

6 (NORA KAPCHE, PLAINTIFF witness, having been duly sworn,
7 testified as follows:)

8 DIRECT EXAMINATION

9 BY MS. BUTLER:

10 Q. Good morning.

11 A. Hi.

12 Q. Please state your name for the record.

13 A. Nora Sanchez Kapche.

14 Q. Ms. Kapche, you're married to the plaintiff in this case,
15 Jeff Kapche. Correct?

16 A. Yes.

17 Q. Let me ask you a few questions about your background. Where
18 did you grow up?

19 A. I grew up in a small town, the name of it is Santa Fe,
20 Texas. It's by Galveston, in the Houston area.

21 Q. And do you still live in that area?

22 A. We live in the general Houston area, yes.

23 Q. Now, in terms of your education, can you tell the jury, when
24 did you graduate from high school?

25 A. I graduated in 1989.

1 Q. And was that there in Santa Fe?

2 A. Yes, it was.

3 Q. And then after that, what did you do next?

4 A. I went directly to college.

5 Q. And where did you do your college study?

6 A. I went to University of Houston.

7 Q. And what did you study there?

8 A. Hotel/restaurant management.

9 Q. And do you have a degree from the University of Houston?

10 A. Yes, a bachelor of science.

11 Q. When did you get that?

12 A. In 1992 to '93.

13 Q. And tell the jury, after you graduated from college, what
14 did you do?

15 A. I started working.

16 Q. And in what field were you working?

17 A. Oh, in the hotel/restaurant management area.

18 Q. Can you give the jury just a little flavor of the various
19 jobs you've had over the years?

20 A. Oh, okay. I worked for Taco Bell as a manager of different
21 stores, and that was in '93 to '94; '94 to '95, I worked for
22 La Madeleine, which is a French bakery and cafe; then I went to
23 work for a national company that does work in business and
24 industry, so in the energy field, doing their catering and food
25 service; and then I went to work for a brand new company that

1 was just started, getting started with the malls and doing the
2 food service in all their restaurants in large malls; and then I
3 finally went to work at Fort Bend ISD, which is a very large
4 independent school district, where I overseen their food service
5 operations.

6 Q. Ms. Kapche, are you working now outside the home?

7 A. I do a lot of teaching and volunteering, but I don't really
8 get paid for it. So...

9 Q. And so tell the jury a little bit about the teaching that
10 you do.

11 A. Oh, okay. I teach people how to save money by using
12 coupons, and to live within the certain amount of money that
13 they are able to get into their household to live on, so that
14 way they can still get everything they need but not spend the
15 extra money and not go deeper into debt.

16 Q. And can you give the jury an example of something that
17 you've done this year in regards to saving money?

18 A. Oh, I have --

19 MR. REEVES: Objection to relevance.

20 THE COURT: Thank you. Sustained.

21 MS. BUTLER: Just trying to establish her background,
22 Your Honor.

23 THE COURT: I think you've done that. Thank you.

24 BY MS. BUTLER:

25 Q. Let me ask you about when you first met Mr. Kapche. When

1 was that?

2 A. It was in 1997.

3 Q. And what was your first impression of him?

4 THE COURT: Sustained.

5 BY MS. BUTLER:

6 Q. Now, you and Jeff have a family right now. Correct?

7 A. Yes, we do.

8 Q. And is that the reason that you're not working, is because
9 you have your own children?

10 MR. REEVES: Objection. Leading.

11 THE COURT: Well, it is leading, but I'll allow it.

12 A. Yes. I have the opportunity to stay at home with my
13 children at this point. I have been a working mother, and at
14 this point we are really trying to keep me at home so that way I
15 can save -- we can raise our children instead of sending them to
16 day care.

17 So I'm very fortunate to be able to stay at home.

18 BY MS. BUTLER:

19 Q. Did Jeff consult with you before he made an application to
20 the FBI?

21 A. Oh, of course. Of course. We talked about it at length.

22 Q. And did he tell you anything about why he wanted to apply
23 for the job?

24 MR. REEVES: Objection. Hearsay.

25 A. Of course. He wanted to be --

1 THE COURT: I don't think that's the right objection,
2 but I'm going to sustain it on relevance grounds.

3 BY MS. BUTLER:

4 Q. Do you remember when Mr. Kapche received the conditional
5 offer of employment from the FBI?

6 A. Yes, I do.

7 Q. What was his reaction at that point?

8 A. Oh, our whole family was just overwhelmed. We were so happy
9 that he was going into his dream job, that he was going to do
10 what he had always wanted to do. We were so excited, a young
11 family; we were going to be able to move here and there like
12 gets required. We had discussed all that and were ready to go.
13 We were, as a family, so excited, and he was so excited, of
14 course, because that's what he wants to do with his life.

15 Q. Now, did there also come a time when Mr. Kapche, your
16 husband, learned that he would not be getting to go to work for
17 the FBI?

18 A. Yes, there was.

19 Q. And what was his reaction to that?

20 A. Devastated. I can't explain it any other way. Because
21 we're constantly telling our children that they can do anything
22 they want to and be anything that they want to, but then this
23 was taken away because of his diabetes. I apologize. I'm
24 sorry.

25 Q. No, that's all right.

1 Now, Ms. Kapche, in terms of -- well, let me ask it
2 this way: How did your husband show -- what were the physical
3 effects of this rejection on your husband?

4 A. Well, of course he was angry and argumentative and short,
5 impatient, not feeling well, nauseated, couldn't sleep. It
6 really took a toll not only on him but our entire family.

7 Q. Was there anything he expressed to you that showed the kind
8 of suffering he was going through?

9 MR. REEVES: Objection. Hearsay.

10 THE COURT: Well, why don't you just ask what he said
11 to you, or he expressed to you.

12 BY MS. BUTLER:

13 Q. What did he express to you?

14 A. He expressed that his lifelong dream, he was not able to do.
15 And I remember a discussion that at some point we had to move
16 on, because of the fact, it was tearing our family apart because
17 of the stress of the situation, because of the emotions of the
18 situation, because of the anxiety that it was putting on our
19 entire family. We had to let go of that and he had to go on;
20 otherwise, he wouldn't have only lost his dream job, but he
21 would have lost his entire family.

22 Q. Now, Ms. Kapche, I would like to ask you to look at
23 Plaintiff's Exhibit 14. I want to direct your attention to the
24 second paragraph. You've seen this document before. Correct?

25 A. Oh, yes, ma'am, I have.

1 Q. How did it impact Jeff to see that the FBI rejected him
2 because it said his diabetes was not sufficiently controlled?

3 A. That was totally fictitious. He --

4 THE COURT: Ma'am, the question is, how did it impact
5 him, not whether the statement was fictitious.

6 A. Okay. It was emotional, it caused him a lot of distress and
7 pain and physical symptoms of that. It was really a difficult
8 time.

9 BY MS. BUTLER:

10 Q. And why did this statement affect him so much?

11 MR. REEVES: Objection. Calls for speculation.

12 THE COURT: Sustained.

13 BY MS. BUTLER:

14 Q. Now, did Jeff ever talk to you about the FBI's statement
15 that his diabetes was not sufficiently controlled?

16 A. Yes.

17 MR. REEVES: Objection. Calls for hearsay.

18 THE COURT: Yeah, I think the last hearsay ruling I
19 made, I think if I could take it back, I would. I think this is
20 hearsay, what he said.

21 BY MS. BUTLER:

22 Q. Have you had the chance in your life to compare Mr. Kapche
23 with other people with diabetes?

24 A. Of course --

25 MR. REEVES: Objection. Relevance.

1 MS. BUTLER: It goes to the heart of how this impacted
2 her, Your Honor, and how it impacted him.

3 THE COURT: Well, let me hear what the next question
4 is. I'll overrule that objection. I don't want her to get into
5 being an expert on diabetes.

6 MS. BUTLER: No, I'm not at all --

7 BY MS. BUTLER:

8 Q. Your mother has diabetes. Correct?

9 A. Correct.

10 Q. And tell the jury the role you had to play in taking care of
11 her diabetes.

12 MR. REEVES: Objection. Relevance.

13 A. Okay --

14 THE COURT: Sustained.

15 BY MS. BUTLER:

16 Q. Was Jeff Kapche able to help her with her diabetes?

17 A. Yes.

18 MR. REEVES: Objection, relevance.

19 THE COURT: Sustained. Sustained and strike the
20 answer.

21 BY MS. BUTLER:

22 Q. Do you know what Jeff Kapche wants out of this case?

23 A. Yes, I do.

24 Q. And what is that?

25 A. A job with the FBI.

1 MR. REEVES: Relevance, Your Honor.

2 THE COURT: The moment has passed.

3 BY MS. BUTLER:

4 Q. Has diabetes ever affected him in his family life?

5 A. No.

6 Q. Has he ever had any kind of episode of diabetes that would
7 show he was unaware of his diabetes?

8 A. Of course not. He takes excellent control of himself; he's
9 physically fit, he's constantly in control of his diabetes and
10 his education of diabetes and how to make it -- make himself
11 healthy.

12 MS. BUTLER: No further questions. Thank you.

13 CROSS-EXAMINATION

14 BY MR. REEVES:

15 Q. Ms. Kapche, good morning. I want to ask you a few questions
16 about the emotional distress that you testified to on direct.
17 And I know it's difficult. I'll do my level best to be fast.

18 This emotional distress you talked about, it lasted
19 about two or three months. Right?

20 A. Until we finally had the talk that it had to be left behind
21 or it was going to disrupt our entire family.

22 Q. Yes, ma'am. That was about two or three months?

23 A. I don't know the exact date, but that sounds about right.

24 Q. You mentioned on direct that this sort of stress was tearing
25 your family apart. Did I hear that correctly?

1 A. In a lot of different ways, yes.

2 Q. Did you ever ask him to see a doctor?

3 THE COURT: Keep your voice up, sir. In fact, both of
4 you keep your voice up.

5 BY MR. REEVES:

6 Q. My question, Mrs. Kapche: Did you ever ask him to see a
7 doctor?

8 A. We both knew where this trouble was coming from, and I never
9 asked him to see a doctor because I thought, and I was correct,
10 that we would have to work through it together.

11 Q. Yes, ma'am. And your husband never took any sort of
12 prescription medication for any of this emotional distress that
13 you described. Right?

14 A. I don't believe so.

15 Q. And during this time, you don't recall your husband missing
16 any work due to his emotional distress, do you?

17 A. It's hard to say. I'm sorry, I couldn't -- I couldn't be
18 absolutely sure with that answer.

19 Q. Yes, ma'am. But as you sit here today, you don't recall
20 him --

21 A. I don't recall. No, I don't remember. And I'm sorry.

22 Q. That's fine.

23 Let me ask you briefly about your husband's diabetes.
24 He doesn't need any help to manage his diabetes from any other
25 person. Right?

1 A. No, he does not.

2 Q. And while there may be some foods your husband does not eat,
3 you agree with me that he could eat any foods he wanted.

4 Correct?

5 A. Oh, of course.

6 Q. And you agree with me that your husband has never suffered
7 any diabetes-related health complications. Right?

8 A. As far as?

9 Q. Dizziness.

10 A. Oh, hospitalization, coma, those? No, he has not.

11 Q. Never fainted, no nausea due to diabetes or anything like
12 that?

13 A. No.

14 Q. And as far as you know, he's never been -- he's never missed
15 work due to his diabetes. Right?

16 A. I don't think so.

17 MS. BUTLER: Objection. Asked and answered.

18 MR. REEVES: I asked about the emotional distress
19 earlier, Your Honor.

20 THE COURT: No, the objection is overruled and the new
21 question is now answered.

22 BY MR. REEVES:

23 Q. And Mrs. Kapche, you agree with me that even though your
24 husband has diabetes, he can do anything he wants when he puts
25 his mind to it. Right?

1 A. As long as his diabetes is controlled and he has that factor
2 under control in his life, yes, I believe we all can. And
3 especially my husband.

4 Q. And given that he is controlling his diabetes, he can do
5 anything he wants?

6 A. Yes.

7 Q. Thank you.

8 MR. REEVES: No further questions.

9 MS. BUTLER: Your Honor, I have one further question.

10 REDIRECT EXAMINATION

11 BY MS. BUTLER:

12 Q. You've said that your husband wanted to be an FBI agent?

13 A. Correct.

14 Q. Is it true what Mr. Reeves said, that he is allowed to do
15 anything he wants by the FBI?

16 MR. REEVES: Objection. That mischaracterizes the
17 prior testimony.

18 THE COURT: No, the objection is argumentative and it's
19 sustained.

20 MS. BUTLER: No further questions.

21 THE COURT: Thank you, Ms. Kapche. That completes your
22 testimony. You may step down.