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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

JANCY ANN TORRES THOMPSON)
vs. DOE 1, A OHIO)
CORPORATION; DOE 2, A)
CALIFORNIA CORPORATION; DOE)
3, A CALIFORNIA CORPORATION;)
DOE 4, AN INDIVIDUAL; and)
DOE 5-15, INCLUSIVE) CASE NO. 1-10-CV-174783

Oral Examination was held of RICHARD
SHOULBERG in the above-captioned matter at Germantown
Academy, 340 Morris Road, Fort Washington,
Philadelphia, Pennsylvania on Wednesday, December 19,
2012, commencing at 11:15 a.m., before SHEILA KLOS, a
Registered Professional Reporter and Notary Public.

ESQUIRE DEPOSITION SOLUTIONS
1835 Market Street, Suite 2600
Philadelphia, Pennsylvania 19103
(215) 988-9191

1 A P P E A R A N C E S :

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I N D E X

THE WITNESS:

RICHARD SHOULBERG

BY: MR. LITTLE:

PAGE

5

EXHIBIT NO.	DESCRIPTION	PAGE
Exhibit 365	E-mail dated 4/15/03	59
Exhibit 366	E-mail dated 2/9/03	59
Exhibit 367	E-mail dated 8/10/03	59
Exhibit 368	E-mail dated 6/2/03	59
Exhibit 369	E-mail dated 12/15/03	59

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VIDEOTAPE TECHNICIAN: My name is Matt Wielgus. I'm a legal videographer employed by Wilson Legal Media located at 219 Sheffield Street in Mountainside, New Jersey. The court reporter is Sheila Klos from Esquire Reporting in Philadelphia, Pennsylvania. Today's date is December 19th, 2012. The time is 1:26. We are at Germantown Academy, 340 Morris Road in Fort Washington, Pennsylvania. We are here to videotape the deposition of Richard Shoulberg. The caption of the case is Torres-Thompson versus Norm Havercroft, et. al.

Will each of the attorneys please identify themselves and state their interest in the case.

MR. LITTLE: Jonathan Little for the Plaintiff, Jancy Thompson along with James Curran from New Jersey for the Plaintiff.

MR. OZELLO: Frank Ozello, counsel for USA Swimming and Pacific Swimming also representing Mr. Shoulberg today. Mr. Curran is here unbeknownst to me until I got here at Germantown. We object to his presence. But he

1 has assured me as has Mr. Little that he will
2 state nothing on the record, whether it's an
3 objection, question or otherwise. And since we
4 have flown here from Philadelphia -- from Los
5 Angeles, I have and everyone has come from out
6 of state, we are going to let it go forward.

7 But in the future, if anybody that's
8 not counsel of record in the case is to appear
9 for the Plaintiff, Mr. Little on behalf of all
10 Plaintiff's counsel, has assured me that he
11 will give me notice of that so we can either
12 object or let him know whether it's acceptable
13 or not before the deposition.

14 MR. BAKER: Also by telephone, Stephen
15 Baker appearing for Defendants, Norm Havercroft
16 and West Valley Swim Club.

17 -----

18 RICHARD SHOULBERG, after having been
19 first duly sworn, was examined and testified as
20 follows:

21 -----

22 EXAMINATION

23 -----

24 BY MR. LITTLE:

1 Q. Coach Shoulberg, could you state and spell
2 your full name for the record?

3 A. Richard, R-I-C-H-A-R-D, W. Shoulberg,
4 S-H-O-U-L-B-E-R-G.

5 Q. Mr. Shoulberg, you are the swim coach at
6 Germantown Academy?

7 A. Yes.

8 Q. Are you the coach of any other swim
9 organizations?

10 A. Germantown Academy Aquatic Club, Germantown
11 Academy.

12 Q. All right, sir.

13 In preparation for today's deposition,
14 did you review any documents?

15 A. No.

16 Q. Did you look for any documents? Did you
17 receive a document request from us?

18 MR. OZELLO: Before you answer that,
19 let me object. We have served objections to
20 the document requests and in the depo notice,
21 just for the record. But I'll let him answer
22 that question in light, in light of what the
23 answer is.

24 You can answer.

1 THE WITNESS: Ask your question again.

2 BY MR. LITTLE:

3 Q. Did you receive a document request us, from
4 the Plaintiff?

5 A. Not to my knowledge.

6 Q. Were you given one by your attorneys?

7 A. No.

8 MR. OZELLO: Let's, let's, let's back
9 up a second. That's objectionable. It's
10 attorney/client privilege, work product
11 doctrine. I'm not sure the witness knows what
12 a document request is. So you might want to
13 back up.

14 It's my understanding he doesn't have
15 any documents that are responsive. So maybe
16 you can back up a step. And if we need to, we
17 can go off the record and I can speak with the
18 witness.

19 BY MR. LITTLE:

20 Q. Did you receive a subpoena for a deposition
21 this summer from us?

22 MR. OZELLO: Again, that's an
23 objection. We objected to it. And it was
24 during the Discovery stay and this deposition

1 was not called out in the Discovery stay.

2 But you can answer if you recall.

3 THE WITNESS: I don't recall.

4 BY MR. LITTLE:

5 Q. Did you bring any documents with you to the
6 deposition today?

7 A. No.

8 Q. When did you become involved with United
9 States Swimming?

10 A. 1978 when it was formed.

11 Q. Before then, were you coaching swimming?

12 A. Yes.

13 Q. Where were you coaching at?

14 A. Germantown Academy.

15 Q. Did you have a high school team that you
16 coached here?

17 A. Yes.

18 Q. Did you have a club prior to 1978?

19 A. Yes.

20 Q. Who was the overseeing body of that club; do
21 you remember?

22 A. I'm the head coach and the aquatic director.
23 The school oversees me.

24 Q. Now, the Germantown Academy Aquatic Club is a

1 US Swimming club; is that correct?

2 A. Yes. US Swimming wasn't formed in 1978. AAU
3 was there before.

4 Q. Did you coach any national teams under the
5 AAU?

6 A. No.

7 Q. Have you coached any national teams since
8 1978?

9 A. Yes.

10 Q. Do you remember which teams?

11 A. Numerous.

12 Q. Have you ever coached an Olympic team?

13 A. Yes.

14 Q. Do you remember which ones?

15 A. 1992 and as associate coach in '88 and 2000.

16 Q. Were you the men's coach or the women's coach
17 or both?

18 A. Men's assistant coach in '92. That was my
19 official capacity.

20 Q. When you said you were associate coach in '88
21 and 2000, what does that mean?

22 A. I have swimmers qualified for the team and I
23 was asked to go along and help.

24 Q. Have you ever been on the Board of Directors

1 for a United States Swimming local swim committee?

2 MR. OZELLO: Calls for speculation.

3 Lacks foundation.

4 You can answer if you understand the
5 question.

6 THE WITNESS: Repeat the question.

7 BY MR. LITTLE:

8 Q. Do you know what a local swim committee is as
9 it relates --

10 A. Yes.

11 Q. Have you ever been on the Board of Directors
12 for a local swim committee?

13 A. Yes.

14 Q. Do you remember approximately when?

15 A. Approximately 20 plus years ago.

16 Q. Was it the one for this area?

17 A. Middle Atlantic.

18 Q. Have you been on the Board of Directors for
19 United States Swimming?

20 A. Yes, as a non-vote.

21 Q. When was that?

22 A. Currently.

23 Q. Have you ever been before?

24 A. No.

1 Q. When did you start your current term?

2 A. Within the last two and-a-half years.

3 Q. How long is that term for?

4 A. I don't know.

5 Q. Did you run for that position?

6 A. No, I did not.

7 Q. What's the position you hold?

8 A. I'm president of American Swim --

9 MR. OZELLO: Talking about right now?

10 BY MR. LITTLE:

11 Q. Right now. Yeah.

12 A. I'm the president of the American Swim Coach
13 Association. And that gives you a non-vote as a member
14 of the Board of Directors. I also was Chairman of the
15 Steering Committee for US Swimming. And that gives you
16 a position on the IRC, International Relations, but not
17 the Board.

18 Q. What is the IRC?

19 A. International Relations Committee.

20 Q. What do they do?

21 A. Try to enhance the world in swimming from all
22 aspects.

23 Q. Do you go to the FINA meetings then?

24 A. No.

1 Q. Who else is on this International Relations
2 Committee?

3 A. FINA representatives, national team director,
4 head officials. I don't know the exact makeup. It's
5 made up by the president of the United States Swimming.

6 Q. What is the Steering Committee?

7 A. Steering Committee that I chaired was in
8 charge of overseeing the setup going into the next
9 Olympics, all the meets leading up to, all the
10 competitions, all the training camps, selection of
11 coaches, managers, logistics for the national team.

12 Q. Are you still on that Steering Committee?

13 A. Yes, but not as president.

14 Q. Who else is on that Steering Committee?

15 A. Frank Bush, national team director, Jim
16 Woods, former president of the United States Swimming.
17 They just this year selected a new committee. We
18 haven't officially met, so I'm not sure of all of the
19 current members.

20 Q. Have you ever run for a position on the USA
21 Swimming Board?

22 A. Yes.

23 Q. When was that?

24 A. I would say approximately three years ago.

1 Q. Did you -- what was that position you ran
2 for?

3 A. I think the title is, it's not vice-president
4 but it's -- I'm not sure of the title.

5 Q. Who did you run against?

6 A. Originally, Ira Klein who withdrew when they
7 asked me to run. And then David Berkoff and he won.

8 Q. Mr. Berkoff is your former athlete?

9 A. Yes.

10 Q. When did you start coaching him?

11 A. As an eight and under.

12 Q. He went here for high school too?

13 A. No. He was here through lower school.

14 MR. OZELLO: Let him ask the question.

15 Please just respond to his question.

16 THE WITNESS: Ask the question again.

17 BY MR. LITTLE:

18 Q. I asked if David Berkoff swam here for high
19 school?

20 A. No. He did not go to this high school.

21 Q. But did he swim on your swim club?

22 A. In and out during high school.

23 Q. Have you ever discussed sexual abuse in the
24 United States Swimming with David Berkoff?

1 A. I cannot recall it.

2 Q. I'm going to show you what's previously been
3 marked as Exhibit 136. Take a look at that and read it
4 over.

5 MR. OZELLO: I'm going to object to the
6 document. It's incomplete.

7 But go ahead.

8 BY MR. LITTLE:

9 Q. Do you have any idea who Mr. Berkoff is
10 referring to when he says, Denying knowledge of blank?

11 A. No.

12 MR. OZELLO: Calls for speculation and
13 lacks foundation.

14 Let me get the objection. Don't answer
15 right away. And let me hear the question and
16 object, if necessary.

17 Thank you, Mr. Shoulberg.

18 BY MR. LITTLE:

19 Q. Now, do you know a Pablo Morales?

20 A. Yes.

21 Q. Have you ever discussed sex abuse in USA
22 swimming with Mr. Morales?

23 A. No.

24 Q. Are you familiar with a gentleman RC?

1 A. Yes.

2 Q. Are you aware that he was recently arrested
3 for having a sexual relationship with an underage
4 athlete?

5 A. Yes.

6 Q. When was the first -- do you know Miss Kelly
7 Davies or Kelly Curran?

8 A. I knew who she was, but I wouldn't say we
9 actually knew each other. She probably knew who I was.
10 But we never had any dialogue ever.

11 Q. When was the first time you had heard that
12 Mr. RC had been molesting her?

13 MR. OZELLO: Calls for speculation.
14 Lacks foundation.

15 MR. BAKER: Join.

16 MR. OZELLO: That he knows that she was
17 molesting him, I'm sorry, that he was molesting
18 her. Excuse me.

19 THE WITNESS: I don't know anything
20 factual. I don't know the true facts about any
21 of it other than what you read on the internet
22 or the newspaper. I don't know if any of it is
23 factual. I was never there.

24 BY MR. LITTLE:

1 Q. So prior to the Summer of 2012, had you ever
2 heard any rumors in swimming circles?

3 A. Yes.

4 Q. Do you recall when you first heard those?

5 A. 1989.

6 MR. OZELLO: By the way, we have agreed
7 to use initials, so let's do that. And off the
8 record we can identify the individual. So from
9 now on, let's refer to, let's refer to him as
10 RC, please.

11 MR. LITTLE: I'll do the best I can.
12 For guys who have been arrested, I really
13 don't.

14 MR. OZELLO: Still an allegation, Jon.
15 It's not a proven fact.

16 MR. LITTLE: I will state on the record
17 the 7th Circuit did say that your privacy right
18 argument from the Sports Act is not accurate.

19 MR. OZELLO: We have an agreement in the
20 case. Let's just stick by it and just do it
21 that way because I'd prefer to do it that way.

22 MR. LITTLE: She can take them out. If
23 I slip up and say --

24 MR. OZELLO: Could you please do that,

1 Madam Court Reporter, just put in RC instead of
2 RC. Thank you.

3 MR. LITTLE: As we go along, just
4 change them to their initials. And we will
5 give you a table at the end.

6 BY MR. LITTLE:

7 Q. Are you familiar with --

8 MR. LITTLE: Should I go off the record
9 and ask if he knows this person and go on the
10 record and ask if he knows and abbreviate it
11 later?

12 MR. OZELLO: Let's go off the record.

13 VIDEOTAPE TECHNICIAN: Going off
14 camera. The time is 11:40.

15 MR. OZELLO: Who are you going to talk
16 about?

17 MR. LITTLE: MI, RQ, DP, EU, MS, GT,
18 EH, GG, JS, RL. Rip this off and see the list.

19 MR. OZELLO: That's fine. Why don't you
20 do that.

21 You just use the initials.

22 MR. BAKER: Read through those initials
23 for me.

24 MR. LITTLE: Names or the initials?

1 MR. BAKER: Yeah. We are off the
2 record. Give me the names and the initials.

3 (Whereupon, names were given off the
4 record.)

5 MR. BAKER: Those are all the ones you
6 are going to refer to?

7 MR. LITTLE: I don't know what is going
8 to inspire me as I go along. That's what I'm
9 thinking about.

10 MR. OZELLO: Let's hope you don't get
11 too inspired.

12 MR. BAKER: Okay.

13 VIDEOTAPE TECHNICIAN: We are back on
14 camera. The time is 11:42.

15 BY MR. LITTLE:

16 Q. Back to RC. Do you remember where you heard
17 those rumors?

18 A. Yes.

19 Q. Where was that?

20 A. National Championships.

21 Q. Do you remember who you heard them from?

22 A. Yes.

23 Q. Who was that?

24 A. RQ.

1 MR. OZELLO: By the way, we just have a
2 standing objection to this whole line of
3 questioning as is not reasonably calculated to
4 lead to discoverable evidence.

5 Is that okay, Jon?

6 MR. LITTLE: That's fine.

7 MR. OZELLO: On RC and all the others
8 that aren't Mr. Havercroft.

9 BY MR. LITTLE:

10 Q. How do you believe Mr. Q knew or came to find
11 out?

12 MR. OZELLO: Calls for speculation.
13 Lacks foundation.

14 If you know. And these are
15 allegations.

16 THE WITNESS: The athlete swam for RQ.

17 BY MR. LITTLE:

18 Q. In college?

19 A. In college.

20 Q. Did Mr. Q tell you if he complained to
21 anybody at USA Swimming about this?

22 A. No.

23 Q. Do you know, did you complain to anybody at
24 USA swimming?

1 A. I told RQ to tell the executive director, Ray
2 Essick, in 1989. And he confirmed with me when I came
3 back from Japan as the head national coach that he did
4 that. He is now deceased.

5 Q. Right. I know that.

6 The MI, the next coach on that list.

7 A. Only heard rumors.

8 Q. Do you remember where you heard those rumors?

9 A. Probably at a swim meet. He is in
10 California. I'm on the east coast. I don't really see
11 him.

12 Q. Did you ever see an ESPN documentary about
13 him?

14 A. No, I did not.

15 Q. RQ, I was going to ask you about --

16 A. Never heard anything.

17 Q. I was going to ask you with the RC
18 situation. That's why he is not on there. D, the next
19 coach is?

20 A. DP.

21 MR. OZELLO: Using the initials.

22 THE WITNESS: I'm sorry.

23 MR. OZELLO: That's fine. You will
24 redact that out, please.

1 BY MR. LITTLE:

2 Q. DP?

3 A. Never heard a thing about DP.

4 Q. EU?

5 A. Only rumor I heard.

6 Q. Were you aware of him being banned from USA
7 Swimming?

8 A. No, I was not.

9 Q. He was banned for life from USA Swimming for
10 having a sexual relationship with an underage athlete.

11 The next coach on that list, MS?

12 A. No knowledge.

13 Q. Do you know who he is?

14 A. Yes.

15 Q. Never heard any rumors?

16 A. Never.

17 Q. The next coach on that list, GT?

18 A. No knowledge.

19 MR. OZELLO: As far as you recall;
20 right?

21 THE WITNESS: As far as I recall.

22 BY MR. LITTLE:

23 Q. You never heard any rumors?

24 A. No.

1 Q. You know who he is as well?

2 A. Yes.

3 Q. The next coach on that list?

4 A. EH.

5 Q. Yes.

6 A. Never heard any rumors.

7 Q. The next coach, GG?

8 A. Don't know him. Heard rumors.

9 Q. Do you remember where you heard rumors at?

10 A. Probably at a swim meet.

11 Q. And the next coach, JS?

12 A. Never heard of him.

13 Q. The next coach, RL?

14 A. Don't know him at all.

15 Q. Have you heard rumors about other coaches and
16 sexual misconduct besides those on that list?

17 MR. OZELLO: Can you read back the
18 question, please.

19 MR. LITTLE: I'm just asking yes or no.

20 BY MR. LITTLE:

21 Q. Have you heard rumors about other coaches and
22 sexual misconduct?

23 A. Yes.

24 Q. In your opinion, do you think United States

1 Swimming should ban sexual relationships between
2 coaches and swimmers?

3 MR. OZELLO: Hold it. Hold it. His
4 opinion is irrelevant. Not reasonably
5 calculated to lead to discovery of admissible
6 evidence. Calls for speculation. Lacks
7 foundation. He doesn't even vote on The Board.
8 He never has, according to him, the witness.
9 To the extent it calls for a legal opinion and
10 legal conclusions, object. It's an incomplete
11 hypothetical. And it may call for an expert
12 opinion as well. Object on that basis.

13 Why don't you read back the question,
14 please.

15 (Whereupon, the court reporter read
16 back the pending question.)

17 MR. OZELLO: Same objections.

18 THE WITNESS: I think if it's
19 age-appropriate, it's a completely different
20 story. If it's legal, age-appropriate, it's
21 none of my business.

22 BY MR. LITTLE:

23 Q. What about between coaches who are over the
24 age of majority and swimmers who are under the age of

1 majority?

2 MR. OZELLO: Again, same objections as
3 before. This is patently unfair to ask a swim
4 coach about this, Jon, at his deposition. We
5 are not here for that reason. I can't conceive
6 of how this is relevant or reasonably
7 calculated to lead to the discovery of
8 admissible evidence.

9 Again, objection to the extent, all of
10 the objections dispelled earlier. He doesn't
11 have a vote on The Board.

12 MR. LITTLE: Let's try it this way.

13 MR. OZELLO: Go ahead. Try it a
14 different way.

15 BY MR. LITTLE:

16 Q. You have been coaching since 1969; is that
17 correct?

18 A. No.

19 Q. When did you start coaching?

20 A. '58.

21 Q. 1958, all right. How many swimmers do you
22 estimate you have coached in your career? Just ball
23 park it.

24 A. Really a lot.

1 Q. 10,000 maybe?

2 A. No. My school teams, currently I have about
3 80 athletes including middle and upper school. And
4 every year ten to fifteen graduate and another ten or
5 fifteen come along. So do the math from 44 years.

6 Q. That's a lot of kids.

7 A. Prior to that, I coached at the YMCA, YWCA
8 and summer club coaching. A lot of kids.

9 Q. You have coached people who have made the
10 Olympic team; is that correct?

11 A. Yes.

12 Q. How many Olympians have you coached?

13 A. Approximately 18.

14 Q. So you are a fairly knowledgeable swim coach
15 I would say; is that reasonable?

16 A. Yes.

17 MR. OZELLO: Again, it's vague and
18 ambiguous to fairly knowledgeable. Clearly,
19 the witness is knowledgeable about swimming in
20 terms of training athletes, in terms of
21 Olympians, a well-respected coach.

22 But on other issues like sexual
23 molestation and what is and is not, what USA
24 Swimming should or shouldn't do or whatnot, he

1 is not an expert on that. He doesn't have a
2 vote on The Board. So let's define the
3 parameters. Go ahead.

4 BY MR. LITTLE:

5 Q. You are the head coach at Germantown Academy;
6 is that correct?

7 A. And Aquatic Director, yes.

8 Q. And Aquatic Director.

9 Does your program that you are in
10 charge of, do you forbid coaches over the age of
11 majority having sexual relationships with swimmers
12 under the age of majority?

13 MR. OZELLO: Objection.

14 THE WITNESS: I would hope every human
15 being, you could be a lawyer. You can't have
16 sex with a 16 year old girl.

17 BY MR. LITTLE:

18 Q. You wouldn't tolerate that?

19 A. I wouldn't tolerate it from anyone, even
20 you.

21 Q. Right. You certainly would hold your coaches
22 and your staff to that standard?

23 A. I would hold you.

24 MR. OZELLO: Asked and answered.

1 THE WITNESS: Anyone.

2 BY MR. LITTLE:

3 Q. Good.

4 Now, does anyone include every other
5 coach in the United States Swimming?

6 A. I have already answered it.

7 MR. OZELLO: Asked and answered.

8 BY MR. LITTLE:

9 Q. Were you at a USA Swimming board meeting in
10 Newark, New Jersey in 2010?

11 A. No.

12 Q. No? Okay.

13 MR. OZELLO: As far as you recall;
14 right?

15 THE WITNESS: As far as I recall, no.

16 BY MR. LITTLE:

17 Q. Are you aware of a secret flag list of child
18 molest, coaches accused of child molestation at USA
19 Swimming?

20 A. No.

21 Q. Have you ever heard the term flag list
22 before?

23 A. No.

24 Q. Have you ever served on task forces for USA

1 Swimming?

2 A. Yes.

3 Q. Do you recall ever serving on any sexual
4 abuse task forces?

5 A. Yes.

6 Q. Do you recall when that was?

7 A. Approximately 2003.

8 Q. Now, do you remember who else was on that
9 task force?

10 A. I was asked to be chairman. And I said I
11 would not do it if I didn't have a cochairman female.
12 I don't even recall who the cochairman female was.

13 Q. Do you recall if it was Lindsey Benko?

14 A. Sounds good.

15 MR. OZELLO: If you recall, you recall.
16 If you don't, you don't. It was a long time
17 ago, Mr. Shoulberg.

18 THE WITNESS: Correct.

19 BY MR. LITTLE:

20 Q. This is a document produced by USA Swimming
21 in another molestation case. Take a look at that.

22 MR. LITTLE: We can go ahead and mark
23 that as an exhibit, as the next in order which
24 is -- Frank, do you know which it is?

1 MR. OZELLO: No.

2 MR. LITTLE: I'll get you a number in a
3 little bit. 3 something.

4 MR. OZELLO: Do you have a specific
5 part you are going to focus on, Jon?

6 MR. LITTLE: It's one e-mail in
7 response to an e-mail. I'd like him to, if he
8 can review the document.

9 MR. OZELLO: Okay.

10 BY MR. LITTLE:

11 Q. Now, you said you wanted a female cochair.
12 Why did you think that was important?

13 A. I think both sexes need to be represented.
14 So I said I wouldn't be chair unless I was cochair with
15 a female. It's just my opinion.

16 Q. Now, when you chaired, cochaired this Sex
17 Abuse Task Force, what did you believe the mission of
18 the task force was to be?

19 MR. OZELLO: Object to the question to
20 the extent it says Sexual Abuse Task Force. It
21 says Sexual Misconduct Task Force. Object to
22 that.

23 Could you read back the question,
24 please?

1 (Whereupon, the court reporter read
2 back the pending question.)

3 MR. OZELLO: If you recall, Mr.
4 Shoulberg.

5 THE WITNESS: I was always under the
6 impression that this task force would make
7 recommendations to United States Swimming
8 pertaining to sexual misconduct.

9 BY MR. LITTLE:

10 Q. Now, between 1989 when you said you had heard
11 rumors about RC, for example, and 2003, had you heard
12 any other rumors of sexual misconduct in USA Swimming?

13 A. From RC?

14 Q. Or just in general?

15 MR. OZELLO: It's asked and answered.
16 You have already asked him that. He's already
17 answered it.

18 MR. LITTLE: I forget the answer then.

19 BY MR. LITTLE:

20 Q. Can I have it again?

21 MR. OZELLO: Come on, Jon, he has
22 already asked and answered this.

23 MR. LITTLE: I am going fast so we can
24 all make our flights.

1 MR. OZELLO: I appreciate that, Jon.
2 But you can't keep asking the same question
3 over and over again. He's already answered
4 and said none as far as he can recall. I don't
5 understand why you keep asking him.

6 BY MR. LITTLE:

7 Q. You don't recall any allegations of sexual
8 misconduct in USA Swimming between 1989 and 2003?

9 MR. OZELLO: Aside from what he's
10 already testified to?

11 MR. LITTLE: Frank, I'd like to hear
12 Mr. Shoulberg's answer.

13 MR. OZELLO: It's asked and answered.
14 If you are asking him to retread testimony, go
15 back over it, it's totally inappropriate, Jon.
16 If you are asking him aside from what he's
17 already testified to, then he can answer it.

18 MR. LITTLE: Is that an instruction not
19 to answer?

20 MR. OZELLO: It's an instruction to him
21 not to repeat and go over everything he's
22 already gone over. If he recalls anything
23 else, you can answer, Mr. Shoulberg.

24 THE WITNESS: I have already answered

1 the question.

2 BY MR. LITTLE:

3 Q. Do you know of any other sex abuse task
4 forces between 1989 and 2003 in USA Swimming or sexual
5 misconduct task forces?

6 A. No.

7 Q. Can you go back one exhibit to the first, to
8 what was marked as 136. That one right there.

9 (Indicating) And in the last paragraph of that, Mr.
10 Berkoff talks about a sex abuse subcommittee.

11 A. Starting with the word John?

12 Q. Yeah.

13 A. That paragraph, John Leonard.

14 Q. Yes.

15 A. Subcommittee and told me he was opposed to
16 all-out ban of swimming coaches relationship because he
17 was married.

18 MR. OZELLO: Read it to yourself.

19 I'm going to object to the question.

20 The witness hasn't even seen this document
21 before.

22 Hold on.

23 Calls for speculation. Lacks

24 foundation. There is no context in terms of

1 what subcommittee they are talking about, that
2 Mr. Berkoff is talking about in this e-mail.

3 BY MR. LITTLE:

4 Q. If you can answer, go ahead.

5 A. I am not aware of this document.

6 Q. Today was the first time you have seen it?

7 A. That's, yes.

8 Q. So do you have any recollection or any
9 recollection of this subcommittee David was talking
10 about?

11 A. I have no knowledge of it.

12 Q. Do you have any knowledge of any other --

13 MR. OZELLO: As far as you know; right,
14 Mr. Shoulberg?

15 THE WITNESS: As far as I know.

16 BY MR. LITTLE:

17 Q. Do you have any other recollection of any
18 other sex abuse task forces prior to yours?

19 A. No.

20 Q. Now, this sexual misconduct task force, did
21 it meet in person or was it over the phone or some
22 other meeting?

23 MR. OZELLO: Objection. Vague and
24 ambiguous. When you say this sexual misconduct

1 task force or committee, which one are we
2 talking about now?

3 MR. LITTLE: The 2003 sexual misconduct
4 task force. Frank, I'm trying to get this
5 done.

6 MR. OZELLO: I understand that, Jon.
7 You just shifted gears. I wasn't sure if you
8 had and I'm sure the witness didn't know you
9 switched gears.

10 THE WITNESS: My knowledge we only had
11 a conference call.

12 BY MR. LITTLE:

13 Q. One or several?

14 A. One.

15 Q. How long was this task force in place for?

16 A. You mean in time in months or years or
17 what?

18 Q. Right. When did it start and when did it
19 end?

20 A. I recall being asked to be on it in 2003. I
21 recall one conference call and nothing after that.
22 That's what I recall.

23 Q. Are you familiar with a gentleman John
24 Leonard?

1 A. Yes.

2 Q. How do you know Mr. Leonard?

3 A. He was a swimmer, former swim coach and
4 became executive director of the American Swim Coach
5 Association.

6 Q. You said you are the President of the
7 American Swim Coach Association?

8 A. Yes.

9 Q. Currently?

10 A. Yes.

11 Q. I'm going to show you a document produced by
12 USA Swimming in this case. Down where it says,
13 Surprisingly to me.

14 A. I read that.

15 Q. Why would John Leonard be surprised that you
16 would be the chairman?

17 MR. OZELLO: Objection. Calls for
18 speculation. Lacks foundation. There is no
19 evidence this witness even saw this e-mail
20 before today.

21 THE WITNESS: I never saw this e-mail
22 before. I have no idea why he would be
23 surprised. You will have to ask John Leonard.
24 I can't speak for him.

1 MR. OZELLO: Do we mark this as an
2 exhibit, Jon?

3 MR. LITTLE: We can mark this as an
4 exhibit.

5 MR. OZELLO: What number are we on?

6 MR. LITTLE: I don't know the last in
7 line. It's going to be the second new exhibit.
8 Mark it that way and I will call Bob when we
9 take a break.

10 MR. OZELLO: Let me know what it is.

11 BY MR. LITTLE:

12 Q. Do you know a Tom Avischious?

13 A. Yes.

14 Q. Who is he?

15 A. He is an employee of the United States
16 Swimming.

17 Q. What does he do for USA Swimming?

18 MR. OZELLO: Talking about now, Jon?

19 BY MR. LITTLE:

20 Q. Talking about now?

21 A. I don't really know what his title is. I
22 know he has a lot to do with club development, but I
23 don't know what his title is.

24 Q. Do you know if he was doing similar things in

1 2003?

2 A. I don't know.

3 Q. Do you know how long he's been with USA
4 Swimming?

5 A. I don't know.

6 Q. Do you know what he did before swimming, USA
7 Swimming?

8 MR. OZELLO: You don't recall; right?

9 THE WITNESS: I don't recall.

10 BY MR. LITTLE:

11 Q. To what he did before he got to USA Swimming?

12 A. No, I don't know what he was doing prior to
13 US Swimming.

14 Q. Do you know if he is from Indiana?

15 A. I don't know.

16 MR. OZELLO: When you say you don't
17 know, Mr. Shoulberg, are you saying you don't
18 recall?

19 THE WITNESS: I don't know where he
20 grew up. I don't know where he lived.

21 BY MR. LITTLE:

22 Q. This gentleman, Pat Hogan, do you know him?

23 A. Yes.

24 Q. What does he do? Does he work at USA

1 Swimming?

2 A. Yes.

3 Q. What does he do for USA Swimming right now?

4 A. I think his title is Head of Club
5 Development, but I'm not sure.

6 Q. Do you know what he did before he got to USA
7 Swimming?

8 A. I know he coached swimming.

9 Q. Do you know where he coached swimming?

10 A. Mecklenburg, North Carolina. And other
11 places that I don't recall the other places.

12 Q. Do you know this next gentleman?

13 A. Ira Klein.

14 Q. It's a man?

15 A. Yes.

16 Q. What does he do?

17 A. Swim coach.

18 Q. Was he a swim coach in 2003?

19 A. I would say yes.

20 MR. OZELLO: Are you sure of that?

21 THE WITNESS: Not sure of that.

22 MR. OZELLO: Tell him that.

23 BY MR. LITTLE:

24 Q. Mr. Block, do you know a Mr. George Block?

1 A. Yes.

2 Q. What does he do now?

3 A. He is retired.

4 Q. What did he do when he was working; do you
5 know?

6 A. Athletic director at a large school in Texas
7 and a swim coach.

8 Q. Did he work for USA Swimming?

9 A. Never.

10 MR. OZELLO: Calls for speculation.
11 Lacks foundation as to whether he was an
12 employee for USA Swimming. When you say
13 worked, it's vague and ambiguous.

14 You can answer.

15 THE WITNESS: To my knowledge, he was
16 never an employee of United States Swimming.

17 BY MR. LITTLE:

18 Q. Let me -- you have an attorney from
19 Germantown Academy; is that correct?

20 A. Yes.

21 MR. OZELLO: No. No. No. Hold on.

22 MR. LITTLE: Off the record a second.

23 VIDEOTAPE TECHNICIAN: Going off
24 camera. The time is 12:05.

1 (Whereupon, a discussion was held off
2 the record.)

3 VIDEOTAPE TECHNICIAN: We are back on
4 camera. The time is 12:08.

5 BY MR. LITTLE:

6 Q. Mr. Shoulberg, do you recall what time of
7 year this conference call took place in 2003?

8 A. Summer.

9 Q. Summer? Okay.

10 Do you recall if there were drafts of
11 -- what did you discuss in that conference call; if
12 you remember?

13 A. I remember saying you need background
14 checks.

15 Q. Why did you feel there was a need for
16 background checks?

17 A. Because I work at a school in a state that
18 requires background checks.

19 Q. You feel that's an appropriate measure for
20 swim coaches?

21 A. For anyone working with children.

22 Q. Do you feel, do you know if here at
23 Germantown Academy, if you are aware of an allegation
24 of sexual abuse or sexual misconduct against a child,

1 are you required to report that?

2 A. By Pennsylvania state law I'm required.

3 MR. OZELLO: Hold on. It's vague and
4 ambiguous as to time. He's been here for 44
5 years. So are you talking about now?

6 MR. LITTLE: Frank, he gave the answer
7 the he understood it that Pennsylvania law
8 requires him to report it.

9 MR. OZELLO: That's all I wanted to
10 know, Jon. I want to make sure he is aware of
11 that. Okay.

12 MR. LITTLE: He seemed to understand
13 the question.

14 BY MR. LITTLE:

15 Q. Now, do you recall if this 2003 task force
16 discussed making mandatory reporting of sexual abuse or
17 misconduct required for USA Swimming coaches?

18 A. No.

19 Q. You don't recall if that was discussed?

20 A. I recall one thing. Background check is what
21 I asked for.

22 Q. What did background check mean in 2003?

23 A. Background check means if you had a record
24 of, any negative record, the employer wouldn't have to

1 hire you. It protects the institution.

2 Q. What kind of things do you mean by negative
3 record?

4 A. Sexual abuse, DUIs, felonies, breaking the
5 law.

6 Q. Now, do you recall if the task force put out
7 a draft proposal on sexual misconduct?

8 A. No.

9 Q. Again, Mr. Shoulberg, I realize it was ten
10 years ago. I'm not trying to trick you. I'm going to
11 show you what's been marked previously as Exhibit 116.
12 Take a second and go over that. We can go off the
13 record while he reads it. It's a few pages.

14 VIDEOTAPE TECHNICIAN: Going off
15 camera. The time is 12:12.

16 (Whereupon, a break was taken off the
17 record.)

18 VIDEOTAPE TECHNICIAN: We are back on
19 camera. The time is 12:15.

20 BY MR. LITTLE:

21 Q. Have you had a chance to go through this?

22 A. Yes.

23 Q. This is Exhibit 116. Did this refresh your
24 memory? Do you recall this document at all?

1 A. As far as I recall, I never saw it.

2 Q. On the second paragraph where it says,
3 Statement of Policy, the first and the second point
4 being Prohibited Conduct, these two. So then physical
5 harassment, emotional, sexual harassment. Then the
6 second page it defines sexual harassment. Sexual
7 harassment, looking at the first bullet, physical
8 sexual harassment.

9 MR. OZELLO: I'm sorry, Jon. Where are
10 you?

11 THE WITNESS: Where are you? Starting
12 with the word physical.

13 BY MR. LITTLE:

14 Q. Physical and sexual harassment and abuse may
15 include but is not limited to. Do you have any idea
16 where the task force got this definition?

17 A. As far as I recall, no.

18 MR. OZELLO: Objection to the extent
19 it's the task force that did this. It's not
20 some individual. Ms. Chasin already testified
21 about this.

22 You can answer.

23 As far as you recall, what?

24 THE WITNESS: As far as I recall, I

1 don't recall any of this document.

2 BY MR. LITTLE:

3 Q. Now, do you recall who asked you to be on
4 this task force originally?

5 A. No.

6 Q. Then when we were talking about background
7 checks, you mentioned convictions. Do you think
8 background checks should include allegations?

9 MR. OZELLO: Calls for speculation.

10 Lacks foundation as phrased. Calls for expert
11 opinion, a legal conclusion. And again, he is
12 a non-voting member of The Board, just one
13 individual.

14 You can answer.

15 THE WITNESS: My understanding in the
16 United States you are innocent until proven
17 guilty. When you are proven guilty of a crime,
18 in my opinion, certain crimes, you should not
19 be part of the United States Swimming. But
20 until you are proven guilty, in my opinion, the
21 person is innocent.

22 BY MR. LITTLE:

23 Q. I'm going to show you what's going to be the
24 third exhibit in this deposition.

1 MR. OZELLO: Jon, has this been marked
2 as an exhibit?

3 MR. LITTLE: No. This is the first
4 time.

5 MR. OZELLO: Did you get the numbers
6 yet?

7 MR. LITTLE: No. When we stop I'll
8 call Bob.

9 BY MR. LITTLE:

10 Q. Do you recall what you understood zero
11 tolerance to mean when you wrote this e-mail?

12 A. Exactly what it means.

13 MR. OZELLO: Hold on. Hold on.
14 Assumes facts not in evidence. Assumes facts
15 not in evidence that he wrote this e-mail.
16 Someone else wrote it, looks like someone by
17 the name, it was sent by Joan T. Schriver.

18 But you can answer the question with
19 that caveat if you know what it is.

20 THE WITNESS: These are comments I made
21 to Joan Schriver who is a part-time secretary
22 for Germantown Academy Aquatic Club. In my
23 opinion, zero means zero. Nothing else. Zero
24 tolerance. You can't allow any misgivings.

1 BY MR. LITTLE:

2 Q. As it relates to sexual misconduct, do you
3 feel that zero tolerance is the appropriate threshold
4 for an organization?

5 MR. OZELLO: Vague and ambiguous as to
6 zero tolerance. Vague and ambiguous
7 generally. Calls for speculation. Lacks
8 foundation. Calls for an expert opinion to the
9 extent it does. Calls for a legal conclusion
10 to the extent it does. Again, he is a
11 non-voting member on the Board of Directors of
12 now USA Swimming.

13 You can answer if you understand it.

14 THE WITNESS: I would assume everybody
15 in this room knows what zero means. That's
16 what I said, zero tolerance. And if you don't
17 understand zero, I can't help you.

18 BY MR. LITTLE:

19 Q. Thank you, sir.

20 Obviously, the last sentence there,
21 what motivated you to make that comparison?

22 MR. OZELLO: Again, assumes facts not
23 in evidence that he made any comparison that he
24 is comparing USA Swimming to the Roman Catholic

1 church in protecting child molesters.

2 You can answer.

3 THE WITNESS: No organization should
4 have a wrap like the Roman Catholic Church that
5 I read in the Philadelphia Inquirer on a
6 regular basis for many, many years. No
7 organization working with youth should ever
8 have that stigma addressed to them. That's
9 what I meant by that.

10 BY MR. LITTLE:

11 Q. Do you feel that sexual misconduct in 2003,
12 did you feel that sexual misconduct was an ongoing
13 problem in USA Swimming?

14 A. No.

15 Q. No?

16 A. No. It's an ongoing problem in society. It
17 happens in all walks of life. It's just you read about
18 it everywhere.

19 MR. OZELLO: You have answered his
20 question.

21 MR. LITTLE: Frank, that's what I'm
22 talking about. You should at least let him
23 finish his answer.

24 MR. OZELLO: He did.

1 THE WITNESS: I did.

2 MR. OZELLO: He answered the question.
3 That's it. No witness is going to volunteer
4 things, Jon.

5 MR. LITTLE: Especially when somebody
6 else's attorney is cutting him off.

7 MR. OZELLO: I'm not somebody else's
8 attorney. You know that.

9 BY MR. LITTLE:

10 Q. So did you feel in 2003 that swimming could
11 do more to protect athletes than it was currently
12 doing?

13 MR. OZELLO: That's irrelevant. It's
14 not reasonably calculated to lead to discovery
15 of admissible evidence. Calls for speculation.
16 Lacks foundation that he knew what exactly USA
17 Swimming was and was not doing. It's
18 overbroad. It's vague and ambiguous
19 generally. Calls for an expert opinions. To
20 the extent it does it, object. Calls for the
21 for a legal conclusion to the extent it's
22 hypothetical.

23 You can answer, sir.

24 THE WITNESS: I'm going to say it this

1 way. Any organization working with children
2 must do everything possible to protect the
3 child, whatever that legal age is. And I don't
4 care what the organization is. I don't care if
5 it's a Variety Club in Philadelphia where they
6 help handicapped kids. I have zero tolerance.
7 I will never, It's okay. Jon, lawyer, you have
8 done a great job with Little League Baseball.
9 You did something inappropriate but we want you
10 back. No way. I don't want you ever back.
11 That's just my opinion which I'm entitled to.

12 BY MR. LITTLE:

13 Q. I agree with you.

14 Now, do you recall opposition by
15 members of the committee or the task force to zero
16 tolerance?

17 A. No.

18 Q. You don't recall any opposition to the zero
19 tolerance?

20 A. No.

21 Q. Do you recall John Leonard stating he would
22 work against the adoption of Exhibit 116?

23 A. No.

24 Q. No? Okay.

1 I'm going to show you another document
2 produced by USA Swimming in another case. And it's two
3 e-mails, one from John Leonard to Tom Avischious and
4 then Tom Avischious forwarding that e-mail with his
5 comments to the committee as a whole. This will be the
6 fourth exhibit in this deposition.

7 MR. OZELLO: Actually, it's more than
8 that, Jon.

9 MR. LITTLE: The fourth new exhibit.

10 MR. OZELLO: No. No. No. The e-mail,
11 it looks like it's an e-mail, the top e-mail is
12 an e-mail from Wells O'Brien to a bunch of
13 people and the second e-mail is --

14 MR. LITTLE: John Leonard to Tom
15 Avischious. Yeah, I misstated that. You are
16 correct.

17 MR. OZELLO: Thank you.

18 THE WITNESS: What do you want me to do
19 with this?

20 BY MR. LITTLE:

21 Q. I'm going to ask you a couple of questions
22 about it when you have reviewed it.

23 A. Go ahead.

24 Q. When you are coaching with your club and your

1 high school, do you guys have a policy on physical
2 harassment?

3 MR. OZELLO: Hold it. Hold it.
4 Objection. It's absolutely irrelevant what he
5 has in place or is in place at Germantown
6 Academy to this case. And I'd ask you to
7 refrain from asking that question. I don't see
8 how it's relevant or reasonably calculated to
9 lead to discovery of admissible evidence.

10 MR. LITTLE: I think we have here,
11 Frank, one of the most qualified coaches of
12 swimming in the world. And I want to know what
13 he does with his program. So I can, and that's
14 when you look at Norm Havercroft and how Norm
15 Havercroft treated Jancy, I want a comparison.
16 That's an entirely relevant question.

17 MR. OZELLO: How? This man is not on
18 the Board of Directors of USA Swimming or
19 Pacific Swimming. He doesn't have anything to
20 do with Norm Havercroft. I don't see, I don't
21 see how in the world what Germantown Academy
22 does in terms of any sexual abuse, sexual
23 molestation, sexual harassment has any
24 relevance at any time to this case. Why does

1 that matter?

2 MR. LITTLE: Because once again, I'm
3 going to state that we are here with one of the
4 most esteemed coaches in the country. He runs
5 one of biggest, most successful programs in the
6 country. I want to know what they do because
7 it's the way things should be done. I want to
8 know how things should be done and I want to
9 compare it to the way things were done at the
10 West Valley Aquatic Club.

11 THE WITNESS: Germantown Academy --

12 MR. OZELLO: Hold on a second. Hold on
13 a second. I'm going to object. It's not
14 reasonably calculated to the discovery of
15 admissible evidence. Lacks foundation. Calls
16 for speculation. It's an incomplete
17 hypothetical. Calls for legal conclusion and
18 expert opinion.

19 You can answer the question if you
20 understand it, Mr. Shoulberg.

21 MR. BAKER: I'm joining in those
22 objections as well.

23 THE WITNESS: I'm going to answer.

24 MR. OZELLO: It's also, it's also vague

1 and ambiguous as to time.

2 You can answer.

3 THE WITNESS: Germantown Academy
4 Aquatic Club is owned by Germantown Academy.
5 We follow current handbooks that Germantown
6 Academy puts out pertaining to any subject
7 matter. And I am sure there is something in
8 those handbooks dealing with children, sexual
9 abuse, etcetera, etcetera, etcetera. So
10 whatever their school rules, they are the ones
11 that I follow and my staff.

12 BY MR. LITTLE:

13 Q. If I wanted to get a copy of that handbook or
14 policy, who at Germantown Academy could I write to to
15 get that from?

16 A. Carol Clemens, Human Resources.

17 Q. Carol Clemens?

18 A. Um-hum.

19 Q. Have you ever heard of a swim coach Norm
20 Havercroft?

21 A. No.

22 Q. Have you ever heard of a swimmer Jancy
23 Thompson?

24 A. No. Is she any good?

1 Q. Yeah, she swam at Arizona State. She is the
2 Plaintiff in the suit. She swam at Arizona State. I
3 would call her, in track she is always the person on or
4 off the bus. She made it two years. She was okay.

5 A. If she swims for Arizona State, you are
6 good. You are not an okay swimmer.

7 Q. I mean in your world when you are coaching 18
8 Olympians.

9 MR. OZELLO: Let's get back on the
10 record here on the case. Let's move on. This
11 was back in --

12 MR. LITTLE: 2001.

13 MR. OZELLO: 2001.

14 BY MR. LITTLE:

15 Q. I want to go, bring your attention to the
16 last line of the first page, In its present form, all
17 the way to where he finishing that sentence on the next
18 page. Do you recall John Leonard making those feelings
19 known?

20 A. No.

21 Q. This will be the fifth one in this
22 deposition.

23 It says in the second line, I am
24 disappointed in the outcome of The Board. Do you

1 recall what you were disappointed about?

2 A. I do not recall.

3 Q. The next sentence, take a second to read that
4 over. What -- strike that. You say, I feel there are
5 too many coaches still coaching who have destroyed
6 kids' lives. Who are those coaches?

7 A. If there is one coach, it's one coach too
8 many.

9 Q. Do you recall any specific coaches?

10 A. No, I do not.

11 Q. Is RC, I don't have that list in front of
12 me. Is RC in this list, not being exclusive, is RC the
13 only coach that you remember hearing --

14 A. Yes, I stated that earlier.

15 MR. OZELLO: Again, those are
16 allegations.

17 THE WITNESS: Right.

18 MR. OZELLO: Go ahead.

19 BY MR. LITTLE:

20 Q. So when you say, There will be many more
21 coaches in the future who will destroy kids' lives, why
22 did you feel that way?

23 A. As I stated earlier, in our society, coaches,
24 lawyers, judges, teachers, to the end of time will

1 destroy kids' lives. And that's tragic. It's just not
2 swim coaches here guys, it's people.

3 Q. I understand.

4 A. And if one child's life is destroyed by a
5 math teacher, that's tragic. It's a societal problem.
6 What happened in Connecticut is a problem. It's going
7 to happen again no matter what we try to do.

8 Q. Do you feel today that USA Swimming is doing
9 enough to prevent childhood sexual abuse?

10 A. Yes.

11 Q. Did you feel that way in 2003 when this
12 committee ended?

13 A. I can't recall.

14 Q. Now, does your club receive insurance from
15 USA Swimming, liability and sexual misconduct?

16 MR. OZELLO: Vague and ambiguous.

17 Calls for speculation and lacks foundation.

18 You can answer.

19 THE WITNESS: Our club is insured by US
20 swimming. I have never read the insurance
21 policy. I don't know what it covers.

22 BY MR. LITTLE:

23 Q. Do you know if your club has insurance from
24 other entities?

1 A. Not to my knowledge.

2 Q. Now, are there swim programs that you know of
3 that are not USA Swimming sanctioned programs?

4 A. Yes.

5 Q. What kind of programs would those be, if you
6 can give me some examples?

7 A. Some summer club programs, some winter
8 programs that are not using members of US Swimming
9 sanctioned, their meets aren't sanctioned. You get
10 together a little community, a group kids in
11 Philadelphia, race against a group of kids in Delaware
12 or New Jersey or wherever. And they have no
13 affiliation whatsoever with US Swimming.

14 Q. Now if you were to set a world record in that
15 race, would it count?

16 A. No. And it won't happen anyway. You don't
17 have to worry about it.

18 Q. Right. You couldn't be a serious swimming
19 and not a member in US Swimming?

20 A. No.

21 Q. Is that a correct statement, you would have
22 to be --

23 MR. OZELLO: We are getting far-afield
24 here. I'm going to object. Calling for

1 speculation, lacking of foundation.

2 MR. LITTLE: It's relevant to the issue
3 of control.

4 MR. OZELLO: Control of what? Educate
5 me.

6 MR. LITTLE: Control that USA Swimming
7 has over swimmers, a swimmer of -- let me go
8 with it a little bit.

9 MR. OZELLO: No. No. No. Go ahead
10 and explain it to me.

11 MR. LITTLE: If you swim at Arizona
12 State, you are not going to be swimming for
13 your country club's swim program in the summer.
14 You are going to be on a USA Swimming Club. If
15 you are a serious swimmer, you have to be on a
16 USA Swimming swim club.

17 MR. OZELLO: Why is that?

18 MR. LITTLE: Because you are not going
19 to the Olympic trials. You are not going to be
20 in a zoned championship. You are not going to
21 be in a summer National Championship. You
22 would have to be in USA Swimming.

23 MR. OZELLO: Thank you.

24 BY MR. LITTLE:

1 Q. Is that a correct statement?

2 A. Yes.

3 MR. LITTLE: Take a five-minute break.

4 I'll call Bob and get the exhibits.

5 VIDEOTAPE TECHNICIAN: Going off camera.

6 The time is 12:36.

7 (Whereupon, a break was taken off the
8 record.)

9 VIDEOTAPE TECHNICIAN: We are back on
10 camera. The time is 12:51.

11 (Whereupon, Exhibit 365 through Exhibit
12 369 were marked for identification.)

13 BY MR. LITTLE:

14 Q. Are you still the swim coach at Germantown
15 Academy?

16 A. Yes.

17 Q. I didn't know if you were currently the coach
18 or not.

19 Now, are you familiar with the Safe
20 Sport Program adopted by USA Swimming in 2010?

21 MR. OZELLO: Assumes facts not in
22 evidence. Calls for speculation. Lacks
23 foundation.

24 THE WITNESS: I have limited

1 knowledge. I don't know all the details.

2 BY MR. LITTLE:

3 Q. You stated earlier it's your opinion that USA
4 Swimming now is doing all it can to protect kids from
5 child molestation?

6 MR. OZELLO: Misstates testimony. It's
7 now versus before that they were doing all they
8 could. Subject to that objection, it being
9 vague and ambiguous, calling for speculation,
10 lacking foundation. Calling for an expert
11 opinion. Calling for a legal conclusion,
12 object.

13 You can answer.

14 And asked and answered.

15 THE WITNESS: I felt United States
16 Swimming working with law enforcement have
17 tried to do everything possible to make
18 children safe.

19 BY MR. LITTLE:

20 Q. You stated you thought background checks were
21 an important feature of a safe program.

22 MR. OZELLO: Go ahead. Are you
23 finished?

24 MR. LITTLE: No.

1 MR. OZELLO: Go ahead.

2 BY MR. LITTLE:

3 Q. You stated earlier that when you were on the
4 task force, you felt background checks were important.

5 A. Yes.

6 Q. Were you disappointed -- actually, do you
7 know if background checks --

8 A. I don't.

9 MR. OZELLO: Hold on. Let him finish
10 his question.

11 BY MR. LITTLE:

12 Q. Do you know if USA Swimming adopted
13 background checks after your task force finished its
14 works?

15 MR. OZELLO: Calls for speculation.
16 Lacks foundation.

17 THE WITNESS: I do not know the outcome
18 of my task force, what the final decisions were
19 about US Swimming.

20 BY MR. LITTLE:

21 Q. Do you know if USA Swimming currently has
22 background checks?

23 MR. OZELLO: Same objections.

24 THE WITNESS: I don't know.

1 BY MR. LITTLE:

2 Q. Don't say his name. Do you know who that guy
3 is? (Indicating)

4 MR. OZELLO: Hold on. We'll go to W --

5 THE WITNESS: C. Yes.

6 BY MR. LITTLE:

7 Q. Now, is it safe to say that prior to 2003,
8 there were allegations and convictions of people in
9 swimming acting inappropriately?

10 MR. OZELLO: Calls for speculation.

11 Lacks foundation. Vague and ambiguous,
12 especially as to time as well as in general.

13 THE WITNESS: Repeat the question.

14 BY MR. LITTLE:

15 Q. Prior to 2003, you're aware then of
16 convictions of coaches and employees of swimming being
17 sexually inappropriate with, involving children?

18 MR. OZELLO: Same objections.

19 To the extent you know, you can
20 answer.

21 THE WITNESS: Employees of US Swimming
22 being inappropriate? I don't know of any of
23 them.

24 BY MR. LITTLE:

1 Q. Or coaches?

2 A. Coaches are not employed by US Swimming.

3 Q. Do you know who WC is?

4 A. Yes.

5 Q. How do you know him?

6 A. Probably first as a coach, and then I walked
7 with him one time at a National Convention at 5:00 in
8 morning because I'm a walker and we just chitchatted.
9 I never knew his position at US Swimming.

10 Q. You know he was subsequently --

11 A. I have no idea what.

12 Q. Do you know if it involves --

13 MR. OZELLO: Hold on. Let's get the
14 question out and get the answer. Let him
15 finish the question.

16 BY MR. LITTLE:

17 Q. Do you know if he was removed from -- do you
18 know if he was convicted of being sexually, of sexual
19 improprieties involving children?

20 A. I do not have any knowledge of that.

21 Q. This is the first you have ever heard of that
22 today? If I told you that was the case, that would be
23 news to you?

24 MR. OZELLO: Assumes facts not in

1 evidence. Vague and ambiguous. Calls for
2 speculation. Lacks foundation.

3 You can answer.

4 THE WITNESS: I don't recall why he was
5 terminated from US Swimming. I don't know any
6 facts. I said that before.

7 BY MR. LITTLE:

8 Q. Did you feel that in 2003, USA Swimming was
9 covering up allegations of coach/swimmer sexual abuse?

10 A. No.

11 Q. No? Do you feel that in 2012?

12 A. No.

13 Q. Have you ever felt that way?

14 A. No.

15 Q. Are you familiar with James Connor here at
16 the Germantown Academy?

17 A. Yes.

18 Q. I don't want to get a foundation objection.
19 I knew you would know who he was.

20 Now, have there ever been any
21 allegations of coaches in the Germantown Academy
22 program being sexually inappropriate with children?

23 MR. OZELLO: Calls for speculation.

24 Lacks foundation. Calls for a legal conclusion

1 and possibly an expert opinion. Object on that
2 basis. It's vague and ambiguous as to time.
3 Are you eliminating it to time, Jon?

4 BY MR. LITTLE:

5 Q. Seventeen years ago did you fire or did
6 Germantown Academy fire a swim coach for being sexually
7 inappropriate?

8 A. Yes.

9 Q. Now, did you report him to authorities?

10 MR. OZELLO: Vague and ambiguous as to
11 you.

12 BY MR. LITTLE:

13 Q. Did Richard Shoulberg report him to
14 authorities?

15 A. Can I explain the scenario?

16 Q. Absolutely.

17 A. I got a phone call Sunday night from Joe
18 Weber and said he was in a mental institution, tried to
19 commit suicide because he had inappropriate
20 relationships with a 14 year old girl which I knew
21 nothing about. It became a police matter. Police came
22 to Germantown Academy, the District Attorney came to
23 Germantown Academy. We met in Head Master's office.
24 To my knowledge, Joe Weber went to prison. When he

1 told me on Sunday night that he was in a mental
2 institution, I knew he was no longer going to be
3 employed at Germantown Academy. End of story.

4 Q. So --

5 A. I never called, I didn't call the police.

6 Q. They were already there, though? You got
7 them involved somehow?

8 A. No. I didn't get them involved. I'll
9 explain exactly how they got involved. The girl's
10 mother told her --

11 MR. OZELLO: This is what you heard; is
12 that correct, Mr. Shoulberg?

13 THE WITNESS: Yes. -- told a surgeon
14 at North Penn Hospital that she wanted her
15 daughter physically examined for any type of
16 diseases due to sexual relationships. And the
17 surgeon called 911. That's what I was told. I
18 wasn't there. I didn't see it happen. But
19 Germantown Academy did not report them to the
20 police. We already knew he was in custody of
21 the police when I got the phone call. He told
22 me. I haven't seen him since.

23 BY MR. LITTLE:

24 Q. Do you know if he is coaching swimming at a

1 YMCA in Somerset, New Jersey today?

2 A. No. I don't know that.

3 Q. Do you know if he is on the banned coaches
4 list from United States Swimming?

5 A. I have never looked at the banned swimming
6 list in United States Swimming.

7 MR. OZELLO: Just answer his question,
8 please.

9 THE WITNESS: No.

10 BY MR. LITTLE:

11 Q. Do you know where to find the banned coaches
12 list if you wanted to look at it?

13 A. No. I never, I guess you go to the United
14 States web page and there must be some -- I'm not a
15 computer geek.

16 Q. Do you ever, have you as a coach in USA
17 Swimming received any training on childhood or child
18 sexual abuse?

19 MR. OZELLO: It's vague and ambiguous.
20 To the extent you are saying he's an employee
21 of USA Swimming or that they have an obligation
22 to train him or he should seek training from
23 them, I object. Object as calls for
24 speculation and lacks foundation as phrased.

1 You can answer.

2 MR. LITTLE: Let me just understand
3 your objection. USA doesn't have an obligation
4 to provide sexual --

5 MR. OZELLO: My objection stands based
6 on the way the question is phrased, Jon.

7 You can answer.

8 THE WITNESS: Repeat the question.

9 MR. LITTLE: I don't remember it.

10 (Whereupon, the court reporter read
11 back the pending question.)

12 THE WITNESS: No.

13 BY MR. LITTLE:

14 Q. Have you ever heard of any of the US Swimming
15 teams you were the, of the National teams or whatever,
16 have you ever heard of any rumors or allegations that
17 at the meets underage swimmers had relationships with
18 people over the age of majority?

19 MR. OZELLO: Hold on. Let's read that
20 back, please.

21 (Whereupon, the court reporter read
22 back the pending question.)

23 MR. OZELLO: If you recall, you can
24 answer.

1 THE WITNESS: I think the first part of
2 the question was coaches; correct?

3 BY MR. LITTLE:

4 Q. Coaches and then athletes; correct?

5 A. Coaches, never. I never heard that. An
6 athlete, once.

7 Q. When was that? Why don't you write down the
8 name of the athlete so we don't have to say his name on
9 the record.

10 A. If I can recall it.

11 MR. OZELLO: That's a good question.
12 If you don't recall it, you don't recall it.

13 THE WITNESS: I don't recall the name
14 of the athlete.

15 BY MR. LITTLE:

16 Q. Did you report it to anybody in USA Swimming
17 when you found out?

18 A. No, because it was reported by the acting
19 head coach.

20 Q. Who was that head coach?

21 A. The acting head coach was Ron Ballatore.

22 Q. Where is he from?

23 A. He is now deceased. Pardon me.

24 Q. Go ahead. I didn't mean to cut you off.

1 A. 1987 we were in Australia and Richard Quick,
2 the head coach who is also the head coach for the '88
3 Olympic team put Ron Ballatore in charge. And Ron
4 Ballatore had the athletes check into our room. If you
5 didn't complete a semester in college, you had to check
6 in by midnight and go directly to your room. If you
7 went to the college, you had to check in by 2:00. And
8 all of the athletes came into our room and checked in.
9 One or two were missing. And Ron Ballatore called the
10 room of the older athlete and a minor answered the
11 phone, a female. He handled it all. He never really
12 went into detail with me other than I know there was
13 some type of hearing, I guess, I'm assuming in Colorado
14 Springs about the allegations.

15 MR. OZELLO: Don't assumes, please.

16 THE WITNESS: Okay.

17 MR. OZELLO: Don't guess.

18 THE WITNESS: I know there was, I know
19 there was a follow-up, but I don't know the
20 outcome.

21 BY MR. LITTLE:

22 Q. Is that the only situation like that that you
23 are aware of?

24 A. Yes. But it wasn't a coach with an athlete.

1 It was an athlete with another younger athlete.

2 MR. LITTLE: Can I ask a couple
3 questions about that? (Indicating)

4 MR. OZELLO: Okay.

5 This is the next gentleman he is going
6 to ask you about. Don't say the name. Just
7 use the initials, okay?

8 BY MR. LITTLE:

9 Q. Have we used those initials yet?

10 A. No.

11 Q. No? Okay.

12 MR. OZELLO: I don't believe so.

13 BY MR. LITTLE:

14 Q. Have you heard any allegations of sexual
15 misconduct involving MS?

16 A. No.

17 MR. OZELLO: I wish you guys would just
18 stick with this case. This is the next
19 person. (Indicating)

20 MR. LITTLE: Conjunction. That is the
21 allegation.

22 MR. OZELLO: Him with her?
23 (Indicating).

24 MR. LITTLE: Yeah.

1 MR. OZELLO: Him with her, and we'll
2 use this as DT.

3 THE WITNESS: Got it.

4 BY MR. LITTLE:

5 Q. Have you heard an allegation involving those
6 two in Los Angeles in 1984 or at the Olympic trials for
7 the '84 games?

8 A. Let me think this out. 1984, I was assistant
9 coach for the Pan Ams.

10 MR. OZELLO: Answer his question.

11 THE WITNESS: And DT was a high school
12 age athlete. In 1984, I heard of no
13 inappropriate relationships between MS and DT.

14 BY MR. LITTLE:

15 Q. Prior to 1984, had you heard of that?

16 A. Absolutely not.

17 Q. After 1984?

18 A. Years later I heard something, but I don't
19 know the exact years.

20 MR. LITTLE: Off the record and I should
21 be done. Maybe five more, ten minutes.

22 VIDEOTAPE TECHNICIAN: Going off
23 camera. The time 1:06.

24 (Whereupon, a break was taken off the

1 record.)

2 VIDEOTAPE TECHNICIAN: We are back on
3 camera. The time is 1:10.

4 BY MR. LITTLE:

5 Q. Are you familiar with a gentleman Dale
6 Newberger?

7 A. Yes.

8 Q. Have you ever had any conversations regarding
9 sexual misconduct with Mr. Newberger?

10 A. No.

11 Q. How about are you familiar with a gentleman
12 by the name of Jack Swarbrick?

13 A. No.

14 Q. Are you familiar with a gentleman by the name
15 of Ross Wales?

16 A. Yes.

17 Q. How do you know Mr. Wales?

18 A. I think at one time he was president of the
19 United States Swimming.

20 Q. Yeah, he was.

21 A. Yes. And --

22 MR. OZELLO: That's it. If that's your
23 answer.

24 THE WITNESS: That's my answer.

1 BY MR. LITTLE:

2 Q. Have you ever discussed sexual misconduct
3 with Mr. Wales?

4 A. No.

5 MR. LITTLE: Mr. Shoulberg, I really
6 appreciate everything that you have done for
7 athletes, especially those of us who didn't
8 quite get there.

9 MR. OZELLO: The court reporter will
10 send me the original. We'll have Mr. Shoulberg
11 review it and get you back any edits if he has
12 any.

13 So stipulated, Jon?

14 MR. LITTLE: Yes.

15 VIDEOTAPE TECHNICIAN: This concludes
16 the deposition. The time is 1:11 p.m.

17 (Whereupon, the witness was excused.)
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REPORTER'S CERTIFICATION

I hereby certify that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

Sheila J. Klos
Registered Professional Reporter
Commissioner of Deeds

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DEPOSITION ERRATA SHEET

FILE #390952

THOMPSON
vs.
DOE, et. al.

DECLARATION UNDER PENALTY OF PERJURY.
I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the name is true and accurate, save and except for the changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the ____ day of _____, 20____.

RICHARD SHOULBERG

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