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# Testimony in Elizabeth Holmes' case starts with former Theranos employees

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The first full day of testimony in the fraud trial of Theranos Inc. founder Elizabeth Holmes on Tuesday is expected to feature prosecution witnesses who will bolster the government's case against her.

The 37-year-old former Theranos CEO is accused of defrauding investors and patients about the blood-testing technology at her company, which has gone out of business. She has pleaded not guilty to 10 counts of wire fraud and two counts



MIKE KAI CHEN/THE NEW YORK TIMES

Elizabeth Holmes, the founder of the blood testing start-up Theranos, and her partner,

of conspiracy to commit wire fraud.

Former Theranos President Ramesh "Sunny" Balwani, who is also Holmes former boyfriend, is facing the same set of charges and will be tried separately.

Friday's court session was canceled after one of the juror's told U.S. District Court Judge Edward DaVila that he was potentially exposed to Covid-19.

Former Theranos controller Danise Yam, whose legal name is So Han Spivey, began her testimony about the Silicon Valley company's erratic financial controls last Wednesday and is expected to be first up on the witness stand Tuesday.

The Wall Street Journal identified two other important witnesses it said will likely testify soon after Yam: Erika Cheung, a former Theranos lab worker who told federal regulators about problems at the company, and Daniel Edlin, a onetime project manager who reported directly to Holmes. He is expected to be asked about technology claims that Theranos made to the Defense Department and drugstore operator Walgreens Boots Alliance Inc.

The trial is on an abbreviated three-days-a-week schedule with sessions ending early at 2 p.m. It was scheduled to begin last year and postponed numerous times, first by pandemic concerns and then when Holmes had a baby.

Here are some of the other reports about the trial that have surfaced since Friday:

**No guaranteed seats for Balwani:** [Yahoo Finance reported Monday](#) that Judge Davila denied a request from Balwani for guaranteed access to the Holmes trial. His lawyers argued before the trial began that they needed to be at the proceedings to "maintain a level playing field between the defense and prosecution leading up to Mr. Balwani's trial." They also argued that they should have the same seating privilege as has been extended to Holmes' friends and family, government agents and reporters. Their request was denied by the judge without any explanation.

**Fallout at former Theranos lawyer's firm** — Ex-Theranos lawyer David Boies' representation of Theranos has caused unrest at his powerhouse firm of Boies Schiller

Billy Evans, depart a federal courthouse in San Jose, Calif., after the first day of Holmes's trial on Sept. 8, 2021. Holmes, 37, has been charged with 12 counts of wire fraud and conspiracy to commit wire fraud in connection with money she raised for Theranos, which dissolved in 2018 after its blood tests were revealed to have problems. (Mike Kai Chen/The New York Times)

Flexner, [CNBC](#) reported. A story about an exodus of lawyers from the firm said one of the reasons was its involvement in trying to quash stories about Holmes and disgraced Hollywood executive Harvey Weinstein. Boies joined the Theranos board in 2015 and is on the list of potential witnesses who may be called in the current Holmes trial. [CNBC](#) quoted a [New York Times](#) interview that Boies did in 2018 where he said about defending Weinstein and Theranos: "You don't know all the facts when you take on a client, but once you do, you have a duty of loyalty. You can't represent them halfway. If, as a lawyer, you start to value how you are going to look to the media, as opposed to how your client will look, then you should find a new profession."

**No more black turtlenecks** — Holmes' new look of softer colors and no more Steve Jobs-style black turtlenecks figures into her defense strategy, according to a story in [The Wall Street Journal](#). "Trial attire, personal branding, these kinds of things, are part of really effective litigation. The most effective trial attorneys, criminal and civil, are storytellers, so they want to paint a picture for jurors in a narrative form, and then they want to supplement that story with confirming evidence," Geri E. Fischman, a senior trial consultant at Focus Litigation Consulting in Miami, who is not part of Holmes's team, told the Journal.

**Spotlight on Theranos investors** — Only a few of VC firms that backed Theranos have done medtech investments since late 2015, when the company began to implode. "Silicon Valley is well known for its faith in new technology's power to solve old problems," according to [an analysis by PitchBook Data](#). "But in the Theranos trial, the failings of that optimism are about to go on display for all to see."

**Theranos as a SPAC merger?** — Reuters columnist Gina Chon [drew parallels](#) between the inaccurate projections made by Theranos and what companies are making when they go public via mergers with special purpose acquisition companies (SPACs). Prosecutors said that when Holmes projected in 2015 that Theranos could generate \$1 billion in revenue in 2015 she knew the accurate figure was a few hundred thousand dollars. Chon believes some SPAC would have backed Theranos claims, the way some have done for others who have failed to deliver on their projections. That will hurt retail investors, she concluded: "Whether optimistic projections are made in good faith or not, this is the kind of risk venture capitalists take every day. It's a far less common situation for public shareholders."

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