

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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3			
4	United States of America,	)	
5		)	
6	Plaintiff,	)	
7	vs.	)	
8		)	CR-15-01301-PHX-JJT(BSB)
9	Gary Arthur Brown, Jr.,	)	
10		)	
11	Defendant.	)	August 3, 2016
12		)	
13		)	

BEFORE: THE HONORABLE JOHN J. TUCHI, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL, DAY 2, WITNESS TESTIMONY ONLY

A P P E A R A N C E S

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I N D E X**TESTIMONY**

<b>WITNESS</b>	<b>Direct</b>	<b>Cross</b>	<b>Redirect</b>	<b>Recross</b>
CLAUDIA FRYE	3	21		
TANYA MEDINA	37	56	74	
KATHRYN MEDINA	77	89	98	
HOLT BOWLING	102	113	125	126
ALLAN MYERS	129			
RORY KULAWIEC	138	140	141	
GARY BROWN	142	153		

E X H I B I T S

Number		Ident	Rec'd
D	Impeachment Exhibit	63	
1	Seating Chart for US Airways Flight 703, enroute from Baltimore	5	6
2	Photograph of the Flight Manifest for US Airways Flight 703 taken	107	109
103	Police Report	117	

MISCELLANEOUS NOTATIONS

Item	Page
Government rests	128

RECESSES

	Page	Line
(Recess at 10:28; resumed at 10:44.)	55	21
(Recess at 12:25; resumed at 1:52 with testimony)	128	15

CLAUDIA FRYE - Direct

**PROCEEDINGS**

(The following excerpt was separately transcribed.)

THE COURT: Counsel, thank you, both.

Is the Government ready to call its first witness?

MR. DAY: We are, Your Honor. The Government would call Ms. Claudia Frye to the stand.

09:16:18

THE COURT: Ms. Frye, would you step forward to the courtroom deputy to be sworn in?

COURTROOM DEPUTY: If you can please state your name and spell your last name for the record.

09:17:00

THE WITNESS: Claudia Frye. F-R-Y-E.

COURTROOM DEPUTY: Please raise your right hand.

(CLAUDIA FRYE, a witness herein, was duly sworn or affirmed.)

COURTROOM DEPUTY: Thank you. Have a seat right over here.

09:17:15

**DIRECT EXAMINATION**

BY MR. DAY:

Q. Good morning, Ms. Frye. Please introduce yourself to the jury.

09:17:33

A. Hi. I'm Claudia Frye.

Q. And Ms. Frye, where do you currently reside?

A. I currently reside in Boston, Massachusetts.

Q. And are you currently working or are you currently going to school?

09:17:43

United States District Court

## CLAUDIA FRYE - Direct

- 1 A. I work as a host and server at a restaurant and I go to 09:17:43  
2 Emerson College.
- 3 Q. And what are you studying at Emerson?
- 4 A. I study film production.
- 5 Q. And how long have you been studying at Emerson? 09:17:53
- 6 A. I just completed my second year and I'm going for my third  
7 year.
- 8 Q. And when are you set to graduate?
- 9 A. 2018.
- 10 Q. And what do you hope to do with your degree? 09:18:04
- 11 A. I want to become a creative director.
- 12 Q. And I want to draw your attention to August 11 of 2015.  
13 Do you recall what you were doing on that particular date?
- 14 A. I was getting on a plane to Phoenix, Arizona -- well, to  
15 eventually Portland, Oregon, but there was a layover in 09:18:25  
16 Phoenix, Arizona.
- 17 Q. And do you remember what airline it was you were traveling  
18 on that day?
- 19 A. It was American Airlines.
- 20 Q. And do you remember about what time you were set to depart 09:18:32  
21 from Baltimore?
- 22 A. It was 8 p.m.
- 23 Q. So it was an evening flight?
- 24 A. Yes.
- 25 Q. And who were you traveling with that day? 09:18:44

## CLAUDIA FRYE - Direct

- 1 A. My mom. 09:18:45
- 2 Q. And where were you and your mom headed to?
- 3 A. We were headed to Portland, Oregon, to visit our friends.
- 4 Q. And how long did you intend on staying in Portland?
- 5 A. I believe it was about a week. 09:18:56
- 6 Q. And do you recall where you were seated on that plane?
- 7 A. It was towards the back and I was in the middle seat on
- 8 the right side of the plane.
- 9 Q. Do you remember the specific row by any chance?
- 10 A. I think it was in the higher twenties. 09:19:15
- 11 MR. DAY: Permission to show the witness, Your Honor,
- 12 the Government's proposed Exhibit Number 1, what's been marked
- 13 as Exhibit Number 1?
- 14 THE COURT: You may.
- 15 BY MR. DAY: 09:19:38
- 16 Q. Now, I'm showing to you, Ms. Frye, what's been marked
- 17 Government's Exhibit 1. This is a -- what is this? Do you
- 18 recognize this?
- 19 A. Yeah. It's a seating flight -- or a seating plan for the
- 20 flight. 09:19:50
- 21 Q. And do you see your name denoted on that particular
- 22 seating chart?
- 23 A. Yeah. That's correct.
- 24 Q. And does that appear to reflect where you were seated at
- 25 on the flight? 09:19:58

CLAUDIA FRYE - Direct

1 A. Yes. 09:19:59

2 Q. And the other individuals that were seated around you, do  
3 you recognize those as well?

4 A. Yeah, absolutely. That's correct.

5 Q. And is that a yes? 09:20:11

6 A. Yes, yes. Sorry. Yes.

7 Q. And does that appear to accurately depict where those two  
8 individuals were seated in relation to you?

9 A. Kathryn and Gary? Yes.

10 MR. DAY: Your Honor, the Government would move to 09:20:25  
11 admit Government's Exhibit number one into evidence.

12 MS. WHITAKER: No objection.

13 THE COURT: Number one is admitted and you may  
14 publish.

15 (Exhibit Number 1 was admitted into evidence.) 09:20:33

16 BY MR. DAY:

17 Q. Now, you had mentioned the individual that was seated  
18 closest to your right. I believe you mentioned the name Gary;  
19 is that correct?

20 A. Yes. 09:20:46

21 Q. And that particular individual, do you see him in the  
22 courtroom here today?

23 A. He's right there.

24 Q. And can you just describe him by a particular article of  
25 clothing that he is wearing? 09:20:54

United States District Court

CLAUDIA FRYE - Direct

1 A. He has a blue shirt on. It looks like a blue button down, 09:20:58  
2 long sleeve.

3 MR. DAY: Your Honor, may the record reflect that the  
4 witness has identified the defendant?

5 THE COURT: It may. 09:21:07

6 MR. DAY: Thank you.

7 BY MR. DAY:

8 Q. And Mr. Brown, was there anything that occurred on that  
9 flight that brought your attention to Mr. Brown?

10 A. During the whole flight? 09:21:20

11 Q. Yes.

12 A. Absolutely.

13 Q. What was the first thing that occurred?

14 A. Well, he was -- I was sitting -- so I got on the flight.  
15 I found my seat. I sat down and I put on my neck pillow and 09:21:32

16 then it was a late flight so I knew I had to sleep on it. And  
17 then someone walked up, which was Gary Brown, and he looked up  
18 at the seating chart and said, "Are you sitting here?" And he  
19 shook his head yes. So I got up, he sat down, I sat down.

20 Q. Now, prior to you seeing Mr. Brown on that particular 09:21:52  
21 occasion, had you ever talked with him before?

22 A. No, not at all.

23 Q. Did you see him out in the terminal while you were waiting  
24 for the flight?

25 A. No, not that I recall. 09:22:02

CLAUDIA FRYE - Direct

1 Q. Okay. So please continue. After Mr. Brown sat down, did 09:22:04  
2 anything occur or happen after that?

3 A. So he sat down, he opened up a book and started reading  
4 it. He was fidgety. He was sniffing.

5 After a few minutes, I tried to go to sleep and then 09:22:21  
6 I did fall asleep and then I was brought out of my sleep and I  
7 felt a poking at my right thigh because he was sitting on this  
8 side of me on my right side and I felt a poking and I came to  
9 and I was, like, that was weird. I wasn't sure if I was  
10 dreaming or if it was really my body and then I was like 09:22:42  
11 feeling my leg and it was like definitely had been physically  
12 touched on my leg and so I sat up and I looked at him and  
13 his -- he was like rigidly back in his chair and it looked like  
14 he was sleeping but I didn't think he was sleeping because it  
15 looked so odd. 09:23:00

16 Can I stand up to show?

17 Q. Let me pause you for a second. We'll slow it down just a  
18 bit and take it back a second.

19 You had mentioned earlier that you had put on a hood  
20 or some headphones; is that correct? 09:23:14

21 A. Yes. Well, not headphones but --

22 Q. What were you wearing that day on the flight?

23 A. So I had on black culottes, like the long pants that  
24 are -- they are not tight at all. It's like -- looks like a  
25 big skirt, a shirt that was loose, and then I had on this gray 09:23:29



CLAUDIA FRYE - Direct

- 1 zip-up hoody. It wasn't zipped up. And then I put the hood up 09:23:38  
2 and I also had a neck pillow around my neck so I could sleep.
- 3 Q. You stated that at one point, you had closed your eyes and  
4 you were attempting to sleep and then you felt this touch or a  
5 poke is what you said on your right hip or thigh area? 09:23:50
- 6 A. My right thigh I felt a poke, continuous poke.
- 7 Q. Okay. And when this happened, did you open your eyes?
- 8 A. Yeah. I woke up. Well, I was asleep and I woke up. Like  
9 I felt, like, you know when you're coming out of a sleep, you  
10 are, like, half awake and then I finally came out of it and I 09:24:09  
11 felt poking.
- 12 Q. Now, did you look at Mr. Brown after you felt this poke  
13 after you opened your eyes?
- 14 A. Yeah. First I looked down at my leg and I said I'm sure.  
15 Oh, no, I definitely was touched and then I looked at him. 09:24:23
- 16 Q. And why did you immediately look over at him?
- 17 A. Because I was touched. I knew I hadn't touched myself.  
18 My hands were in the middle of my lap. And so -- so I look up  
19 and then I looked at my leg and I confirmed that I had been  
20 touched and I looked at him and his hand and his hand was 09:24:43  
21 placed in this weird position that, for me, pretty much  
22 confirmed that he was poking me. I really did think so.
- 23 Q. Where was his hand in relation to where you felt being  
24 touched?
- 25 A. It was -- okay. So if this is my -- it's hard to, like, 09:24:59

United States District Court

CLAUDIA FRYE - Direct

1 show without doing it. 09:25:04

2 MR. DAY: Your Honor, would it okay if the witness  
3 stood up and demonstrated what she felt?

4 THE COURT: Yes.

5 THE WITNESS: Okay. So if you can imagine, I'm 09:25:13  
6 sitting. So I woke up. I'm sitting like this and then I felt  
7 a poke about here.

8 BY MR. DAY:

9 Q. So that would be on your right thigh, closer to your right  
10 hip? 09:25:27

11 A. Yeah, my right mid thigh and I look over and he's sitting  
12 here and his hand was like this, flipped underneath the armrest  
13 like he had just flipped it back from poking me.

14 Q. And your hand is such that all four fingers are pressed  
15 together and pressed against your thumb almost like a duck 09:25:42  
16 bill?

17 A. Yeah, kind of looks like a claw or something, yeah.

18 Q. Please have a seat.

19 A. Okay.

20 Q. So you said after you felt this touch, you looked at 09:25:54  
21 Mr. Brown. What did Mr. Brown appear to be doing when you  
22 looked at him?

23 A. It looked like he was fake sleeping.

24 Q. And when you say "fake sleeping," why do you believe --

25 MS. WHITAKER: Objection, Your Honor, speculation. 09:26:06

United States District Court

CLAUDIA FRYE - Direct

1 THE COURT: The objection is overruled. 09:26:09  
2 Mr. Day is permitted to elicit what she means.  
3 BY MR. DAY:  
4 Q. When you say "fake sleeping," why did you believe he  
5 wasn't actually asleep? 09:26:21  
6 A. He was rigid in his seat sort of the like this  
7 (Indicating). There was no -- like all of his muscles looked  
8 tense. There was no, like, deep breathing happening that  
9 usually happens when someone looks asleep.  
10 Q. And after you felt this touch, did he say anything to you? 09:26:35  
11 A. No.  
12 Q. Did you say anything to him?  
13 A. No.  
14 Q. Did you ever give him permission to touch you in that  
15 fashion? 09:26:46  
16 A. Absolutely not.  
17 Q. Did anything else happen after that?  
18 A. Yes.  
19 Q. What happened?  
20 A. So after that happened I was weirded out. I was like 09:26:56  
21 okay. I am pretty sure he's touched me I'm not like -- I can't  
22 be 100 percent positive but to me it felt like, you know, with  
23 my intuition, like, I felt he had touched me.  
24 So then I was like okay, well, I'm going to rest here  
25 and I'm going to see -- I'm just going to take the time. I'm 09:27:16

United States District Court

CLAUDIA FRYE - Direct

1 unsure, I'm scared. I don't know if I'm safe but I don't want 09:27:19  
2 to be -- I don't want to, like -- I thought -- I didn't want to  
3 like accuse him because I didn't know. I wasn't 100 percent  
4 sure. So after a moment of, like, just sitting there figuring  
5 things out, I just laid back and I rested in my seat, closed my 09:27:36  
6 eyes and was, like, just sitting there trying to be aware of  
7 what was happening.

8           And then after a while of just laying back like that,  
9 I felt -- and my arm wasn't on the armrest. I felt like this  
10 slight nudging at my elbow and it was like this continuous 09:27:57  
11 nudging like this, almost like testing to see if I was awake  
12 and I was still back in my seat resting and I was like, okay,  
13 that's weird. But he was fidgeting when he first got on the  
14 plane. Maybe he is sleeping. Maybe he is fidgeting and if in  
15 these situations, like, you don't want to believe the worst so 09:28:27  
16 you just, like, make up a lot of excuses I think.

17 Q. Now, how many times did you feel being touched with the  
18 elbow?

19 A. Oh, I don't know. Over ten. There was over ten nudges.

20 Q. And where did you feel that contact on your body? 09:28:45

21 A. On my arm and elbow, like pushing my arm and elbow like  
22 this.

23 Q. Was your arm on the armrest at the time?

24 A. No. It was next to me.

25 Q. And how do you know, what makes you believe that this 09:28:56

CLAUDIA FRYE - Direct

- 1 conduct wasn't just accidental? 09:28:59
- 2 A. It was so methodical. It wasn't -- because I thought like  
3 maybe he was fidgeting in his sleep but it felt like more  
4 systematic than that. Yeah, that would be how.
- 5 Q. And did you open your eyes and take a look at him after 09:29:21  
6 this occurred?
- 7 A. No, I didn't.
- 8 Q. After this is occurred, were there any other instances or  
9 did anything else occur?
- 10 A. Yes. 09:29:34
- 11 Q. What happened next?
- 12 A. So that eventually stopped or I fell asleep, I'm not sure  
13 which came first. I don't think I fell asleep. No. Not  
14 during that I wouldn't have.
- 15 So it stopped and then a while later I felt this 09:29:47  
16 tugging at my sleeve, the sleeve on my sweatshirt, and that's  
17 when I was, like, there's something really weird happening,  
18 like this is definitely on purpose. That can't happen on  
19 accident, a sleeping person can't do that on accident and he  
20 didn't say anything to me and I was still resting in my seat 09:30:09  
21 and I felt like this tugging on my sweatshirt which, again, was  
22 methodical. It was like testing to see if I was awake.
- 23 Q. And where were your hands when you felt this tugging on  
24 your sweatshirt?
- 25 A. Still in the same position, still like down in my lap like 09:30:26

## CLAUDIA FRYE - Direct

1 this (Indicating). 09:30:29

2 Q. And was your arm on the armrest at this point.

3 A. No.

4 Q. And when this tugging on your sleeve occurred, were your  
5 eyes opened? 09:30:42

6 A. No.

7 Q. So you didn't have an opportunity to look at Mr. Brown  
8 then at that point; correct?

9 A. No.

10 Q. I believe you already answered this but did he say 09:30:49  
11 anything to you?

12 A. No, not at all.

13 Q. And after you felt this tugging on your sleeve, did you do  
14 anything? Did you do anything next?

15 A. No. I stayed how I was. I was scared. I didn't know 09:31:06  
16 what he was doing.

17 Q. And did anything else happen after that?

18 A. So after that, that also eventually stopped and then it  
19 was a while and I was in and out of sleep at that point. It  
20 had to be late. I mean, this was probably about two or three 09:31:26  
21 hours into the flight at this point. And then the next thing  
22 that I knew, the lady next to me, Kathryn Medina, yelled, "Get  
23 your hands off of her."

24 Q. And what did you do when you heard this?

25 A. I shot up and I stared at Gary and I screamed at him. I 09:31:48

CLAUDIA FRYE - Direct

- 1 screamed, "Did you just fucking touch me?" Because, obviously, 09:31:50  
2 that's what had happened if she's yelling, "Get your hands off  
3 of her." I screamed, "Did you just fucking touch me? Did you  
4 touch me?" Like, answer me. He wouldn't answer me. He was  
5 just looking up at me like shaking his head like he didn't do 09:32:03  
6 anything.
- 7 Q. Did he ever say anything to you at that point in time?  
8 A. No.
- 9 Q. What was the lighting like when you woke up at that point?  
10 A. It was dark. I think they had all the lights off because 09:32:19  
11 it was night.
- 12 Q. Could you see the person seated next to you?  
13 A. Yes, because there's the low lighting on the planes.
- 14 Q. And so could you make out the person that Ms. Kathryn  
15 Medina was yelling at? 09:32:37  
16 A. Yes. It was Gary.
- 17 Q. And did anybody in the cabin around you, did they have on  
18 reading lights?  
19 A. I don't remember.
- 20 Q. Did the flight attendants ever arrive and intervene after 09:32:58  
21 this occurred?  
22 A. Sorry?
- 23 Q. Did the flight attendants ever arrive and intervene after  
24 this event curled?  
25 A. Yes. At some point when I was yelling, one showed up 09:33:06

CLAUDIA FRYE - Direct

- 1 behind me wondering what was going on and then quickly figured 09:33:10  
2 out what was happening.
- 3 Q. And did they eventually move you from that seat?
- 4 A. Yeah. They took me and my mom to the back -- well, they  
5 took me to the back of the plane. My mom came. She was 09:33:24  
6 sitting in the seat up front of me. She had no -- she didn't  
7 know what was happening until I started screaming and, yeah, we  
8 went to the back of the plane where I spent a bit of the  
9 flight.
- 10 Q. When you say "a bit of the flight," about how long, if you 09:33:43  
11 remember?
- 12 A. I don't remember. I was very shocked after that.
- 13 Q. Were you eventually reseated in a different seat?
- 14 A. Yes. I was reseated on the -- I think it was behind where  
15 Tanya was sitting or maybe two rows behind that and my mom and 09:33:58  
16 I both sat there.
- 17 Q. And from where you were seated in that particular  
18 position, did you see anything else happen on the flight? Was  
19 there anything else that happened?
- 20 A. Not significant. I know the man who was sitting behind me 09:34:17  
21 and the window seat was a man from the army and he sat next to  
22 Gary. He moved there.
- 23 Q. And when the plane landed, did you have an opportunity to  
24 meet and talk with any police officers?
- 25 A. Yeah. There was eight police officers. So we landed. 09:34:36

United States District Court



CLAUDIA FRYE - Direct

1 They told everyone to stay seated. There were eight police 09:34:39  
2 officers that came onto the plane. Four of them escorted Gary  
3 off and then four of them escorted me and my mother and the  
4 Medinas, Tanya -- yeah, Tanya and Kathryn and their family off.

5 THE COURT: I need to interrupt you for just a moment 09:34:58  
6 and instruct the witness. As a matter of course in my  
7 courtroom, it is my preference that if you are referring to  
8 another individual, to refer to them by their surname, Mr. or  
9 Ms.

10 THE WITNESS: Oh, okay. Sorry. No problem about 09:35:15  
11 that.

12 MR. DAY: Your Honor, may I have one moment?

13 THE COURT: You may?

14 BY MR. DAY:

15 Q. Ms. Frye, how old are you? 09:35:33

16 A. I'm 21.

17 Q. And how old were you on August 11 of 2015?

18 A. I was 20.

19 Q. And you spoke of the incident where you felt him nudging  
20 you on your elbow. Did you ever give him permission to nudge 09:35:46  
21 you on your elbow?

22 A. I never gave him permission to touch me at all.

23 Q. And so did you ever give him permission to tug at the  
24 sleeve of your shirt?

25 A. Absolutely not. 09:35:57

United States District Court

CLAUDIA FRYE - Direct

1 Q. And did you ever give him permission to touch your breast 09:35:58  
2 or any other part of your body?

3 A. Absolutely not.

4 MR. DAY: I have no further questions, Your Honor.  
5 Thank you. 09:36:06

6 THE COURT: Mr. Day.

7 Ms. Whitaker, whenever you're ready.

8 MS. WHITAKER: Your Honor, may we have a sidebar?

9 THE COURT: You may.  
10 Counsel, please announce. 09:36:21

11 (At sidebar.)

12 MS. WHITAKER: I was just asking for the  
13 clarification on what your ruling is.

14 MR. DAY: We would renew our motion.

15 THE COURT: Now with the benefit of the direct 09:36:46  
16 examination before everyone, Ms. Whitaker, if you can please  
17 give me the specifics of how going into the prior incident  
18 serves to show bias or any other relevant or probative way.  
19 And if you could come in a little bit tighter because this  
20 system doesn't work very well. 09:37:08

21 MS. WHITAKER: Yes, Your Honor. I would like to  
22 explore her previous incident of date rape given its close  
23 proximity in time to this incident and her reaction to this  
24 incident on the airplane, specifically possible overreaction,  
25 extreme sensitivity to the situation and now the fact that she 09:37:31

United States District Court

CLAUDIA FRYE - Direct

1 has changed her statement multiple times to now state that 09:37:38  
2 she's now been touched before whereas previously she did not  
3 have any knowledge of the touching and she had been asleep.

4 So given her prior situation, that could be impacting  
5 her ability to be credible now and her testimony be modified 09:37:55  
6 based on that prior incident.

7 THE COURT: Specifically, Counsel, how did the  
8 testimony change about being touched? You just indicated to me  
9 that at one time she indicated no knowledge of being touched.  
10 Are we talking about the touches involving the breast or the 09:38:13  
11 touches involving the thigh or the elbow or other?

12 MS. WHITAKER: The first time that she makes a  
13 statement is to the U.S. Airways flight attendant. There's no  
14 reference to anywhere on her body with the exception of she's  
15 been told, because she's asleep, that she was -- somebody tried 09:38:28  
16 to touch her. Then when she is interviewed two hours later by  
17 Phoenix Police Department, she then references a touch to the  
18 elbow, a touch to the thigh but, again, asserts that she is  
19 asleep and did not feel any touch to her breast. At that time,  
20 she also did not reference the sleeve. 09:38:49

21 Then ten months later when she's with the FBI, she  
22 asserts that now she not only remembers -- now not only does  
23 she remember -- now she puts the thigh first, then the elbow,  
24 now she's awake. She does feel the breast. It's a light touch  
25 on her right breast, and no other witness can specify which 09:39:11

United States District Court

CLAUDIA FRYE - Direct

1 breast is touched and in this case, she now clarifies that. 09:39:18

2 Mr. Day actually reminds her that everybody else  
3 thinks that she's asleep and at that point --

4 THE COURT: I'm getting a note. People are -- my  
5 team, the front of the bench, can hear you so I'm going to have 09:39:33  
6 to ask you to keep your voice down a little.

7 MS. WHITAKER: Okay. I think that's sufficient.

8 THE COURT: Okay.

9 The possible changes in how the witness related the  
10 story from the time she spoke to the U.S. Airways folks to the 09:39:56  
11 local law enforcement to federal investigator is certainly  
12 fodder for cross-examination.

13 Even now, after hearing the direct testimony of the  
14 witness and with the benefit of Ms. Whitaker's explanation of  
15 her view of potential for the effect of that incident, I am 09:40:22  
16 still not convinced that it has enough probative value to  
17 overcome the prejudice. And so I am going to sustain the  
18 objection or, rather, grant the motion in limine on this issue.  
19 And the defense is not going to be able to get into this, Ms.  
20 Whitaker. 09:40:44

21 Counsel, anything further?

22 MS. WHITAKER: No, Your Honor.

23 MR. DAY: No. Thank you.

24 (End of sidebar discussion.)  
25

United States District Court

CLAUDIA FRYE - Cross

**CROSS - EXAMINATION**

09:40:56

1

2 BY MS. WHITAKER:

2

3 Q. Good morning.

3

4 A. Good morning.

4

5 Q. You testified just now that you felt the touch to your  
6 breast?

5

6

7 A. Sorry?

7

8 Q. You just testified that you felt a touch to your breast?

8

9 A. No, I didn't.

9

10 Q. Let me back up. You testified that you felt a touch to  
11 your thigh?

10

11

12 A. Yes.

12

13 Q. And it was the leg that was closest to Mr. Brown?

13

14 A. Yes.

14

15 Q. But you did not see him actually do the touch?

15

16 A. No.

16

17 Q. Your eyes were closed at that time?

17

18 A. Yes.

18

19 Q. And when you opened your eyes, you said his hand was  
20 nearby?

19

20

21 A. Yes. It was very close. It was flipped inwards in a  
22 claw-like fashion.

21

22

23 Q. And was that underneath the armrest?

23

24 A. It was to the left of his leg, yeah.

24

25 Q. Was it kind of under -- like between the two of you?

25

09:41:06

09:41:34

09:41:44

09:42:00

09:42:10

## CLAUDIA FRYE - Cross

- 1 A. It was on his lower left thigh and so, yeah, that's close. 09:42:15  
2 It's between us on an airplane because it's so close.
- 3 Q. Because those seats are very close together?
- 4 A. Yes, absolutely.
- 5 Q. And you hadn't told the FBI about that specific 09:42:34  
6 explanation before today when you were interviewed?
- 7 A. No. I did.
- 8 Q. You gave them the description of his hand being underneath  
9 the armrest?
- 10 A. No. I gave the description of what his hand looked like. 09:42:52
- 11 Q. And you gave the description that it was tucked underneath  
12 the armrest?
- 13 A. No.
- 14 Q. Following that incident, you had an opportunity to push  
15 the flight button above your head? 09:43:16
- 16 A. Following which incident?
- 17 Q. The one with -- where he was poking your thigh.
- 18 A. I could have.
- 19 Q. And your mother's right there in front of you.
- 20 A. Yeah, she was in the seat in front of me. 09:43:31
- 21 Q. And I think you testified that all of his muscles were  
22 tense.
- 23 A. Yeah. When he's sitting back, his head muscles were tense.  
24 His neck muscles were tense.
- 25 Q. And he wasn't asleep was your feeling? 09:43:52

## CLAUDIA FRYE - Cross

1 A. Yes. That was my intuition that he wasn't asleep. 09:43:56

2 Q. And he was continuously poking you?

3 A. In which instance?

4 Q. In this instance. The one with the hand?

5 A. Yeah. 09:44:08

6 Q. And you said you were definitely touched?

7 A. Yes.

8 Q. But you didn't let anybody know?

9 A. No.

10 Q. And you didn't say anything to Mr. Brown? 09:44:19

11 A. No.

12 Q. You didn't ask him to take his hand back over on his side

13 of the armrest?

14 A. Well, I didn't say that it was on my side because when I

15 woke up, it was on his leg. 09:44:29

16 Q. So it was on his side of the armrest?

17 A. Yeah. I guess so. It's hard to remember that exactly,

18 where it was and in context of where the armrest, like where

19 the lines would go down if the armrest were in the middle of

20 us. 09:44:50

21 Q. And you testified that you felt unsafe because of this

22 incident.

23 A. I didn't say I felt unsafe. I felt scared. I felt weary

24 and when he was touching my thigh, that was the beginning. I

25 wasn't sure what was going on. 09:45:05

## CLAUDIA FRYE - Cross

- 1 Q. But you sat back in your seat? You sat back in your seat? 09:45:09
- 2 A. Yes.
- 3 Q. And you thought maybe he was sleeping?
- 4 A. I thought maybe I needed to figure out what was happening.
- 5 Q. Okay. Maybe he was fidgeting? 09:45:21
- 6 A. Yeah. Not -- that one that was -- that felt a little more
- 7 than fidgeting. The elbow touching my elbow could have
- 8 possibly been fidgeting, but I did say it felt more systematic
- 9 than random fidgets.
- 10 Q. So let's talk about the elbow incident. You said that it 09:45:39
- 11 was ten nudges?
- 12 A. No. I said it could have been ten. I can't exactly
- 13 remember.
- 14 Q. I wrote down over ten nudges was your testimony today.
- 15 A. Yeah. It would definitely be over ten. 09:45:52
- 16 Q. Okay. Not just accidental?
- 17 A. It didn't feel accidental.
- 18 Q. Methodical?
- 19 A. Yes.
- 20 Q. Systematic? 09:46:05
- 21 A. It did feel systematic. It felt like testing.
- 22 Q. But you didn't open your eyes?
- 23 A. No. I was scared.
- 24 Q. Again, flight attendant button is right up above your
- 25 head? 09:46:18



## CLAUDIA FRYE - Cross

- 1 A. What am I going to say to a flight attendant? "This man 09:46:19  
2 was nudging me in a systematic way"? It doesn't -- then I  
3 could have been deemed -- you know, I just didn't think it was  
4 enough to really understand what was happening with the  
5 situation. I didn't feel like that would be fair. 09:46:33
- 6 Q. So not enough to ask your mom to swap seats with you?  
7 A. No.  
8 Q. And not enough to say anything to Mr. Brown?  
9 A. No. To confront him over nudging me, that's pretty scary.  
10 Q. But you said you felt unsafe? 09:47:00  
11 A. Yeah.  
12 Q. And you felt scared?  
13 A. Right.  
14 Q. But not enough to say anything?  
15 A. No. 09:47:07  
16 Q. And then he began to tug on your sleeve?  
17 A. Yes.  
18 Q. So now we've got the clawed hand underneath the armrest,  
19 the elbowing continuously over ten times and now he's tugging  
20 at your sleeve? 09:47:30  
21 A. Yes.  
22 Q. And you say it can't be accidental?  
23 A. Right.  
24 Q. But you kept your eyes closed?  
25 A. Yes. 09:47:45

## CLAUDIA FRYE - Cross

- 1 Q. Didn't say anything? 09:47:45
- 2 A. No.
- 3 Q. Didn't say anything to your mom?
- 4 A. No.
- 5 Q. I assume you have a good relationship with your mom? 09:47:53
- 6 A. Yeah, I do.
- 7 Q. Traveling with her?
- 8 A. Yes.
- 9 Q. You guys are close?
- 10 A. Yeah, we're close. 09:48:00
- 11 Q. Didn't reach out to her?
- 12 A. No. Because to reach out to her would mean that I'm also
- 13 confronting Mr. Brown. It's an airplane. There's no way,
- 14 like, I could talk to her and him not hear.
- 15 Q. Did you think to ask Ms. Medina if you could use the 09:48:18
- 16 restroom?
- 17 A. No, I didn't have to use the restroom.
- 18 Q. Possibly take a break, walk down the aisle?
- 19 A. No. That's not what I wanted to do in that situation. I
- 20 didn't know what I wanted to do. I was scared. I was being 09:48:33
- 21 touched by a stranger.
- 22 Q. And then you fell asleep?
- 23 A. Yeah. I was in and out of sleep.
- 24 Q. And you awoke when a woman is yelling something?
- 25 A. Yeah. 09:48:56

## CLAUDIA FRYE - Cross

1 Q. And your immediate response there is to start yelling as 09:48:59  
2 well?

3 A. Yeah. My immediate response was standing up and look at  
4 him and asking, "Did you just touch me?" That was my immediate  
5 response. 09:49:15

6 Q. I think your testimony was actually, "Did you just fucking  
7 touch me?"

8 A. Yeah.

9 Q. Right?

10 A. I eventually said that. I said a lot of things that I 09:49:21  
11 can't quote.

12 Q. You were angry?

13 A. Yeah, at that point.

14 Q. And upset?

15 A. Because at first I was scared. I stood up and I said, 09:49:30  
16 "Did you just touch me?" Or, "Did you just fucking touch me,"  
17 either one, and then he didn't answer me and he acted like he  
18 had no clue what was going on and then I got angry.

19 Q. And then you went back to the back of the plane?

20 A. Yeah. The flight attendant came over and they pulled me 09:49:49  
21 out and I was still like looking at him trying to get an answer  
22 from him and then the flight attendant brought me to the back  
23 of the plane.

24 Q. And in the back of the plane was yourself?

25 A. Yes. 09:50:11

## CLAUDIA FRYE - Cross

- 1 Q. Your mother? 09:50:12
- 2 A. My mom, yes.
- 3 Q. Ms. Medina, Kathryn Medina?
- 4 A. She came back I think a little later on or, like, a few  
5 minutes after. 09:50:21
- 6 Q. And did she try and console you?
- 7 A. Yes. We talked about what had happened and like what she  
8 had seen and what I had seen.
- 9 Q. So you guys talked about the situation?
- 10 A. Yes. 09:50:35
- 11 Q. And the flight attendant asked you some questions?
- 12 A. There were a few flight attendants back there. I know  
13 there was a female flight attendant. The male flight attendant  
14 came back. I think there was another female flight attendant.  
15 I don't know. I know that there was at least one female flight 09:50:52  
16 attendant back there, too, and, yeah, I just was going through  
17 hysterics telling them what had happened.
- 18 Q. I'm thinking of the male flight attendant. Did he ask you  
19 any questions?
- 20 A. I can't remember. 09:51:12
- 21 Q. Did anyone tell you that they were going to write a report  
22 for U.S. Airways?
- 23 A. I don't remember. What kind of report? What is that?  
24 What would that mean?
- 25 Q. A report for the airline. 09:51:25

## CLAUDIA FRYE - Cross

- 1 A. Oh, yeah. I don't remember. 09:51:26
- 2 Q. And after this incident, you -- the plane eventually  
3 landed and you were escorted off the plane?
- 4 A. Yes.
- 5 Q. And you talked to a police officer there? 09:51:41
- 6 A. Yes.
- 7 Q. And that was Officer -- I might not say his name right --  
8 Kulawiec?
- 9 A. I don't remember the officer's name.
- 10 Q. And your mom came with you? 09:51:53
- 11 A. Yes.
- 12 Q. And you guys were sitting together while you talked to the  
13 officer.
- 14 A. Yes. We were standing off to the side of the entrance.
- 15 Q. And he was asking you what happened? 09:52:05
- 16 A. Yes.
- 17 Q. During that conversation, you talked about the elbow?
- 18 A. Yes.
- 19 Q. You said it was several minutes that he was pressing on  
20 your elbow? 09:52:23
- 21 A. I don't remember saying that. Because he wasn't just  
22 pressing. He was pushing, so I probably wouldn't have said  
23 that.
- 24 Q. But it was over a few minutes' time frame?
- 25 A. Yeah. I guess so. 09:52:38

## CLAUDIA FRYE - Cross

- 1 Q. And that he would press and then let off? 09:52:43
- 2 A. Yeah. It was, like, a nudging.
- 3 Q. And you said that this elbow was the first incident?
- 4 A. No. I didn't say that.
- 5 Q. Okay. 09:52:55
- 6 A. It was the thigh that was the first incident.
- 7 Q. And then you talked about the thigh and your eyes were
- 8 closed during that?
- 9 A. Yes.
- 10 Q. And then you talked about the incident that you alleged 09:53:12
- 11 where he touched your breast?
- 12 A. Yes.
- 13 Q. And in that case, you told the officer that you were
- 14 asleep?
- 15 A. Yes. 09:53:24
- 16 Q. And that you did not feel the touch?
- 17 A. Yeah, I don't think I did.
- 18 Q. You also had an interview with -- in preparation for this
- 19 case with an agent from the FBI?
- 20 A. Yes. 09:53:51
- 21 Q. Agent Wente?
- 22 A. Yes.
- 23 Q. Was it over the telephone?
- 24 A. Yes.
- 25 Q. And Mr. Day was also there? 09:53:57

## CLAUDIA FRYE - Cross

1 A. M'hum, yes. 09:53:59

2 Q. And another agent?

3 A. Yes.

4 Q. And that was the first time that you said that you -- felt  
5 the touch. 09:54:09

6 A. Which touch?

7 Q. To your chest.

8 A. Yes. I guess I did it at that point. That is -- it's a  
9 hard thing to remember because I was in and out of sleep and  
10 you feel like -- I felt like my whole body was tense and then I 09:54:23  
11 would be sleeping and then I wouldn't and so I don't think that  
12 I felt the touch. But after talking in the back of the  
13 airplane, I was, like, I knew that he had touched me there and  
14 I assumed.

15 Q. You assumed that he touched you? 09:54:41

16 A. Yeah. Once I stood up, yeah, I assumed like he had  
17 touched me.

18 Q. But you had an opportunity, after you went to the back of  
19 the plane, to talk with the officer, the Phoenix police  
20 officer? 09:55:05

21 A. Yes.

22 Q. And there you didn't say that you had been touched?

23 A. No. I don't -- I guess I didn't if that's what's in the  
24 report. Also he wrote in the report that I had touched -- or  
25 that I had -- the elbow nudging came first when the thigh 09:55:20

## CLAUDIA FRYE - Cross

- 1 nudging had come first so I'm not sure if that's exactly 09:55:24  
2 accurate what it says I had said in that report. But  
3 ultimately I don't think I felt it.
- 4 Q. So just to summarize, you didn't see Mr. Brown do any of  
5 these incidents with your own eyes? 09:55:48
- 6 A. No, not with my own eyes.
- 7 Q. And you were pretending to sleep or in and out of sleep?
- 8 A. Yeah. I was in and out of sleep.
- 9 Q. At one point, though, you said you were pretending to  
10 sleep? 09:56:05
- 11 A. I was resting. It probably looked like I sleeping.
- 12 Q. So did you not tell the FBI agent and Mr. Day on the  
13 telephone that day that you were pretending to sleep?
- 14 A. No. I think I did.
- 15 Q. And you were pretending to sleep because you wanted to 09:56:20  
16 catch him in the act?
- 17 A. I wanted to understand what was happening and to know what  
18 he was doing so, yeah, in a sense, if he was doing something, I  
19 had wanted to catch him.
- 20 Q. And you wanted to catch him in the act and that's why you 09:56:33  
21 didn't push the call button?
- 22 A. What do you mean by "catch him in the act"?
- 23 Q. It's the words in the report.
- 24 A. Yeah.
- 25 Q. I would assume it's your words. 09:56:43



## CLAUDIA FRYE - Cross

- 1 A. Yeah, I just -- the way that you're asking, it seems like 09:56:45  
2 you have a sense of it, so I'm just wondering because for me,  
3 catching him in act would be like I would want to stop him but  
4 I don't want to accuse him of doing something that he's not.  
5 Do you understand? If he's just nudging me on the elbow and I 09:57:03  
6 say something like that, he could -- he could say whatever he  
7 wanted and I would have nothing. Like I would have to say okay  
8 and sit next to him.
- 9 Q. But you didn't get up?
- 10 A. No. 09:57:21
- 11 Q. And you didn't ask your mom to swap spots?
- 12 A. No.
- 13 Q. Didn't notify a flight attendant?
- 14 A. No. I mean, I did when he touched me and then I started  
15 yelling. 09:57:35
- 16 Q. And you didn't tell Mr. Brown to stop any of the earlier  
17 alleged incidents?
- 18 A. No, I didn't tell him to stop but I didn't want him to do  
19 that.
- 20 Q. At that time you lived in New York City? 09:57:49
- 21 A. Yes. Oh, at the time?
- 22 Q. M'hum.
- 23 A. Yes.
- 24 Q. Or for the year prior you had been living in New York  
25 City? 09:57:58

## CLAUDIA FRYE - Cross

1 A. Yes. 09:57:58

2 Q. And you currently live in Boston?

3 A. Yes.

4 Q. And when you were in New York City, you get a lot of  
5 attention. 09:58:09

6 MR. DAY: Objection, Your Honor, relevance.

7 THE COURT: Overruled. I'll see where this is going.  
8 I can't tell.

9 BY MS. WHITAKER:

10 Q. You get a lot of attention on the street? 09:58:27

11 A. What do you mean by "attention"?

12 Q. People speak to you?

13 A. Okay. There's harassment.

14 Q. So people harass you?

15 A. There's -- people will ask me for directions. People will 09:58:46  
16 call out, "Nice legs." People will say a lot of different  
17 things in New York City.

18 Q. Do they ever whistle?

19 MR. DAY: Objection, Your Honor. Relevance.

20 THE COURT: Counsel, approach, please. 09:59:00

21 (At sidebar.)

22 THE COURT: Ms. Whitaker, tell me what the relevancy  
23 of the line is.

24 MS. WHITAKER: She said yesterday that she, at the  
25 time of this incident, had been harassed daily while she lived 09:59:23

## CLAUDIA FRYE - Cross

1 in New York City. Again, I think this goes to bias. I think  
2 it goes to her credibility and her frustration with the fact  
3 that men, you know, are in her space, are bothering her. She  
4 uses the word "harass."

5 THE COURT: You can ask her that ultimate question  
6 because I think it is fair for you to explore that. I don't  
7 think you need to go through the whole line of it. But if you  
8 can get to the point quickly and move on, I'll allow it.

9 MS. WHITAKER: Thank you.

10 (At sidebar.)

11 THE COURT: The objection is overruled.

12 You may continue, Ms. Whitaker.

13 BY MS. WHITAKER:

14 Q. I don't recall where I was exactly. But at the time you  
15 were in New York City?

16 A. Yes.

17 Q. And people would speak to you when you were on the street?

18 A. Yes.

19 Q. And they would harass you sometimes?

20 A. Sometimes it was harassment.

21 Q. And they would harass you daily with cat calls?

22 A. Yeah.

23 Q. Every day somebody would yell at you.

24 A. Pretty much give or take a few days. I think a lot of  
25 women in New York City experience that.

1 Q. But specifically for you, you told us yesterday that every 10:00:33  
2 day somebody harassed you?

3 A. I said mostly every day, yeah, give or take a few.

4 Q. Again, yesterday you testified every day somebody harassed  
5 you. 10:00:50

6 MR. DAY: Objection, Your Honor. Relevance again.

7 THE COURT: I'm going to sustain it based on asked  
8 and answered.

9 MS. WHITAKER: No more questions, Your Honor.

10 THE COURT: All right. Mr. Day, is there any 10:01:00  
11 redirect?

12 MR. DAY: No, Your Honor.

13 THE COURT: All right. May this witness be excused,  
14 counsel?

15 MR. DAY: Yes, Your Honor. 10:01:07

16 THE COURT: And Ms. Whitaker?

17 MS. WHITAKER: Of course, Your Honor.

18 THE COURT: All right. You may step down.

19 (Witness excused.)

20 THE COURT: The Government can call its next witness. 10:01:18

21 MR. DAY: Thank you, Your Honor. The Government  
22 would call Ms. Tanya Medina to the stand.

23 Counsel, so you know, we'll go for at least another  
24 20 minutes before we take the morning break and we'll see where  
25 there is a natural break in this. 10:02:00

1 Ms. Medina, if you could step forward to the 10:02:04  
2 courtroom deputy to be sworn in, please.

3 COURTROOM DEPUTY: Right over here to the microphone.  
4 Please state your name, spell your last name and first name for  
5 the record, please. 10:02:14

6 THE WITNESS: Tanya Medina. T-A-N-Y-A, M-E-D-I-N-A.

7 COURTROOM DEPUTY: Thank you will. Raise your right  
8 hand.

9 (TANYA MEDINA, a witness herein, was duly sworn or  
10 affirmed.) 10:02:25

11 **DIRECT EXAMINATION**

12 BY MR. DAY:

13 Q. Good morning, Ms. Medina. Can you please introduce  
14 yourself to the jury?

15 A. My name is Tanya Medina. 10:02:57

16 Q. And Ms. Medina, where do you currently reside?

17 A. In La Verne, California.

18 Q. And in what general area of any major city is La Verne?

19 A. It's about, probably about 20 minutes away from -- east of  
20 Pasadena. 10:03:13

21 Q. And do you currently work?

22 A. I do.

23 Q. And what do you do for a living?

24 A. I am a registered nurse in the emergency room department  
25 for the last 15 years. 10:03:23

TANYA MEDINA - Direct

- 1 Q. And do you have any children? 10:03:28
- 2 A. I do. I have three, a step daughter and two young  
3 daughters. Do I need to give ages?
- 4 Q. No. You don't have to.
- 5 A. And a granddaughter. 10:03:37
- 6 Q. Are they juveniles?
- 7 A. I'm sorry?
- 8 Q. Are they under the age of 18?
- 9 A. Two of them.
- 10 Q. And if you remember, what were you doing on August 11 of 10:03:48  
11 2015?
- 12 A. I was flying home from Maryland on an evening flight.
- 13 Q. Do you remember the airline that you were flying that day?
- 14 A. I don't. Sorry.
- 15 Q. And you said Maryland. Was there a particular city that 10:04:05  
16 you were flying out of from Maryland?
- 17 A. Well, we were visiting in Catonsville. We were visiting  
18 my older daughter.
- 19 Q. And the particular city that you departed from?
- 20 A. Baltimore. 10:04:22
- 21 Q. And who were you traveling with that day?
- 22 A. I was traveling with my two younger daughters and my  
23 mother-in-law.
- 24 Q. I would like to show you what has been already admitted as  
25 Government's Exhibit Number 1 if I may. 10:04:36

United States District Court



TANYA MEDINA - Direct

1 A. Yes. 10:06:04

2 Q. And who is the individual that you recognize as Gary  
3 Brown, Jr.? If you could identify him by an article of  
4 clothing that he is wearing.

5 A. He's sitting in between the woman with the short hair and 10:06:14  
6 the gentleman with the grayish hair. It looks like he's  
7 wearing blue but the monitor is in front of him and there's a  
8 light right there so I don't have a clear -- yes. He's in  
9 blue.

10 MR. DAY: Your Honor, may the record reflect that the 10:06:31  
11 witness has identified the defendant?

12 THE COURT: Yes.

13 BY MR. DAY:

14 Q. And at some point during that flight, did Mr. Brown, did  
15 he come to your attention? 10:06:40

16 A. He did. In order to see my mother-in-law, I was sitting  
17 in the middle of my two daughters so I would have to lean  
18 forward and look to my right to talk to my -- I'm sorry, my  
19 mother-in-law, so I had a clear picture or visual when I would  
20 look over at the aisle because I had to lean over so much to 10:07:03  
21 talk to her.

22 So I noticed this gentleman sitting at the very end  
23 and every time I would kind of look over, he would give me a  
24 stare and kind of look back in his seat and then look back to  
25 see what I was doing and look back and he was kind of, you 10:07:22

United States District Court



TANYA MEDINA - Direct

- 1 know, back and forth in his chair and kind of moving around 10:07:24  
2 real fidgety. And I would just continue on talking to my  
3 mother-in-law. But I kind of noticed him like he was, like,  
4 touching, you know, rubbing his legs back and forth or his  
5 pants with his hands and just moving back and forth and just 10:07:41  
6 giving me -- every time I looked at my mother-in-law, he would  
7 kind of just stare at me and then kind of follow me when I  
8 would go back and then kind of look at me over like on the --  
9 you know like in the back of the seats, like, to see what I was  
10 looking at. So he had caught my attention earlier. 10:08:02
- 11 Q. Now, the young lady that was seated in 28E, which is  
12 identified as Ms. Claudia Frye on that diagram, did you know  
13 her?
- 14 A. No.
- 15 Q. Had you ever had any conversations with her? 10:08:15
- 16 A. No.
- 17 Q. And did you have any conversations with her on that  
18 flight?
- 19 A. I did not. Well, after --
- 20 Q. Early in the flight? 10:08:27
- 21 A. Early, yes, I did. No, I did not but after, I did. So  
22 earlier before I had no conversation with her.
- 23 Q. Now, was there any interactions that you saw between  
24 Mr. Brown and Ms. Frye during the flight?
- 25 A. Yes. So before when, you know, when I was speaking to my 10:08:45

United States District Court

TANYA MEDINA - Direct

1 mother-in-law, I noticed him kind of like -- well, Claudia, can 10:08:52  
2 I go ahead and refer to her as Claudia?

3 Q. If you could refer to her as Ms. Claudia Frye or Ms. Frye  
4 so use her entire name.

5 A. So Ms. Claudia Frye, she was asleep and the gentleman 10:09:06  
6 would kind of -- Gary Brown, Jr., when I would speak to my  
7 mother-in-law, I noticed he would kind of put his head to the  
8 side and lean in and, like, smell her but not touch her at that  
9 time but kind of like -- do like a little smell and then kind  
10 of go back and I just thought that was like a little odd. Like 10:09:30  
11 it didn't -- it made me feel uncomfortable.

12 Q. And how many times, if you remember, do you recall?

13 A. I noticed it a couple of times. I can't give you an  
14 amount but it was more than once.

15 Q. And then after you have observed this of Mr. Brown -- let 10:09:47  
16 me ask you this, when you observed this, what was the lighting  
17 like in the airplane?

18 A. The light was on. They hadn't turned any lighting off at  
19 that time. It was a later flight but the lights were not out.  
20 The over lights were on and some people that were reading, they 10:10:03  
21 didn't need to turn their above lights on, so it was light  
22 enough to see.

23 Q. And then you also described at this point in time when  
24 this activity was going on that Ms. Claudia Frye was asleep.  
25 What was it about her behavior to you that made her appear 10:10:18

TANYA MEDINA - Direct

- 1 asleep to you? 10:10:22
- 2 A. Well, her head was back. She had a neck rest and she  
3 was -- her face was turned to the left and I could see her eyes  
4 closed and she was asleep.
- 5 Q. Now, after you observed this activity, did you see any 10:10:38  
6 further interactions between Mr. Brown and --
- 7 A. I did and I can't really tell you the minutes between but  
8 when I went to speak to my mother-in-law one more time, as I  
9 was continuing to have a conversation with her and I had leaned  
10 over, I had seen Gary Brown, Jr., and it was his right hand 10:10:56  
11 like purposely touch Claudia Frye's breast. And when I looked  
12 at him, he immediately took his hand down, leaned back and  
13 put -- closed his eyes and put his head to the side. And I  
14 thought that was very inappropriate and I was shocked.
- 15 Q. So let me pause you right there. Just for the record, 10:11:23  
16 when you -- what you demonstrated, what you did was you reached  
17 across your body with your right hand?
- 18 A. M'hum.
- 19 Q. To demonstrate what had occurred; is that correct?
- 20 A. Yes. 10:11:38
- 21 Q. And you said that he touched her right breast. How do you  
22 know that it was her right breast?
- 23 MS. WHITAKER: Objection, Your Honor. Misstates the  
24 evidence.
- 25 THE COURT: Will you restate the question? 10:11:48

United States District Court

TANYA MEDINA - Direct

- 1 MR. DAY: I certainly will, Your Honor. 10:11:49
- 2 BY MR. DAY:
- 3 Q. What did you see Mr. Brown do with his hand as he reached  
4 across his body?
- 5 A. I was leaned enough -- so to speak when you're in an aisle 10:11:59  
6 seat, I had to reach over my daughter so I'm looking -- I'm so  
7 sorry if you guys cannot hear me. To lean over, his right hand  
8 was on her breast closest to her, which would have been her  
9 right breast. And when I looked, he made eye contact with me  
10 and immediately moved his hand and then leaned back in the seat 10:12:26  
11 and put his eyes, closed this eyes and put his head down to the  
12 right like he was asleep.
- 13 Q. Now, you specifically stated that you saw him touch her  
14 right breast; correct?
- 15 A. Yes. Yes. 10:12:42
- 16 Q. Now, you mentioned earlier that you are an emergency room  
17 nurse; correct?
- 18 A. I am.
- 19 Q. And are you familiar or have you had training with the  
20 female anatomy? 10:12:52
- 21 A. I have.
- 22 Q. And how confident are you that what you observed was him  
23 touching her breast?
- 24 A. I am very confident.
- 25 Q. Now, you had indicated that when you observed this -- what 10:13:01

United States District Court

TANYA MEDINA - Direct

1 was the state of his eyes? What did he do? How did he react? 10:13:08

2 A. Well, his eyes were open. I didn't see him, you know --

3 they didn't get any bigger or smaller. They were open.

4 Q. Did he look at you?

5 A. Yes. We made eye contact and that is when he immediately 10:13:25

6 moved his hand away.

7 Q. And what was the lighting like at the time that you

8 observed this?

9 A. The lights were on. The overhead lights were still on.

10 Q. And you said -- how did you react when you saw this? 10:13:39

11 A. Well, I was shocked. I'm like did I see that? I did. I

12 know I did but we're -- you know, I was shocked. It's very

13 inappropriate, something that you don't see on a day-to-day

14 basis so I had to tell myself. I did see that. Did I see

15 that? Yes, I did see that. 10:14:00

16 Q. What did you do?

17 A. So I went ahead and I leaned over again and I was

18 getting -- I was trying to get my mother-in-law's attention

19 without him noticing because we're in a plane. It's a little

20 nerve-wracking. It's high-stressed anyways being in a plane. 10:14:16

21 And I told my mother-in-law, "Get your purse."

22 And she said, "What?"

23 And I said, "Get your purse."

24 And my daughter said, "Nana, my mom wants you to get

25 your purse." And she didn't understand why I was saying that. 10:14:31

United States District Court

TANYA MEDINA - Direct

1           And then when she grabbed her purse and she came over 10:14:34  
2 and I told her, "I believe that gentleman just touched" -- I  
3 said, first of all -- I'm sorry. Let me go back.

4           I asked Katie, which is my mother-in-law, Kathryn  
5 Medina, I said, "Are they together?" 10:14:49

6           And she said, "No."

7           And I said, "Well, I just seen him touch her breast."

8           And she said, "What?"

9           I said, "Yes." I said, you know, "I know I seen it  
10 but now I'm, you know, doubting myself because it's so 10:15:06  
11 uncommon."

12           And she said -- she kind of looked at him and looked  
13 back at me and I said, "I just seen that." I didn't want my  
14 youngest daughter -- or -- not my youngest but the one child,  
15 child one -- I didn't want her knowing what we were discussing 10:15:28  
16 because she's young. I didn't want her to get freaked out in a  
17 plane and be worried about the situation.

18           So I was trying to tell her, like, be aware, look  
19 out, you know, just kind of look out your surroundings and that  
20 was what we talked about and then I went back and sat. 10:15:46

21 Q. Why did you tell her to get per purse?

22 A. I wanted to get her attention without Gary Brown, Jr.,  
23 knowing what I was speaking about. Because I wanted to make  
24 sure -- I wanted her to know, like, look out because I wanted  
25 to be sure that I seen what I saw. Like I wanted to be sure. 10:16:05

TANYA MEDINA - Direct

1 Q. And if you could estimate, about when was it that this 10:16:18  
2 touch occurred in the course of the flight?

3 A. Probably like an hour, hour and a half -- it was more than  
4 an hour, probably not more than an hour and a half when I  
5 noticed that it happened because it's about -- I would believe 10:16:38  
6 like a five-hour flight, maybe six. Well --

7 Q. Let me ask you this: Did this occur while the plane was  
8 in flight?

9 A. Yes. Yes.

10 Q. And when it occurred, did you have any idea where you were 10:16:53  
11 within the continental United States?

12 A. No. No.

13 Q. Now, after you alerted this and you alerted your  
14 mother-in-law, Kathryn Medina, did anything else happen?

15 A. Yes. So probably about -- I want to say, like, 30 to 45 10:17:11  
16 minutes later the lights, overhead lights, went off and then  
17 people were putting their reading lights on above them. And I  
18 remember like getting a yucky feeling in my gut like, oh, my  
19 gosh, I hope he doesn't do it again. But I can't really see  
20 over that. So I just remember probably 45 minutes into, after 10:17:33  
21 the lights probably went off, I heard my mother-in-law tell  
22 him -- I don't know the exact words, I don't remember, because  
23 at that time now I'm like really livid because I have two young  
24 girls and I'm thinking this cannot be happening but it did.

25 She caught him touching -- 10:17:53

United States District Court

TANYA MEDINA - Direct

1 MS. WHITAKER: Objection, Your Honor. 10:17:57  
2 THE COURT: I'll sustain that.  
3 MR. DAY: Yes, Your Honor.  
4 BY MR. DAY:  
5 Q. Did you personally -- when this all happened, did you 10:18:01  
6 personally see any interaction between Mr. Brown and Ms. Frye?  
7 A. No, but I -- what I -- what I -- I just know that my  
8 mother-in-law, she yelled at Gary Brown, Jr.  
9 Q. And did you see anything at the time that she was yelling?  
10 A. Well, my mother-in-law went ahead and as I leaned over, 10:18:37  
11 she was kind of like saying, "Young man" --  
12 MS. WHITAKER: Objection, Your Honor.  
13 THE COURT: And the objection is hearsay?  
14 MS. WHITAKER: Yes. Thank you.  
15 THE COURT: Okay. The objection is overruled. The 10:18:45  
16 statement is not being offered to prove the truth of the matter  
17 asserted.  
18 MR. DAY: And I'll withdraw the question. Maybe  
19 rephrase the question a little more succinctly, Your Honor.  
20 BY MR. DAY: 10:18:56  
21 Q. Did you see at the time that Ms. Claudia Medina was  
22 yelling at Mr. Brown, did you see any physical interaction  
23 between Mr. Brown and Ms. Frye?  
24 A. Not I personally, no, because she was kind of waking up.  
25 She kind of like was, "What's going on?" Kind of, Claudia. 10:19:15

United States District Court



## TANYA MEDINA - Direct

- 1 Q. Let's take a step back to the incident that you did 10:19:19  
2 observe.
- 3 A. M'hum.
- 4 Q. What was Ms. Frye doing at the time that this occurred?
- 5 A. Sleeping. 10:19:27
- 6 Q. And after you observed this, what did she do, if she did  
7 anything at all?
- 8 A. Are you asking me about Claudia?
- 9 Q. Yes. Ms. Frye.
- 10 A. Well, she woke up and she said, like, "What's going on?" 10:19:38
- 11 Q. The first incident?
- 12 A. Oh, when I observed it? No. She was asleep.
- 13 Q. Did she awaken or was she alerted after the incident that  
14 you personally observed?
- 15 A. No. 10:19:54
- 16 Q. Now, what happened after Ms. Kathryn Medina began to yell  
17 at Mr. Brown?
- 18 A. My mother-in-law was very upset. I heard her say  
19 something about, you know --
- 20 MS. WHITAKER: Objection. 10:20:15
- 21 BY MR. DAY:
- 22 Q. Let me interrupt you there. Don't tell us what other  
23 people have said.
- 24 A. Oh, okay. I'm sorry.
- 25 Q. No problem. In particular, did the flight attendants ever 10:20:22

TANYA MEDINA - Direct

1 get involved in this situation? 10:20:28

2 A. Yes. They did.

3 Q. And if you could walk us through what happened there and  
4 what was your involvement in particular once the flight  
5 attendants arrived. 10:20:37

6 A. So once my mother-in-law noticed the incident, I went  
7 ahead and I reached for the top and I was, you know, pressing  
8 the button for the flight attendant to come. He came over and  
9 I just explained to him what I had seen earlier, witnessed  
10 earlier, and that my mother-in-law -- because speaking to me. 10:20:58  
11 He wasn't speaking to incident quite yet, too. And I just  
12 explained to him what happened and then he went ahead and at  
13 that time, Claudia was awake and she went ahead and removed  
14 Claudia and her mother that was sitting above her and my  
15 mother-in-law, they moved them to the back of the plane. 10:21:29

16 Q. And did you ever go to the back of the plane?

17 A. I did at one time. I was a little afraid to leave.  
18 Because at this point, now that the aisle is empty, myself and  
19 Gary Brown could --

20 MS. WHITAKER: Objection, Your Honor, relevance. 10:21:45

21 THE COURT: Overruled.  
22 You can answer.

23 THE WITNESS: Okay. Thank you. We could see one  
24 another. There was no one blocking us so I could see him and  
25 he kept on staring at me and my youngest daughter was crying. 10:21:59

United States District Court

TANYA MEDINA - Direct

1 She was afraid. 10:22:02

2 MS. WHITAKER: Objection, Your Honor. Relevance.

3 THE COURT: I'm going to sustain that.

4 BY MR. DAY:

5 Q. So you stated that Kathryn -- Ms. Kathryn Medina and 10:22:08

6 Ms. Frye, at some point they were taken to the back of the

7 plane. Was somebody ever replaced or seated in Ms. Frye's

8 seat?

9 A. After they had left, they were in the back and to go back

10 to your question, I did go back one time because that's what we 10:22:24

11 were speaking about. And I went -- when I went back, I had

12 asked Claudia myself, I said, "Did you ever" --

13 MS. WHITAKER: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. DAY: 10:22:37

16 Q. In particular, so was anybody ever seated -- so your

17 testimony is that you did go to the back of the plane at some

18 point; correct?

19 A. I did. I did.

20 Q. And then -- 10:22:45

21 A. Okay.

22 Q. -- was anybody ever seated in Ms. Frye's seat?

23 A. Yes.

24 Q. And Ms. Kathryn Medina, did she return to her seat?

25 A. She did. 10:22:55

United States District Court

TANYA MEDINA - Direct

- 1 Q. Now, after -- and did you return to your seat? 10:22:56
- 2 A. Yes.
- 3 Q. And so the arrangement after Ms. Frye --
- 4 MS. WHITAKER: Objection, Your Honor. Leading.
- 5 THE COURT: I'm going to allow it to get us through 10:23:06
- 6 preliminary matters.
- 7 MR. DAY: It's a foundational question.
- 8 I will actually withdraw the question.
- 9 BY MR. DAY:
- 10 Q. Did you have an opportunity to observe Mr. Brown after the 10:23:19
- 11 person who was seated in Ms. Frye's previous seat, did you have
- 12 an opportunity to observe him any further?
- 13 A. Yes.
- 14 Q. How would you describe his behavior in comparison to the
- 15 behavior that you observed early in the flight? 10:23:33
- 16 A. He was calm. He wasn't moving back and forth in his seat.
- 17 Totally different, just calm and not touching his legs like
- 18 using his hands, touching his legs back and forth, and he
- 19 wasn't going back and forth. And when I would speak to my
- 20 mother-in-law, he never looked over at me not once. 10:23:57
- 21 Q. And after the plane landed in Phoenix, did you have an
- 22 opportunity to speak to police officers?
- 23 A. I did.
- 24 MR. DAY: Your Honor, may I have one moment?
- 25 THE COURT: You may. 10:24:10

United States District Court

TANYA MEDINA - Direct

1 (Counsel confer.) 10:24:12

2 BY MR. DAY:

3 Q. Ms. Medina, when you were talking initially about

4 Mr. Brown's behavior early on in the flight, I believe you had

5 stated that he was moving back and forth; is that correct? If 10:24:34

6 you could demonstrate, what was he doing there?

7 A. So if I'm sitting, he's just kind of going back and forth

8 and -- I know you guys can't see my hands, but he was like kind

9 of going up and down with his legs, his thighs, like moving his

10 hands and then I would, like, look over and he would kind of 10:24:51

11 get my attention and kind of look back and see what I was kind

12 of doing and looking at me again as I spoke to my

13 mother-in-law.

14 Q. Just for the record, you appear to be leaning back and

15 forth and somewhat bending at the waist in your chair; is that 10:25:05

16 correct?

17 A. M'hum.

18 Q. Is that a yes?

19 A. Yes. I'm sorry.

20 Q. That's okay and you appeared to be rubbing your hands on 10:25:12

21 your thighs, palms down, from kind of your knee to thigh area;

22 is that correct?

23 A. Yeah. It was kind of like he was on the side with his

24 fingers like, you know, kind of just like going back and forth,

25 you know, like back and forth on his thighs and just kind of up 10:25:22

United States District Court

TANYA MEDINA - Direct

1 and down and, you know, moving his neck back and forth and kind 10:25:25  
2 of seeing what I was doing on my side, you know, back behind.  
3 You're sitting straight. He would lean farther back to see  
4 where I was, if I was looking over or not.

5 Q. And just so the record is clear, you're kind of straining 10:25:40  
6 your back leaning backwards almost as if you were looking  
7 behind someone; is that correct?

8 A. Yes. Like behind people's heads where they rest.

9 Q. Okay. You also had stated at one point in your testimony  
10 that Mr. Brown appeared to sniff or smell Ms. Frye? 10:25:54

11 A. Yes.

12 Q. If you could just kind of demonstrate that.

13 A. Well, when I would lean over to talk to my  
14 mother-in-law -- I'm just going to go ahead and do it but he  
15 would just kind of go ahead and do (Indicating). I don't know 10:26:09  
16 if he was sniffing or smelling because I was too far away. But  
17 the way he was leaning in to her and kind of like by her neck,  
18 because she was sleeping. So when she was sleeping, her face  
19 was towards my way with her neck pillow and he would kind of  
20 (Indicating). 10:26:27

21 Q. For the record, you appear to be kind of leaning, kind of  
22 craning your neck to the left and kind of leaning in as if  
23 somebody would be seated next to you; is that correct?

24 A. Yes.

25 Q. Okay. 10:26:36

TANYA MEDINA - Direct

1 MR. DAY: No further questions, Your Honor. 10:26:36

2 THE COURT: All right. We will take our morning  
3 recess now before we proceed with any cross-examination.

4 It's just about 10:30 right now. Ladies and  
5 gentlemen of the jury, if you could be ready to go again just 10:26:54  
6 before 10:45, we'll start again and resume with testimony.

7 COURTROOM DEPUTY: All rise for the jury, please.  
8 (Jury departs 10:27.)

9 THE COURT: All right. Everybody, please be seated.  
10 Ms. Medina, you can step down for now and if you 10:27:38  
11 could return to the witness box just before 10:45, I would  
12 appreciate it.

13 Counsel, is there anything we need to take up before  
14 you take your break?

15 MR. DAY: Nothing from the Government, Your Honor. 10:27:49

16 MS. WHITAKER: No, Your Honor. Thank you.

17 THE COURT: All right. Very good. Then, counsel, if  
18 I can see you all back here just before 10:45 as well, we will  
19 resume.

20 We are on recess. 10:27:58

21 (Recess at 10:28; resumed at 10:44.)

22 THE COURT: All right. Are we ready to proceed,  
23 Counsel?

24 MS. WHITAKER: Yes, Your Honor.

25 MR. DAY: Yes. 10:44:46

United States District Court

## TANYA MEDINA - Cross

1 THE COURT: Let's go ahead and bring in the jury. 10:44:47  
2 (Jury enters at 10:46.)  
3 THE COURT: All right. Everyone, please be seated.  
4 Thank you.  
5 Ms. Whitaker, whenever you're ready to proceed. 10:46:35  
6 MS. WHITAKER: Thank you, Your Honor.  
7 **CROSS - EXAMINATION**  
8 BY MS. WHITAKER:  
9 Q. Good morning, Ms. Medina.  
10 A. Good morning. 10:46:41  
11 Q. You testified that you work as a nurse?  
12 A. I am, m'hum.  
13 Q. And you have been a nurse for 15 years?  
14 A. A little more than 15 years.  
15 Q. And you work in the emergency room? 10:46:52  
16 A. I do. I work in the Emergency Department.  
17 Q. So you have to make a lot of decisions while you're  
18 working in the emergency room?  
19 A. Yes. As a nurse, we make decisions.  
20 Q. Fast, split-second decisions? 10:47:05  
21 A. It depends on the patient.  
22 Q. But if there's an emergency --  
23 A. Sure, yes.  
24 Q. -- you would respond accordingly?  
25 A. Yes. 10:47:14



## TANYA MEDINA - Cross

- 1 Q. And as part of your job, you take care of people? 10:47:19
- 2 A. I do.
- 3 Q. And you take care of them to make sure that they are safe?
- 4 A. I do.
- 5 Q. And you make decisions in order to keep them safe? 10:47:29
- 6 A. Yes.
- 7 Q. On that airplane, you were sitting between your two
- 8 daughters or two of your three daughters I should say?
- 9 A. Yes.
- 10 Q. And am I mistaken that it's your 11-year-old daughter that 10:47:45
- 11 was by the window?
- 12 A. Yes.
- 13 Q. And I'm speaking in terms of their age at that time.
- 14 A. Right. Right.
- 15 Q. She was 11 at the time? 10:47:55
- 16 A. Yes.
- 17 Q. And your other daughter was 13 at the time?
- 18 A. Yes.
- 19 Q. And your mother-in-law is across the aisle?
- 20 A. Yes. 10:48:07
- 21 Q. And she's in her early seventies at the time?
- 22 A. Yes.
- 23 Q. And you had been on vacation together?
- 24 A. Yes.
- 25 Q. As a family? 10:48:17

## TANYA MEDINA - Cross

- 1 A. Yes. 10:48:18
- 2 Q. And I assume that you're close with each other?
- 3 A. Yeah, I'm close with her. I'm not understanding your  
4 question. What do you mean by "close"?
- 5 Q. You have a good relationship. 10:48:28
- 6 A. Yes. I have a good relationship with my mother-in-law.
- 7 Q. Prior to any of the commotion or the incidents we  
8 discussed earlier, the flight attendants were present in the  
9 plane? You saw them?
- 10 A. Yes. 10:48:49
- 11 Q. And they came through with their drink carts?
- 12 A. Well, yeah. We probably had -- yes. They did. I'm just  
13 trying to think of the time frame, if we got our drinks or not  
14 before -- and I believe we did get our drinks, yes. So they  
15 did come through. 10:49:08
- 16 Q. So you had a drink from the flight attendant?
- 17 A. I can't remember if I had a coke or water. I don't  
18 remember. My daughters did. I don't remember. It was either  
19 coke or water.
- 20 Q. But they helped you guys? 10:49:23
- 21 A. Yes. Yes, they did.
- 22 Q. And then did they come back through and also pick up the  
23 items?
- 24 A. If you're looking for time, I'm not too sure. I don't  
25 remember exactly when they came by to pick up the items or not. 10:49:38

## TANYA MEDINA - Cross

1 I couldn't tell you. Sorry. 10:49:50

2 Q. But do you recall that they actually did that, that they  
3 came through and picked up items?

4 A. At a certain point, they did, yes.

5 Q. And the lights were on at that time? 10:50:01

6 A. Yes, the lights were on.

7 Q. Do you recall an announcement when they were going to turn  
8 off the lights?

9 A. No.

10 Q. Prior to any incidents, were you reading a book? 10:50:23

11 A. I was not.

12 Q. Were your children reading books?

13 A. No.

14 Q. Were you just chatting with your mother-in-law?

15 A. I was chatting with my mother-in-law, yes. 10:50:40

16 Q. Were you chatting with your daughters?

17 A. Yes.

18 Q. And every time you looked at your mother-in-law, you were  
19 looking to the right?

20 A. Yes. 10:50:50

21 Q. And when you looked at the right, I assume frequently if  
22 you were chatting with her through the early portion?

23 A. Yes.

24 Q. And every time you looked to the right, you were also  
25 looking in the direction of Mr. Brown? 10:51:00

## TANYA MEDINA - Cross

- 1 A. Yes. 10:51:06
- 2 Q. And that flight, I think you testified that it was around  
3 five hours long?
- 4 A. I believe so. I just -- if I can go ahead and say this:  
5 When the incident happened with Gary Brown and my 10:51:19  
6 mother-in-law, I know the flight attendant said we had two and  
7 a half hours left. So if you want to add the time frame, I  
8 couldn't really tell you how long the flight was. It was about  
9 five hours I would think.
- 10 Q. That's a decent amount of time to sit still? 10:51:32
- 11 A. Yes.
- 12 Q. Sit in one chair?
- 13 A. Yes.
- 14 Q. That whole time?
- 15 A. Yes. Yes. 10:51:40
- 16 Q. And prior to this, you never met Mr. Brown?
- 17 A. No.
- 18 Q. You don't know if he's naturally kind of a fidgety person?
- 19 A. Yes. I have never met Mr. Brown before. And in fact, I  
20 never met him at all. 10:51:55
- 21 Q. And you don't know if he has some ticks?
- 22 A. No.
- 23 Q. You don't know if he has a medical condition that would  
24 cause him to tick?
- 25 A. No. 10:52:05

## TANYA MEDINA - Cross

- 1 Q. You don't know if he has ADHD? 10:52:05
- 2 A. No, I don't.
- 3 Q. You describe his hands as being run down his thighs I  
4 believe, if that's fair to describe what you did?
- 5 A. Yes. So since the jury could not see it, I'll just -- it 10:52:20  
6 was kind of his fingers were running along his thighs on the  
7 side if that makes more sense.
- 8 Q. Was he also rubbing the palms down? I think that was the  
9 testimony as well?
- 10 A. Well, when I was doing it, I don't know if the judge can 10:52:37  
11 see, but it was kind of like up and down his thighs with his  
12 fingers, not more his palms back and forth but it was more like  
13 his fingers were back and forth more on his sides, would rub  
14 his thighs back and forth.
- 15 Q. And that caught your attention? 10:52:54
- 16 A. Yes, but not just that.
- 17 Q. You had an interview with the FBI and Mr. Day back on May  
18 19. Do you recall that?
- 19 A. Yes.
- 20 Q. And that took place at the Ontario, California, airport? 10:53:27
- 21 A. Yes.
- 22 Q. In person?
- 23 A. Yes.
- 24 Q. And you rode with Ms. Kathryn Medina to that interview?
- 25 A. Yes. 10:53:40

## TANYA MEDINA - Cross

- 1 Q. And she was there with you? 10:53:40
- 2 A. Yes.
- 3 Q. And during the beginning of that interview, you all were  
4 together?
- 5 A. When they introduced themselves, we were together and then 10:53:49  
6 when we had the interview, they separated us.
- 7 Q. During that initial portion, you had an opportunity to  
8 review your previous -- the previous police report about your  
9 interview with Phoenix PD?
- 10 A. Yes. There was an Arizona Phoenix PD there. 10:54:06
- 11 Q. And at that moment, you were still together is my  
12 understanding?
- 13 A. I can't recall. I really don't remember what was showed  
14 to me at the time they introduced us. I just remember there  
15 was three gentlemen that came and, you know, introduced 10:54:21  
16 themselves.
- 17 Q. And at the time, you had an opportunity to review your  
18 Phoenix -- the Phoenix Police Department report about your  
19 statement?
- 20 A. I don't recall. I can't remember if I seen a piece of 10:54:40  
21 paper or not really. I don't know. I know that Arizona PD was  
22 there and they gave us our subpoena at that time.
- 23 Q. So are you saying you did not look at the police report at  
24 the airport?
- 25 A. I can't recall. 10:54:56

## TANYA MEDINA - Cross

- 1 Q. Would it refresh your recollection if you were to see the 10:54:57  
2 police report that relates to it?
- 3 A. Sure.
- 4 MS. WHITAKER: Ms. Martinez, if you can pass her  
5 impeachment exhibit. 10:55:06
- 6 BY MS. WHITAKER:
- 7 Q. If you can just take a moment and read that to yourself or  
8 review it.
- 9 A. They did show me this.
- 10 Q. So that refreshes your recollection? 10:57:29
- 11 A. Well, the piece of paper. I mean, yes, I remember seeing  
12 this now.
- 13 Q. And that's the document that had you an opportunity to  
14 review at the Ontario, California, airport?
- 15 A. Yes, positive. 10:57:40
- 16 THE REPORTER: Does it have a number?
- 17 COURTROOM DEPUTY: It's not an exhibit.
- 18 BY MS. WHITAKER:
- 19 Q. If you need an opportunity to review it, just let me know.  
20 Just take your time. 10:58:01
- 21 A. Okay. Thank you.
- 22 Okay. Go ahead.
- 23 Q. And at that time in Ontario, California, they asked you to  
24 review that piece of paper?
- 25 A. Yes. 10:58:37

## TANYA MEDINA - Cross

- 1 Q. And they asked you if you had any clarifications or 10:58:38  
2 corrections?
- 3 A. I don't recall. I'm sorry. I just know that this is what  
4 I gave the officer and this is what he wrote down.
- 5 Q. Were you given an opportunity to offer any corrections or 10:58:53  
6 clarifications during that conversation?
- 7 A. I would -- I can't recall.
- 8 Q. If you had seen something erroneous in that report, would  
9 you have corrected it?
- 10 A. Probably so, yes. 10:59:07
- 11 Q. And at that time, during that interview in California,  
12 that's when you brought up the -- that Mr. Brown was smelling  
13 or sniffing at Ms. Frye?
- 14 A. Yes. Probably so, because -- yes.
- 15 Q. Previously you had not shared that with the police 10:59:29  
16 officer?
- 17 A. Well, per the report, it looks like I did not.
- 18 Q. And I did that the Phoenix police officer interviewed you,  
19 that was right after you got off the plane?
- 20 A. Yeah, about two and a half hours, we got off the plane, 10:59:50  
21 yes.
- 22 Q. And it was still fresh in your mind what had occurred on  
23 the plane?
- 24 A. You know, I was a little high stressed, shocked, worried  
25 about my children. My daughter was very upset, crying. 11:00:02



## TANYA MEDINA - Cross

- 1 Q. But it was a recent event? 11:00:08
- 2 A. It was a recent event, yes.
- 3 Q. And during that conversation in Ontario, California, with  
4 the FBI, Mr. Day, you explained that you were suspicious about  
5 45 minutes to an hour into the flight? 11:00:29
- 6 A. I believe that's what I said here, too, yes.
- 7 Q. And it was particularly the smelling of Ms. Frye that made  
8 you suspicious?
- 9 A. No, that's not what I said earlier. What made me  
10 suspicious was the way he was fidgety in his chair looking at 11:00:45  
11 me every time I looked at my mother-in-law to have a  
12 conversation, moving back and forth. His fingers touching his  
13 thighs back and forth, looking at me when I would sit back. It  
14 was a number of things that made me a little leery about Gary  
15 Brown. 11:01:08
- 16 Q. And during your interview with Officer Myers with the  
17 Phoenix Police Department the same day you got off that plane,  
18 you stated that you were immediately suspicious of Mr. Brown?
- 19 A. I don't remember using that word but if it's in the  
20 paperwork and he wrote it down. Into the flight, like I said, 11:01:27  
21 I kept on speaking with my mother-in-law and those movements  
22 that he was doing or the way he would look at me made me very  
23 uncomfortable.
- 24 Q. Just for clarification, when you say he was looking at  
25 you, you were also looking at him? 11:01:53

## TANYA MEDINA - Cross

- 1 A. No. When I was speaking to my mother-in-law, he would 11:01:55  
2 lean over to look at me and then I would look at him and I  
3 would go back because I felts uncomfotable. So I wasn't  
4 getting his attention at all.
- 5 Q. And let's talk about when you say you leaned back, 11:02:07  
6 Ms. Frye is between your mother-in-law and Mr. Brown?
- 7 A. Yes.
- 8 Q. So when he leans back, you still said that he was looking  
9 at you?
- 10 A. Yes. 11:02:24
- 11 Q. Was he standing up to look at you?
- 12 A. He was stretching over and kind of looking to see what I  
13 was doing. Yes. He was stretching up. I didn't see him  
14 physically get out of his chair, no.
- 15 Q. And Ms. Frye was asleep and I believe your testimony was 11:02:36  
16 that she was kind of leaning back and to the left?
- 17 A. Yes. So her head was down.
- 18 Q. On her pillow?
- 19 A. M'hum. On like one of those -- neck rests I should say,  
20 not pillow, neck rests. 11:02:52
- 21 Q. So --
- 22 A. So it was kind like this (Indicating).
- 23 Q. So she was arching and stretching to kind of look over  
24 Ms. Frye?
- 25 A. Yes. He was kind of -- yes. Yeah. Yes. 11:03:01

## TANYA MEDINA - Cross

- 1 Q. And you said you were uncomfortable because he was 11:03:15  
2 fidgeting?
- 3 A. Well, yes.
- 4 Q. And leaning forward?
- 5 A. Yes, moving up and down. 11:03:21
- 6 Q. And he's arching his back and looking over Ms. Frye?
- 7 A. Yes.
- 8 Q. And smelling Ms. Frye?
- 9 A. Yes.
- 10 Q. But you didn't tell the flight attendant? 11:03:30
- 11 A. No. Not at that time because I was kind of just like  
12 shocked, like, I didn't know what was going on with him. We're  
13 in an airplane. If you're going to -- I'll just stop there.
- 14 Q. So let's talk about the situation in which you say that he  
15 touched Ms. Frye in the chest area. You said you were very 11:04:02  
16 confident?
- 17 A. Yes.
- 18 Q. And that it occurred. You said his eyes were wide open,  
19 lights were on?
- 20 A. Yes. Yes. 11:04:24
- 21 Q. And you made eye contact?
- 22 A. Yes.
- 23 Q. But then you said: I believe that he did it?
- 24 A. When I told my mother-in-law, is that what you're asking,  
25 the conversation? 11:04:45

## TANYA MEDINA - Cross

- 1 Q. Yes. 11:04:46
- 2 A. Yes, because I was so shocked. It's inappropriate. It's  
3 not common and you do not see that and we are on an airplane  
4 and I don't want to make an accusation if it was not clear.  
5 But I know what I saw. 11:05:00
- 6 Q. And then you said to your mother-in-law, "Now I'm doubting  
7 myself"?
- 8 A. What I said was. Now, did I really see that? That's the  
9 way I said it. Doubting would be more -- I questioned myself  
10 like I know I just saw what I did but it's so uncommon and 11:05:18  
11 inappropriate that you're questioning yourself, like, I know I  
12 just saw that but did I -- I can, you know, it's just something  
13 that you don't see out of the ordinary. I was very shocked.
- 14 Q. And you told your mother-in-law, "I thought I saw him  
15 touch her"? 11:05:42
- 16 A. You know, I could have said, "I thought." "I believe.  
17 "Did I see that?" At the time, I don't know exactly the exact  
18 words I used.
- 19 Q. And your response was to tell her to watch her purse?
- 20 A. To get her attention, I wanted her to get her purse 11:06:00  
21 because I didn't want to make a big commotion, so I had asked  
22 her to get her purse because I did not want Gary Brown to know  
23 what I was going to tell my mother-in-law. I wanted to get her  
24 attention so she could keep her eyes open. So for me to say,  
25 you know, "Get your purse, I need your purse, bring it -- get 11:06:19

## TANYA MEDINA - Cross

1 your purse," that was my way of getting her attention without 11:06:22  
2 alerting anybody what I was going to tell her.

3 Q. And you didn't want Gary Brown to know --

4 A. Anybody actually because, you know, like of being so  
5 shocked and something like that happening, I'm not used to 11:06:40  
6 seeing something like that on an every day basis, so I wanted  
7 to let her know like, hey, you know, this is what I saw.

8 Q. You thought?

9 A. I seen it. I saw it.

10 Q. And that's why you informed a flight attendant? 11:06:59

11 A. When you're in an airplane, you just want to make sure  
12 what you saw and, you know, I don't want to -- for me, I  
13 wanted to make sure. I know what I saw. I seen Gary Brown  
14 touch her right breast, but it's so uncommon, and I'm going to  
15 say this again, it's inappropriate, something that doesn't 11:07:21  
16 happen on a daily basis. I warned my mother-in-law, like this  
17 is happening, keep your eye out. I just want to make sure.  
18 That's what I told her.

19 Q. And you wanted to make sure because you weren't?

20 A. I was sure but it's so uncommon. 11:07:45

21 Q. And prior to today, prior to your testimony today, you  
22 have never indicated that it was the right breast that was  
23 touched to --

24 A. Well, nobody asked me if it was the right breast or not;  
25 but when I was asked today, yes, I can -- you know, thinking 11:08:03

## TANYA MEDINA - Cross

- 1 back and looking at it, something that you do not forget, 11:08:09  
2 something awful. You don't want to see that. You don't want  
3 that to happen to anybody. You know, thinking about it  
4 because, you know, this was almost a year ago, you know, and  
5 you think about it. It was her right breast. 11:08:23
- 6 Q. But you never told Officer Myers that?
- 7 A. I didn't think it was something -- it was her breast. I  
8 didn't know I had to be specific on right or left at the time.
- 9 Q. And you didn't tell Agent Wente when you spoke with him at  
10 the airport? 11:08:41
- 11 A. I don't believe so. It's her breast.
- 12 Q. And it could have been here (Indicating)?
- 13 A. It was not. Very inappropriate.
- 14 Q. During your interview with Officer Myers that day, you  
15 never described how he touched her breast? 11:09:00
- 16 A. At Ontario airport?
- 17 Q. At Phoenix.
- 18 A. No. He did not ask.
- 19 Q. And you also didn't tell Agent Wente or Mr. Day, you  
20 didn't describe how it was that he touched her breast? 11:09:35
- 21 A. You know, at Ontario airport we might have discussed it.  
22 I do vaguely remember a little bit about speaking to them at  
23 Ontario airport about the situation but detail-wise, I don't  
24 know what you're trying to get at. It was the breast. Right.
- 25 Q. Was it flat hand, groping? 11:09:59

## TANYA MEDINA - Cross

1 A. Are you asking me what I seen? I saw? 11:10:02

2 Q. I'm saying you never described it in those terms?

3 A. I don't recall.

4 Q. And today your testimony was that the lights were on  
5 during the first alleged incident? 11:10:26

6 A. Yes.

7 Q. And they were off by the second alleged incident?

8 A. Yes. The overhead lights. The plane lights itself, yes.

9 Q. And that there was a span of about 30 to 45 minutes  
10 between those two? 11:10:42

11 A. Yeah, roughly about -- I would say like 30 to 45 minutes.  
12 I didn't look at a watch or a clock.

13 Q. And when you talked with Officer Myers right after this  
14 incident, you said there was a ten-minute gap between the two  
15 alleged incidents? 11:11:00

16 A. It was a little longer than that.

17 Q. So you're saying Officer Myers' report is mistaken.

18 A. It might be because it was longer then 10 minutes.

19 Q. So, again, your testimony is that it is wrong what's  
20 written in Officer Myers' statement? 11:11:13

21 A. I'm not saying that, no. What I'm saying is, it felt like  
22 maybe 30 to 45 minutes. I can't give a time frame. That's  
23 what I'm telling he you. So if I had to estimate it or  
24 guesstimate it, it would probably be between 30 to 45 minutes.

25 Now, I'm not good with times. I wasn't worried about 11:11:33

## TANYA MEDINA - Cross

- 1 the times. 11:11:36
- 2 Q. But if Officer Myers wrote approximately ten minutes, that  
3 would be wrong?
- 4 A. I would think it was more like 30 to 45 minutes.
- 5 Q. And when you were at Ontario airport, you reviewed 11:11:58  
6 Officer Myers' report?
- 7 A. Yes, I did.
- 8 Q. And you didn't correct the ten minutes that he wrote in  
9 his report?
- 10 A. No. I'm sorry. 11:12:12
- 11 Q. Mr. Brown doesn't look anything like he did on that day in  
12 this courtroom; correct?
- 13 A. What do you mean by that question?
- 14 Q. His appearance. Does it look the same as it did that day  
15 on the plane? 11:12:43
- 16 A. His appearance, I would definitely know that's Gary Brown  
17 right now. Is that what you're asking? His appearance? What  
18 do you mean by his appearance? I'm not -- like the way he  
19 looks right now?
- 20 Q. Yes. 11:12:56
- 21 A. Yes. He looks like who I seen on the plane.
- 22 Q. Did he have facial hair?
- 23 A. Yes. But he still -- his eyes, his nose, he looks the  
24 same to me. I mean, the hair color is the same.
- 25 Q. On the day on the plane, did he have facial hair? 11:13:15



## TANYA MEDINA - Cross

- 1 A. Maybe a little more around -- yeah. 11:13:19
- 2 Q. A little bit of facial hair?
- 3 A. I can't tell you. I can't. I mean, I can tell that's  
4 Gary Brown.
- 5 Q. But you don't know if he had facial hair on the airplane? 11:13:33
- 6 MR. DAY: Your Honor, objection. Asked and answered.
- 7 THE COURT: I'll allow her to answer this question.
- 8 Go ahead, please.
- 9 BY MS. WHITAKER:
- 10 Q. Feel free to stand up and look at him. 11:13:49
- 11 A. I believe he had facial hair. I can't -- I don't know how  
12 much it was or not. It could have been a little more.
- 13 Q. Goatee, beard?
- 14 A. You know, what I remember more is his eyes and his nose  
15 and his colored haired. 11:14:05
- 16 Q. How about the length of his hair?
- 17 A. It was a little shorter.
- 18 Q. A little shorter on the airplane?
- 19 A. Yeah. I think so. I'm not -- I just -- I can't give you  
20 details. I just know that's Gary Brown. 11:14:16
- 21 Q. Thank you.
- 22 MS. WHITAKER: No more questions, Your Honor.
- 23 THE COURT: All right.
- 24 Thank you, Ms. Whitaker.
- 25 Is there any redirect? 11:14:28

## TANYA MEDINA - Redirect

1 MR. DAY: There is, Your Honor. Thank you. 11:14:30

2 **REDIRECT EXAMINATION**

3 BY MR. DAY:

4 Q. Ms. Whitaker presented to you a report up there; correct?

5 A. Yes. 11:14:37

6 Q. And is that a report that was taken by the Phoenix Police  
7 Department on the night that you were interviewed?

8 A. Yes.

9 Q. And is it fair to say that that report is a summary of  
10 your statements and not a complete transcript of everything  
11 that you told the police officers? 11:14:46

12 A. Completely, yes.

13 Q. Now, when you got -- you say that flight was about four  
14 and a half hours; correct?

15 A. Yes. 11:14:58

16 Q. So you had just gotten off a four and a half hour flight  
17 that was completely full; correct?

18 A. Completely full.

19 Q. How did you feel physically?

20 A. A little tired. 11:15:06

21 MS. WHITAKER: Objection. Relevance.

22 THE COURT: Overruled.

23 You may answer.

24 THE WITNESS: Thank you.

25 I was a little tired, a little shocked, a little 11:15:12

## TANYA MEDINA - Redirect

1 stressful. Nerve wracking because my daughter was very upset, 11:15:15  
2 wanted to get out of there.

3 MS. WHITAKER: Objection, Your Honor, relevance.

4 THE COURT: Overruled.

5 THE WITNESS: Feeling just a lot of emotion, like I 11:15:30  
6 just wanted to get out of the plane and get -- tired, anxious,  
7 stressful, overwhelmed, worried about my daughter, you know, a  
8 lot of things going on.

9 Q. Did you have a connecting flight to catch?

10 A. Yes. And we were almost late. 11:15:45

11 Q. Now, Ms. Whitaker had asked you about if you had described  
12 or -- excuse me, if you told either the Phoenix police officer  
13 that evening or myself or Mr. Wente the nature of the touch  
14 that you had observed. Do you recall that?

15 A. I do recall talking to, maybe in Ontario a little bit 11:16:14  
16 about what we spoke about, about the way he touched her, but  
17 Arizona PD did not ask me at all how.

18 Q. Do you recall demonstrating for Phoenix PD?

19 A. No.

20 Q. Do you recall demonstrating for myself? 11:16:31

21 MS. WHITAKER: Objection, Your Honor, leading.

22 THE COURT: That's not a leading question.

23 Overruled.

24 THE WITNESS: I don't recall. I can't really put it  
25 all together. 11:16:40

1 BY MR. DAY: 11:16:41

2 Q. But as you sit here today, what do you remember the nature  
3 of the Gary Brown's hand as he touched Ms. Frye's breast?

4 A. Is it okay if I show rather than explain? His hand was on  
5 her right breast and it was kind of like -- I don't want to say 11:17:01  
6 cupping but his hands were open around her breast -- or her  
7 fingers. I'm sorry.

8 Q. So for the record, you had reached across your body with  
9 your hand with your fingers completely extended and with an  
10 open palm? 11:17:16

11 A. Yes.

12 Q. Was the open palm that was making contact with the breast?

13 A. Yes. Gary Brown's hand was on her right breast.

14 MR. DAY: No further questions, Your Honor.

15 THE COURT: May the witness be excused? 11:17:32

16 MR. DAY: Yes, Your Honor.

17 THE COURT: The question is to both counsel.

18 MS. WHITAKER: Yes. No objection, Your Honor.

19 THE COURT: You may step down, Ms. Medina. If you  
20 wanted to leave it right there. 11:17:40

21 (Witness excused.)

22 THE COURT: The Government may call its next witness.

23 MR. DAY: Thank you, Your Honor. The Government  
24 would call to the stand Ms. Kathryn Medina.

25 THE COURT: Ms. Medina. If you would stand up here 11:18:21

1 to the courtroom deputy and she will swear you in. 11:18:23

2 COURTROOM DEPUTY: Right up here. If you could  
3 please state your name, spell your last name and your first  
4 name for the record, please.

5 THE WITNESS: Kathryn Jo Medina. My first name is 11:18:33  
6 spelled K-A-T-H-R-Y-N; Medina, M-E-D-I-N-A.

7 COURTROOM DEPUTY: Raise your right hand, please.

8 (KATHRYN MEDINA, a witness herein, was duly sworn or  
9 affirmed.)

10 **DIRECT EXAMINATION** 11:18:44

11 BY MR. DAY:

12 Q. Good morning, ma'am.

13 A. Good morning.

14 Q. Can you please introduce yourself to the jury?

15 A. My name is Kathryn Joe Medina. 11:19:16

16 Q. And Ms. Medina, if you could pull that microphone closer  
17 and speak loudly into it.

18 A. Can you hear me?

19 Q. Ms. Medina, where do you currently reside?

20 A. I live in Duarte, California. 11:19:31

21 Q. And where is Duarte in relation to a larger city?

22 A. Los Angeles, Pasadena, Arcadia.

23 Q. And are you currently working? How do you occupy your  
24 days?

25 A. I am a homemaker. 11:19:43

KATHRYN MEDINA - Direct

- 1 Q. What do you do as a homemaker? 11:19:46
- 2 A. I take care of my grandkids and my sons, my family.
- 3 Q. I draw your attention to the date of August 11, 2015.
- 4 What were you doing that day?
- 5 A. August 11 -- you mean on the flight? 11:20:03
- 6 Q. What were you doing on that day?
- 7 A. Well, we had just come from my granddaughter who lives in
- 8 Maryland, her baby shower. We were visiting there and then we
- 9 were taking our flight home.
- 10 Q. And where were you flying from that day? 11:20:17
- 11 A. Baltimore.
- 12 Q. And if you remember, do you remember what airline you were
- 13 flying?
- 14 A. I think it was American.
- 15 Q. And do you remember about what time your flight was 11:20:27
- 16 scheduled to leave?
- 17 A. No. It was in the evening.
- 18 Q. And do you remember just in general or roughly where you
- 19 were seated on the flight?
- 20 A. I was on an aisle seat next to my granddaughter and my 11:20:40
- 21 daughter-in-law and my other granddaughter.
- 22 MR. DAY: Your Honor, permission to show to the
- 23 witness Government's Exhibit 1.
- 24 THE COURT: It's in evidence. You may publish.
- 25

United States District Court

## KATHRYN MEDINA - Direct

1 BY MR. DAY: 11:20:57

2 Q. Ms. Medina, I am showing you what has previously been  
3 admitted into evidence as Government's Exhibit 1 which is a  
4 seating diagram of the U.S. Airways Flight 703 on that day. It  
5 shows your seat. Is that diagram, does that appear to be 11:21:07  
6 accurate or consistent with where you were seated?

7 A. Yes.

8 Q. And who were you traveling with that day?

9 A. With my granddaughters and my daughter-in-law.

10 Q. And who is your daughter-in-law? 11:21:21

11 A. Tanya Medina.

12 Q. And you had mentioned that you were seated on the aisle.  
13 Do you know who the young lady was that was seated to your  
14 left?

15 A. Not at first. 11:21:33

16 Q. So you weren't traveling with that individual initially;  
17 correct?

18 A. No. No.

19 Q. And did you come to know or know that individual's name?

20 A. Yes. 11:21:44

21 Q. And what was her name?

22 A. Claudia.

23 Q. And if you could, just when you refer to individuals, just  
24 for the record, if you could refer to them by their first and  
25 last name. 11:21:54

## KATHRYN MEDINA - Direct

- 1 A. I don't know her last name. 11:21:55
- 2 Q. Okay. Very good. That makes perfect sense. And the  
3 individual seated closest to the window, did you know him?
- 4 A. No.
- 5 Q. Now, did you have any conversations with that individual 11:22:04  
6 prior to getting onto the airplane?
- 7 A. No.
- 8 Q. And once you were on the airplane, did you come before or  
9 after him to your seat?
- 10 A. Before. 11:22:17
- 11 Q. And when he came to his seat, did you have any  
12 conversations with him?
- 13 A. No.
- 14 Q. And that individual who was seated closest to the window  
15 in your row, do you see him in the courtroom here today? 11:22:25
- 16 A. I can't see.
- 17 Q. If you would like, you can stand up as well.  
18 Do you see him?
- 19 A. Yes.
- 20 Q. And if you could identify him by what he's wearing. 11:22:44
- 21 A. He's over there.
- 22 Q. And just by an item of clothing. What is he wearing?
- 23 A. It looks like a blue shirt.
- 24 MR. DAY: May the record reflect, Your Honor, that  
25 the witness has identified the defendant? 11:22:55



KATHRYN MEDINA - Direct

1 THE COURT: Yes. 11:22:57

2 MR. DAY: Thank you.

3 BY MR. DAY:

4 Q. You can have a seat, ma'am.

5 And while you were on that flight during the course 11:23:05  
6 of that flight, did you have any conversations with the  
7 defendant?

8 A. No.

9 Q. At some point during the flight, did something occur that  
10 brought your attention to the defendant? 11:23:16

11 A. Yes.

12 Q. And what was it that brought your attention to the  
13 defendant seated closest to the window?

14 A. He had put his hand on Claudia's breast and when I saw  
15 him, I yelled. I said, "Hey, you need to keep your hands to 11:23:32  
16 yourself."

17 Q. And prior to that happening, though, did anything come to  
18 your attention such that you were looking out for that type of  
19 activity?

20 A. He had his hand in his crotch and he kept moving it real 11:23:47  
21 fast.

22 Q. During the course of the flight, did your daughter-in-law,  
23 Ms. Tanya Medina, did she lean over and say anything to you?

24 A. Well, my granddaughter had tapped me on the shoulder and  
25 when I looked over, T, my daughter-in-law, she was trying to 11:24:06

KATHRYN MEDINA - Direct

1 tell me something and I -- she said something about purse but I 11:24:10  
2 really couldn't hear her so I unfastened my seat belt and I got  
3 up and walked across the aisle and I go, "What?"

4 And she said, "You need to keep your eye on him."  
5 She said, "I think I saw him." 11:24:26

6 I go, "Did you or didn't you?"

7 She goes, "I don't know. I'm not sure," she goes,  
8 "but just be aware."

9 And I go, "Okay." So then I went back to my seat and  
10 sat down. 11:24:40

11 Q. And what did you do after you sat down?

12 A. I kept my eye on him.

13 Q. And how did you do that? How did you go about keeping  
14 your eye on him?

15 A. Well, at first I was looking like this and then I 11:24:48  
16 pretended to be asleep like this (indicating) but I kept  
17 watching him because his hand kept moving so fast.

18 Q. When you say "like this," your head is resting on your  
19 right shoulder?

20 A. Yes. It was like this. 11:25:03

21 Q. Were your eyes closed?

22 A. No. Oh, no.

23 Q. And now you say his hand was like this, you seem to kind  
24 of have your hand cupped and you are kind of moving your  
25 fingers in towards your palm; correct? 11:25:15

KATHRYN MEDINA - Direct

- 1 A. Right. 11:25:17
- 2 Q. Now, what is it -- when you say his hand was "like this,"  
3 what do you mean by that? What was it doing?
- 4 A. It was in his crotch and it just kept -- he kept going  
5 like this (Indicating) and I go, "What is he doing?" You know. 11:25:27  
6 It was just odd to me. It's not something that I would see  
7 every day.
- 8 Q. And did you eventually see him -- did anything else happen  
9 after you had rested your shoulder and you had your eyes open?  
10 Is there anything else that you saw? 11:25:44
- 11 A. Well, he would move his hand like this (Indicating) and I  
12 go, you know, across his -- or his legs, his thighs and then,  
13 all of a sudden, he reached up and that is when I saw him and  
14 he had his hand on her and he was touching her. And when he --  
15 when I told him, "You need to keep your hands to yourself." 11:26:04  
16 And he looked at me like this (Indicating) and I -- I said,  
17 "Hey, I saw you. You had your hands on her."
- 18 And then Claudia and her mom, you know, they jumped  
19 up and had words with him.
- 20 Q. Now, you were demonstrating. What hand was it of his that 11:26:23  
21 you saw?
- 22 A. It was his right hand.
- 23 Q. And so to do that, would he have reached across his body?  
24 How did that occur?
- 25 A. Yes. 11:26:35

United States District Court

KATHRYN MEDINA - Direct

1 MS. WHITAKER: Objection, Your Honor. 11:26:36  
2 THE COURT: Sustained.  
3 You're going to need to ask it in a way that doesn't  
4 lead.  
5 BY MR. DAY: 11:26:40  
6 Q. How did you see him touch Ms. Frye with his right hand?  
7 A. His hand was, like, in his lap and then it went up and he  
8 was touching her.  
9 Q. Could you do it as if you were Mr. Brown?  
10 A. Yeah. He went like this (Indicating). He was there and 11:26:51  
11 he was going like this and like this.  
12 Q. And do you recall which breast it was that he touched?  
13 A. It was the right breast.  
14 Q. And you're certain of which -- are you certain of the part  
15 of the body that he was touching? 11:27:05  
16 A. I'm positive.  
17 Q. And how far would you say your eyes were from Ms. Frye's  
18 chest at this point in time?  
19 A. Well, she was seated right next to me so -- and it's  
20 really not spacious seats so I could see her just like this as 11:27:17  
21 plain as day.  
22 Q. And from the time that your daughter-in-law, Tanya Medina,  
23 had essentially told you that she had seen something, how long  
24 was it before --  
25 A. I really don't know. I couldn't say. 11:27:33

United States District Court

KATHRYN MEDINA - Direct

- 1 Q. And when you did see what you saw, how was the lighting? 11:27:41
- 2 A. The lighting -- I know the lighting was on behind me and  
3 her mom was reading in front of me. But when the lights went  
4 out, because people were talking behind me, I figured, oh, they  
5 are going to go to sleep or something. So the lights were out 11:27:56  
6 behind me but in front they were on because her mom was still  
7 reading.
- 8 Q. Was the level of the lighting a problem for you in what  
9 you saw?
- 10 A. No. 11:28:11
- 11 MS. WHITAKER: Objection, Your Honor. Leading.
- 12 THE COURT: I don't think that's leading.
- 13 THE WITNESS: No. I could see. I could see.
- 14 BY MR. DAY:
- 15 Q. And as you testified here today. I notice that you're 11:28:19  
16 wearing glasses. Are those prescription glasses?
- 17 A. Yes.
- 18 Q. And were you wearing those glasses the night of that  
19 flight?
- 20 A. Yes. 11:28:26
- 21 Q. And were you wearing those glasses at the time that you  
22 observed the defendant touch Ms. Frye?
- 23 A. Yes.
- 24 Q. Now, after you had jumped to your feet and told the  
25 defendant to keep his hands to himself, at that time did he say 11:28:46

KATHRYN MEDINA - Direct

1 anything to you? 11:28:49

2 A. No.

3 Q. What was his reaction?

4 A. He looked like, oh, I'm busted in my opinion.

5 Q. Afterwards -- at some point, did the flight attendants 11:29:02

6 arrive?

7 A. Yes.

8 Q. And at some point was somebody else sat in the seat next

9 to you?

10 A. Yes. 11:29:17

11 Q. And who was sat in that seat next to you?

12 A. His name was Steve.

13 Q. And how do you remember that? How do you know that?

14 A. Because they had asked me if I wanted to change seats and

15 I said no because I wanted to stay with my family. They said, 11:29:30

16 "Someone has already volunteered to take Claudia's seat and you

17 don't have to worry."

18 And I go, "Well, I'm not worried now because it's

19 out."

20 So when I sat down, I said, "Are you going to be my 11:29:41

21 bodyguard" --

22 MS. WHITAKER: Objection, Your Honor. It's all

23 hearsay.

24 THE COURT: I'm sorry. Repeat the objection?

25 MS. WHITAKER: Hearsay. 11:29:48

United States District Court

KATHRYN MEDINA - Direct

1 THE COURT: Hold on. 11:29:50  
2 Sustained.  
3 BY MR. DAY:  
4 Q. We'll leave it at the question. So you had asked this  
5 individual if he was going to be your bodyguard? 11:30:04  
6 A. Yes. And I asked him what his name was.  
7 Q. Okay. Now, after this individual, did you learn of what  
8 his profession was or was there any indication of what his  
9 profession was?  
10 MS. WHITAKER: Objection, Your Honor. Relevance. 11:30:19  
11 THE COURT: What is the relevance?  
12 MR. DAY: He was described as military.  
13 THE COURT: Okay. I'm going to sustain the  
14 objection.  
15 MR. DAY: That's fine, Your Honor. We'll move on. 11:30:29  
16 BY MR. DAY:  
17 Q. After this particular individual Steve was sat in the seat  
18 where Ms. Frye had been seated, were there other -- any further  
19 incidents that occurred on the flight?  
20 A. Yes. At one point I wasn't looking that way but I heard 11:30:41  
21 Steve say, "She doesn't want you looking at her. Turn around."  
22 MS. WHITAKER: Objection, Your Honor. Hearsay.  
23 THE COURT: What's the purpose of the offering of  
24 that statement?  
25 MR. DAY: We can withdraw it, Your Honor. I just 11:30:57

United States District Court

KATHRYN MEDINA - Direct

1 wanted to establish that there was no further activity before. 11:30:58

2 I mean if there was a statement, there could be an excited  
3 utterance but we'll withdraw it.

4 THE COURT: The question is withdrawn. The partial  
5 answer is stricken. Jury trial is not to consider that. 11:31:10

6 MR. DAY: May I have one moment, Your Honor?

7 THE COURT: Yes.

8 MR. DAY: I may have made an error.

9 BY MR. DAY:

10 Q. Ms. Medina, in my questioning I may have mentioned the 11:31:36  
11 young woman on your right. But where was Ms. Frye seated in  
12 relation to you?

13 A. Right next to me, on my right.

14 Q. She was.

15 Did you ever see any interaction between Ms. Frye and 11:31:57  
16 Mr. Brown that led you to believe that they were together in  
17 any way?

18 A. No.

19 Q. Was there ever any conversation that you observed between  
20 those two? 11:32:10

21 A. No.

22 MR. DAY: Thank you, Your Honor. Nothing further.  
23 Thank you.

24 THE COURT: All right.

25 Go ahead, Ms. Whitaker. 11:32:28



## KATHRYN MEDINA - Cross

1 MS. WHITAKER: Thank you. 11:32:31

2 CROSS - EXAMINATION

3 BY MS. WHITAKER:

4 Q. Good morning.

5 A. Good morning. 11:32:38

6 Q. Did I hear correctly that you live with your

7 daughter-in-law?

8 A. No. I don't.

9 Q. But you are involved with their -- her life frequently?

10 A. Oh, yes, of course. I'm family. 11:32:48

11 Q. And do you baby-sit daily?

12 A. Yes, I do, not for T and Danny but for my others.

13 Q. Oh. Okay. So you've got a couple of sets of grandkids?

14 A. Oh, yes, I have nine grandkids and three greats.

15 Q. On that day you were traveling with your daughter-in-law? 11:33:13

16 A. Daughter-in-law, right.

17 Q. And your granddaughters?

18 A. Two granddaughters.

19 Q. And you care about your family?

20 A. Oh, definitely. 11:33:28

21 Q. And you would do anything to protect them?

22 A. Right. Right.

23 Q. So if somebody were to tell you to be vigilant, you would

24 be vigilant?

25 A. Right. 11:33:37

## KATHRYN MEDINA - Cross

- 1 Q. You had an interview in May with an FBI agent? 11:33:51
- 2 A. Right.
- 3 Q. And you rode with your daughter-in-law to that  
4 appointment?
- 5 A. Right. 11:33:59
- 6 Q. And I assume you've discussed this incident before between  
7 you and Ms. Medina?
- 8 A. When it happened but we live far away but it's there.  
9 It's there. But, no, we don't talk about it like every day or  
10 conversation or like that. Something that happened. We talked 11:34:16  
11 about it and that was it.
- 12 Q. And when you were riding to that appointment with the FBI,  
13 you didn't discuss it?
- 14 A. No, not really. We were more anxious about who we were  
15 going to meet and -- No. We talked about the kids and things 11:34:31  
16 that were happening.
- 17 Q. And you said anxious, why were you anxious?
- 18 A. It's funny because we -- she watches a lot of TV and she  
19 goes, "Oh," she goes, "They are coming out here. They are  
20 coming out here." 11:34:47
- 21 And then I go, "Well, yeah." And then I told her,  
22 "T, you watch too much TV."
- 23 She goes, 'Oh, they are going to know where we live,"  
24 and this and that.
- 25 And I go, "They already have your contact 11:34:56

## KATHRYN MEDINA - Cross

- 1 information. There's a satellite. They know so what are you 11:34:58  
2 afraid of?"
- 3 Q. So was the idea that they were FBI agents?
- 4 A. Yes. Right.
- 5 Q. So you were excited to meet the FBI agent? 11:35:06
- 6 A. Right. And we kept -- because we had talked to them, she  
7 says, "What do you think he looks like? What do you think he  
8 looks like?" So we were describing it in totally different,  
9 the voices.
- 10 Q. And on that day when you were going to that interview with 11:35:21  
11 the FBI, you understood the seriousness of the incident?
- 12 A. Right.
- 13 Q. And with that, you wanted to be forthcoming with your  
14 answers? You wanted to be honest?
- 15 A. Right. Right. 11:35:38
- 16 Q. And you wanted to give full explanations?
- 17 A. Right.
- 18 Q. And when you got there, you had an opportunity to review  
19 the Phoenix Police Department report?
- 20 A. Right. 11:35:55
- 21 Q. And you read through it?
- 22 A. M'hum.
- 23 Q. And they asked you if you had any corrections or  
24 clarifications?
- 25 A. Right. 11:36:02

## KATHRYN MEDINA - Cross

- 1 Q. And did you have any? 11:36:03
- 2 A. Just one. I believe where they said he was dazed and I  
3 go, "Dazed? No. I don't think so. I think it was like  
4 busted."
- 5 Q. You didn't say that he was more surprised? 11:36:20
- 6 A. Yeah, surprised like you're busted. Okay, you're  
7 surprised.
- 8 Q. And that surprise was when you were yelling at him?
- 9 A. Yes, because he sat back in his seat and he just looked  
10 and then I told him, "I saw you. I saw you. You had your 11:36:36  
11 hands on her."
- 12 Q. And so you were pointing at him and yelling at him and he  
13 was surprised?
- 14 A. No. I yelled at him first and I think that's why he was  
15 surprised, because he was caught. 11:36:47
- 16 Q. And at that time the lights were off on the plane?
- 17 A. No. They weren't. I could see because the light in the  
18 seat in front of me was on so I could see him.
- 19 Q. The overhead lights, though, on the plane, they were  
20 turned off? 11:37:03
- 21 A. Right. Yes.
- 22 Q. And the aisleway just had those two running lights?
- 23 A. Right.
- 24 Q. And you're saying that Ms. Frye's mother had her reading  
25 light in front? 11:37:14

## KATHRYN MEDINA - Cross

- 1 A. Right. 11:37:15
- 2 Q. You also had an opportunity to talk with my defense  
3 investigator?
- 4 A. Right.
- 5 Q. Mr. Toledo? 11:37:30
- 6 A. Right.
- 7 Q. And you spoke with him on the telephone and you told  
8 Mr. Toledo that you would have had no idea about this incident  
9 if your daughter-in-law had not told you about it?
- 10 A. Right. Right. She's the one that alerted me. 11:37:43
- 11 Q. And she was leery of Mr. Brown?
- 12 A. Right, from what she had seen?
- 13 Q. And she told you that she thought what she had --
- 14 A. Well, she said she saw him and I go, "Did you or didn't  
15 you?" 11:38:00
- 16 And she goes, "Well, I think I did but I'm really not  
17 sure." She said, "Should I call the flight attendant?"
- 18 I said, "Well, did you see him? Are you sure?"
- 19 And she said, "Just keep an eye on him. Just keep an  
20 eye on him." 11:38:12
- 21 Q. So she wasn't sure?
- 22 A. Well, I think she was but she was just -- didn't want to  
23 make a big, you know, commotion out of it and maybe -- I don't  
24 know. But she said yes. She wouldn't have told me if she  
25 didn't think that's what she saw. 11:38:27

## KATHRYN MEDINA - Cross

- 1 Q. Prior to that situation coming to your attention from your 11:38:33  
2 daughter-in-law, you didn't see Mr. Brown rubbing his elbow on  
3 Ms. Frye?
- 4 A. No. I just -- he was fidgeting but I thought he was  
5 settling in his seat. 11:38:47
- 6 Q. Didn't see him touch her thigh?
- 7 A. Well, again, too, he had leaned over but I thought he was  
8 fixing his backpack so he could have or he couldn't.
- 9 Q. But you didn't see it for certain?
- 10 A. No. I didn't take notice of it, you know, at the time. 11:39:04
- 11 Q. And you didn't see him pull on the sleeve of her  
12 sweatshirt?
- 13 A. Again, he was like this and he was moving so no, I  
14 didn't -- I thought he was settling in his seat.
- 15 Q. So you didn't see him pull on the sleeve of her 11:39:21  
16 sweatshirt?
- 17 A. No.
- 18 Q. And after your daughter-in-law described what she thought  
19 she saw, you didn't touch the flight attendant button?
- 20 A. No. 11:39:47
- 21 Q. You didn't call the flight attendant over?
- 22 A. No.
- 23 Q. And when you were talking with Mr. Toledo on the  
24 telephone, you said that your head was there down on your  
25 shoulder? 11:40:02

## KATHRYN MEDINA - Cross

- 1 A. Like this (Indicating). 11:40:03
- 2 Q. And you were watching out of the side of your vision?
- 3 A. I was two eyes like this (indicating). I could see.
- 4 Q. And you said that you saw it out of the side of your  
5 vision? 11:40:15
- 6 A. No. I did tell him because he kept -- Mr. Brown kept  
7 leaning forward. He kept leaning forward so I could see that  
8 from my peripheral vision. And at one point I turned like this  
9 and I looked at him and I made eye contact and he sat back like  
10 this (Indicating). 11:40:33
- 11 Q. But with your -- so your head was down on your shoulder?
- 12 A. It was like this, not on my shoulder like this  
13 (Indicating). It was down like this where I had perfect view  
14 of Claudia and what he did.
- 15 Q. And I'm sorry. I wasn't quite certain. Are these the 11:41:13  
16 exact same glasses that you had that day?
- 17 A. Yes.
- 18 Q. And you described in your testimony earlier that he was,  
19 you know, fidgeting, moving his hands?
- 20 A. One hand. 11:41:42
- 21 Q. Oh. Okay. One hand. Which hand was that?
- 22 A. It was his right hand.
- 23 Q. His right hand. And he was touching himself?
- 24 A. Right.
- 25 Q. You said that he touched his crotch area? 11:41:51

## KATHRYN MEDINA - Cross

- 1 A. Right. 11:41:53
- 2 Q. And was that briefly?
- 3 A. No.
- 4 Q. So a long period of time he was touching his crotch area?
- 5 A. Yes. 11:42:01
- 6 Q. And he was rubbing?
- 7 A. He was going like this (Indicating). That's not rubbing.
- 8 That's grabbing or squeezing.
- 9 Q. Squeezing. But you didn't call a flight attendant?
- 10 A. No. Because -- can I explain? Men itch and they do do 11:42:14
- 11 that, even in public, so I thought he had an itch.
- 12 Q. So just an itch?
- 13 A. Yes. But after it continued for so long I go, no, I don't
- 14 think so.
- 15 Q. But you didn't call a flight attendant? 11:42:29
- 16 A. No.
- 17 Q. You talked to Phoenix police right after you got off the
- 18 plane?
- 19 A. Right.
- 20 Q. And you gave them a statement? 11:42:46
- 21 A. Right.
- 22 Q. And in that statement you said that that Mr. Brown I
- 23 believe pressed on the breast was the terminology you used?
- 24 A. I demonstrated so I don't know how they worded but he went
- 25 like this (Indicating). 11:43:03



## KATHRYN MEDINA - Cross

- 1 Q. Okay. And when you talked to Mr. Toledo, you described it 11:43:05  
2 as a pat?
- 3 A. The way when I -- I did it to myself like that and it  
4 wasn't like that. It was like -- (Indicating). I guess --
- 5 Q. And that conversation was recorded? 11:43:24
- 6 A. Okay.
- 7 Q. And you described it as a pat?
- 8 A. Well, it was recorded and it was a pat, it was a pat. If  
9 you see it, it was more like a pat. It could be like very  
10 gentle but it wasn't. 11:43:39
- 11 Q. And after the flight attendant arrived, you went to the  
12 back of the plane.
- 13 A. Right.
- 14 Q. And when you went back there, you talked to Ms. Frye?
- 15 A. Right. 11:43:55
- 16 Q. And you consoled her?
- 17 A. Right.
- 18 Q. Tried to make her feel better?
- 19 A. Yes.
- 20 Q. You talked with her about the incident? 11:44:07
- 21 A. Yes.
- 22 Q. And --
- 23 A. Well, I just told her, "I'm so sorry. I'm so sorry," and  
24 she -- and I hugged her and I said, "I have a daughter and I  
25 have granddaughters, so I'm so sorry." 11:44:19

## KATHRYN MEDINA - Redirect

1 Q. Prior to today, you've never stated that it was the right 11:44:34  
2 breast to any of the people that interviewed you?

3 A. If they asked me -- well, I always demonstrated it was  
4 the -- this one. I wouldn't go like this. It was the right  
5 breast. The right breast is what I saw and that is what I 11:44:50  
6 would have said.

7 Q. And Ms. Frye was wearing a big sweatshirt?

8 A. No. It wasn't a hoody but it wasn't a heavy sweatshirt.  
9 It was a light one.

10 Q. And a T-shirt? 11:45:06

11 A. Yes.

12 Q. So when you saw that movement, it was dark?

13 A. It wasn't dark. Well, you might say it was dark behind me  
14 but I saw what I saw. I saw it. I saw him.

15 MS. WHITAKER: Thank you, Your Honor. No more 11:46:08  
16 questions.

17 THE COURT: All right. Thank you, Ms. Whitaker.  
18 Any redirect, Mr. Day?

19 MR. DAY: Yes, Your Honor, just briefly.

20 **REDIRECT EXAMINATION** 11:46:13

21 BY MR. DAY:

22 Q. Ms. Medina, unfortunately, these proceedings aren't  
23 videotaped so we have to be very descriptive when you  
24 demonstrate something.

25 So would it be fair to say that when you demonstrated 11:46:23

## KATHRYN MEDINA - Redirect

1 that your head was on your right shoulder, that it's your chin 11:46:26  
2 that is touching your right shoulder and not your ear; correct?  
3 A. My chin can barely touch me -- I wasn't like this and this  
4 is my right shoulder and this is my chin so, no, it was not  
5 like that. It was down like this. 11:46:39  
6 Q. So your chin is down and you're kind of looking down  
7 towards your --  
8 A. It's not even touching my chest. It's just down.  
9 Q. And you would be kind of looking down at your right elbow;  
10 correct? 11:46:50  
11 A. Right.  
12 Q. And you had also demonstrated on yourself, if you will,  
13 what you observed as far as the breast touch of Ms. Frye.  
14 Could you demonstrate that for us one more time?  
15 A. (Witness complies). 11:47:06  
16 Q. And you just kind of have your right arm out extended 90  
17 degrees and you have an open palm on your right breast; is that  
18 right?  
19 A. Right. Right.  
20 MR. DAY: No further questions, Your Honor. 11:47:20  
21 THE COURT: Okay. Can I see counsel at sidebar for a  
22 moment?  
23 Ladies and gentlemen of the jury, from time to time,  
24 it may be necessary for me to take up matters with the  
25 attorneys at a bench conference. You've seen it once or twice. 11:47:32

## KATHRYN MEDINA - Redirect

1 We will do what we can to keep the number of those conferences 11:47:34  
2 to a minimum.

3 (At sidebar.)

4 THE COURT: Counsel, thank you. I advised or  
5 instructed the jury yesterday about the opportunity to ask 11:47:47  
6 questions. The slips are there. I have not reminded them  
7 after each of the witnesses. I hesitate to do it now because  
8 of a disconnect between the treatment of the two witnesses that  
9 have gone already and the witnesses that go forward in the  
10 future. I would like to hear you both on that just to inform 11:48:05  
11 my decision fully.

12 At the moment, I'm inclined to remain consistent but  
13 I want to hear both of you.

14 MR. DAY: Brett Day from the Government. Definitely  
15 I would agree. Let's remain consistent and not allow 11:48:21  
16 questions. Do not give them the opportunity to ask questions  
17 going forward. I don't think it's been observed.

18 THE COURT: Well, I don't want to say that I didn't  
19 give them the opportunity because I instructed them and the  
20 forms are there; but I have fear that if I emphasize the 11:48:34  
21 availability, I'm treating the witnesses inconsistently.

22 Ms. Whitaker?

23 MS. WHITAKER: I would agree.

24 THE COURT: All right. Then that's what I could do.

25 MR. DAY: While we're here, Your Honor, can we take 11:48:45

1 up scheduling matters? We have one more witness. I think he's 11:48:47  
2 the flight attendant. He should be rather quick. My concern  
3 is because we pushed this into another day, his flight is  
4 scheduled to leave and he's to leave at 2:45.

5 THE COURT: We are going to continue to 12:15. 11:49:01

6 MR. DAY: If we can do that, that would be great.  
7 Thank you.

8 (End of sidebar discussion.)

9 THE COURT: While the Government is calling its next  
10 witness into the room, we have one major break every morning 11:49:10  
11 and one in the afternoon. I also attempt to give people an  
12 opportunity to stretch in their places; so if you wanted to  
13 stand up and take a stretch break now, please do so, and that  
14 includes anyone in the gallery and in the well.

15 And the witness may be excused, counsel? 11:49:31

16 MR. DAY: Yes, Your Honor.

17 MS. WHITAKER: Yes, Your Honor.

18 THE COURT: All right.

19 Thank you, Ms. Medina. You may be excused.

20 (Witness excused.) 11:49:37

21 MR. DAY: Would you like me to call my next witness,  
22 Your Honor?

23 THE COURT: Please do.

24 MR. DAY: Your Honor, the Government will call  
25 Mr. Holt Bowling. 11:49:43

1 THE COURT: Mr. Bowling, if you would step forward to 11:50:23  
2 the courtroom deputy and she will swear you in.

3 COURTROOM DEPUTY: Please state your name and spell  
4 your last name for the record.

5 THE WITNESS: Holt Bowling. B-O-W-L-I-N-G. 11:50:34

6 (HOLT BOWLING, a witness herein, was duly sworn or  
7 affirmed.)

8 **DIRECT EXAMINATION**

9 BY MR. DAY:

10 Q. Good morning, Mr. Bowling. Can you please introduce 11:51:04  
11 yourself to the jury?

12 A. Yes. I'm Holt Bowling.

13 Q. And, sir, if you could just make sure you pull that  
14 microphone close to you and speak loudly into it.

15 Mr. Bowling, how are you currently employed? 11:51:14

16 A. I work for American Airlines.

17 Q. And how long have you been working for American Airlines?

18 A. Three years and three months.

19 Q. And what is your role or position with American Airlines?

20 A. I'm a flight attendant. 11:51:25

21 Q. Now, throughout this trial we've kind of heard American  
22 Airlines. We've heard U.S. Airways. Can you explain to the  
23 jury what is the relationship between those two entities?

24 A. The two companies merged.

25 Q. And so American Airlines, is that a commercial airline 11:51:39

## HOLT BOWLING - Direct

1 operating in the United States? 11:51:42

2 A. Yes.

3 Q. And were you working for American or U.S. Airways on  
4 August 11 of 2015?

5 A. Yes. 11:51:51

6 Q. And what were you doing that day?

7 A. I was working the flight from Baltimore to Phoenix.

8 Q. And do you remember the particular flight number of that  
9 flight?

10 A. Flight 703. 11:51:59

11 Q. And if you can remember, do you remember roughly about  
12 when you were scheduled to depart?

13 A. It was in the evening. I don't remember the exact time.

14 Q. And I believe you stated but where was that flight headed?

15 A. From Baltimore to Phoenix. 11:52:14

16 Q. And, normally, what is the length of that flight?

17 A. Probably, depending on winds, anywhere from four to five  
18 hours.

19 Q. Is that a flight that you had worked previously or were  
20 familiar with? 11:52:28

21 A. No. Because it was a flight that was usually operated by  
22 American West crews.

23 Q. Okay. What was the capacity of the flight that particular  
24 day?

25 A. 188. 11:52:41

## HOLT BOWLING - Direct

- 1 Q. And how many passengers is that plane capable of holding? 11:52:42
- 2 A. 188.
- 3 Q. So fair to say it was a completely full flight?
- 4 A. No empty seats.
- 5 Q. And what were your particular responsibilities that day on 11:52:51  
6 the flight?
- 7 A. My responsibilities for that flight was I briefed my exit  
8 rows, helped with boarding, and then in the case of an  
9 emergency, I will evacuate the plane at the 3L and 3R door.
- 10 Q. You would help evacuate the plane in what situation? 11:53:09
- 11 A. At the doors. The doors are numbered so where I sit, I  
12 would operate both of those doors which we call the 3L and 3R.
- 13 Q. And is there a particular set of rows within the airplane  
14 or the passengers that you are responsible for?
- 15 A. Not in particular. But where I am positioned in the 11:53:29  
16 flight, I would be responsible for main cabin passengers.
- 17 Q. And did an incident occur on that flight that day?
- 18 A. Yes.
- 19 Q. And what first brought your attention to that particular  
20 incident? 11:53:50
- 21 A. I heard families yelling and they were ringing their call  
22 bell buttons.
- 23 Q. And did you respond to those call buttons and that  
24 screaming?
- 25 A. Yes. 11:54:00



## HOLT BOWLING - Direct

- 1 Q. And when you responded, what did you observe? 11:54:01
- 2 A. I observed that a passenger named Claudia, she had said  
3 that the passenger beside her had inappropriately touched her  
4 while she was sleeping. And at the meantime, the other  
5 passenger beside her, named Kathryn, said that she saw that 11:54:15  
6 other passenger, Gary Brown, touching her while she was  
7 sleeping.
- 8 Q. And what steps, if any, did you take after learning this  
9 information? What did you do as a flight attendant?
- 10 A. Well, at that point it's my job to neutralize the 11:54:29  
11 situation, so we immediately took Claudia and then her mother,  
12 who was sitting on the row in front of her, to the back of the  
13 galley. Kathryn, who was sitting beside them as well, followed  
14 and then I got the other female flight attendant to help  
15 comfort them while I took down some of the information and gave 11:54:43  
16 it to the captain so that he could let the authorities know  
17 what we need to do in terms of if the flight needs to be -- if  
18 we need to land now or if we're going to go all the way to  
19 Phoenix depending on how serious the case is.
- 20 Q. And as part of your duties, so it's -- you detail or 11:55:02  
21 document what you learn of the incident. Is that what you are  
22 explaining?
- 23 A. M'hum.
- 24 Q. Is that a yes?
- 25 A. Yes. 11:55:15

## HOLT BOWLING - Direct

- 1 Q. And you said you provide that to the flight crew? 11:55:16
- 2 A. Yes.
- 3 Q. And is that just in the form of notes or how do you do  
4 that?
- 5 A. Originally, yes, we just kind of jot it down. But then we 11:55:22  
6 have a formal board that we use a template so that we don't  
7 leave out any details. And then, obviously, during that time,  
8 while I was letting the captain know, I let the rest of the  
9 flight crew know what was going on.
- 10 Q. Now, you stated that Claudia Frye in this particular case 11:55:37  
11 that she had gone to the back of the plane, you had asked her  
12 to come to the back of the plane and you had also mentioned  
13 Kathryn Medina came to the back of the plane. Is that unusual  
14 that you would have another passenger come to the back of the  
15 plane? 11:55:57
- 16 A. The whole situation is unusual.
- 17 Q. And was there any particular reason that you had Kathryn  
18 Medina come to the back of the plane?
- 19 A. I didn't ask her to come to the back but I think she felt  
20 like a motherly instinct in order to comfort Claudia. 11:56:06
- 21 Q. And what was Claudia's emotional state? How would you  
22 describe that?
- 23 A. Distraught.
- 24 Q. At the time?
- 25 A. Distraught. 11:56:15

## HOLT BOWLING - Direct

1 Q. Did you eventually take steps to -- let me ask you this. 11:56:20  
2 I'll back up. The person that was seated to -- seated next to  
3 Ms. Frye, did you have an opportunity to identify that  
4 particular individual?

5 A. Yes. At that time I went to the front of the plane where 11:56:38  
6 we have a form called our final manifest and it includes all  
7 passenger names with their seating assignment. So I went and  
8 got that and I went to Gary Brown and I said, "Is your name  
9 Gary Brown?"

10 And he said, "Yes." 11:56:56

11 And so then I called the captain and let him know  
12 that this was the correct person sitting in that seat. And we  
13 do that just in case, to make sure that nobody changed seats  
14 during boarding.

15 Q. And if I may, Your Honor, I would like to show you what 11:57:05  
16 has been marked for identification as Government's Exhibit  
17 Number 2.

18 Do you see that particular document in front of you,  
19 sir?

20 A. Yes. 11:57:31

21 Q. And you had -- let me ask you, what is that particular  
22 image that you're looking at in front of you there?

23 A. This is the final manifest.

24 Q. And where did this particular image come from?

25 A. I took a screen shot -- I took a picture from my cell 11:57:43

## HOLT BOWLING - Direct

1 phone. 11:57:48

2 Q. And the flight manifest, if you could just describe for  
3 the jury, what is the purpose of it? What is it?

4 A. It's really just a way for us to communicate effectively  
5 in between the pilots and the gate agents so the gate agents 11:57:55  
6 give us this form. We have all passenger information including  
7 connecting flights. We have phone numbers in case we need to  
8 contact the gate agent. A lot of things that we wouldn't  
9 really think that are that important but, you know, just little  
10 helpful things along the way if you need to reference something 11:58:12  
11 for a passenger.

12 Q. Is the flight manifest, is this something that American  
13 Airlines or U.S. Airways generates for every flight?

14 A. Yes.

15 Q. And is it a document that they utilize in the normal 11:58:22  
16 course of their business activities?

17 A. Yes.

18 Q. And is it a document that is important that the  
19 information that it contains is accurate?

20 A. Yes. 11:58:37

21 MR. DAY: Your Honor, at this time I would move for  
22 the admission of Government's Exhibit 2.

23 MS. WHITAKER: Objection, Your Honor. Foundation.

24 THE COURT: What is missing?

25 MS. WHITAKER: The data underlying this document. He 11:58:49

## HOLT BOWLING - Direct

1 has no ability to verify its authenticity. It's hearsay within 11:58:51  
2 hearsay.

3 THE COURT: Give me one second, please.

4 No, both layers of hearsay would be eliminated and  
5 there's not a foundation issue. The objection is overruled. 11:59:31  
6 The exhibit will be admitted.

7 (Exhibit Number 2 was admitted into evidence.)

8 MR. DAY: Thank you.

9 Permission to publish?

10 THE COURT: You may. 11:59:38

11 BY MR. DAY:

12 Q. Mr. Bowling, the jury now is able to see the document that  
13 you have since been able to look at. What is the information  
14 that is underlined there on that particular document?

15 A. I underlined Gary Brown's name as the one that 11:59:53  
16 inappropriately touched Claudia.

17 Q. And why was it that you thought to take this picture and  
18 to underline that name?

19 A. Because I wanted to make sure that I fully documented  
20 everything correctly into our system when I got to my hotel. 12:00:05

21 Q. And I believe you mentioned this but now in the context of  
22 this document, how did you confirm that the person -- let me  
23 ask you this: There's another 28F there right next to the name  
24 of Gary Brown. What does that 28F designate?

25 A. His seat number. 12:00:24

## HOLT BOWLING - Direct

1 Q. And did you go to the particular individual in that 12:00:25  
2 particular seat and ask him --

3 A. "Yes."

4 Q. -- if he was Gary Brown?

5 A. Yes. 12:00:30

6 Q. And what was his response?

7 A. Yes.

8 Q. During the course of that flight, did you have regular  
9 service, drink service if you will, provide your normal  
10 services? 12:00:45

11 A. Yes.

12 Q. And was there anything unusual about that flight as far as  
13 the weather or turbulence or anything else that sticks out in  
14 your mind?

15 A. No. 12:00:55

16 Q. The person that you spoke to that was seated in row 28F,  
17 Gary Brown, do you see him in the courtroom here today?

18 A. Yes.

19 Q. And if you could, just describe him with an article of  
20 clothing that he's wearing? 12:01:14

21 A. A blue shirt.

22 MR. DAY: Your Honor, may the record reflect that the  
23 witness has identified the defendant?

24 THE COURT: It may.

25 MR. DAY: Thank you. 12:01:23

## HOLT BOWLING - Direct

1 BY MR. DAY: 12:01:23

2 Q. Now, we talked a little bit about the steps that you take.  
3 You said you took some notes and you provided that to the  
4 flight crew; is that correct?

5 A. Yes. 12:01:32

6 Q. And when you mentioned the flight crew, is that the pilot?

7 A. It's just all-encompassing so that means the other flight  
8 attendants as well because I want to make sure that everybody  
9 is on the same page.

10 Q. And was a decision ultimately made to notify the police at 12:01:43  
11 the destination airport?

12 A. Yeah, without a doubt.

13 Q. And who makes that determination? Who makes that  
14 decision?

15 A. The pilots are the only ones that would have access to 12:02:00  
16 contact the ground control that can then get that information  
17 to Phoenix Sky Harbor police.

18 Q. And I believe you already mentioned this but did you  
19 eventually reseat Ms. Frye to another location?

20 A. Yes. 12:02:19

21 Q. And if you recall, was another individual resealed into  
22 her seat?

23 A. Yes.

24 Q. And did you continue on the flight as a flight attendant  
25 from Phoenix, Arizona, to Portland? 12:02:35

## HOLT BOWLING - Direct

- 1 A. Yes. 12:02:36
- 2 Q. And was Mr. Brown present on that flight?
- 3 A. No.
- 4 Q. And why not?
- 5 A. Because he was detained once we landed in Phoenix. 12:02:43
- 6 Q. If you remember, was Ms. Frye and her mother, did they
- 7 continue on the flight to Portland?
- 8 A. Yes.
- 9 MR. DAY: May I have a moment, Your Honor?
- 10 (Counsel confer.) 12:03:51
- 11 BY MR. DAY:
- 12 Q. Sir, I just want to make sure this is very clear because
- 13 there seems to be a bit of confusion between U.S. Airways and
- 14 American Airlines. What did you say that the relationship was
- 15 between those two entities? 12:04:03
- 16 A. The two companies merged.
- 17 Q. And that particular flight that evening, do you remember
- 18 what brand, if will you, that flight was flying under?
- 19 A. U.S. Airways.
- 20 Q. Now, this particular document that we're looking at there, 12:04:24
- 21 the Government's Exhibit 2, it identifies the person in seat
- 22 28F as Gary Arthur Brown, Jr.; is that correct?
- 23 A. Yes.
- 24 Q. And is that what you asked that person --
- 25 A. Yes. 12:04:39



## HOLT BOWLING - Cross

- 1 Q. -- sitting in that seat? What did you ask him 12:04:39  
2 specifically?
- 3 A. I said, "Is your name Gary Brown?"  
4 And he said, "Yeah."
- 5 Q. Now, this particular document, though, says Gary Arthur 12:04:48  
6 Brown, Jr., but you just simply asked Gary Brown; is that  
7 correct?
- 8 A. Yes.
- 9 Q. And if I didn't -- did I previously ask you to identify  
10 the defendant in this case? 12:05:00
- 11 A. Yes. He's sitting between those two attorneys over there.
- 12 Q. Thank you.
- 13 MR. DAY: No further questions, Your Honor. Thank  
14 you.
- 15 THE COURT: All right. Ms. Whitaker, any cross? 12:05:09
- 16 MS. WHITAKER: Thank you.
- 17 **CROSS - EXAMINATION**
- 18 BY MS. WHITAKER:
- 19 Q. Good afternoon.
- 20 A. Good afternoon. 12:05:19
- 21 Q. You just testified that the gentleman at the table is  
22 Mr. Brown. Did he look the same on August 11, 2015?
- 23 A. He had facial hair.
- 24 Q. How about his hair? Is it the same?
- 25 A. I don't remember. 12:05:42

## HOLT BOWLING - Cross

- 1 Q. What did the facial hair look like? 12:05:44
- 2 A. Scruffy.
- 3 Q. Long beard?
- 4 A. I don't recall the length of the beard.
- 5 Q. You said scruffy. What does that mean for you? 12:05:53
- 6 A. It's not maintained.
- 7 Q. Kind of jaggedy?
- 8 A. Like wispy.
- 9 Q. On August 11, you didn't make a statement to the police?
- 10 A. No. 12:06:16
- 11 Q. You never stepped off the plane and talked with one of the
- 12 officers?
- 13 A. No.
- 14 Q. And they did not ask you about your involvement in this
- 15 situation? 12:06:27
- 16 A. When they stepped onto the plane, they asked me to
- 17 identify the man and I pointed and then they took him off.
- 18 Q. But that was the entirety of your conversation with the
- 19 Phoenix PD?
- 20 A. Yes. M'hum. 12:06:37
- 21 Q. And you didn't talk to the FBI until ten months later?
- 22 A. Yes.
- 23 Q. And you were interviewed over the telephone?
- 24 A. Yes.
- 25 Q. And prior to your testimony today, you talked with the 12:06:54

## HOLT BOWLING - Cross

1 prosecutor? 12:06:56

2 A. Yes.

3 Q. How many times?

4 A. In person, once.

5 Q. How about over the telephone? 12:07:00

6 A. Twice.

7 Q. So you discussed the situation with them?

8 A. Yes. They just asked for my side of the story.

9 Q. Fair to say that working as flight attendant, there's a

10 lot of rules? 12:07:20

11 A. Yes.

12 Q. That you have to follow a lot of protocols?

13 A. Yes.

14 Q. And you have a lot of steps that you go through every day?

15 A. Yes. 12:07:26

16 Q. Over and over?

17 A. Yes.

18 Q. And part of that process is the on-boarding process?

19 A. Yes.

20 Q. And part of that process is serving drinks? 12:07:39

21 A. Yes.

22 Q. What is the elevation that you would typically serve

23 drinks? Is there -- how do you know, as a flight attendant,

24 when it's time?

25 A. We usually wait anywhere from 35 to 45 minutes after 12:07:51

## HOLT BOWLING - Cross

1 taking off to serve drinks. 12:07:57

2 Q. And then once the drinks are served, how long after that

3 would you go by and collect the drinks, cups?

4 A. Immediately afterwards.

5 Q. And this was in particular a night flight? 12:08:11

6 A. Yes.

7 Q. And a night flight has a special meaning, I would assume,

8 for flight attendants?

9 A. In this case, no, because it's not considered a red eye.

10 Q. Okay. In your report, you considered it a night flight. 12:08:24

11 What did that mean when you said night flight?

12 A. A night flight you still do two services. If you were to

13 do a red eye, you would only do one service because of

14 everybody is sleeping.

15 Q. Okay. And when are the lights dimmed on a night flight? 12:08:37

16 A. After we complete our first service.

17 Q. So you would go by and you would serve the drinks?

18 A. M'hum.

19 Q. And then you would immediately collect the cups?

20 A. M'hum. 12:08:51

21 Q. And then you would turn off the lights?

22 A. Yes, but in this situation, we try to adjust the lights to

23 what it is outside. So it was later in the evening when we

24 left and it's still the summer so the sun doesn't go down until

25 late, so the sun was -- it was light and after we were in the 12:09:04

## HOLT BOWLING - Cross

1 air, it was dark. 12:09:09

2 Q. So fair to say it was dark by the time you were serving  
3 the drinks?

4 A. I don't recall.

5 Q. And you said you didn't recall what time the flight 12:09:18  
6 departed?

7 A. In the evening.

8 Q. 8 o'clock?

9 A. I believe -- it might have been a little bit earlier. I  
10 don't recall the exact time. 12:09:28

11 Q. Would it refresh your recollection if you had an  
12 opportunity to review the report that you wrote?

13 A. Yes.

14 MS. WHITAKER: If we may pass Exhibit 103 to  
15 Mr. Bowling. 12:09:48

16 THE COURT: You may.

17 THE WITNESS: It doesn't say the time that we left on  
18 this document.

19 BY MS. WHITAKER:

20 Q. If you can just -- you're correct. Yes. It's not there. 12:11:08  
21 But I want to ask you another question if it's refreshed your  
22 recollection. This incident occurred two and a half hours into  
23 the flight?

24 A. I don't recall the exact time that it occurred during the  
25 flight. 12:11:27

## HOLT BOWLING - Cross

- 1 Q. Would it refresh your recollection if you had a chance to 12:11:28  
2 review your report?
- 3 A. I believe it was more like an hour and a half into it  
4 because I would say right here we still had two and a half  
5 hours left. If it was a four-hour flight and it was an hour 12:11:59  
6 and a half when it happened, that means we still had two and a  
7 half hours left.
- 8 Q. I'm sorry. I don't know if I caught all of that. You  
9 said it's a four-and-a-half-hour flight?
- 10 A. It can be anywhere from four to five. I've done that 12:12:10  
11 route once before and that was the only time, this incident.
- 12 Q. In your report you documented it was two and a half hours  
13 remaining in the flight?
- 14 A. Yes.
- 15 Q. So that means that the incident would have occurred, just 12:12:24  
16 doing basic math, two hours in?
- 17 A. Hour and a half, two hours in, yeah.
- 18 Q. Well, you said it was four and a half hours to five hours  
19 for the flight.
- 20 A. I said four to five. 12:12:34
- 21 Q. Yes. So if it's five hours and you have two and a half  
22 hours for remaining, it would be two and a half hours into the  
23 flight; correct?
- 24 A. Correct.
- 25 Q. And, again, just to be clear, you said immediately after 12:12:50

## HOLT BOWLING - Cross

1 collecting any drink cups, you would turn off the lights? 12:12:53

2 A. They would be dimmed, yes.

3 Q. And by "dimmed," no overhead lights?

4 A. Side lighting.

5 Q. You're saying that there would be side lighting still? 12:13:03

6 A. It's like really dimmed.

7 Q. Really dimmed?

8 A. We have different levels of dim.

9 Q. Okay. So I don't know how to quantify that. Can you --

10 but people had to use a light to read? 12:13:14

11 A. Yes.

12 Q. And I assume that the lights were dimmed after the drinks

13 so people could see their drink when they were drinking it?

14 A. Yes.

15 Q. In this area that you described with Mr. Day, there are 12:13:40

16 six seats per row?

17 A. Yes.

18 Q. Fair to say that they are about a foot and a half wide,

19 each seat? Do you know the width of a seat?

20 A. I do not know the dimensions of between the seats. 12:13:57

21 Q. Not between the seats but the actual seat base?

22 A. I do not know.

23 Q. Could you approximate for me?

24 A. No. Because I don't -- I mean, maybe by my hands but I

25 couldn't tell you a number. 12:14:07

## HOLT BOWLING - Cross

- 1 Q. Yeah. Hold them out. What have you got? 12:14:08
- 2 A. In between the seats themselves?
- 3 Q. No. No. The seat itself.
- 4 A. Maybe like this (indicating).
- 5 Q. That's the width of the flight seat? 12:14:17
- 6 A. Yeah.
- 7 Q. And each seat has its own call button and would have
- 8 summoned you?
- 9 A. Yes.
- 10 Q. And those are checked routinely to make sure that they all 12:14:32
- 11 work?
- 12 A. Yes.
- 13 Q. And if one was pushed, you would respond?
- 14 A. Yes.
- 15 Q. At the time of the alleged incident or when you began to 12:14:48
- 16 hear the yelling, you were back in the galley?
- 17 A. Yes.
- 18 Q. And do you know how many rows between where Mr. Brown was
- 19 and where this -- where you went up to from the galley?
- 20 A. Maybe eight rows. I don't know the exact number. 12:15:03
- 21 Q. And at the time you approached, Ms. Frye was seated?
- 22 A. Yes.
- 23 Q. So she was sitting down but yelling?
- 24 A. I can't remember the exact detail of how she was seated.
- 25 Q. Was she standing up? 12:15:28



## HOLT BOWLING - Cross

- 1 A. She wasn't standing like up. 12:15:29
- 2 Q. Was she coming back down the aisle towards you?
- 3 A. No.
- 4 Q. Was Ms. Medina standing up?
- 5 A. I don't recall. 12:15:39
- 6 Q. But nobody approached you on the aisle?
- 7 A. No.
- 8 Q. You made it all the way to that row?
- 9 A. Yes.
- 10 Q. Going back to the protocols of what is now American 12:15:59  
11 Airlines, you were given the responsibility of filling out that  
12 report?
- 13 A. Yes.
- 14 Q. And you wanted to be accurate in that report?
- 15 A. Yes. 12:16:10
- 16 Q. And get all the details?
- 17 A. Yes.
- 18 Q. Give everything that you knew to the pilot?
- 19 A. Yes.
- 20 Q. And those details are important because the pilot was 12:16:24  
21 going to make a decision about what to do with the plane?
- 22 A. Yes.
- 23 Q. And in that report, you discussed that Ms. Frye was  
24 asleep?
- 25 A. Can you restate the question? 12:16:41

## HOLT BOWLING - Cross

- 1 Q. In your report it says that Ms. Frye was asleep? 12:16:43
- 2 A. She was asleep when she was touched, yes.
- 3 Q. She never told you that she felt the touch?
- 4 A. She did tell me that she felt the touch.
- 5 Q. And you reported that in your report? 12:17:02
- 6 A. Yes.
- 7 Q. So your testimony today is that your report indicates that
- 8 she felt the touch?
- 9 A. Yes.
- 10 Q. Because it's important for you to be accurate? 12:17:13
- 11 A. Yes.
- 12 Q. Reading from your report: She was asleep and woke up
- 13 being inappropriately touched.
- 14 Nothing additional in your report. Would it refresh
- 15 your recollection if you had an opportunity to read it? 12:18:15
- 16 MR. DAY: Your Honor, objection. He didn't say there
- 17 was a problem with his memory?
- 18 THE WITNESS: I don't really understand what you want
- 19 me to do right now. I'm just looking at this thing.
- 20 THE COURT: I'm going to overrule the objection. 12:18:27
- 21 Ms. Whitaker, what is the question?
- 22 BY MS. WHITAKER:
- 23 Q. Your report never states that Ms. Frye knew she was
- 24 touched.
- 25 A. "...and woke up to being inappropriately touched," which 12:18:41

## HOLT BOWLING - Cross

1 signifies that she knew that she was touched. 12:18:44

2 Q. But the preceding sentence says she was asleep.

3 A. It does say that.

4 Q. Your testimony earlier was there was nothing unusual about  
5 this flight aside from this alleged incident? 12:19:04

6 A. No.

7 Q. And this flight was delayed for weather?

8 A. I don't recall the reason.

9 Q. That would be unusual, though; correct?

10 A. For a flight to be delayed because of weather? No, it 12:19:19  
11 would not be unusual.

12 Q. And this flight had turbulence?

13 A. I don't recall.

14 Q. Would you consider that unusual if it was turbulent?

15 A. I would remember if something was really turbulent but I 12:19:33  
16 don't recall this flight being turbulent.

17 Q. But you also don't recall why it was that was delayed?

18 A. Well, I mean, I'm sure it was weather but I don't remember  
19 the exact details of the weather in the area or if it was an  
20 inbound flight and that is what caused the weather, what 12:19:48  
21 happened.

22 Q. If Ms. Frye had told you about other incidents involving  
23 Mr. Brown, you would have documented those in your report?

24 MR. DAY: Objection, Your Honor. That's speculative.

25 THE COURT: No. I'll allow it. Overruled. 12:20:24

## HOLT BOWLING - Cross

1           You can answer that question. 12:20:26

2           THE WITNESS: Can you say it one more time for me?

3 BY MS. WHITAKER:

4 Q. If Ms. Frye told you about other incidents involving

5 Mr. Brown that day, you would have documented it in your 12:20:32

6 report?

7 A. Yeah, if it was an incident of this caliber, yes.

8 Q. And if she had told you that he was pulling on her sleeve

9 repeatedly, you would have documented that?

10 A. I don't know. 12:20:51

11 Q. And if she had told you that he had touched her thigh

12 area, you would have documented that?

13 A. Yes.

14 Q. And if she had told you that he had rubbed her elbow for a

15 period of time, you would have documented that? 12:21:10

16 A. I don't know.

17 Q. Why do you say you don't know?

18 A. Because I don't know what you mean by rubbing her elbow.

19 I don't know if it means with his arm, with his palm. I mean,

20 that can mean a lot of different things. 12:21:23

21 Q. Say it was two people rubbing elbows.

22 A. Then, no, I would not have documented it.

23 Q. And that's because it would be pretty common to occur on a

24 plane?

25 A. Yes. Because you're in a row with three other people, 12:21:35

## HOLT BOWLING - Redirect

1 you're tight. 12:21:37

2 Q. Close proximity.

3 You never talked to Mr. Brown that day about the

4 alleged incident?

5 A. No. 12:21:52

6 Q. Didn't ask him what his side of the situation was?

7 A. No.

8 Q. What his experience was?

9 A. No.

10 MS. WHITAKER: No more questions, Your Honor. Thank 12:22:11

11 you.

12 THE COURT: All right.

13 Any redirect?

14 MR. DAY: Just briefly, Your Honor.

15 **REDIRECT EXAMINATION** 12:22:18

16 BY MR. DAY:

17 Q. Mr. Bowling, you had described when Ms. Frye came back to

18 the galley area that her emotional state was distraught; is

19 that correct?

20 A. Yes. 12:22:28

21 Q. And how would you describe her emotional state at the time

22 that you were gathering the information and taking your notes

23 on what had occurred?

24 A. When it first happened? Like when she first realized that

25 a man was touching her? 12:22:38

## HOLT BOWLING - Redirect

- 1 Q. When you were gathering your information. 12:22:40
- 2 A. She was still upset, obviously. I mean, who wouldn't be?
- 3 Q. So then that was what her emotional state was at the time
- 4 that you were gathering your information?
- 5 A. Yeah. I mean, she would have been more calm than when it 12:22:53
- 6 originally happened but she was obviously still shaken up from
- 7 somebody touching her while she was sleeping.
- 8 MR. DAY: No further questions, Your Honor.
- 9 THE COURT: All right.
- 10 May the witness be excused, Counsel? 12:23:03
- 11 MR. DAY: Yes, Your Honor.
- 12 THE COURT: Ms. Whitaker?
- 13 MS. WHITAKER: Your Honor, if I may just have a brief
- 14 redirect on that. I feel like that was outside of the scope.
- 15 THE COURT: Very brief. 12:23:14
- 16 **REDIRECT EXAMINATION**
- 17 BY MS. WHITAKER:
- 18 Q. When you were just testifying, you kept asserting that
- 19 Ms. Frye was inappropriately touched?
- 20 A. Yes. 12:23:28
- 21 Q. You did not witness that touch?
- 22 A. No.
- 23 Q. You do not know what happened on row 28?
- 24 A. I did not see it with my own eyes.
- 25 Q. You cannot testify that you know what happened on that 12:23:36

1 flight with Ms. Frye? 12:23:38

2 A. I didn't see it with my own eyes.

3 Q. Thank you.

4 THE COURT: All right. May the witness be excused  
5 now? 12:23:44

6 MR. DAY: From the Government, yes, Your Honor.

7 MS. WHITAKER: Yes, Your Honor.

8 THE COURT: All right.

9 Mr. Bowling, you may step down. Thank you.

10 THE WITNESS: Thank you. 12:23:50

11 (Witness excused.)

12 THE COURT: And we're going to take our lunch recess  
13 now. Ladies and gentlemen of the jury, it is now 12:25. We  
14 will convene at 1:40. If you can be back in the jury  
15 assembly room shortly before that and Ms. Martinez will come 12:24:02  
16 and assemble you.

17 All rise for the jury.

18 (Jury departs 12:24.)

19 THE COURT: Everyone, please be seated.

20 All right. Counsel, do either of you have any 12:24:49  
21 matters that need to be taken up outside the presence of the  
22 jury? My thought is if you do, we'll just come back a little  
23 early before the afternoon session starts.

24 Ms. Whitaker?

25 MS. WHITAKER: No, Your Honor. 12:25:02

1 THE COURT: Mr. Day? 12:25:02

2 MR. DAY: None from the Government, Your Honor.

3 THE COURT: All right. Very good. How many more  
4 witnesses? I know you have three more listed.

5 MR. DAY: No. I imagine when we bring the jury back 12:25:11  
6 in, in the presence of the jury, the Government will rest.

7 THE COURT: Ms. Whitaker, do you have witnesses?

8 MS. WHITAKER: I believe they should be outside, Your  
9 Honor.

10 THE COURT: All right. Very good. 12:25:23  
11 So, Counsel, I will see you after the lunch break.  
12 Thank you very much. We'll be back at 20 'til.

13 MS. WHITAKER: Thank you.

14 COURTROOM DEPUTY: All rise, please.

15 (Recess at 12:25; resumed at 1:52 with testimony.) 12:25:33  
16 (The following excerpt was separately transcribed.)

17 THE COURT: All right. Very good.

18 Ms. Whitaker, does the defense have any witnesses?

19 MS. WHITAKER: Yes, Your Honor. We would call  
20 Officer Allan Myers to the stand. 01:52:47

21 THE COURT: Mr. Myers, if you would step forward,  
22 please, to the courtroom deputy's station, she'll swear you in.

23 COURTROOM DEPUTY: If you can please spell your first  
24 and last name.

25 THE WITNESS: A-L-L-A-N, last name, M-Y-E-R-S. 01:53:29



1 COURTROOM DEPUTY: I guess I should have had you 01:53:34  
2 state it also.

3 THE WITNESS: Allan Myers.

4 COURTROOM DEPUTY: Please raise your right hand.

5 (ALLAN MYERS, a witness herein, was duly sworn or 01:53:41  
6 affirmed.)

7 COURTROOM DEPUTY: Thank you. Have a seat right over  
8 here.

9 **DIRECT EXAMINATION**

10 BY MS. WHITAKER: 01:53:59

11 Q. Good afternoon, Officer.

12 A. Good afternoon.

13 Q. Who employs you currently?

14 A. City of Phoenix Police Department.

15 Q. And back on August 11 of 2015, who was your employer? 01:54:09

16 A. Same, City of Phoenix Police Department.

17 Q. How long have you been with them?

18 A. 29 years.

19 Q. And where do you work?

20 A. I'm currently assigned to Sky Harbor Airport. 01:54:21

21 Q. I'm going to take you back to August 11 of 2015. Do you  
22 recall an incident that occurred that night that you responded  
23 to?

24 A. Yes.

25 Q. And where was the location of that incident? 01:54:37

ALLAN MYERS - Direct

- 1 A. It was inside terminal four. 01:54:39
- 2 Q. How were you notified of the incident?
- 3 A. We have a communications dispatcher there and they relay  
4 all calls to us through the radio.
- 5 Q. And when you got to the gate area, what did you do? 01:54:51
- 6 A. Basically, we just waited for the flight to arrive.
- 7 Q. And did you have a special assignment once the plane did  
8 arrive?
- 9 A. Well, other than we -- we were apprised of what had  
10 occurred and we knew there were several witnesses as well as 01:55:10  
11 the victim, so we amongst ourselves we decided who would  
12 contact who and who would do what.
- 13 Q. Officer, if I could just ask you to refer to Ms. Frye by  
14 Ms. Frye as her name.
- 15 A. I'm sorry. I never contacted her but I will. 01:55:26
- 16 Q. Did you have an opportunity that day to see Mr. Brown?
- 17 A. Yes.
- 18 Q. Could you describe him for us?
- 19 A. At the time?
- 20 Q. Yes. 01:55:43
- 21 A. I didn't have any contact with him. I just superficially  
22 saw him but he was a white male. Average height. I believe he  
23 had kind of a beard, not short hair but not long.
- 24 Q. Do you recall how long his hair was?
- 25 A. Not specifically. 01:56:00

United States District Court

ALLAN MYERS - Direct

- 1 Q. Did you go on to the plane that day? 01:56:09
- 2 A. No.
- 3 Q. So what was your next step in the case?
- 4 A. It was decided that I would talk to the two witnesses who  
5 were seated in the same row as Mr. Brown. 01:56:19
- 6 Q. And what did you do with those witnesses?
- 7 A. I took them to a vacant gate so we would have a little  
8 privacy and then spoke to them.
- 9 Q. And who did you speak with first?
- 10 A. I believe her name was Tanya Medina. 01:56:35
- 11 Q. Just to be clear, did you speak with the two witnesses  
12 together or apart?
- 13 A. They were apart.
- 14 Q. How did Ms. Medina describe the demeanor of Mr. Brown that  
15 day? 01:56:57
- 16 A. Basically, described it as first impression that he  
17 appeared nervous, that he was fidgety.
- 18 Q. And how far into the flight was it that she said he  
19 appeared fidgety?
- 20 A. I was reading my report. Basically, she said as soon as  
21 they got on the aircraft, he appeared to her to be nervous or  
22 fidgety. 01:57:12
- 23 Q. When she was describing Mr. Brown and being fidgety, did  
24 she give a pretty developed description of that?
- 25 A. She just said he was moving his fingers kind of up and 01:57:30

United States District Court

ALLAN MYERS - Direct

- 1 down, just appeared nervous. 01:57:34
- 2 Q. Throughout the flight, did she have any contact with
- 3 Mr. Brown?
- 4 A. Not that I'm aware of.
- 5 Q. From her explanation, did it appear that she watched him? 01:57:54
- 6 A. Yes.
- 7 Q. And how do you know that?
- 8 A. She stated that it appeared to her that he was -- he kept
- 9 leaning forward looking down the aisle at her and she had her
- 10 two young daughters with her which kind of made her nervous, so 01:58:12
- 11 she just kind of kept watching him.
- 12 Q. We've heard testimony about what Ms. Medina described.
- 13 When she talked about her purse, did that strike you as odd?
- 14 A. Are you speaking of Kathryn or Tanya?
- 15 Q. For Tanya? 01:58:56
- 16 A. She didn't mention her purse.
- 17 Q. Tell me more.
- 18 A. When she first -- I believe she saw the sexual abuse
- 19 occur. She leaned over to her mother-in-law, Kathryn, who was
- 20 seated in the aisle seat and just advised her of what she had 01:59:10
- 21 seen and told her to watch her purse. She didn't know what was
- 22 going on.
- 23 Q. Did it strike you as odd that she would refer to her purse
- 24 given the circumstances of what that was -- how that was being
- 25 raised? 01:59:26

United States District Court

ALLAN MYERS - Direct

- 1 A. To me, not necessarily. 01:59:27
- 2 Q. Why not?
- 3 A. We get thefts on aircraft all the time.
- 4 Q. So your impression was that she was saying look out for  
5 your purse as a possible theft? 01:59:35
- 6 A. Just in general but specifically her purse.
- 7 Q. For a possible theft?
- 8 A. That would be my impression.
- 9 Q. Did she ever explain that it was an opportunity to speak  
10 with her mother-in-law without drawing any attention? 01:59:53
- 11 A. I'm not following.
- 12 Q. Did she offer any alternative reason of why she would have  
13 recommended her mother-in-law monitor her purse?
- 14 A. No.
- 15 Q. When you spoke with Ms. Medina, Ms. Tanya Medina, she 02:00:21  
16 described two different incidents. What was the time delay  
17 between those two incidents, if you remember?
- 18 A. Well, like I said, I refreshed myself on my report.  
19 According to my report, she spoke -- told me it was  
20 approximately ten minutes between the first incident and the 02:00:38  
21 second incident.
- 22 Q. And if you wrote down ten minutes, where would you have  
23 gotten that information?
- 24 A. From Tanya.
- 25 Q. Did Ms. Tanya Medina describe any other incidents in which 02:00:59

United States District Court

ALLAN MYERS - Direct

- 1 Mr. Brown had been smelling Ms. Frye? 02:01:03
- 2 A. I do not recall that, no.
- 3 Q. Did Ms. Tanya Medina describe how far into the flight the  
4 alleged incident occurred?
- 5 A. Yes. 02:01:26
- 6 Q. What was that?
- 7 A. She approximated that she felt it was about two hours into  
8 the flight.
- 9 Q. And was the flight on time that day?
- 10 A. I have no idea. 02:01:34
- 11 Q. When Ms. Tanya Medina was describing the alleged incident,  
12 did she reference a particular area of Ms. Frye's body?
- 13 A. Yes.
- 14 Q. What was that?
- 15 A. The breast. 02:02:00
- 16 Q. Did she say which breast?
- 17 A. No. I don't think she was for sure which but the chest  
18 area there.
- 19 Q. The chest area? But not right or left?
- 20 A. No. 02:02:13
- 21 Q. Did she demonstrate that for you?
- 22 A. Briefly, yes.
- 23 Q. Did she specify as she touched you in that demonstration  
24 which breast it was?
- 25 A. Well, she touched me right here (Indicating) on the left. 02:02:25

United States District Court

ALLAN MYERS - Direct

- 1 Q. Did you ask Tanya Medina about the lighting on the plane? 02:02:43
- 2 A. I asked -- I believe I did.
- 3 Q. And what was your impression of the lighting?
- 4 A. According to what she had told me, that the cabin lights
- 5 were on and several people, including Mrs. Frye's mother, who 02:02:56
- 6 was seated directly in front of her, had their reading lights
- 7 on.
- 8 Q. I'm sorry. Reading lights?
- 9 A. The little push the button and turn your light on. I call
- 10 them a reading light. 02:03:15
- 11 Q. Were the overhead lights on?
- 12 A. I couldn't say that. She just said that the cabin lights
- 13 were on and to her, the lighting was adequate to see the people
- 14 in the seats around her.
- 15 Q. And when you were talking with Ms. Tanya Medina, how many 02:03:44
- 16 times did she allege Mr. Brown touched Ms. Frye?
- 17 A. She said twice that she saw.
- 18 Q. And she was certain about both times?
- 19 A. Actually, the first time she did say that -- she did see
- 20 it but she in her mind, she's like, "Did I actually see what I 02:04:08
- 21 just thought I saw?" And then the second time she was sure.
- 22 Q. So she was 100 percent sure about the second one and
- 23 unsure about the first one?
- 24 A. I think she was sure about the first one. She just in her
- 25 mind just couldn't, you know, grasp -- no pun but that 02:04:24

United States District Court

ALLAN MYERS - Direct

- 1 something like that could occur on an aircraft. 02:04:29
- 2 Q. Since you do work at the airport, are you familiar with  
3 the airplanes as well?
- 4 A. Not really.
- 5 Q. I'm sorry? 02:04:46
- 6 A. No. I don't know much about the airplanes.
- 7 Q. Have you ever had to measure the planes at all?
- 8 A. No.
- 9 Q. Since you go on to the airplanes, can you approximate the  
10 width of a seat on an airplane? 02:04:59
- 11 A. Just an individual seat? No. I mean, I could guess. I  
12 would hate to guess.
- 13 Q. Wide enough for a body?
- 14 A. Yeah, it's approximately the chair that I'm sitting in.
- 15 Q. Can you hold that up? 02:05:18
- 16 A. The chair. Just (indicating) just enough really for a  
17 normal-sized person.
- 18 Q. And do you know the locations of the people involved in  
19 this case?
- 20 A. Basically, by their relation to me, they told me they were 02:05:34  
21 in seats 28 -- I'm sorry, row 28 and all the seats, A through  
22 F.
- 23 Q. And how many seats were between Ms. Tanya Medina and  
24 Mr. Brown, if you recall?
- 25 A. Well, there would have been two seats and the aisle -- I'm 02:05:50

United States District Court



ALLAN MYERS - Direct

- 1 sorry, three seats and the aisle. 02:05:55
- 2 Q. After you spoke with Ms. Tanya Medina, did you then speak  
3 with Ms. Kathryn Medina?
- 4 A. Yes.
- 5 Q. And how did it come to her attention to watch Mr. Brown? 02:06:10
- 6 A. When her daughter-in-law, Tanya, saw the first incident,  
7 she -- she leaned over to tell her what she saw and then asked  
8 her to watch her purse. So then she was aware of it. So she  
9 decided she would kind of keep an eye out, too.
- 10 Q. And prior to that incident, did she have any recollection 02:06:31  
11 of anything related to Mr. Brown?
- 12 A. Not that I'm aware of.
- 13 Q. When you talked with Ms. Kathryn Medina, did she identify  
14 what area of Ms. Frye's body was touched?
- 15 A. She just said the breast also. 02:06:49
- 16 Q. Did she specify which?
- 17 A. No.
- 18 MS. WHITAKER: No more questions, Your Honor.
- 19 THE COURT: All right. Thank you, Ms. Whitaker.  
20 Is there any cross? 02:07:06
- 21 MR. DAY: No, Your Honor, no questions from the  
22 Government.
- 23 THE COURT: May the witness be excused?
- 24 MS. WHITAKER: Yes, thank you.
- 25 MR. DAY: Yes, Your Honor. 02:07:11

United States District Court

RORY KULAWIEC - Direct

1 THE COURT: All right. Mr. Myers, you may step down. 02:07:12  
2 Thank you.  
3 (Witness excused.)  
4 THE COURT: Ms. Whitaker, does the defense have any  
5 further witnesses? 02:07:20  
6 MS. WHITAKER: Yes. We would call Officer Rory  
7 Kulawiec.  
8 THE COURT: Sir, if you would step forward, please,  
9 to the courtroom deputy, she'll swear you in.  
10 COURTROOM DEPUTY: Please state your name and spell 02:08:14  
11 your last name for the record.  
12 THE WITNESS: Rory Kulawiec. K-U-L-A-W-I-E-C.  
13 (RORY KULAWIEC, a witness herein, was duly sworn or  
14 affirmed.)  
15 COURTROOM DEPUTY: Thank you. Have a seat right over 02:08:27  
16 here.  
17 **DIRECT EXAMINATION**  
18 BY MS. WHITAKER:  
19 Q. Good afternoon, Officer.  
20 A. Good afternoon, ma'am. 02:08:45  
21 Q. Please remind me how to say your last name?  
22 A. It's Kulawiec.  
23 Q. Okay. Thank you.  
24 And who is your current employer?  
25 A. I work for the City of Phoenix Police Department. 02:08:59

United States District Court

RORY KULAWIEC - Direct

- 1 Q. And how long have you been there? 02:09:02
- 2 A. 19 and a half years.
- 3 Q. What is your current duty assignment?
- 4 A. I'm a patrol officer at the Airport Bureau, Phoenix Sky  
5 Harbor Airport. 02:09:12
- 6 Q. And were you involved with an incident on August 11, 2015?
- 7 A. Yes, ma'am.
- 8 Q. And did you write a report for that incident?
- 9 A. I did.
- 10 Q. And as part of your duties that evening, did you interview 02:09:24  
11 Ms. Claudia Frye?
- 12 A. Yes, I did.
- 13 Q. During that conversation, Ms. Frye made some statements.  
14 Did she say she was asleep at the time of the alleged incident?
- 15 A. She said she thought she was asleep. 02:09:50
- 16 Q. And how did she become aware of the incident?
- 17 A. She told me that she heard someone yelling.
- 18 Q. And how far into the flight was that incident, if you  
19 remember?
- 20 A. I don't know how far into the flight it was. She told me 02:10:08  
21 that she had spoken with someone from the flight crew at the  
22 time of the incident and they estimated it was about two and a  
23 half hours until arrival at Sky Harbor.
- 24 Q. Did she say that she -- what did she say she felt about --  
25 as far as the incident? Did she feel any physical touch? 02:10:38

United States District Court

## RORY KULAWIEC - Cross

- 1 A. Of -- 02:10:45
- 2 Q. Of the breast area.
- 3 A. Of the breast area, no.
- 4 Q. I'm sorry. I kind of fumbled that question. So did she  
5 say that she felt him touch her breast? 02:10:54
- 6 A. No.
- 7 MS. WHITAKER: No more questions, Your Honor.
- 8 THE COURT: Mr. Day?
- 9 MR. DAY: Thank you, Your Honor.
- 10 **CROSS - EXAMINATION** 02:11:04
- 11 BY MR. DAY:
- 12 Q. Good afternoon, Officer Kulawiec.
- 13 A. Good afternoon, sir.
- 14 Q. How would you describe Ms. Claudia Frye's demeanor when  
15 you were interviewing her? 02:11:14
- 16 A. She appeared upset to me.
- 17 Q. And this, you testified this particular incident occurred  
18 when there was still about two and a half hours left in the  
19 flight; is that correct?
- 20 A. That's what she told me, that someone from the flight crew 02:11:26  
21 had told her approximately two and a half hours.
- 22 Q. So two and a half hours later after this event occurred,  
23 she still appeared upset to you; is that correct?
- 24 A. She did, sir.
- 25 MR. DAY: No further questions, Your Honor. 02:11:39

1 THE COURT: All right. 02:11:40  
2 Any redirect?

3 **REDIRECT EXAMINATION**

4 BY MS. WHITAKER:

5 Q. Who requested you be here today? 02:11:49  
6 A. I'm sorry, ma'am?

7 Q. Who requested your presence today at the courthouse?  
8 A. I received a subpoena.  
9 Q. From which side?  
10 A. From you, ma'am. 02:12:00

11 MS. WHITAKER: No more questions. Thank you.  
12 THE COURT: All right. May the witness be excused,  
13 Counsel?

14 MR. DAY: Yes, from the Government.  
15 THE COURT: And Ms. Whitaker? 02:12:12  
16 MS. WHITAKER: Oh, yes. Thank you.  
17 THE COURT: You may step down, sir. Thank you.  
18 (Witness excused.)

19 THE COURT: Does the defense have further witnesses?  
20 MS. WHITAKER: Yes, Your Honor. We call Gary Brown 02:12:25  
21 to the stand.  
22 THE COURT: All right.  
23 Mr. Brown, if you would step up to the courtroom  
24 deputy to be sworn.  
25 COURTROOM DEPUTY: If you could please state your 02:12:38

1 name and spell your last name for the record. 02:12:40

2 THE WITNESS: Gary Brown. B-R-O-W-N.

3 COURTROOM DEPUTY: Please raise your right hand.

4 (GARY BROWN, a witness herein, was duly sworn or  
5 affirmed.) 02:12:46

6 **DIRECT EXAMINATION**

7 BY MS. WHITAKER:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. When did you first learn of the incident that we've been  
11 hearing testimony about? 02:13:17

12 A. When I heard someone yelling that I needed to keep my  
13 hands to myself.

14 Q. What were you doing at the time or just prior to when you  
15 heard someone say that to you? 02:13:37

16 A. I was dozing off to sleep.

17 Q. Where were you located?

18 A. I was in the window seat of the row.

19 Q. Do you recall which row that was?

20 A. 28 I believe. 02:13:58

21 Q. And how was your body positioned?

22 A. I was I guess leaning back and slightly toward the wall  
23 for support as I rested.

24 Q. And you used the word "dozing." What does that mean to  
25 you? 02:14:17

## GARY BROWN - Direct

- 1 A. I had been drifting in and out of sleep but I had been 02:14:18  
2 asleep earlier in the flight and I was still resting.
- 3 Q. Were you aware of what was going on around you at the  
4 time?
- 5 A. No. 02:14:32
- 6 Q. How were the lights when you awoke suddenly?
- 7 A. The cabin lights were out and if there were any reading  
8 lights, it might have been two rows in front but it was fairly  
9 dark, not pitch black, but it was a dark, night flight.
- 10 Q. How did you respond to that person when they were yelling 02:14:53  
11 at you?
- 12 A. Well, it took me a minute to realize what they were even  
13 suggesting, since it was the woman two seats away from me who  
14 had kind of leaned forward and was peering around at me in  
15 front of the passenger who was sitting between us. And at 02:15:08  
16 first she said, "Keep -- you need to keep your hands to  
17 yourself." I assumed someone had touched her or her  
18 belongings, which confused me, because I was a whole person  
19 away and I had just woken up and didn't realize.
- 20 So eventually I just said, "What?" 02:15:25
- 21 Q. And I just noticed that you made a gesture with your hands  
22 for the record. Is that the gesture you made that day?
- 23 A. Yes.
- 24 Q. And that is where you put your hands, out?
- 25 A. Yeah. 02:15:38

GARY BROWN - Direct

- 1 Q. Off to your sides? 02:15:39
- 2 A. Like a surprise, startled kind of reaction, like I'm not  
3 sure what you mean.
- 4 Q. What happened after the woman we now know to be  
5 Ms. Kathryn Medina was yelling at you, what happened next? 02:15:57
- 6 A. Then Claudia -- I'm sorry, Ms. Frye woke up and heard what  
7 Ms. Kathryn Medina had said and then she began to yell at me.  
8 She turned in her seat, faced me and said a lot of threatening  
9 things to me, asked me how I could do something like that to  
10 her, that she was a stranger and I had -- I had no response 02:16:21  
11 because -- clearly she was extremely upset and I still didn't  
12 understand the situation. I didn't know what I could possibly  
13 say at that moment that would do any good.
- 14           Shortly after that her mother turned around in her  
15 seat and began and to yell at me as well and then they were 02:16:42  
16 joined by Ms. Tanya Medina who was across the aisle in the same  
17 row but in the middle of the seats in the other aisle, in my  
18 aisle.
- 19 Q. Let's back up and go one by one.
- 20 A. Okay. 02:17:00
- 21 Q. How would you describe the demeanor of Ms. Claudia Frye?
- 22 A. Extremely upset and threateningly angry.
- 23 Q. And how about her mother just in front? What was her  
24 demeanor like?
- 25 A. Angry, concerned anger. 02:17:17

United States District Court



## GARY BROWN - Direct

- 1 Q. And Ms. Tanya Medina, what was her demeanor like? 02:17:21
- 2 A. Scolding.
- 3 Q. Where was she located at the time when she was talking  
4 with you or talking at you?
- 5 A. Tanya Medina? 02:17:36
- 6 Q. M'hum.
- 7 A. She had unfastened her seat belt and was actually standing  
8 up and facing me from where her seat was.
- 9 Q. And what happened from there?
- 10 A. The commotion attracted the attention of a flight 02:17:51  
11 attendant who came up at that point and began to assess the  
12 situation I guess.
- 13 Q. And did everyone stay in that area?
- 14 A. For a moment until they turned the cabin lights on and a  
15 few more flight attendants came up. And at that point, they 02:18:14  
16 took Ms. Frye and her mother to the back of the plane and then  
17 Ms. Kathryn Medina followed shortly after.
- 18 Q. Is that how it remained for the remainder of the flight?
- 19 A. They reseated a gentleman next to me who was there to  
20 intimidate me, I guess, so that there wouldn't be any incidents 02:18:35  
21 in the flight. But Kathryn Medina eventually returned to her  
22 seat and was -- sat there for the rest of the flight as well.
- 23 Q. What were you thinking at this time?
- 24 A. I was extremely confused, then I became angry as I began  
25 to piece together what was going on, these accusations against 02:18:59

GARY BROWN - Direct

- 1 me. And then I became depressed as I realized that the flight 02:19:05  
2 that I thought was going to be taking me to a new life to  
3 Portland, I wasn't even going to get to Portland that night. I  
4 overheard a flight attendant tell someone that the police would  
5 be taking me off the plane, so I didn't know whether or not I 02:19:20  
6 was even going to be a free man once I got off the plane. Even  
7 just the extreme inconvenience of not being able to have my  
8 flight get to where I was going to be in the first place, so I  
9 had a million things running through my mind at the time.
- 10 Q. And what happened once the plane landed? 02:19:42
- 11 A. They announced that everyone needed to remain seated while  
12 the Phoenix police were escorting me off the plane.
- 13 Q. And how many officers were there?
- 14 A. It was at least six. I'm not sure of the exact count.
- 15 Q. And what did you do? How did you respond? 02:20:03
- 16 A. They came up, a flight attendant pointed out who I was,  
17 and they asked me to come with them and I complied. They even  
18 helped me get my baggage out of the overhead compartment and  
19 they took me to another gate nearby that was unoccupied.
- 20 Q. And what happened there? 02:20:25
- 21 A. Two of the officers questioned me there. First they got  
22 my identification to verify who I was and then they questioned  
23 me.
- 24 Q. When you were answering their questions, did that -- did  
25 they ask the same question repeatedly? 02:20:49

United States District Court

GARY BROWN - Direct

1 A. Yes. Yes. Initially, they asked me if I knew what had  
2 happened and I explained that I had awoken to being accused of  
3 touching the passenger adjacent to me but I didn't know the  
4 specifics at the time.

5 Then he went off to compare notes with the other  
6 officers as they were talking to the other witnesses and he  
7 came back and asked me again if I had touched her and tried to  
8 give me opportunities to say that it was because she had been  
9 flirting with me or some other explanation and I told him flat  
10 out, "No. It was nothing like that." The only possible  
11 contact I had, which -- well, I know was we had our elbows on  
12 the armrest at the same time. There was a period of turbulence  
13 in the middle of the flight that was pretty rough and my elbow  
14 probably bumped hers at least four times, but she appeared to  
15 be asleep and didn't notice, so I didn't say anything about it  
16 at the time.

17 Q. How many times did you deny what they were telling you?

18 A. At least three, maybe four.

19 Q. From there what happened?

20 A. Well, they told me it didn't look good for me and they  
21 took me to an unsecured part of the airport. I wasn't allowed  
22 to be in the -- by the terminals. I had to be taken over to  
23 the unsecured area of the airport where they have a little  
24 police station. They kept me there for a few minutes and then  
25 they gave me -- finally gave me my ID back and told me I was

United States District Court

GARY BROWN - Direct

1 free to go, at which point I said, "Well, what does this mean  
2 for me?" And she explained that if -- if charges were going to  
3 be brought, then the federal government and the local  
4 governments would fight over who had jurisdiction and I would  
5 receive a court summons to be arraigned.

02:22:31

02:22:47

6 Q. When did you make it to Portland?

7 A. The next day. I had to sleep in the Phoenix Airport  
8 because they don't have overnight service and the earliest  
9 flight I could get got me in about 12 hours later than I would  
10 have gotten in initially.

02:23:06

11 Q. Why were you moving to Portland?

12 A. I have -- I have been writing. I have a couple of books.  
13 They were published by a small press that is located in  
14 Portland. There's a writing community out there and there's  
15 more opportunities career-wise to make acquaintances and  
16 business relationships in that scene if I relocated there, so  
17 that had been my goal for about four years.

02:23:20

18 Q. And where did you live prior to moving to Portland?

19 A. Right outside of Baltimore, Maryland, a town called  
20 Westminster.

02:23:42

21 Q. What sort of preparations had you already made to make the  
22 move?

23 MR. DAY: Objection, Your Honor. Relevance.

24 MS. WHITAKER: I can move on.

25

United States District Court

## GARY BROWN - Direct

1 BY MS. WHITAKER: 02:23:57

2 Q. On the morning of August 11 or on the day of August 11,  
3 how did you get to the airport?

4 A. My mother and my brother gave me a ride and dropped me  
5 off. 02:24:09

6 Q. And did you have any belongings with you?

7 A. I had pretty much everything left that I owned in two  
8 suitcases that I checked that were really heavy and then I had  
9 a backpack and I had a laptop case that I had as carry-ons and,  
10 yeah, it was so much stuff that I actually strained my shoulder 02:24:26  
11 when I was dragging it through the airport to get to the plane.

12 Q. When you say strained your shoulder, what does that mean?

13 MR. DAY: Objection again, Your Honor. Relevance.

14 THE COURT: I'll allow it.

15 You can answer the question, Mr. Brown. 02:24:43

16 THE WITNESS: It means I pulled something, not enough  
17 that it would need medical treatment but enough that it was  
18 sore.

19 BY MS. WHITAKER:

20 Q. Was it so sore when you were on the plane? 02:24:54

21 A. Yes.

22 Q. Did you find yourself wanting to soothe --

23 A. Yeah. I'm sure I rubbed it several times.

24 Q. What are people's first impressions of you when they meet  
25 you? 02:25:18

GARY BROWN - Direct

- 1 MR. DAY: Objection, Your Honor. Speculation. 02:25:18
- 2 THE COURT: I'm going to sustain that.
- 3 BY MS. WHITAKER:
- 4 Q. Do you have any tendency to fidget?
- 5 A. I would say a lot of people have the impression that I'm a 02:25:32
- 6 fidgety person. When I was a child, a psychologist told my
- 7 mother that I had hyperactivity but that I didn't have
- 8 attention deficit disorder, so they didn't recommend any
- 9 medication but I've always been a little bit physically
- 10 overactive. 02:25:49
- 11 Q. When you say physically overactive, what do you mean?
- 12 A. Antsy. I have a hard time sitting in the same position
- 13 for a long time.
- 14 Q. When you say "a long time," what do you mean?
- 15 A. Well, I guess it depends. But, I mean, you know, on a 02:26:03
- 16 flight of several hours, it would, obviously, come into play
- 17 before that was over. I notice myself getting fidgety today in
- 18 court after about two hours of sitting you know.
- 19 Q. When you first got on the plane, what did you do?
- 20 A. When I first got on the plane, both Ms. Kathryn Medina, 02:26:30
- 21 Ms. Frye had already been seated so I had to ask them to let me
- 22 in and they did and I was on the window seat. Then I sat down
- 23 and I started to read a book not too long after -- I guess
- 24 maybe when we started taxiing.
- 25 Q. We've heard a lot of testimony today about you leaning 02:26:56

United States District Court

GARY BROWN - Direct

- 1 forward in your seat. What is that all about? 02:26:59
- 2 A. I don't know. I did notice that Tanya Medina, well -- who  
3 I now know to be Tanya Medina, looked at me early on in flight  
4 and gave me kind of a dirty look. And I was a little disturbed  
5 by it at first. I didn't know what to make of it. I glanced 02:27:20  
6 back over several times but, eventually, I just stopped paying  
7 attention.
- 8 Q. Did you feel like she was watching you?
- 9 A. I don't know. To me, watching implies that she was  
10 looking for me to do something, but I think she was just 02:27:37  
11 judging me from my scraggly appearance. I definitely had an  
12 unmaintained beard because I had been focused on the move and  
13 working on my writing and I hadn't taken care of my physical  
14 appearance very much. My hair -- it was just my hair was long  
15 and shaggy because I hadn't got it cut and hadn't maintained my 02:27:54  
16 beard. It was just sheer -- lack of focus my physical  
17 appearance at the time.
- 18 Q. So once you were seated and you are reading, what happened  
19 next? Anything noteworthy?
- 20 A. I don't know. I mean -- 02:28:20
- 21 Q. Do you remember the flight attendants being in the area?
- 22 A. Oh. Okay. Yeah. They offered an initial drink service  
23 and I got a ginger ale.
- 24 Q. And how soon after that do the flights -- were the lights  
25 turned off? 02:28:36

United States District Court

## GARY BROWN - Direct

- 1 A. Basically, they took the drink cart through and then they 02:28:37  
2 came back and got the trash and at that point, they turned off  
3 the overhead lights. She made an announcement that they would  
4 be turning off the lights because it was a night flight and  
5 that, you know, the pilot -- or the captain I guess, he wished 02:28:50  
6 that everybody could get rest.
- 7 Q. And from there, what is the next thing that you remember?
- 8 A. Well, at that point, I turned on my overhead light and  
9 Ms. Frye also turned on her overhead light. She had a magazine  
10 or something she was reading. 02:29:12
- 11 Q. And after that?
- 12 A. Eventually Ms. Frye turned off her light and went to  
13 sleep. Then I don't know, 20 or so minutes or so later, I  
14 turned off my light and went to sleep as well. I woke up at  
15 several points, though, as there was turbulence. 02:29:31
- 16 Q. Tell me about that. What was it like?
- 17 A. It was pretty rough. It shook the plane quite a lot and  
18 they actually turned the seat belt sign back on so that they  
19 didn't want people walking around the cabin.
- 20 Q. And after that, what was the next thing that you remember? 02:29:52
- 21 A. I guess when Ms. Medina yelled, woke me all the way up.
- 22 Q. Mr. Brown, did you touch Ms. Frye's breast?
- 23 A. No.
- 24 Q. Did you touch it two times?
- 25 A. No. 02:30:17



## GARY BROWN - Cross

- 1 Q. Did you ever touch it? 02:30:18
- 2 A. No.
- 3 Q. Thank you.
- 4 MS. WHITAKER: No more questions.
- 5 THE COURT: Thank you, Ms. Whitaker. 02:30:24
- 6 Any cross?
- 7 MR. DAY: Yes, Your Honor. Thank you.
- 8 **CROSS - EXAMINATION**
- 9 BY MR. DAY:
- 10 Q. Good afternoon, sir. What is your full legal name? 02:30:32
- 11 A. Gary Arthur Brown, Jr.
- 12 Q. Thank you, sir.
- 13 And I just want to be perfectly clear for the record.
- 14 You stated that Ms. Claudia Frye, she was yelling at you when
- 15 you woke up; is that correct? 02:30:48
- 16 A. That is correct, yes.
- 17 Q. And then you also stated that Claudia's mother was also
- 18 yelling at you when you woke up; correct?
- 19 A. Yes.
- 20 Q. And I believe your testimony also was that Ms. Tanya 02:30:55
- 21 Medina was yelling at you when you woke up. Is it Ms. Tanya
- 22 Medina or was it Ms. Kathryn Medina who was sitting next to
- 23 Ms. Frye that was yelling at you?
- 24 A. It was all four, it was both of the Medinas. I'm sorry.
- 25 Q. So it's your testimony here today that both Ms. Tanya and 02:31:13

## GARY BROWN - Cross

1 Ms. Kathryn Medina were yelling at you? 02:31:18

2 A. Yes.

3 Q. Now, did you have any contact with any of these  
4 individuals in the terminal prior to boarding the flight?

5 A. No. 02:31:30

6 Q. Okay. And did you really have any conversations with any  
7 of these individuals after you boarded the flight?

8 A. No.

9 Q. So really, you wake up. These four individuals that  
10 you've never had any contact with whatsoever are yelling at you 02:31:44  
11 to keep your hands to yourself; is that correct?

12 A. That is correct.

13 MR. DAY: May I have a moment, Your Honor?

14 No further questions, Your Honor.

15 THE COURT: All right. Thank you. 02:32:02

16 Is there any redirect?

17 MS. WHITAKER: I don't believe so, Your Honor. Thank  
18 you.

19 THE COURT: All right. May the witness be excused,  
20 counsel? 02:32:10

21 MS. WHITAKER: Yes.

22 THE COURT: And Mr. Day?

23 MR. DAY: Yes, Your Honor. Thank you.

24

25 . . . 02:32:14



## C E R T I F I C A T E

02:32:16

1  
2  
3 I, ELAINE M. CROPPER, do hereby certify that I am  
4 duly appointed and qualified to act as Official Court Reporter  
5 for the United States District Court for the District of  
6 Arizona.

02:32:16

7  
8 I FURTHER CERTIFY that the foregoing pages constitute  
9 a full, true, and accurate transcript of all of that portion of  
10 the proceedings contained herein, had in the above-entitled  
11 cause on the date specified therein, and that said transcript  
12 was prepared under my direction and control, and to the best of  
13 my ability.

02:32:16

14  
15 DATED at Phoenix, Arizona, this 1st day of September,  
16 2016.

02:32:16

17  
18  
19  
20 s/Elaine M. Cropper

02:32:16

21 \_\_\_\_\_  
22 Elaine M. Cropper, RDR, CRR, CCP  
23  
24  
25

02:32:16

United States District Court