11-cv-01430-PAB-MEH

Parties

Counsel

UNITED STATES OF AMERICA,

Plaintiff (s),

Winsome Gayle
Aaron Fleisher
Julie Abbate

vs.

KENNETH SCOTT,

Defendant (s).

Peter Breen
Rebecca Messall
Monica Flanigan

HEARING ON MOTION FOR PRELIMINARY INJUNCTION

8:35 a.m. COURT IN SESSION

APPEARANCES OF COUNSEL. Defendant Kenneth Scott is present.

Court addresses pending motions.

ORDERED: Defendant Kenneth Scott's Motion In Limine (Doc #163), filed 1/10/12 is
DENIED.

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ORDERED: Plaintiff United States' Motion In Limine To Exclude Expert Opinion Testimony (Doc #166), filed 1/20/12 is **DENIED**.

ORDERED: Plaintiff United States' Motion In Limine For Adverse Inferences Against Defendant Kenneth Scott (Doc #168), filed 1/20/12 is **DENIED**.

Motion Of The United States Of America For Preliminary Injunction Relief (Doc #3), filed 6/9/11.

8:40 a.m. Opening statement by Ms. Gayle.

8:46 a.m. Opening statement by Mr. Breen.

Mr. Fleisher requests sequestration of witnesses.

ORDERED: Witnesses shall be **SEQUESTERED**.

8:57 a.m. Direct examination of plaintiff's witness Michael Wagner by Mr. Fleisher.

Plaintiff's **exhibit 11** identified, offered and ADMITTED, over objection by Ms. Messall.

Witness identifies the defendant.

Plaintiff's **exhibits 1 through 6 (inclusive)** identified, offered and ADMITTED.

9:42 a.m. Cross examination by Ms. Messall.

Witness excused.

10:12 a.m. COURT IN RECESS

10:27 a.m. COURT IN SESSION

Direct examination of plaintiff's witness Kara Armstrong by Ms. Gayle.

Witness identifies the defendant.

10:36 a.m. Cross examination by Ms. Messall.

10:44 a.m. Redirect examination by Ms. Gayle.

Witness excused.

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10:46 a.m. Direct examination of plaintiff's witness Dan Cram by Mr. Fleisher.

Witness identifies the defendant.

11:13 a.m. Cross examination by Ms. Messall.

Witness excused.

11:23 a.m. Direct examination of plaintiff's witness Leslie Durgin by Ms. Gayle.

11:32 a.m. Cross examination by Ms. Messall.

Witness excused.

Plaintiff's **exhibits 12 and 13** identified, offered and ADMITTED, over objection by Ms. Messall.

Plaintiff rests.

11:50 a.m. Direct examination of defendant's witness Binette Diallo by Mr. Breen.

Witness excused.

11:57 a.m. Direct examination of defendant's witness Oretha Zaybay by Mr. Breen.

Witness excused.

12:01 p.m. COURT IN RECESS

1:06 p.m. COURT IN SESSION

Direct examination of defendant's witness Clifton Powell by Mr. Breen.

1:29 p.m. Cross examination by Mr. Fleisher.

Witness excused.

1:31 p.m. Direct examination of defendant's witness Josh Augenbaugh by Mr. Breen.

1:44 p.m. Cross examination by Ms. Gayle.

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1:49 p.m. Redirect examination by Mr. Breen.

Witness excused.

1:52 p.m. Direct examination of defendant's witness Jackie Cromer by Mr. Breen.

2:05 p.m. Cross examination by Ms. Gayle.

2:07 p.m. Redirect examination by Mr. Breen.

Witness excused.

2:10 p.m. Direct examination of defendant's witness Leo Mantei by Mr. Breen.

2:24 p.m. Cross examination by Mr. Fleisher.

2:26 p.m. Redirect examination by Mr. Breen.

Witness excused.

2:28 p.m. Direct examination of defendant's witness Lisa Cress by Mr. Breen.

Witness excused.

2:41 p.m. Direct examination of defendant's witness Lynn Reid by Mr. Breen.

Witness excused.

2:45 p.m. Direct examination of defendant's witness Jane Brennen by Mr. Breen.

2:58 p.m. Voir dire by Ms. Gayle.

Plaintiff objects to Ms. Brennen opining as an expert on the issues of the psychological impact of abortion as well as the medical impact of abortion.

3:05 p.m. Argument by Mr. Breen.

ORDERED: Plaintiff's objection is **SUSTAINED**, as stated on the record.

3:16 p.m. Cross examination by Ms. Gayle.

Defendant rests.

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3:18 p.m. COURT IN RECESS

3:38 p.m. COURT IN SESSION

Argument by Mr. Fleisher. Questions by the Court.

4:06 p.m. Argument by Mr. Breen. Questions by the Court.

4:30 p.m. COURT IN RECESS

4:50 p.m. COURT IN SESSION

Court states its findings of fact and conclusions of law.

ORDERED: Motion Of The United States Of America For Preliminary Injunction Relief (Doc #3), filed 6/9/11 is **DENIED**.

5:45 p.m. COURT IN RECESS

Total in court time: 430 minutes

Hearing concluded

ATTENTION WITNESSES

IF YOU ARE A WITNESS IN THE FOLLOWING CASE, **DO NOT ENTER THE COURTROOM.** PLEASE GO TO JUDGE BRIMMER'S WITNESS ROOM AND WAIT UNTIL YOU ARE CALLED. JUDGE BRIMMERS WITNESS ROOM IS IN BETWEEN **THESE** DOORS AND THE COURTROOM.....TO YOUR IMMEDIATE RIGHT

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UNITED STATES OF AMERICA

vs.

KENNETH SCOTT