

Happy Halloween! Theranos showed up in a Pfizer costume



Today we learned more about Theranos' kink for corporate cosplay. The company liked to dress up its own reports in pharmaceutical companies' logos, to use the present tense when the future tense would be more appropriate, and to reiterate its favorite buzzwords in PowerPoint slide after PowerPoint slide.

Elizabeth Holmes' lawyers, in defending her against the wire fraud charges that the government has brought, resumed cross-examination of Lisa Peterson, who worked for the DeVos family offices and was involved in approving their investment in the company. (Family offices are a rich people thing – an investment arm for all that sweet, sweet money.) The defense tried to discredit Peterson's testimony from last week about a key Pfizer memo, which she said was key to thinking the company was onto something big.

The only problem? Pfizer didn't write it. A former scientist at the company testified that Theranos changed a report the blood-testing startup had made to include the unauthorized use

of the Pfizer logo. Pfizer's actual findings were that Theranos' conclusions in that report were "not believable," the former Pfizer scientist had testified. But Peterson didn't know that, and had relied on the memo as real validation.

We wound up talking about verb tenses

Homes' defense attorney Lance Wade pointed out that Theranos' physical address and website were at the bottom of that Pfizer memo, in the footer. The text of the footer was considerably smaller than the Pfizer logo at the top of the page, suggesting the relative importance of each piece of information.

When the prosecution got a chance to talk with Peterson again, they asked her if the footer information would have convinced her the memo wasn't from Pfizer. No, she said – the logo on the top was big. When she and her colleagues were considering an investment, "we really relied on the fact that they had been doing work for pharmaceutical companies and the government for years," she said.

This was how we wound up talking about verb tenses. After establishing that Peterson knows what the future is, the prosecution went through some Theranos slides. "Theranos proprietary technology runs comprehensive blood tests from a finger stick," one read. "Runs" is present tense and indicates that the tests are *currently* happening.

In fact we ran through several slides to discuss verb tenses – all of which were present or past, not future. During the cross-examination, Wade had returned to an idea he'd floated earlier in the trial: that the investors in Theranos were sophisticated, and that they'd even signed paperwork saying that Theranos was a speculative investment. The implication seemed to be that Theranos wasn't devious – Peterson was just sloppy, and Theranos was promising what it would do in the future.

But the language in the presentation undercut that idea. Somewhere, a grammarian rejoiced.

"On a couple of occasions I attempted to ask questions to other Theranos staff in the meeting and the response was interrupted by Ms. Holmes."

After Peterson left the stand, we were treated to more Big Pharma testimony, this time from Constance Cullen, who worked at Schering-Plough, which was then acquired by Merck. In 2009, Cullen's boss had asked her to evaluate Theranos' tech. In the course of doing so, Cullen met with Holmes and other people at Theranos, but it seems Holmes did all the talking. "On a couple of occasions I attempted to ask questions to other Theranos staff in the meeting and the response was interrupted by Ms. Holmes," Cullen testified.

During the meeting, Cullen said she found Holmes' answers to technical questions "cagey." Originally, there was supposed to be validation data at that meeting, but it wasn't actually delivered by Theranos until December 2009 – and since Theranos was the party conducting the validation studies, only Theranos' logo appeared on the report. Neither she nor anyone else at Schering-Plough said its conclusions were accurate, she testified.

Things were hectic for Cullen, since Merck had just acquired her company and she was now managing a larger team. She postponed discussing the report, and did not return to it.

Still, Theranos approached Walgreens in 2010 with a version of that validation report. *This* version had the Schering-Plough logo atop it. In an email accompanying the report, Holmes wrote, "As per our discussion, please find three independent due diligence reports on Theranos systems attached to this email. These reports are from GlaxoSmithKlein, Pfizer and Schering-Plough after their own technical validation and experience with Theranos Systems in the field."

"Goodbye, big bad needle."

The new version of the report had a new conclusion. While the original version said that Theranos devices “give accurate and precise results,” the new logo report said that Theranos devices “give more accurate and precise results... than current ‘gold standard’ reference methods.” Schering-Plough hadn’t approved the old language; it certainly hadn’t approved the new language – Theranos had written both versions of the report. Schering-Plough hadn’t responded to the original in any way, and was likely unaware of the... let’s say *enhanced* version.

The memos and slideshows resurfaced in the testimony of Daniel Mosley, who invested “a little under \$6 million” in Theranos, after his buddy Henry Kissinger, a Theranos board member, asked him to evaluate the company.

Like Peterson, Mosley was won over by the work Theranos said it had done with the government and large pharma companies. In the memo Mosley wrote to Kissinger, he seemed very impressed by the not-Pfizer memo, even devoting an entire section of his own memo to its findings. It wasn’t just the logo that made him think Pfizer was behind the report; the conclusions read like they were from a third party, he testified.

Mosley also thought all Theranos tests were done by fingerstick, largely because of the materials Theranos provided him with. We saw a Theranos-generated slide of a child captioned “Goodbye, big bad needle” and another that read “Our certified labs perform precise tests on a sample 1/1,000 the size of a typical blood draw. No big vials to fill. no more searching for a vein.”

“Rob Walton ran into one of your board members over the weekend at the Grove.”

At times, Mosley’s testimony felt like a live reading of the social register. He had worked at a famous and fancy law firm, Cravath, where his job was counseling rich people about how to stay rich. Some of his clients invested in Theranos – the

DeVos family was in for \$100 million; the Walmart heirs, the Waltons, were in for \$150 million; the Cox family invested \$10 million of its cable wealth; and Kissinger's trust went in for \$3 million. Andreas Dracopolous of the Stavros Niarchos Foundation went in for \$25 million, and John Elkann, of the family that owns Ferrari, invested \$5 million.

The testimony placed Mosley at the center of a group of extremely rich and influential people, but as if to drive home the point we viewed an email from him to Holmes. The day after talking with her for the first time, he offered to introduce her to the Walton family. Then, he followed up: "Rob Walton ran into one of your board members over the weekend at the Grove."

I'm not sure which board member this was – the testimony didn't specify – but by "the Grove," Mosley meant the ultra-exclusive boys' club The Bohemian Grove. Unfortunately he did not get into the weird naked rituals or anything else of interest to us plebeians.

With Mosley, as with Peterson, the defense seemed to be suggesting that the Theranos investors were simply dimwitted – rich, dull, and incapable of checking up on the things they poured their money into. But between the language Theranos used in its presentations, its tweaked memos that weren't *actually* from pharmaceutical companies, and its continued emphasis that its tests were faster and better than anything else, it seems obvious that Theranos *wanted* its investors to believe the hype. Just because someone is sloppy doesn't make it okay to try to trick them.

<https://www.theverge.com/2021/11/2/22760601/theranos-pfizer-sc-hering-plough-logo-memo>