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ROUGH DRAFT OF
BARBARA FERRER

18

May 3, 2023

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REPORTED BY:
KATHY MANNLEIN
CSR NO. 13153

25

1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

2

FOR THE COUNTY OF LOS ANGELES

3

4

ALLIANCE OF LOS ANGELES)
COUNTY PARENTS, an)
unincorporated association,)

5

6

Petitioner and Plaintiff,)
)

7

vs.) Case No.:

22STCP02772

8

COUNTY OF LOS ANGELES COUNTY)
DEPARTMENT OF PUBLIC HEALTH;)

9

MUNTU DAVIS, in his official)
capacity as Health Officer)

10

for the County of Los)
Angeles; BARBARA FERRER, in)

11

her official capacity as)
Director of the County of Los)

12

Angeles Department of Public)
Health; and DOES 1 through)

13

25, inclusive,)

14

Defendants.)

15

16

VIDEOTAPED DEPOSITION OF BARBARA FERRER

17

Los Angeles, California

18

Wednesday, May 3, 2023

19

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21

22

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24

REPORTED BY:
KATHY MANNLEIN
CSR NO. 13153

25

1

APPEARANCES OF COUNSEL:

2

3

For the Petitioner and Plaintiff Alliance

of

Los Angeles County Parents:

4

HAMILL LAW CONSULTING, LLP

5

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For the Respondents and Defendants County

of

Los Angeles Department of Public Health:

9
10 SHEPPARD MULLIN
11 BY: KENT RAYGOR, Attorney at Law
12 1901 Avenue of the Stars, Suite 1600
13 Los Angeles, California 90067
14 Phone #
15 Fax # Fax
16 KRaygor@sheppardmullin.com

17
18 Also present: Kirill Davidoff,
19 Videographer
20
21
22
23
24
25

4 4 BY MS. HAMILL

5 E X H I B I T S

6 No. Description
Page

7 Exhibit 1 Alliance Of Los Angeles County
Parents Notice Of Taking Deposition Of
Barbara Ferrer And Demand To Produce
8 Documents At Deposition
9

10 Exhibit 2 Defendant Barbara Ferrer Ph.D's
Contained Responses To Document Demands
11 In Plaintiff's April 13, 2023
Deposition Notice

12 Exhibit 3 County of Los Angeles Public Health
Org Chart

13 Exhibit 4 Contacts With News Media

14 Exhibit 5 County of Los Angeles Public Health
15 Statement

16 Exhibit 6 Request for statement e-mail thread

17 Exhibit 7 Morbidity and Mortality Weekly Report

18 Exhibit 8 Twitter thread

19 Exhibit 9 Twitter thread

20 Exhibit 10 LA Public Health Tweet

21 Exhibit 11 July 18, 2022 Statement

22 Exhibit 12 Brad Spellberg Tweet

23 Exhibit 13 Communicable Disease Investigation
and Response Protocol Revisions for
Schools

24

Exhibit 14 COVID-19 Age, Race, and Ethnicity

Data

25

5

1 Los Angeles, California

2 Wednesday, May 3, 2023

3 11:39 a.m.

4

5 THE VIDEOGRAPHER: We are now on the record.

6 Today's date is May 3rd, 2023, and the time is

7 11:39 a.m.

8 This is the video deposition of Barbara
Ferrer,

9 being taken in the matter of Alliance of Los
Angeles

10 County Parents versus County of Los Angeles County

11 Department of Public Health on behalf of the

12 plaintiff, pending in the Superior Court of the

13 State of California for the county of Los Angeles;

14 case number 22STCP02772.

15 We are at 333 South Hope Street, 43rd Floor,

16 Los Angeles, California 90071. My name is

17 Kirill Davidoff of Aptus Court Reporting, located
at

18
California

401 West A Street, Suite 1680, San Diego,

19

92101.

20

Will counsel please identify yourselves and
21 state whom you represent.

22

Hamill

MS. HAMILL: Good morning, Julie Hamill;

23

Law and Consulting on behalf of petitioner and

24

plaintiff, Alliance of Los Angeles County Parents.

25

on

MR. RAYGOR: Kent Raygor of Sheppard Mullin

6

1

-- excuse me, on behalf of the defendants named in

2

this action, County of Los Angeles Department of

3

Ferrer,

Public Health, Dr. Monton Davis and Barbara

4

Ph.D. I am here for the witness, Barbara Ferrer,

5

Ph.D. today.

6

With me, but not speaking or participating

7

today is county counsel, William Birnie,

8

B-i-r-n-i-e.

9

is

THE VIDEOGRAPHER: The court reporter today

affirm 10 Kathy Mannlein. And she may now swear in or
11 the deponent.

12

13

BARBARA FERRER,

14

having been administered an oath, was examined and

15

testified as follows:

16

17

MS. HAMILL: Thank you.

18

19

EXAMINATION

20

BY MS. HAMILL:

21

Q. Good morning. Can you please state and spell
22 your name, for the record.

23

A. Barbara Ferrer, B-a-r-b-a-r-a F-e-r-r-e-r.

24

Q. And do you prefer to be called Ms. Ferrer or
25 Dr. Ferrer?

7

1

A. I don't really have a preference.

2

Q. Okay. And what is your current position?

3

A. I'm the director of the LA County Department

of

4 Public Health.

5 Q. How long have you held that position?

6 A. A little over six years.

7 Q. Six years. So help me with the math. What
8 year did you start?

9 A. I believe 2017.

10 Q. Okay. Thank you.

11 Have you ever been deposed before?

12 A. Yes.

13 Q. When was the last time you were deposed?

14 A. Maybe 20 years ago.

15 Q. And what was that for?

16 A. I was the director of the health department
for

17 Boston, and I think there was a labor dispute.

18 Q. The city of Boston, Massachusetts?

19 A. I worked for the public health commission,
20 which was quasi city department.

21 Q. So you were the director of the public health
22 commission in Boston?

23 A. Yeah.

24 Q. Any other times?

25 A. I don't believe so.

1 Q. So just once. Okay. So I'm going to go over
2 some ground rules with you.

3 MS. HAMILL: But before we do that, I do want
4 to note for the record that my client, Sarah Beth
5 Burwick, who is a member of the Alliance of Los
6 Angeles County Parents is in the lobby. And
7 Mr. Raygor is refusing to allow her to enter the
8 room for the deposition. I'm going to give you an
9 opportunity to allow her into the room. Or if you
10 would like to provide legal justification for
11 excluding my client from this deposition, I'd love
12 to hear that.

13 MR. RAYGOR: It's -- you're in a deposition
14 with Dr. Ferrer. I'm happy to talk with you off
15 the record rather than take your time during the
16 deposition.

17 MS. HAMILL: And will you allow my client,
18 Sarah Beth Burwick, to enter the room and
19 participate in this deposition by sitting here and
20 observing?

21 MR. RAYGOR: Same response. I'm happy to
22 talk with you off the record. You're here for a
23 deposition of Dr. Ferrer. Please proceed or we
24 can take a break.

22 MS. HAMILL: So I'm -- I'm just getting
23 clarification from you that you are refusing to
24 allow my client into the room. Is that correct?
25 MR. RAYGOR: That is not correct. I have
said

9

1 that you're in the middle of a deposition,
2 Dr. Ferrer is here. I'm happy to talk with you
off
3 the record.

4 MS. HAMILL: Let's go off the record.

5 THE VIDEOGRAPHER: We're going off the record
6 at 11:44 a.m.

7 (Off the record.)

8 THE VIDEOGRAPHER: We're back on the record
at

9 11:52 a.m. Please continue.

10 MS. HAMILL: Thank you. So now we've wasted
11 about 22 minutes in this deposition. Counsel for
12 the county is trying to force me to sign some sort
13 of document in order to allow my client to attend
14 the deposition. She is sitting in the lobby,
15 waiting to be let in the building, and Mr. Raygor

16 continues to refuse. So we are going to proceed
17 with the deposition.

18 BY MS. HAMILL:

19 Q. You're under oath. So even though this
20 deposition is taking place in a law office, the
21 testimony that you give today requires you to
22 testify truthfully under penalty of perjury as if
23 you were testifying in a court of law.

24 Do you understand?

25 A. Yes.

10

1 Q. I will try to make my questions as clear as
2 possible. But if for any reason, you don't
3 understand a question, please ask me to clarify,

or

4 refuse or repeat it, and I will do so. If you
5 answer a question, the assumption will be, and the
6 record will reflect, that you understood the
7 question.

8 Does that make sense?

9 A. Yep.

10 Q. And please don't guess. I'm entitled to your
11 best estimates, but I don't want you to guess or
12 speculate.

13 For example, if I were to ask you to estimate
14 the length of this room, you could do that because
15 you're sitting and you can see the things in the
16 room. If I were to estimate the size of my patio
17 table, you would be guessing completely because
18 you've never seen my patio.

19 Only one of us should speak at a time in
order
20 to make things easier for our court reporter.
21 Please use words and not gestures. If you're
going
22 to say "yes" or "no," please use the words "yes"
or
23 "no," instead of "uh-huh," "huh-uh," or a shake of
24 the head, or a nod of the head.

25 Ask for a break if at any time during this

11

1 deposition, you feel you need one. Your attorney
2 may object to some of my questions. If that
3 happens, please pause and wait for the objection

4 before you answer. Unless your attorney instructs
5 you not to answer, you are required to answer my
6 questions.

7 Everything we say here today will be taken
down
8 by the court reporter. After the deposition is
9 over, the reporter will transcribe what we've
said.

10 If I ask you the same questions later, at
11 trial, that I've asked you today, and your answers
12 change, I will be able to comment on those
changes.

13 And one of the reasons will be to question your
14 truthfulness. You can expect to be asked to
explain
15 the reason for the differences in your answers.

16 And is there any reason why you might be
unable
17 to provide your best testimony today?

18 A. No.

19 Q. No. Did you review any documents in
20 preparation for your deposition today?

21 A. No.

22 Q. None at all?

23 A. (Shakes head.)

24 MR. RAYGOR: Just a minute. Asked and
25 answered.

1 THE COURT REPORTER: I'm sorry, I can't hear
2 you.

3 MR. RAYGOR: Oh, asked and answered. That
was
4 another question, I said. And then I said asked
and
5 answered.

6 Julie, here are the documents.

7 MS. HAMILL: And, for the record, counsel for
8 the county has just handed me a thumb drive. And
I
9 will take a look at these documents at our first
10 break. Thank you very much.

11 BY MS. HAMILL:

12 Q. So you personally did not review any
documents
13 in preparation for this deposition?

14 MR. RAYGOR: Asked and answered. If I don't
15 instruct you not to answer, as Ms. Hamill said,
you
16 can go ahead and answer.

17 THE WITNESS: No.

18 BY MS. HAMILL:

19 Q. No. Did you search for any documents?

20 A. No.

21 Q. You did not?

22 MR. RAYGOR: Asked and answered.

23 BY MS. HAMILL:

24 Q. Did you have -- did you have anyone in your
25 office conduct a search of documents for you?

13

1 A. I'm not really sure what that question would
2 mean. In my department or in my office? The
3 department has 6,000 people in it. So I think if
4 you could just clarify.

5 Q. Sure. So I am going to share a document that
6 we'll mark as Exhibit 1, the Alliance of Los

Angeles

7 County Parents Notice of Taking Deposition of
8 Barbara Ferrer and Demand to Produce Documents at
9 Deposition. I'll hand that to your counsel.

10 (Exhibit 1 marked.)

11 BY MS. HAMILL:

12 Q. Have you seen this document before?

13 A. I have not.

14 Q. You have not.

15 MR. RAYGOR: Asked and answered.

16 BY MS. HAMILL:

17 Q. I'm going to direct your attention to the
18 bottom of Page 1, number one. And this says any
and
19 all documents -- and then there's a definition of
20 documents -- reflecting any communications between
21 you and Brett Morrow regarding County of Los
Angeles
22 County Department of Public Health social media
23 posts including but not limited to any e-mails,
text
24 messages, or any written correspondence. So I
25 assume you have not looked for any responsive

14

1 documents?

2 MR. RAYGOR: Calls for speculation as to what
3 you assume.

4 MS. HAMILL: You may answer the question.

5 THE WITNESS: I didn't respond to this. I
6 didn't see this until right now. I'm assuming

that

7 if you have documents, it's -- other people have
8 gone in and looked at any of our correspondence
and
9 produced documents for you, but I didn't produce
the
10 documents myself.

11 BY MS. HAMILL:

12 Q. And you've never seen --

13 A. And I didn't look at any of the documents.

14 Q. And I've never seen this document --

15 A. And I've never seen this document until
you're
16 sharing it with me now.

17 MR. RAYGOR: Asked and answered.

18 BY MS. HAMILL:

19 Q. Do you have any idea who provided the
documents
20 that were handed to me this morning?

21 A. I do not.

22 Q. Number two, any and all documents reflecting
23 the identification of all social media accounts
used
24 by Department of Public Health.

25 I assume you haven't seen that before?

1 A. I have not.

2 MR. RAYGOR: Calls for speculation as to what
3 you assume.

4 MS. HAMILL: You may answer.

5 THE WITNESS: I have not seen any documents.

6 BY MS. HAMILL:

7 Q. All right. In the interest of time, I'm not
8 going to read all of these.

9 But, for the record, there are 23 demands to
10 produce documents at deposition.

11 And you have not reviewed these demands nor
12 have you produced any responsive documents?

13 A. I have not.

14 Q. Thank you.

15 MR. RAYGOR: I have, on the witness's behalf.
16 They're in that thumb drive.

17 MS. HAMILL: I'd like to mark as Exhibit 2,
18 Defendant Barbara Ferrer Ph.D's Responses To
19 Document Demands Contained In Plaintiff's April
20 2023 Deposition Notice.

21 (Exhibit 2 marked.)

22 BY MS. HAMILL:

23 Q. Have you seen this document before?
24 A. I have not.
25 Q. I'll direct your attention to Page 4 of
what's

16

1 been marked as Exhibit 2, lines 20 through 22.
2 These are objections lodged by your counsel.
3 And it says, "Reflecting written
communications
4 between defendant and Mr. Morrow since July 26,
2022
5 about closing public commentary on the County of
Los
6 Angeles Department of Public Health's public
7 Twitter, Facebook, and Instagram posts."

8 This is actually not what I requested. The
9 request has been rephrased by counsel.

10 MS. HAMILL: Will counsel produce the
documents
11 that were demanded?

12 MR. RAYGOR: We can conduct our meet and
13 confer, as I said, in my correspondence with you
14 after the deposition of Dr. Ferrer.

15 BY MS. HAMILL:

16 Q. And on Page 5 --

17 MR. RAYGOR: Can you read back the question?

18 (Record read.)

19 MR. RAYGOR: After serving these responses
and

20 -- before produce the documents you have on the
21 thumb drive, we determined there are no such
22 non-privileged documents.

23 MS. HAMILL: There are no such non-privileged
24 documents --

25 MR. RAYGOR: That's what I just said, yes.

17

1 MS. HAMILL: -- that -- well --

2 MR. RAYGOR: Oh, sorry.

3 MS. HAMILL: In my demand for production
number

4 one, I did not limit the time nor did I limit the
5 subject matter to closing public commentary. So

I'm
6 going to ask again if counsel will produce
7 responsive documents to my demand for production,
8 number one?

9 MR. RAYGOR: We asserted objections. I
10 narrowed the response to what I felt was
appropriate
11 as stated in Exhibit 2, lines -- Page 4, lines 18
to
12 22. And we searched for and did not find any
13 responsive documents.
14 MS. HAMILL: And I will ask again if counsel
15 will be producing documents responsive to my
demand.
16 MR. RAYGOR: I've already stated all I'm
going
17 to state. If you have a desire to meet and confer
18 on the scope of the responses, we can do that, but
19 not during the deposition. Please send me a meet
20 and confer letter. This is the first I'm hearing
21 about it.
22 BY MS. HAMILL:
23 Q. And Page 5, line 22, again, counsel has
imposed
24 his own limitations on my demand. This is not
25 responsive to my demand for production number two.

18

1 MS. HAMILL: Will counsel produce documents

2 responsive to demand for production number two?
3 MR. RAYGOR: Same response as what I just
said.

4 BY MS. HAMILL:

5 Q. And I'll ask the witness, Ms. Ferrer,
6 Dr. Ferrer, have you conducted a search for the
7 documents demanded in production number two?

8 A. I have not.

9 Q. You have not. Can you do that?

10 MR. RAYGOR: Calls for speculation.

11 MS. HAMILL: You may answer the question.

12 THE WITNESS: I don't -- I don't search for
13 documents.

14 BY MS. HAMILL:

15 Q. You don't search for documents?

16 A. I don't search for documents in response to
17 requests from counsel or from -- you know, freedom
18 of information request. That's just not something

I

19 personally do. There are other people on the team
20 that handle those requests.

21 Q. Who handle those requests?

22 A. I wouldn't know their names.

23 Q. So you cannot personally conduct any searches
24 for documents?

25 A. I don't conduct those searches.

1 Q. You don't. But you could?
2 A. For documents related to requests from
outside
3 sources. I search for my own documents that I
need.
4 But there's a process that the county has set up,
5 and our department uses to respond to requests for
6 other documents.
7 Q. Can you explain that process to me?
8 A. Not really. I cannot.
9 Q. So --
10 A. I just know that -- what I know zero is that
11 those requests are sent to centralized office, and
12 reviewed, and then responded to. I mean, I --
13 that's the best that I can help you with, sort of
14 how it happens. I'm not -- I don't have any
15 additional information.
16 Q. What is the centralized office?
17 A. A centralized location would probably be
18 better. There's a group of folks that handle
19 requests for information. They also do other

tasks,

20 as well.

Health

21 Q. Is that within the Department of Public

22 or within the overall county?

23 A. Within the Department of Public Health.

24 Q. So there's a centralized office within the

25 department --

20

1 A. I'd say a centralized unit.

2 Q. A centralized unit within the Department of

3 Public Health that conducted a search for these

4 documents?

witness'

5 MR. RAYGOR: Objection, misstates the

6 testimony.

7 THE WITNESS: I -- that is the usual process.

process

8 If that -- there could have been a different

know

9 that was followed in this case, and I wouldn't

10 about it.

11 BY MS. HAMILL:

12 Q. If you wanted to, could you go to your office
13 and search for documents that I requested in this
14 demand for production?
15 A. I haven't read this demand for production, so
16 I'd have to read it and then make a determination
if
17 I could do it.
18 Q. Well, let's go back to demand for production
19 number one, which requests communications between
20 you and Brett Morrow.
21 Would you be able to search for documents
22 responsive to that request?
23 A. Where -- where is that request?
24 Q. It begins on Page 3 and goes to Page 4 of
25 Exhibit 2.

21

1 A. No, I couldn't do this.
2 Q. And why not?
3 A. I don't have -- I wouldn't know where all
these
4 documents might be.
5 Q. Would you be able to conduct a search in your

6 e-mail inbox?

7 A. I think I can, yes.

8 Q. Have you ever conducted a search of your e-mail

9 inbox for any content?

10 A. Not for content, but by people.

11 Q. By people. So you know how to conduct a

12 search of your e-mail inbox for communications with

13 certain people?

14 A. Yes, I do.

15 Q. Okay. I'm going to ask that you conduct a

16 search of your e-mail inbox for documents

17 responsive to demand for production number one.

18 And do you have a list of all of the social

19 media accounts maintained by the Department of

20 Public Health?

21 A. I do not.

22 Q. You do not. Are you aware of one existing?

23 A. I am not.

24 Q. Do you know who might know?

25 A. I would imagine that Brett Morrow as the

1 director of that office would know.

2 Q. And what is the office that he's the director
3 of?

4 A. Office of communications and -- I don't know,
5 we just call it the office of communications. But
6 it has a longer title.

7 Q. And is that within the Department of Public
8 Health?

9 A. That is within the Department of Public
Health.

10 Q. And so he doesn't do any communications, work
11 for other departments in the county?

12 MR. RAYGOR: Objection, it's not a question.
13 It's a statement.

14 MS. HAMILL: If you understand you may
answer.

15 THE WITNESS: The county is organized in a
way

16 that all of the departments will help out with
17 communications, efforts that happen in other
places.

18 So he could, yes, be helping in other places, as
19 well.

20 BY MS. HAMILL:

21 Q. Thank you. And going on to Page 5, demand
for

22 production number three. This says, "Any and all
23 departments reflecting communications between you
24 and the LA County, USC Medical Center, including
but 25 not limited to any e-mails, text messages, or any

23

1 other written correspondence."

2 Have you corresponded via e-mail with the LA
3 County USC hospital?

4 A. Well, the LA USC county hospital is not an
5 e-mail entity. So you can communicate with people
6 that work there, but I've never communicated with
7 them as an entity.

8 Q. That's a good clarification.

9 So which people from LA County USC hospital
10 have you communicated with via e-mail?

11 A. I could not answer that.

12 Q. Have you communicated with Dr. Spellberg?

13 A. I wouldn't recollect when we communicated,
but

14 I've been there six years, and I would imagine at
15 some points, we've communicated.

16 Q. Have you communicated with Dr. Holtom?
17 A. Not to my knowledge. But, again, six years
is 18 a long time, so I wouldn't -- I would just say I
19 don't know.
20 Q. I'm going to ask that you go back and search
21 your e-mail inbox for communications between
22 yourself and Dr. Spellberg and Dr. Holtom.
23 MR. RAYGOR: Can you spell?
24 MS. HAMILL: H-o-l-t-o-m.
25 BY MS. HAMILL:

24

1 Q. And on Page 6, we have demand for production
2 number four, "Any and all documents reflecting
health 3 communication communications between you and
4 services of Los Angeles County, including but not
5 limited to, any e-mails, text messages, or any
other 6 written correspondence."
7 Have you corresponded with any people from
the 8 health services of Los Angeles County?

9 A. Yes.

10 Q. Who are your points of contact at the Health

11 Services of Los Angeles County?

12 A. I would not be able to name them all.

13 Q. With whom do you most frequently communicate

14 there?

15 A. Dr. Christina Galli.

16 Q. Anyone else?

17 A. (Shakes head.) Not frequently.

18 Q. And does Dr. Christina Galli oversee your

19 department?

20 A. She does not.

21 Q. Are you lateral --

22 A. Yes, we are.

23 Q. So you have equal --

24 A. We're both department heads.

25 Q. You're both department heads.

25

your 1 So Dr. Christina Galli is especially what

2 position is in the health services?

3 A. (Nods head.)

4 MR. RAYGOR: Is that -- you have to answer
5 audibly for the court reporter.

6 THE WITNESS: Yes. Dr. Christina Galli's
7 department is an equivalent department to my
8 department.

9 BY MS. HAMILL:

10 Q. And what is the difference between health
11 services of Los Angeles County and the Department
of
12 Public Health?

13 A. The Department of Health Services runs the
14 county's hospitals. And the Department of Health
15 Services clinics. And the Department of Public
16 Health is responsible for the public health and
17 wellbeing of the 10.3 million dollars -- million
18 people who live in the county. So the health
19 services department served mostly as a provider.
20 And the county's Department of Public Health has
50,
21 plus, programs, doing a range of services in
support
22 for residents all across the county.

23 Q. Is it fair to say that the Department of
Public
24 Health is more policy while health services is
more
25 provider?

1 A. I don't think that would be the way I'd
2 characterize it.

3 Q. Would you characterize it a different way?

4 A. I would.

5 Q. How would you characterize it?

6 A. The Department of Public Health provides
7 services and supports to families all across -- to
8 residence all across the county. They -- we also
9 engage in some policy work, but so does the
10 Department of Health Services. I mean, all
11 departments are engaging in policy work. So I
12 think that's an appropriate distinguish.

13 Q. Thank you.

14 Demand for production number five requests
15 and all documents reflecting communications
16 you and Sheila Kuehl regarding Department of
17 Health social media including but not limited to

don't
any
between
Public
any

18 e-mails, text messages, or any other written
19 correspondence.

20 Do you know Sheila Kuehl?

21 A. Yes, I do.

22 Q. Am I pronouncing her name correctly?

23 A. Kuehl.

24 Q. Kuehl.

25 So have you corresponded with Sheila Kuehl

via

27

1 e-mail?

2 A. Yes, I have.

3 Q. You have. Have you corresponded --

4 MR. RAYGOR: Asked and answered.

5 MS. HAMILL: I'm sorry?

6 MR. RAYGOR: Asked and answered.

7 BY MS. HAMILL:

8 Q. And have you corresponded with Ms. Kuehl
9 regarding the county's social media?

10 A. I do not recall ever communicating with her
11 about that.

12 Q. Do you recall Ms. Kuehl ever having concerns

13 about the county's social media?

14 A. I do not recall that.

15 Q. I'd like for you to conduct a search of your
16 e-mail inbox for communications between you and
17 Sheila Kuehl regarding Department of Public Health
18 social media pursuant to demand for production
19 number five.

20 Demand for production number six on Page 8
21 requests any and all documents reflecting
22 communications between you and Holly Mitchell
23 regarding Department of Public Health social
media.

24 Have you corresponded with Holly Mitchell via
25 e-mail?

28

1 A. Yes, I have.

2 Q. Have you corresponded with Holly Mitchell via
3 e-mail about the department's social media?

4 A. Not that I recall.

5 Q. Okay. And I'll ask again that you conduct a
6 search of your e-mail inbox for communications

of 7 between you and Ms. Mitchell regarding Department
8 Public Health social media.

9 And continuing this pattern, demand for
10 production number seven, requests communications
11 between you and Hilda Solis regarding Department
of 12 Public Health social media.

13 Have you corresponded with Ms. Solis via
social 14 -- or via e-mail?

15 A. Yes, I have.

16 Q. You have. Have you corresponded with her
17 specifically with regard to Department of Public
18 Health social media?

19 A. Not that I recall.

20 Q. Okay. And I will ask that you conduct a
search 21 of your e-mail inbox for correspondence between
22 yourself and Ms. Solis regarding Department of
23 Public Health social media pursuant to demand for
24 production number seven.

25 Demand for production No. 8 on Page 10 asks
for

and

1 documents reflecting communications between you
2 any other person regarding a Twitter account
3 identified as alt_lacph.

4 Are you familiar with that account?

5 A. I am not.

6 Q. Have you ever heard of it in your --

7 A. I have not.

you

8 Q. Okay. Demand for production No. 9, "Any and
9 all documents reflecting communications between
10 and Kaitlin Barnes regarding Department of Public
11 Health's social media including but not limited to
12 e-mails, texts, or any other written
13 correspondence."

14 Are you familiar with Kaitlin Barnes?

15 A. I am.

16 Q. And how do you know Kaitlin?

17 A. She's my daughter.

18 Q. She's your daughter.

19 MR. RAYGOR: Asked and answered.

20 BY MS. HAMILL:

21 Q. Does she live with you currently?

22 MR. RAYGOR: Not relevant to any subject in
23 this lawsuit.

24 You can answer.

25 THE WITNESS: Sometimes.

30

1 BY MS. HAMILL:

2 Q. Have you communicated with Kaitlin Barnes via
3 e-mail?

4 A. Yes, I have.

5 Q. Have you communicated with her via e-mail
6 regarding Department of Public Health social
media?

7 A. Not that I recall.

8 Q. And I will ask that you conduct a search of
9 your inbox for communications between yourself and
10 Kaitlin Barnes regarding Department of Public
11 Health's social media.

12 MS. HAMILL: I'm speaking a little fast. I'm
13 sorry. I'm going to slow down.

14 BY MS. HAMILL:

15 Q. Okay. Demand for production No. 10, "Any and
16 all documents reflecting Department of Public
Health
17 policies relating to communications with the

18 public."
19 Does the Department of Public Health have
20 policies relating to communications with the
public?
21 A. Yes.
22 Q. Yes. Are those policies in writing?
23 A. Yes.
24 Q. Have those been produced today?
25 A. I don't know.

31

1 MR. RAYGOR: Yes.
2 MS. HAMILL: Great.
3 BY MS. HAMILL:
4 Q. And demand for production No. 11 is "any and
5 all documents reflecting Department of Public
Health
6 policies relating to social media."
7 Does the Department of Public Health have
8 policies respecting social media?
9 A. Not that I know of.
10 Q. Okay.
11 A. Or recall.

12
reflecting

Q. Number 12 is "any and all documents

13

Department of Public Health's determinations

14

regarding who may be tagged in the county's social

15

media posts."

16

Are you familiar with any sort of policy

17

regarding these determinations?

18

A. I am not.

19

Q. Number 13 on Page 14, "any and all documents

20

reflecting misinformation regarding public health

21

guidance in comments on Department of Public

Health

22

social media posts."

23

Are you familiar with any misinformation

24

regarding public health guidance in the comments

to

25

the Department of Public Health social media

posts?

32

1

A. I am not.

2

Q. Not at all.

3

MR. RAYGOR: Asked and answered.

4

BY MS. HAMILL:

5 Q. Number 14, "Any and all documents reflecting
6 bullying in the comments on Department of Public
7 Health's social media posts."
8 Are you familiar with any bullying in
comments
9 on Department of Public Health social media posts?
10 A. Could you restate that question? Because I'm
11 not sure if you're asking me if I'm familiar --
like
12 if someone has told me that there's bullying
that's
13 going on, or if I have seen documents, or have
14 looked on the social media posts and seen people
15 doing those activities.
16 Q. Have you personally seen any bullying in the
17 comments to the Department of Public Health social
18 media posts?
19 A. I have not, but I do not review the social
20 media posts.
21 Q. You do not review the social media posts?
22 A. I do not review the social media posts.
23 MR. RAYGOR: Asked and answered.
24 MS. HAMILL: And I am repeating -- and I
25 repeating the statements because with the masks,
it

sure 1 is difficult to understand, and I want to make
2 we have a clear record.

reporter 3 MR. RAYGOR: Then let's ask the court
4 to see if the most important person in the room
has 5 heard it and put in the record.

6 MS. HAMILL: And I would also like to clarify
7 for my own understanding as the deposing attorney.
8 Thank you very much.

continue 9 MR. RAYGOR: You're welcome. And I'll
10 to object on that ground.

11 BY MS. HAMILL:

12 Q. Okay. Are you familiar with bullying in the
13 comments? Meaning, has anyone told you that there
14 is bullying in the comments on the Department of
15 Public Health's social media posts?

16 A. Yes, they have.

17 Q. And who told you that?

18 A. I don't recall.

19 Q. Do you think it was Brett Morrow?

20 A. I don't recall.

21 Q. Who manages the Department of Department of
22 Public Health's Twitter account?
23 A. I think there have been a variety of people
24 managing that account. Brett is the person in
that
25 office that I would talk to the most. But there
are

34

1 other people in the office that also work closely
2 with communications that could have communicated
3 that information to me.

4 Q. And what kind of bullying was going on,
5 according to the people that you spoke to?

6 A. I don't really recall any details of how it
was
7 described.

8 Q. Do you recall whether the bullying was
targeted
9 toward you or toward other members of the public?

10 A. My recollection of the conversation around
11 bullying on the social media posts was not about
12 bullying directed at me.

13 Q. So it was bullying of other individuals?

14 A. Yes.

15 Q. Of members of the board of supervisors?

16 A. It was bullying about other members of the
17 public.

18 Q. Members of the public.

19 A. Yeah.

20 Q. Number 15, "Any and all documents reflecting
21 harassment in comments on Department of Public
22 Health social media posts."

23 Are you familiar with any harassment in the
24 comments on the Department of Public Health's
social
25 media posts?

35

1 A. I have seen no social media posts.

2 Q. Has anyone told you that there was harassment
3 in the comments?

4 A. To the best of my recollection in the same
5 conversation that we were discussing bullying, we
6 were discussing harassing comments, as well. And
7 it...

8 Q. And what's the difference in your mind
between 9 bullying and harassing?
10 A. I think they're very similar.
11 Q. Number 16, "Any and all documents reflecting
12 threats in comments on Department of Public
Health's 13 social media posts."
14 Are you familiar with any threats in the
15 comments on Department of Public Health's social
16 media?
17 A. I have not -- social media posts? Could you
18 define "social media" for me? Like when you say
19 social media, what are you -- what are you
including 20 there?
21 Q. I'm referring to Twitter, Facebook,
Instagram. 22
23 A. I think the answer is yes.
24 Q. So you're familiar with threats?
25 A. I have been shown threats.
Q. Shown threats.

1 Did you produce those documents today?

2 A. The only threats that I have been shown are

3 were threats against me that were then sent to the

4 sheriff.

5 Q. And those were in the comments to the

6 department's social media?

7 A. I cannot be sure.

8 Q. So it could have been via direct message?

9 A. I cannot be sure.

10 MS. HAMILL: And I'll ask counsel, did you

11 provide any documents reflecting those threats

12 today?

13 MR. RAYGOR: I don't know. I gave you the

14 archive. We produced the entire archive.

15 MS. HAMILL: Do you know how many gigabytes

16 were produced?

17 MR. RAYGOR: I do not.

18 MS. HAMILL: Okay.

19 BY MS. HAMILL:

20 Q. Okay. We asked for the org chart. I assume

21 that it's in these documents that I will review on

22 our break.

23 Number 18 on Page 18, "Any and all documents

24 reflecting the Department of Public Health's

25 decision to disable public comments on its social

1 media posts on or about August 4th, 2022."

2 Were you involved in that decision?

3 A. The communications office made that decision
4 and then informed me of it to see if I had any
5 objections.

6 Q. Did you have any objections?

7 A. I did not.

8 Q. Did you have any concerns?

9 A. We discussed making sure that at the town
10 halls, people would be able to ask us questions.

11 Q. And how do those you town halls work?

12 A. I can't tell about how the platform works. I
13 can talk about how we organize the town hall. We
14 have various presenters that talk for a couple of
15 minutes each on the topic for that town hall.

They

16 range -- they're generally clinicians and public
17 health practitioners. I usually am moderating.

And

18 then after those short presentations, we open for
19 questions from the general public, and try to get

as

20 many of the questions as possible related to the
21 topic that's being discussed.

22 Q. And how are those questions moderated?

23 A. I would not know the answer to that.

24 Q. Are you the person who gets to ask the
25 questions of the pan lists?

38

1 A. I am given a list of questions that come --
2 because I think there's a variety of ways that
3 people can ask us questions. And so I will be
given
4 a list of those questions as they're coming in.

And

5 then I will go ahead and ask as many of those
6 questions as I can.

7 Q. But you don't always ask all of the questions
8 --

9 A. We never have time to ask all of the
questions.

10 Q. Are you aware of whether or not all members
of

11 the public participating in the town hall can see

12 the questions being asked?

13 A. I have no idea how the technology works.

14 Q. And do you select the clinicians and the
public

15 health practitioners who speak on these panels?

16 A. I will do that with my team, you know. We

17 really are really responding, often, to questions

18 that are being asked of us so if there's a new

19 guidance on vaccinations, for example, we'll do
town

20 hall on vaccinations. And then we'll have our

21 experts on vaccinations present the information.

22 Q. Would you ever invite a clinician or public

23 health practitioner who has views that are
divergent

24 from yours on best practices with respect to
COVID?

25 A. All of the -- as far as I recall, all of the

39

1 presenters at our town halls are people who work
at

2 the Department of Public Health.

3 Q. Okay.

4 MS. HAMILL: Is this clear for your

transcript?

5 THE COURT REPORTER: Yeah, only because I'm
6 hooked up to his audio. Otherwise, I wouldn't be
7 able to do it.

8 BY MS. HAMILL:

9 Q. No. 19, "Any and all documents reflecting an
10 archive of Department of Public Health's data from
11 Twitter showing the at LA public health accounts
12 activity from March 1, 2020 through the present.

13 And my understanding is that a full archive
of

14 the data has been provided on this thumb drive
which

15 will review on the break. Are you aware that the
16 Department of Public Health's Twitter posts, prior
17 to September of 2022, are no longer visible on
18 Twitter?

19 A. I'm not sure what you mean. Could you say
that
20 again?

21 Q. So each Twitter user has a timeline. And the
22 Department of Public Health has a timeline. And
in

23 the timeline, it shows a series of posts in
24 chronological order. The Department of Public
25 Health's Twitter stops in September of 2022. And

1 there's no -- there are no posts that are viewable
2 on the timeline prior to September of 2022.

3 A. I'm not sure I understand at all what you
mean.

4 I don't know how to answer.

5 Q. So I'll just take that as a no. You're not
6 aware?

7 A. Yeah, I'm totally not aware.

8 Q. Thank you.

9 And you said you're not aware of any
10 misinformation in the comments to the Department
of
11 Public Health's social media posts?

12 MR. RAYGOR: You already asked. The witness
13 already answered.

14 THE WITNESS: I have not seen any of the
posts.

15 I am aware that there was a lot of misinformation
16 that other people were contributing on our sites
17 that was creating a lot of confusion. But I
didn't
18 see those posts. And the conversations I had was
19 that they were happening, and they were
problematic.

20 And there was a lot of them.

21 BY MS. HAMILL:

22 Q. And do you recall what kind of misinformation
23 was being shared?

24 A. I don't recall the details. I think a lot of
25 it was around vaccines and masks, but I have no

41

1 details, and poor recollection.

2 Q. And you were concerned about that
3 misinformation; is that correct?

4 A. I am concerned about misinformation, yes.

5 Q. Why?

6 A. We're the public health department. People
7 coming to our sites are looking for accurate
8 information. And as the public health department,
9 we take that responsibility very seriously.

10 Q. And how do you determine whether a piece of
11 information is misinformation or not?

12 A. We have a team of epidemiologists,
clinicians,

13 public health practitioners who work hard to

would 14 determine what is accurate information. So I
15 say when the information is not aligned with what
16 we've determined is accurate information, for us,
17 that would represent misinformation. You asked a
18 hard question, because there are lots of different
19 ways people can think about misinformation.
20 Q. And so if I'm understanding correctly,
21 information that's not aligned with what the
22 Department of Public Health has put out would
23 constitute misinformation?
24 MR. RAYGOR: Objection, the witness provided
25 her testimony.

42

said. 1 THE WITNESS: I don't think that's what I
2 It's not necessarily information that we've put
out. 3 It's information that we have determined is
credible 4 and accurate and based in science. Sometimes
there 5 could be misinformation circulating about a topic
we

6 have yet to present information on.

7 BY MS. HAMILL:

8 Q. And so how do you determine whether something
9 is credible, and accurate, and based in science?

10 A. There's a review by a team of qualified
people
11 at the health department that look at the
12 information that are versed in public health
13 practice, and research, and the appropriateness of
14 research, and the epidemiology of disease that
15 actually are working together to make those
16 determinations. There's one person that does that
17 job.

18 Q. Can you name anyone on that team?

19 A. Yes.

20 Q. Will you, please?

21 A. Dr. Sharon Balter.

22 Q. Anyone else?

23 A. Dr. Paul Simon.

24 Q. Not the musician?

25 A. Not the musician.

1 Q. Anyone else?

2 A. Dr. Dawn Terashita.

3 Q. Anyone else?

4 A. It's a long list.

5 Q. About how long?

6 A. Dr. Monton Davis.

7 Q. Anybody else?

8 A. I'm trying to make sure I have everyone's
last
9 names. I would have to give you some first names
10 because I'm not sure I've -- I think Dr. Produ
11 Gunder {sic}, but I'm not positive about the last
12 name; Dr. Zach Ruben; Dr. Rida Zengal. There's --
13 I'll stop there.

14 Q. Okay. Thank you very much.

15 So tell me if my understanding is correct.
If
16 -- if conflicting pieces of information regarding
an
17 issue came to the department, would this team that
18 you just described meet and discuss and decide
which
19 is more credible?

20 MR. RAYGOR: Improper and incomplete
21 hypothetical; calls for speculation.

22 THE WITNESS: Different people on our teams
23 have different areas of expertise. Depending on

to 24 someone's area of expertise, they would be called
25 review documents. They would also be looking,

44

CDC 1 obviously, at documents that were coming out of
2 -- the centers for disease control.

3 BY MS. HAMILL:

4 Q. Out of CDC?

5 A. (Nods head.)

6 Q. And if the CDC took a position on an issue,
7 would your department align with the CDC on that
8 issue?

9 A. Not always.

10 Q. Not always.

11 How has your department differed from CDC
12 guidance with respect to COVID?

to 13 MR. RAYGOR: So how does this have anything

14 do with the subject of the lawsuit which is social
15 media -- free speech?

16 MS. HAMILL: It goes to the petitioner and

17 plaintiff's theory of the case, where we have a
18 theory of why social media comments were blocked,
19 and how the public was restricted from
communicating
20 with one another.

21 MR. RAYGOR: Why don't you ask those
questions
22 then?

23 MS. HAMILL: I mean, are you planning to stop
24 the deposition? I don't think I'm under any
25 obligation to explain the full legal theory.

45

1 MR. RAYGOR: If you continue on things that
are
2 outside the subject matter of the current lawsuit,
3 which is the free speech claim, I will just
instruct
4 the witness not to answer. But I won't stop the
5 deposition.

6 MS. HAMILL: That's going to be a problem.
We
7 are not asking questions that are outside the
scope.
8 And I would caution you not to instruct your
client

9 not to answer on relevance grounds. But that's
your
10 risk to take. You seem like a risk taker.
11 Okay. So let's move on.
12 MR. RAYGOR: That's inappropriate, and it's
13 unprofessional, and I'll ask you to please sees
14 that.
15 MS. HAMILL: To what?
16 MR. RAYGOR: I'll ask you to please cease
that.
17 MS. HAMILL: Please cease what?
18 MR. RAYGOR: I said that was improper and
19 unprofessional, your -- your comment.
20 MS. HAMILL: Is -- is it improper and
21 unprofessional to keep my client locked down
stairs
22 in the lobby?
23 MR. RAYGOR: We had an agreement where she
24 could come up. You reneged on it.
25 MS. HAMILL: I'm sorry, I'm under no
obligation

46

1 to give you anything, in order to have my client

in

2 the room. But we're going to move on with our
3 deposition.

4 BY MS. HAMILL:

5 Q. 21, "Any and all documents reflecting
6 Department of Public Health's objective in
disabling
7 comments on its social media posts."

8 What was the Department of Public Health's
9 objective in disabling public comments on the
social
10 media?

11 A. The Department of Public Health closed public
12 comments to ensure that on our sites, people were
13 receiving accurate information.

14 Q. And I would express to your attorney that
15 determining what constitutes accurate information,
16 and how that process works, is going to go to the
17 respondent and defendant's objective in disabling
18 comments, which is relevant to the free speech
19 claim.

20 Demand for production number 22, "Any and all
21 documents reflecting Department of Public Health's
22 consideration of alternatives to disabling
comments
23 on its social media posts."

24 Did the department consider any alternatives

to

25
department's

completely closing off comments on the

47

1 social media?

would

2 A. That would have been a conversation that

3 have happened in the communications office.

4 Q. So with Brett?

5 A. (Nods head.) Well, with Brett and his team.

6
conversation?

Q. And you were not involved in that

7 A. I was not involved in that conversation.

8 Q. Demand for production number 23, "Any and all

9 documents reflecting alternative avenues for

10 communication between members of the public,

11
county's

following its disabling of comments on the

12 social media posts."

13 So this question in this demand seeks to

14
to understand what, if anything, the department did

15
communicate

ensure that the public could continue to

16 with each other regarding Department of Public
17 Health issues.

18 A. I think from the department's perspective, we
19 are not creating platforms for individuals to
20 communicate with each other. We want to make sure
21 people can communicate with us, ask us questions,
22 offer their advice or their comments, or their
23 counsel, and that we can be responsive to those
24 queries, and hear their advice.

25 Q. Would you agree that prior to the decision to

48

1 shut off the public comments, there was a platform
2 where the public could communicate with each other
3 other regarding Department of Public Health
issues?

4 A. I wouldn't know that.

5 Q. You wouldn't know?

6 A. I wouldn't know.

7 MR. RAYGOR: Asked and answered.

8 BY MS. HAMILL:

9 Q. All right. And I'll just ask one more time.

10 For to you return to your e-mail inbox and

we 11 conduct a search of all responsive documents that
12 discussed in this exhibit.

13 How are you doing? Do you need a break or...

14 A. I'm good.

15 Q. Okay. So I understand you have a Ph.D. in
16 social welfare; is that correct?

17 A. No, it is not.

18 Q. Do you have a Ph.D.?

19 A. I do.

20 Q. And what is that in?

just 21 A. I'm not sure what the -- I don't think it

it 22 says social welfare. I'm not actually sure what

23 might say on the diploma. My Ph.D. was award -- I

24 was awarded that Ph.D. I was part of a P
fellowship

25 that actually was doing work on health policy.

49

1 Q. And where did you receive that Ph.D.?

2 A. Brandeis University.

3 Q. Brandeis.

4 A. The fellowship program was a joint program
5 between BU and Brandeis -- Boston University,
sorry.

6 Q. How long did you attend that program?

7 A. I don't recall. Coursework was two years.
And
8 then there was work to complete a dissertation.

9 Q. Do you have any other degrees?

10 A. I do.

11 Q. What are those?

12 A. I have a Bachelor's of Arts from University
of
13 California, Santa Cruz. I have a master's in
public

14 health from Boston University. And I have a
15 master's in education from the University of
16 Massachusetts.

17 Q. That's a lot of degrees.

18 So how did you become the director of public
19 health for Los Angeles County? Did you respond to
a
20 job listing?

21 MR. RAYGOR: Compound question -- questions.

22 THE WITNESS: I was recruited. I was
recruited
23 for the position.

24 BY MS. HAMILL:

25 Q. Were you recruited by the board of

supervisors?

50

I

anyone

at

that

1 A. I was recruited by a recruiter.

2 Q. And who did you interview with?

3 A. I interviewed with Dr. Mitchell Katz and then

4 interviewed with the board of supervisors.

5 Q. Did you have personal relationships with

6 at the county or on the board of supervisors prior
7 to your interview?

8 A. I did not.

9 Q. I'd like to take a break so I can pull up the
10 documents produced.

11 THE VIDEOGRAPHER: We're going off the record
12 at 12:44 p.m.

13 (Off the record.)

14 THE VIDEOGRAPHER: We are back on the record

15 1:19 p.m. Please continue.

16 MS. HAMILL: Thank you.

17 MS. HAMILL: And I will restate once again

18 my client has been sitting in the lobby downstairs
19 since 11:30, and it's now almost 1:30, and I will
20 ask one more time that Mr. Raygor allow my client
21 upstairs?

22 MR. RAYGOR: We had an agreement earlier
where
23 I said that if -- let's go off the record.

24 MS. HAMILL: I'm not doing this. Yes or no.
25 I'm not going off the record. Yes or no.

51

1 MR. RAYGOR: You don't want to meet and
confer
2 about it and repeat our agreement that we had
3 earlier --

4 MS. HAMILL: I'm not --

5 MR. RAYGOR: Just a minute, I'm still
speaking.

6 I gave you an offer to allow her to come up at the
7 beginning of the deposition. You accepted the
8 terms. You said yes, I agree. I went to just
write
9 you a simple e-mail to confirm that. Mr. Bernie,
10 who came back in here, told me you had reneged.

So

11 it was you who did not allow her to come up here.

12 MS. HAMILL: Number one, I am under no

13 obligation to do anything in order to have my

14 client, a party to this case, attend this

15 deposition, under no obligation whatsoever.

There's

16 no legal authority for that.

17 Number two, I never agreed to put anything

into

18 writing, or to sign anything that you draft up for

19 me to sign while I'm taking a deposition. I would

20 never do that. So I'm going to give you -- excuse

21 me, I'm speaking. I'm going to give you one last

22 opportunity and then we are going to seek

sanctions

23 against you, okay?

24 Under CCP 2025.420 (b)(12), "Any party,

25 deponent, or other effective person or

organization

52

1 may move for a protective order to exclude

2 designated persons other than the parties to the

3 action, and their officers, and counsel from the

4 deposition."

5 You have no authority to keep her out. So

one 6 last time.

7 Are you going to allow Ms. Burwick to come

8 upstairs?

9 MR. RAYGOR: Are you going to -- your word

for 10 her being a member is not sufficient. It's not

11 evidence.

12 Are you going to -- we should be able to

state 13 on the record that she is a member.

14 MS. HAMILL: Yes.

15 MR. RAYGOR: And at some point when we have

our 16 meet and confer, will you --

17 MS. HAMILL: I'm not agreeing to anything.

18 She's coming up or not.

19 MR. RAYGOR: I just -- okay, well, now you're

20 reneging on that agreement.

21 Proceed. We just had an agreement, I thought

22 --

23 MS. HAMILL: She will come up and say on the

24 record that she is a member. I'm not agreeing to

25 anything else. I'm not obligated to do that. We

1 are going to seek sanctions against you unless you
2 let her up right now. It's your call.

3 Do you need time to confer?

4 MR. RAYGOR: I don't need it, but I'd like
it.

5 MS. HAMILL: Okay. Go ahead.

6 MR. RAYGOR: Go off the record.

7 MS. HAMILL: Not with me with -- I'm done
8 talking to you about this.

9 MR. RAYGOR: No, it's your deposition, Julie.
10 If you -- I can't tell you to go off the record so
I

11 can go out and talk to my client. You can do
that.

12 MS. HAMILL: So you would like to go off the
13 record so you can go talk to your client?

14 MR. RAYGOR: Yes.

15 MS. HAMILL: About allowing my client to
attend

16 the deposition?

17 MR. RAYGOR: I can't confirm that because
18 you're asking me to disclose attorney-client
19 privileged communications or work product.

20 MS. HAMILL: Okay. If you need to go off the
21 record in order to make this call, please feel
free,
22 but please return within two minutes so we can
23 continue and stop wasting time. Thank you.

24 MR. RAYGOR: We could have stopped wasting
time
25 --

54

1 MS. HAMILL: Mr. Raygor, you're being abusive
2 at this point.

3 MR. RAYGOR: You could have stopped --

4 MS. HAMILL: You are being abusive at this
5 point.

6 MR. RAYGOR: You could have stopped wasting
7 time --

8 MS. HAMILL: You are being abusive at this
9 point. I am asking you --

10 MR. RAYGOR: Please let me finish my
statement.

11 If you're not going to give me common courtesy of
12 professionalism, okay? I don't have to take this.

13 Are we off the record now?

14 THE VIDEOGRAPHER: No, we're still on the
15 record.

16 MR. RAYGOR: You said we could go off the
17 record. Will you please let us go off the record?

18 MS. HAMILL: Sure. We'll go off the record.

19 THE VIDEOGRAPHER: We're going off the record
20 at 1:23 p.m.

21 (Off the record.)

1:34 22 THE VIDEOGRAPHER: We're back on record at
23 p.m. Please continue.

24 MS. HAMILL: Thank you very much.

25 Will you allow my client to come upstairs
now?

55

1 MR. RAYGOR: I will. But I've got to have a
2 security officer approve it. I was waiting for
him
3 to come up. I don't know where he is. But, yes.

4 MS. HAMILL: Okay, thank you.

5 MR. RAYGOR: As long as she states on the
6 record that she's a member.

7 MS. HAMILL: That's fine.
8 How do we expedite the security process so
9 Ms. Burwick can enter the building?
10 MR. RAYGOR: I'm trying to find somebody
else.
11 They're supposed to interrupt if they can find
12 somebody else because the guy -- Quincy is in a
13 meeting somewhere.
14 MS. HAMILL: I assume that the receptionist
is
15 able to call down to security and allow someone to
16 enter.
17 MR. RAYGOR: Yeah, but based on her tweeting
18 stream this morning, while she's been in the
lobby,
19 the security officer got concerned.
20 MS. HAMILL: I have not seen it.
21 MR. RAYGOR: So I've gotta get him to sort of
22 intercede.
23 Anyway, let's go off. Can we go off so I can
24 go talk to the receptionist?
25 MS. HAMILL: Sure.

p.m. 1 THE VIDEOGRAPHER: Off the record at 1:35

2 (Off the record.)

3 THE VIDEOGRAPHER: We are back on record at

4 1:38 p.m. Please continue.

5 BY MS. HAMILL:

6 Q. Thank you. I am marking as Exhibit 3 the

7 County of Los Angeles Department of Public Health

8 organization chart that was produced by

respondents 9 this morning.

10 MS. HAMILL: Thank you.

11 (Exhibit 3 marked.)

12 BY MS. HAMILL:

13 Q. Have you seen this document before?

14 A. I have.

15 Q. And is this your current organization chart

for 16 the Department of Public Health?

17 A. It is.

18 Q. And at the top here, it says Director of

public 19 health, Health Officer, and Chief Deputy Director.

20 Are those three different people?

21 A. Yes, they are.

22 Q. You are the Director of Public Health?

23 A. Yes, I am.
24 Q. And are you above the Health Officer and
Chief Deputy Director in the org chart?
25

57

1 A. Yes, I am.
2 Q. Okay. And where does Brett Morrow fall in
this org chart?
3
4 A. Brett is the Office of Communications and
5 Public Affairs Director. So he's right under us.
6 Q. And does Brett take direction from you?
7 A. At the moment, Brett is a direct report to
the Chief Deputy Director. But I obviously work
closely with the Chief Deputy Director.
8
9 Q. Who is the Chief Deputy Director?
10 A. Megan McClaire.
11 Q. Megan McClaire?
12 A. McClaire.
13 Q. How do you spell that?
14 A. Megan is M-e-g-a-n; McClaire is
15

16 M-c-C-l-a-i-r-e.
17 Q. Is she a physician?
18 A. She is not.
19 Q. Do you know -- does she hold any advanced
20 degrees?
21 A. She has a master's in public health.
22 Q. A master's in public health.
23 A. And she might have other degrees, as well.
24 Q. Okay. So Brett Morrow reports to
25 Megan McClaire. And Megan McClaire reports to

you?

58

1 A. Yes.
2 Q. Do you ever have meetings directly with
3 Brett Morrow?
4 A. I don't know that I would call them
structured
5 meetings. But I do meet with him.
6 Q. How often?
7 A. On an as-needed basis.
8 Q. And when do you find that you need him the
9 most?

10 A. One of my roles at the department is I
approve
11 all content for communications. So any time we're
12 doing a campaign, or we're creating educational
13 materials, at some point, the content is reviewed
by
14 me.

15 Q. And do you review all of the posts on social
16 media?

17 A. I do not.

18 Q. You do not.

19 And so when you say content, you mean longer
20 form documents?

21 A. Yeah, if we're, you know -- if we're focused
on
22 vaccinations, then I will get some written
documents
23 saying, here's our -- here's our suggested
messages
24 on vaccinations for the next three weeks. And
then
25 there's a team of folks -- after -- once I look at

59

1 it, and I say, yeah, this sounds great, then
there's

2 a team of folks that will turn that into, you
know, 3 a variety of actual messages. I don't necessarily
4 see every message, but I see the content that will
5 build towards those messages.
6 Q. Okay. But you don't necessarily approve
every 7 single --
8 A. No.
9 Q. -- post that's made on social media?
10 A. No, I don't.
11 Q. Does Brett?
12 A. You'd have to ask Brett.
13 MS. HAMILL: Do we know if --
14 MR. RAYGOR: Is this Exhibit 3, by the way?
15 MS. HAMILL: Do we know if Ms. Burwick is
16 authorized yet?
17 MR. RAYGOR: I have been overruled,
18 unfortunately. So I -- it's out of my hands.
19 MS. HAMILL: You've been overruled?
20 MR. RAYGOR: Yes, based on her conduct in the
21 lobby, as reported by security, and on her Twitter
22 -- stuff that's going on now, security has
23 determined not a good liability risk.
24 MS. HAMILL: Can you explain exactly what
25 you're talking about so that I have that for the

1 record.

2 MR. RAYGOR: No, I can't.

but

3 MS. HAMILL: So you're excluding my client,

4 you're not explaining to me why?

5 MR. RAYGOR: I just explained, it's out of my
6 hands.

7 MS. HAMILL: Well, I need to understand what
8 the reasons are, because we are seeking sanctions
9 against you.

10 MR. RAYGOR: Okay, got it. I understand.

11 MS. HAMILL: Can you provide me with whatever
12 it is you're talking about?

Let's

13 MR. RAYGOR: Not during the deposition.

14 finish with Dr. Ferrer.

15 MS. HAMILL: Okay. I am texting her to tell
16 her to leave now. And me doing that means I'm
17 bringing a sanctions motion against you. Okay?

18 BY MS. HAMILL:

19 Q. Outside of public meetings, how do you

20 communicate with the board of supervisors?
21 A. There's e-mails, there's phone calls that you
22 might have. We attend a lot of events, and there
23 may be Board of Supervisors that are at the events
24 or sponsoring the events. In terms of formal
25 communications, we go through the Board and the

61

1 Board office. There's an executive office of the
2 Board.
3 Q. So you communicate through the executive
office 4 to get to the Board --
5 A. Or we send an e-mail to all of the members of
6 the Board. Or we communicate with their staff.
7 MS. HAMILL: And, for the record, Ms. Burwick
8 is disputing what you just told me. And so I'm
9 assuming you're going to provide me with evidence
10 that you are justifying your exclusion of my
client 11 on, Mr. Raygor.
12 BY MS. HAMILL:
13 Q. Do you have personal relationships with any

of

14 the members of the Board of Supervisors?

15 A. How would you define a personal relationship?

the

16 Q. Do you discuss non-work issues with any of

17 Board of Supervisors?

18 A. I'm sure I -- I'm sure there's casual

19 conversations: How's your family? Did you see a

20 movie? But I don't have personal friendships with

21 any of them.

22 Q. Do you keep in touch with Sheila Kuehl?

when?

23 A. I have -- you mean keep in touch with her

24 Q. Since she left the Board of Supervisors.

25 A. Yes, on occasion, I have had a meal with her.

62

1 Q. So you've told me a little bit --

to

2 A. She's -- only since she's not been -- I want

3 go on record. It's only since she's not been a

4 supervisor.

5 Q. Okay. Thank you.

6 A. When she was a supervisor, I didn't have any

7 meals with her.

8 Q. Okay. And you told me a little bit about
this
9 earlier, but I want to make sure I understand your
10 job and your duties as the director of the
11 Department of Public Health.

12 Can you describe those to me?

13 A. Can you be more specific about duties? Just
14 overall responsibility or are you looking in
15 particular for supervision responsibility? I
mean,
16 it's super broad.

17 Q. It is broad.

18 A. Yeah.

19 Q. What are your goals and directors as the
20 Director? What's the overarching on macro level?

21 A. The overarching objective is to ensure that
22 residents in LA County have resources and
23 opportunities to be in optimal health and
wellbeing.

24 Q. And how do you define "optimal health and
25 wellbeing"?

1
definition.

A. I'm not sure there's a -- there's a

2

Q. Do you consider mental health to be part of
that?

3

4

A. Yeah, we consider physical and emotional
wellbeing.

5

6

Q. Does the Board of Supervisors evaluate you on
an annual basis?

7

8

A. Yes, they do.

9

Q. And what benchmarks are you supposed to meet?

10
evaluation

A. Every department head is part of an

11
goals

process where we lay out and have agreed upon

12
period.

and metrics for every performance evaluation

13

And then all five supervisors evaluate us based on
the goals and objectives that got laid out. Those
will incorporate overall county goals, as well.

14

15

16
specific

Q. And do you have any -- were there any

17

goals or metrics that you were aiming to meet in
this past year?

18

19

A. There's a whole list of goals and metrics for
this past year.

20

21

Q. Are any of those goals or metrics COVID
numbers?

22

23 A. No. COVID numbers? What does that mean?
24 Q. Can you give me one of the goals or one of
the 25 metrics?

64

1 A. I can't recall the exact language, so I'm
2 hesitant to answer the question.

3 Q. I'm just curious about how the Board of
4 Supervisors measures your performance.

5 Is there anything tangible or measurable you
6 can think of?

7 A. We have a measure -- we have a measure in
there 8 to ensure that residents have access to vaccines
and 9 therapeutics. And then we will measure that
10 throughout the year around how we've set up a
11 vaccine and how we're distributing therapeutics.
12 That is not necessarily the specific metric, but
13 that is -- that is an example that I think gets to
14 what those metrics look like.

15 Q. Okay. So there would be a certain goal in

16 number of vaccines administered, for example?

17 A. Not necessarily a number of vaccines
18 administered. More, the issue is access to
19 vaccines. It would more be access points to
20 vaccines.

21 Q. So would that be like the mobile vaccine
22 campaign?

23 A. Yeah, so we would include information about
the
24 700 plus sites we offer every week for mobile
25 vaccines. We'd include information on the

65

1 distribution of where people can get vaccines so
2 that wherever you are in the county, you have
access
3 to a place to get vaccinated. We'd include
4 information about how homebound residents can get
5 somebody to come to their house to vaccinate them.

6 Q. And as the Director of Public Health, you are
7 essentially the decisionmaker for LA County
8 Department of Public Health; correct?

9 A. I am the director and make the final
decisions

10 or have delegated authority to other people on my
11 team to make the final decisions.

12 Q. Are you responsible for the -- the public
13 health orders that are issued by your office?

14 A. I am not.

15 Q. You're not. Who is responsible for those?

16 MR. RAYGOR: Asked and answered.

17 THE WITNESS: Dr. Davis is the health
officer,

18 so he ultimately has authority over health officer
19 orders and independent authority over health
officer
20 orders.

21 BY MS. HAMILL:

22 Q. Are you involved in the drafting process for
23 those public health orders?

24 A. Depends on the particular health officer
order.

25 Q. Were you involved in the K-12 public health

66

1 orders?

2 MR. RAYGOR: Objection, we're getting very
far

3 afield from the free speech claim that's at issue
4 here involving public commentary of Twitter,
5 Instagram, and Facebook. Are we going to come
back
6 to that soon?

7 MS. HAMILL: As I described earlier, these
are
8 relevant questions.

9 You may answer.

10 MR. RAYGOR: We'll let you go a little bit
11 further, but if we're not going to get back to
her,
12 I'll have to instruct her not to answer.

13 THE WITNESS: Most likely. There were
numerous

14 orders, and that's -- so I'm not trying to be
15 evasive. There was not just one order.

16 BY MS. HAMILL:

17 Q. And is your involvement more providing policy
18 direction or coming up with specifics?

19 A. There's a school team that will really
usually
20 come out with specifics and work with Dr. Davis on
21 those specifics. But I am likely to understand
any
22 directions that are being given in terms of
actions
23 or changes that are going to happen at schools. I

Less 24 work very closely with school administrators.

order. 25 closely with the drafting of a health officer

67

1 Q. And what experience do you have leading a
2 response to an infectious disease epidemic?

3 MR. RAYGOR: Objection. Let's move on.

4 MS. HAMILL: It's credibility of the witness.

5 MR. RAYGOR: Sorry, that's not -- no. I'm
6 instructing the witness not to answer. It is not
7 within the scope of the sole remaining claim at
8 issue in this case, which is a free speech claim
9 directed at the closing of public commentary. The
10 witness is very busy, available for a limited
period

11 of time. And is ready, willing, and able to talk
12 about issues relevant to the only subject matter
13 relating in the lawsuit. What you're asking now
is

14 not a subject matter of the lawsuit.

15 MS. HAMILL: I will just say for the record
16 that California Evidence Code Section 210 defines

17 relevant evidence as evidence including evidence
18 relevant to the credibility of a witness, or
hearsay
19 declarant, having any tendency or reason to prove
or
20 disprove any disputed fact that is of consequence
to
21 the determination of the action.

22 MR. RAYGOR: Okay. I'll be right back. I
left
23 my notes in the other office.

24 MS. HAMILL: And security has denied that
they
25 are refusing to allow her up. They said it's

68

1 Sheppard Mullin.

2 We're still on; correct?

3 THE COURT REPORTER: Yes.

4 MS. HAMILL: Can you restate my last
question?

5 Oh, I have it. So I'll ask it again.

6 BY MS. HAMILL:

7 Q. What experience do you have leading a
response
8 to an infectious disease epidemic?

of 9 MR. RAYGOR: So that is not within the scope
10 discovery. CCP Section 2017.010 defines the scope
11 of relevant discovery as evidence that is relevant
12 to the subject matter or itself admissible or
13 reasonably calculated to lead to the discovery of
14 admissible evidence.

15 This question and others that might be
16 forthcoming, similar to it, are not focused on the
17 subject matter of the lawsuit, which is now just a
18 single claim for free speech violation arising
from 19 the closing down of public commentary on Twitter,
20 Facebook, and Instagram.

21 Citing to the Federal -- or, sorry, the
22 California Evidence Code on credibility and such
23 issues does not give anyone a free reign in any
24 deposition to ask any question they wish. It's
got 25 to be circumscribed. And it is circumscribed by
the

69

1 subject matter of the lawsuit.

2 MS. HAMILL: And I will say that information
3 shared by members of the public on LA County
Public
4 Health Twitter threads, which Department of Public
5 Health cut off, is quite relevant to this case.
6 This case is about freedom of speech on a very
7 critical issue that led to extreme harm to
children,
8 especially in LA County. These questions are all
9 relevant to demonstrating how and why decisions
were
10 made to eliminate public discourse, control the
11 narrative, prolong harmful restrictive measures
12 without any means for the public to share critical
13 information about the realities of the virus.
14 So if you are through harassing me, I would
15 like to continue. These questions are relevant to
16 petitioner's theory of the case, which the
17 petitioner is under no obligation to provide to
18 defendant, respondent. And my client is still
19 downstairs. So are we ready to move on?
20 MR. RAYGOR: Couple a things. First, you're
21 not a petitioner anymore. You're a plaintiff.
22 Second, the statement that you just read, if
23 you want to ask her questions about whether any of
24 those were reasons for closing off public

that. 25 commentary, you certainly have free rein to do

70

one 1 MS. HAMILL: We have -- we already have
2 testimony on the record that misinformation was
3 of the reasons. So we're going to move on with
4 questioning. I'd like to not be interrupted
5 anymore.

6 MR. RAYGOR: We -- we shall see.

7 BY MS. HAMILL:

8 Q. What experience do you have leading a reponse
9 to an infectious disease epidemic?

As 10 MR. RAYGOR: So that goes to credibility, as
11 you stated, so I'll instruct her not to answer.

12 beyond the scope of discovery as stated in CCP
13 2017.010, as I recall -- yes.

14 MS. HAMILL: I'm going to need a rough.

15 THE COURT REPORTER: Okay.

16 MS. HAMILL: Okay. And this is not just
17 credibility. But this also goes to the fact that
we

18 have records showing many experts in the field
19 disputing the conclusions of the Department of
20 Public Health, and sharing that information on
21 public comments on social media. And then we have
22 the Department of Public Health closing off those
23 comments. This is all quite relevant to the
action.

24 And I'm going to continue to ask these questions.
25 And if you continue to instruct not to answer, I

71

1 will have no -- no other option but to move to
2 compel and seek sanctions against you.
3 MR. RAYGOR: Did not disclose -- did not
close
4 off those comments, just cut off -- or closed all
5 comments.

6 MS. HAMILL: Excuse me --

7 MR. RAYGOR: It was not --

8 MS. HAMILL: -- are you testifying?

9 MR. RAYGOR: No, I'm stating something.

10 MS. HAMILL: Okay.

11 MR. RAYGOR: The closing of public commentary

12
particular

was agnostic. It was not focused on any

13

person, or line of inquiry, or line of commentary.

14
attorney

MS. HAMILL: I'm going to ask that the

15
objections.

for the witness to stop making speaking

16

And to stop testifying. Barbara Ferrer is here to

17

testify, not Kent Raygor.

18
responding

MR. RAYGOR: Yes, I was not. I was

19

to your statement, Julie. That's the only reason.

20
once

MS. HAMILL: I'm going to ask the question

21

again.

22

MR. RAYGOR: If you want to stop making

23

speeches, then I won't have to respond.

24

MS. HAMILL: You are forcing me to do so by

25

instructing your client not to answer relevant

72

1

questions. This is not going well.

2

MR. RAYGOR: For you, I agree.

3

BY MS. HAMILL:

4

Q. What experience do you have leading a

response

5 to an infectious disease epidemic?

6 MR. RAYGOR: I believe that's the same
7 question. And I instructed -- if it is the same
8 question, I instructed you not to answer.

9 BY MS. HAMILL:

10 Q. What experience do you have in leading
11 responses to outbreaks of infectious diseases?

12 MR. RAYGOR: Same instruction.

13 BY MS. HAMILL:

14 Q. What specific training have you had in
15 infectious diseases?

16 MR. RAYGOR: Same instruction.

17 BY MS. HAMILL:

18 Q. Have you reviewed any studies of infectious
19 disease epidemiology?

20 MR. RAYGOR: Same instruction.

21 BY MS. HAMILL:

22 Q. Do you have any specific degrees in those
23 fields?

24 MR. RAYGOR: Can you read back the question?

25 (Record read.)

1 MR. RAYGOR: Vague and ambiguous.

2 BY MS. HAMILL:

3 Q. Do you understand the question?

4 A. Can you clarify what fields?

5 Q. Do you have any degrees in infectious disease
6 epidemiology?

7 A. I have a master's in public health.

8 Q. And how does that relate to epidemiology?

9 A. Everybody who has a degree in master's in
10 public health has taken numerous courses both in
11 infectious diseases and in epidemiology.

12 Q. And are you familiar with the concept of
13 reproduction number?

14 A. I am.

15 Q. Can you explain what that is?

16 MR. RAYGOR: I don't know enough about what
it

17 is to be able to object.

18 THE WITNESS: It talks about how -- how
quickly

19 -- what the sequencing is of replication of -- in
20 this case, a virus.

21 BY MS. HAMILL:

22 Q. So what role did Dr. Monton Davis play in the

23 county public health response to COVID?
24 A. Dr. Davis and I are co-incident commanders of
25 the response. And Dr. Davis has his independent

74

to 1 health officer authority that actually allows him
2 determine when and if -- to issue health officer
3 orders.

the 4 Q. And why was he not more front and center as
in 5 face of public health during this COVID response
6 LA County?

7 MR. RAYGOR: Lacks foundation; assumes facts
8 not in evidence; argumentative.

So 9 THE WITNESS: I think he was very visible.

my 10 -- I'm having a hard time answering, because from

lots 11 perspective, he was very visible. Everyone had

12 of different roles that they were playing. And
13 there's certainly some sectors where he was the
14 primary contact person.

15 BY MS. HAMILL:

16 Q. And did you consult any infectious disease
17 experts from the community or from local
18 universities?

19 A. That's a --

20 MR. RAYGOR: Objection, extremely broad, not
21 limited to any time frame, not limited to anything
22 relevant at all to this suit.

23 BY MS. HAMILL:

24 Q. Do you understand my question?

25 A. I do. And of course we consult with
infectious

75

we 1 disease experts for many diseases. I mean, we --

not 2 deal with a host of infectious diseases. So I'm

3 sure exactly what you're asking me to answer here,
4 but the answer is yes.

particular 5 Q. Were there any local universities in

6 that you developed good relationships with their
7 infectious disease experts?

8 A. In the last six years?

9 Q. Yeah.

10 A. Our team has strong relationships with all of

11 the larger universities and with the larger health

12 care systems and their infectious disease teams.

So

13 we have infectious disease physicians that

actually

14 cultivate, nurture, and maintain those

15 relationships.

16 Q. And we spoke a little bit earlier about Brett

17 Morrow.

18 How did you first he meet Brett Morrow?

19 A. I cannot recall.

20 Q. Did you create a job post for his role?

21 A. As far as I can recall, absolutely not.

22 Q. No.

23 A. I don't really create the job posts, so...

24 Q. Did you hire him?

25 A. Yes.

76

1 Q. Is he an employee of LA County Department of

2 Public Health?

3 A. Yes.

4 Q. Is there a budget for Brett?

5 A. There's not a budget for Brett. There's a

6 budget for the communications office.

7 Q. Do you know what that is?

8 A. I do not.

9 Q. And I believe you mentioned that Brett
reports
10 to Megan McClaire who is the Chief Deputy
Director;

11 correct?

12 A. Yes.

13 Q. And you give direction to the Chief Deputy

14 Director who, in turn, gives direction to Brett;
is

15 that correct?

16 A. I don't -- I don't think I would characterize

17 it that way.

18 Q. How would you characterize it?

19 A. I speak with the Chief Deputy Director. She

20 shares information with me, I share information
with

21 her. Some of that information she uses to guide

22 conversations with Brett Morrow.

23 Q. Did you ever ask Brett or anyone else to
brief

24 you on what people are saying on social media

25 regarding your policies?

77

1 A. I don't recall.

2 Q. And if Brett did or said something on social
3 media with the LA County Department of Public
Health account that you didn't agree with, would you
4 discuss that with him?
5

6 MR. RAYGOR: Improper hypothetical;
incomplete.

7 THE WITNESS: Could you repeat that?

8 BY MS. HAMILL:

9 Q. Sure. If Brett did something that you didn't
10 agree with, using the Department of Public Health
11 social media accounts, would you discuss it with
12 him?

13 A. If that's a hypothetical question, I would
14 either discuss it with him, but I would probably
15 more likely discuss it with the chief deputy.

16 Q. Have you ever attended a Board of Supervisors
17 meeting in-person?

18 A. Yes.

19 Q. Are they in-person now?
20 A. Yes.
21 Q. How long were they remote only?
22 A. I would not be able to answer that.
23 Q. It was about two years; correct? If you had
to
24 give me your best estimate.
25 A. I don't really know. It was a long time.

78

1 Q. Do you remember the last time you attended a
2 remote only Board of Supervisors meeting?
3 A. I do not recall.
4 Q. Did you ever hear about people having
5 difficulty getting through to speak when the
6 hearings were remote?
7 A. The Board of Supervisors hearing?
8 Q. Yes.
9 A. I don't recall.
10 Q. Did you personally ever experience technical
11 difficulties when participating in a remote Board
of
12 Supervisors meeting?

13 A. I think once there was a problem getting
14 connected.
15 Q. And what was the process your office used to
16 respond to direct messages on social media after
17 disabling public comments?
18 A. I don't know.
19 Q. That's a Brett question?
20 A. That's a Brett question. I'm not sure what
21 direct messaging is.
22 Q. Have you ever facilitated any physical group
23 meetings or town halls for the public to discuss
24 public health policy?
25 A. Ever?

79

1 Q. In your time at LA County.
2 A. Yes.
3 Q. When?
4 A. On numerous occasions.
5 Q. Did you ever do it with COVID?
6 MR. RAYGOR: Objection, vague and ambiguous.
7 You mean while she had COVID?

8 MS. HAMILL: During the pandemic from March
9 2020 through the present.

10 THE WITNESS: In-person?

11 MS. HAMILL: Yes.

12 THE WITNESS: I'm sure we did, but I can't
13 recall the actual instances. I mean we were -- we
14 were not remote for a while. And then we were
15 remote for a while and then we were not remote
again
16 for a while, so...

17 BY MS. HAMILL:

18 Q. Because it seems like lately, all of the town
19 halls are remote; is that correct?

20 A. I think the town halls are -- the town halls
21 that we were doing -- we've been doing since the
22 pandemic have all been remote. I think there are
23 other smaller community meetings that are not
24 remote. And I -- some of those get called town
25 halls, as well, so I think that's the confusion

80

1 here.

2 Q. And are members of the public invited to your
3 weekly press briefings?

4 A. I -- that's a Brett question. I don't have
the
5 answer.

6 Q. Are members of the press invited to your
7 telephonic K-12 briefings?

8 A. They are not.

9 Q. Why not?

10 A. The decision on the sector specific
11 telebriefings was to create them as a space where
12 people -- where we could have a dialogue about
13 concerns that were being raised and not for
anybody
14 on those calls to feel like they would be quoted.
15 So that, you know, people would feel they had a
good
16 opportunity to think out loud, say what was on
their
17 mind, use the information they gathered to maybe
18 make a different decision later on without being
in
19 -- you know, quoted by the media.

20 Q. And what kind of people are invited to the
K-12
21 press briefings?

22 A. They're not press briefings, so --

23 Q. K-12 briefings.

24 A. The list for the K to 12 -- there are two --
25 there are two meetings we have. So that's why I'm

81

1 confused. There's a meeting that the LA County
2 Office of Education sets up with -- and you'd have
3 to get from them, the invite list. But I believe
4 it's superintendents from all of the school
5 districts. And that's also an opportunity for us
to
6 get questions and give out information. And then
7 there's the -- what I think you're talking about,
8 the telebriefings on the phone. And I don't know
9 exactly who's invited. There's -- it's sent out
by
10 another unit, does all the invites. But I think
11 it's a very extensive list of folks who get
invited.
12 And then those are not closed calls. I mean, we
ask
13 that the media, you know, hang up. And we let
14 people know that it's all off the record. But
15 anybody who gets information about those
16 telebriefings. And, you know, we -- there's a

17 massive distribution about the telebriefings that
18 we're having, is welcome to dial in.

19 Q. And I'm looking at my other questions. And
20 these all seem to be Brett questions, so I'm going
21 to skip over these.

22 Do you know if LA County USC Hospital was
ever
23 tagged in any of your Department of Public Health
24 posts?

25 A. I can't answer that, because I don't know
what

82

1 being "tagged" means.

2 Q. So does your department have -- I think you
3 answered this earlier -- your department has
4 policies and processes it uses to communicate with
5 the public; correct?

6 A. It does.

7 Q. And I believe you produced a document that's
8 responsive; correct?

9 And, unfortunately, I only have this in
10 electronic form, because I was not provided with

of 11 printed copies of documents. This is the County
media. 12 Los Angeles Public Health contacts with news
13 It's a two-page document. And I guess we're not
14 going to be able to mark it as an exhibit.
15 MR. RAYGOR: I offered you earlier if you
16 wanted those printed out. I could have that done.
17 MS. HAMILL: Yes, please.
the 18 MR. RAYGOR: You just said that you wanted
19 org chart, that's why I printed that out.
all 20 MS. HAMILL: Yeah, I asked you to print out
21 the documents in an e-mail.
22 MR. RAYGOT: I haven't seen that yet.
23 MS. HAMILL: Perhaps you could have those
24 printed and, also, let my client up.
25 Would you able to handle that?

83

Do 1 MR. RAYGOR: I can print out the documents.
2 you want to take a break so I can do that?
3 MS. HAMILL: No, I don't want to take a

break.

4 I'm sure that there are assistants here that can
5 handle that.

6 MR. RAYGOR: There are, but I would have to
7 talk to them, so...

8 MS. HAMILL: That's what e-mail was created
9 for. Okay. So I'm just going to go through this
10 document unless you want to have the documents
11 printed.

12 You also have another -- you have co-counsel
13 here. I'm here by myself. My client is still in
14 the lobby. It's now 2:15.

15 MR. RAYGOR: I said I would get you the
16 documents --

17 MS. HAMILL: I don't want to take anymore
18 breaks. So...

19 MR. RAYGOR: Okay.

20 MS. HAMILL: Use your resources. We are in
21 Sheppard Mullin's offices. There are a million
22 people in here. I suggest you use your resources.

23 MR. RAYGOR: I've got another thumb drive in
my
24 office over there. I can't magically go get it
and
25 have somebody come and find it. I have to
actually

1 walk over there, give it to someone, and tell them
2 what to print out.

3 MS. HAMILL: Okay. Can you do that?

4 MR. RAYGOR: And I'm happy to do that.

5 MS. HAMILL: Can you do that in one minute?

6 MR. RAYGOR: Probably.

7 MS. HAMILL: I don't want to keep taking
8 breaks.

9 MR. RAYGOR: Probably.

10 MS. HAMILL: Go for it. Thank you.

11 THE VIDEOGRAPHER: We are going off the
record
12 at 12:17 p.m.

13 (Off the record.)

14 THE VIDEOGRAPHER: We're back on the record
at
15 2:23 p.m.

16 Please continue.

17 MS. HAMILL: Do you have printed copies of
the
18 contact with news media policy?

19 MR. RAYGOR: Yeah, just hold on a second. I

20 think I'm missing the first few. I think it's in
21 there. Is there a 401? I think 408 was the --
22 MS. HAMILL: 400-R1.
23 Are you talking about the Bates number?
24 MR. RAYGOR: Yeah, is it 401 to 407?
25 MS. HAMILL: 406 to 407.

85

1 MR. BIRNIE: Do you need anything?
2 THE WITNESS: I'm good, thanks.
3 THE COURT REPORTER: We're still on the
record.
4 THE VIDEOGRAPHER: Go off?
5 MS. HAMILL: I'll wait for... thank you.
6 BY MS. HAMILL:
7 Q. I'm going to mark -- have you mark as Exhibit
4
8 -- is that where we are? Bates stamp 406 to 407,
9 County of Los Angeles Public Health Contacts with
10 News Media Policy.
11 MR. RAYGOR: Julie, if you just hand me
those,
12 I'll have somebody make two copies of those.
13 MS. HAMILL: Thank you.

14 (Exhibit 4 marked.)

15 MS. HAMILL: Are we still on?

16 THE COURT REPORTER: Yes, we are.

17 MS. HAMILL: And I will note for the record
18 that this deposition continues to be delayed and
19 time wasted.

20 And I will read a tweet from my client, Sara
21 Beth Burwick from today at 2:23 that says,
22 "Apparently Sheppard Mullin Attorney Kent Raygor
23 now claiming security will not allow me up because
24 of my tweets and conduct in the lobby. This is
25 obviously a lie. The security guy just came over

is

86

1 and told me Sheppard Mullin is still denying me
2 access to the office. I've been sitting here,
3 calmly, for two and a half hours. I've approached
4 security a couple of times to politely ask if they
5 heard from Sheppard Mullin yet, and once to ask
6 the nearest restroom. I've taken down the names

for

of

for 7 the security staff who have observed me waiting
Raygor 8 nearly three hours. I informed them that Mr.
9 claims that security will not allow me up. All
10 three security staff on duty says that's not
true."

11 Moving onto the deposition.

12 BY MS. HAMILL:

13 Q. Are you familiar with this document that we
14 have marked as Exhibit 4?

15 A. Yes, I am.

16 Q. And is this the current policy for contacts
17 with news media?

18 A. I believe it's true, yes.

last 19 Q. Has this policy changed at all within the
20 two to three years?

21 A. I don't think so.

this 22 Q. Okay. So, essentially, what I gather from
vetted 23 policy is that any media requests have to be

24 through a public information office?

25 A. Officer.

1 Q. Officer.

2 A. Like a PIO is an officer.

3 Q. And those PIOs work under Brett?

4 A. Yes, they do.

5 Q. Okay, thank you.

6 And, to your knowledge, if I'm recalling your

7 earlier testimony correctly, the department does

not

8 have any written policies regarding social media?

9 A. As far as I know.

10 Q. Okay. At any point in the last three years,

11 has any member of the Board of Supervisors

expressed

12 concern about lack of access to your office by the

13 public?

14 A. I really can't recall.

15 Q. Have any of the members of the Board of

16 Supervisors expressed concern about the inability

to

17 comment on social media posts by the department?

18 A. I don't believe that anybody has expressed

that

19 concern to me. I can't really speak for other

20 expressions of concerns to other people.

21 Q. So Katherine Barter's office, for example,

has

22
accessibility?

not contacted you with concerns about

23 A. Not that I recall.

24 Q. Would she contact you normally or would she

25 contact Brett for something like that?

88

1 A. In general, the supervisors don't contact us.
2 They have someone from their office to contact us.
3 And that would probably not go directly to me.
That
4 would go to our Board liaison office. And then
they
5 would try to funnel the requests to the
appropriate
6 staff person, and that's how it would get
answered.

7 Q. Okay. So are you aware of anyone from the
8 staff, of any of the Board of Supervisors,
9 expressing concerns about the lack of
accessibility

10 to the Department of Public Health?

11 A. I cannot recall being aware of that.

12 Q. And you personally did not ever see comments
on

to 13 Department of Public Health's social media prior
14 being disabled?
15 A. I did not.
that 16 Q. Are you familiar with the public comments
17 were submitted to the Board of Supervisors on
18 September 27th, 2022 most of which were asking the
of 19 Board to reopen public comments on the Department
20 Public Health social media?
21 A. What was the question?
22 Q. Are you familiar with the public comments
23 submitted to the Board of Supervisors on
the 24 September 27th, 2022, most of which were asking
25 board to reopen comments on department --

89

1 A. I am not.
2 Q. You're not familiar?
3 A. No.
4 Q. Do you believe that your department has an
5 obligation or responsibility to prevent bullying?

a 6 A. Again, that's a difficult question. We have
7 legal obligation to prevent bullying in the
8 workplace, as does everybody in the workplace. So
9 the answer is affirmative for our obligation in
the 10 workplace. I'm not sure that we have an
obligation, 11 a legal obligation in other settings. But we
12 certainly do our very best to promote a climate of
13 respect and tolerance. And an anti-bullying
14 culture.

marked 15 Q. I'm going to hand over what I will have
16 as Exhibit 5. Thank you.

17 (Exhibit 5 marked.)

18 BY MS. HAMILL:

19 Q. Which is a tweet from Marla Tellez,
20 T-e-l-l-e-z, saying her chief communications
21 director sent us a statement. And she's referring
22 to you.

23 Do you have it in front of you?

24 A. I don't.

25 Q. Okay. I'll wait until you have it.

1 Are you familiar with this statement?

2 MR. RAYGOR: So just objection, lacks
3 foundation that Ms. Tellez was referring to
4 Dr. Ferrer.

5 BY MS. HAMILL:

6 Q. Are you familiar with this statement?

7 A. I'm familiar with it now.

8 Q. Had you not seen the before?

9 A. I wouldn't recall.

10 Q. So this is -- according to this tweet, on
11 August 4th, 2022 --

12 A. Uh-huh.

13 Q. -- this was the County of Los Angeles,
14 Department of Public Health's official statement
on
15 why comments were disabled.

16 And it says, "Public health has zero
tolerance
17 for threats, bullying, or harassment on any of our
18 platforms and made the decision to disable social
19 media comments after receiving concerns from
20 numerous residents who were targeted."

21 MR. RAYGOR: Objection, lacks foundation;
lacks
22 authentication and violates the best evidence

rule.

23 There's no evidence this is a tweet.

24 THE WITNESS: Yeah, I'm confused about -- I

25 mean, I'm having a hard time answering because I

91

us 1 don't -- this doesn't look like a statement from

showed 2 now. So was there a statement? I mean, you

3 me something that somebody tweeted, and you're

seen 4 asking me if I saw this. I mean, I might have

tweet. 5 a statement, but I definitely didn't see this

6 So I don't -- I'm not sure what you're asking me.

7 The answer is negative on the tweet. I didn't see

8 this tweet.

9 BY MS. HAMILL:

10 Q. But you've seen a statement?

11 A. Well, I would have to see the statement,

this 12 because I'm assuming the statement wasn't just

13 sort of phrase.

14 Q. And I'm trying to pull up the documents. It

15 would be helpful if Mr. Raygor could identify the
16 document number, which was produced this morning.

17 MR. RAYGOR: If you want to hand them back to
18 me --

19 THE WITNESS: It was like a -- you're saying
it
20 was like a media statement and this -- is it like
a
21 media statement? I don't know what this is.

22 MS. HAMILL: Yes.

23 THE WITNESS: Okay.

24 MS. HAMILL: Did you say that they're out
25 there?

92

1 MR. RAYGOR: I asked somebody to bring in
2 copies. They didn't yet.

3 MS. HAMILL: Please don't leave again. I
don't
4 want to waste anymore time.

5 THE WITNESS: Do I need to answer something
6 somewhere?

7 MR. RAYGOR: Do you want to go out to the
desk

8 and see if they have those copies?

9 MS. HAMILL: Okay. The document is
identified

10 as Bates number 409 to 410. And it's an e-mail --

11 once the copies come in, I will have them marked
as

12 Exhibit 6.

13 (Exhibit 6 marked.)

14 MS. HAMILL: And it's an e-mail from Brett
15 Morrow to Elizabeth Ford, DPH Media, and Marla
16 Tellez.

17 Am I pronouncing that correctly? Tellez?

18 THE WITNESS: Well, do you think she's
Latina?

19 If she's Latina, it would be Tellez. But I don't
--

20 you know -- I don't know how people pronounce
that.

21 I mean, where I'm from, double L is like a Y
almost?

22 But I don't know -- I mean, I can't speak for her.
23 I'm not really sure how she pronounces it.

24 MS. HAMILL: Maybe I'll just call her Marla
so

25 I don't butcher her name.

1 Thank you, sir. I'm looking at Bates 409 to
2 410. Thank you.

3 MR. RAYGOR: Here's another set. Please mark
4 this as Exhibit 6.

5 THE WITNESS: Oh, thank you.

6 BY MS. HAMILL:

7 Q. So this -- this thread begins at the bottom
of -- what's marked as 409 from Elizabeth Ford.

8 It says, "Hi, LA County Public Health media
9 team, Fox 11 viewers wondering why the comments
have been turned off on the LA County Public Health
10 social media accounts. Can you please provide a
11 statement on this?"
12
13

14 And then we have a response from Brett
Morrow.

15 And he says, "See below, from Public Health."

16 "Public Health has a zero tolerance for
17 threats, bullying, or harassment on any of our
18 platforms, and made the decision to disable social
19 media comments after receiving concerns from
20 numerous residents who were being targeted.
21 Residents who wish to share their thoughts with
22 Public Health on social media can still do so by

23 sending direct messages to our accounts."

24 Do you recognize the statement now?

25 A. I don't recall, I'll be honest. It was a
long

94

1 time ago. I can say that for the most part, my

2 approval is needed on press releases, but not on
all

3 communications with media outlets. So -- and I
just

4 don't recall seeing this. That doesn't mean that
I

5 didn't. But I really don't recall.

6 Q. So you don't recall whether or not you
approved

7 this?

8 A. Yeah, I think it's unlikely that I approved
it,

9 and because there's not an approval process for

10 communicating with the media, except the approval

11 process that's in place around press releases.

12 Q. And you don't recall any conversations with

13 Mr. Morrow about this particular statement?

14 A. Not about this particular statement, I don't.

15
position

Q. Does this reflect accurately what your
is?

17
the

MR. RAYGOR: Vague as to "your." You mean
department's or Dr. Ferrer's?

19
20
understand.

THE WITNESS: Was there --

MS. HAMILL: You may answer if you

21
with

THE WITNESS: Oh, okay. I don't disagree

22
I

this statement. I think in the conversation that

23 had, I think my emphasis was on misinformation and
24 not having our sites be used to spread
25 misinformation. But I do agree that I don't want

95

was

that

1 our sites to be used as places where people are
2 threatened either. I don't think this fully
3 captures my sense of how -- of how that decision

4 -- was made and characterized. But I do agree

5 our sites can't be used as places where people are

6 feeling threatened and bullied.

7 BY MS. HAMILL:

8 Q. Is there any other reason you can think of
that

9 would have led the department to close off public
10 comments on social media?

11 A. No, I -- I think -- you know, our record
speaks

12 for itself in many ways about a real desire to
make

13 sure that people can get good information from us,
14 ask questions. I spend a lot of time in the
field,

15 I go door knocking. I mean -- you know, I think,
16 you know, we make every effort that's possible to
be

17 able to have information that people can get from
18 us, that we think -- obviously, this is our -- our
19 interpretation -- that we think is accurate. And
to

20 answer people's questions. I -- I also think it
was

21 a reasonable decision to make -- to make sure that
22 when people came to our sites, looking for that
23 information, it was pretty easy to just get that
24 information and not have other -- you know,
25 different -- as you noted, contradictory
information

reason 1 on our site. But I can't think of any other
2 that we would have done this.

3 Q. What would be the risk of the public having
4 access to information that deviates from the
5 Department of Public Health guidance?

6 A. I mean, I think the public has tons of access
7 to that. I -- I think it's sort of what's the
8 purpose of our site, is, really, what's probably
9 important to us. The purpose of our site is that
10 people have information that we want to
communicate.

11 If we were the only site where you could get
12 information, that would probably be -- we'd be in
a 13 different country, and that would be a different
14 story. In this country, people have access to all
15 kinds of information, from all over the place,
16 depending on what means of communications they're
17 comfortable using. You know, we have TV, we have
18 lots of people can search the web. I don't think
19 anybody lacks the ability to get information on
20 differing views than ours. But I think it's

21 appropriate for our site to represent the
22 information we think is credible that the public
23 should have.

24 Q. And did you ever work with local media
outlets
25 to review content regarding COVID that they
intended

97

1 to air, to make sure that it aligned with the
2 guidance from the department?

3 A. I never did. But you'd have to ask our
4 communication team whether there were any requests
5 from local media for us to play that role. I
6 wouldn't know that.

7 Q. So you're not familiar with any role that the
8 department played in curating COVID-related
9 content at local media outlets?

10 A. I'm not familiar with that, and I would
imagine
11 that if that happened, it would be at the request
of
12 a local media outlet.

13 Q. So the local media outlet would probably

14 contact Brett to get his approval --
15 A. It might say, you know, we're wondering --
the
16 only way I see this happening is somebody calls us
17 and says, I looked through your materials, you
know,
18 we want to -- we want to put a piece of this, but
19 we're changing it a little, here's what we're
going
20 to go with, is this -- is this accurate. But I
21 don't -- I don't think we approached the media and
22 say, you know, we want to review your -- we want
to
23 review what you're posting. I would find that
24 highly unlikely, and, certainly, nothing I know
25 about.

98

1 Q. Okay. So if I'm understanding your testimony
2 correctly, you do believe that the Department of
3 Public Health has an obligation to prevent the
4 spread of misinformation; is that right?
5 MR. RAYGOR: Objection, her testimony speaks
6 for itself on what she just stated.

7 THE WITNESS: I'm not sure that's exactly
8 accurate. And I think it's the word obligation
that
9 I'm going to be a little bit fussy about. Because
I
10 don't know if you mean a legal obligation or --
you
11 know, I don't know what kind of obligation. I
think
12 we have to do our best to make sure that people
have
13 accurate information. And we generally spend
almost
14 all of our time trying to promote accurate
15 information. I don't think we spend a lot of our
16 time trying to address all of the misinformation
17 that's out there. So I think we really come at
this
18 from -- our obligation is to provide people with
19 accurate information.
20 BY MS. HAMILL:
21 Q. I'm going to ask that we mark as Exhibit 7 --
22 is that where we are? The morbidity and mortality
23 weekly report, COVID-19 Case Rates in Transitional
24 Kindergarten Through Grade 12 Schools and in the
25 Community - Los Angeles County, California,

1 September 2020 through March 2021.

2 (Exhibit 7 marked.)

3 BY MS. HAMILL:

4 Q. Have you seen this study before?

5 MR. RAYGOR: Just a minute, let's look
through

6 it.

7 THE WITNESS: It's not a study. This is an
8 article. So, yes, I've seen this article before.

9 MS. HAMILL: So it's an article.

10 THE WITNESS: Yeah.

11 MS. HAMILL: Not a study.

12 BY MS. HAMILL:

13 Q. What's the difference?

14 A. Well, the article is reporting on some data
15 that they looked at. A study would be probably
much
16 longer, much more detail. It would contain a lot
of

17 other information that you might not get in the
18 article.

19 Q. Okay. Did you ever rely on this article in
20 issuing any health orders?

21 A. No, and I don't issue health orders.

22 Q. Dr. Monton Davis.
23 Are you aware of whether the CDC relied on
this 24 study to issue any orders?
25 MR. RAYGOR: Objection, we're far afield from

100

1 the reasons or rationale for closing public
2 commentary on Facebook, Twitter, and Instagram,
3 which is the sole remaining claim in this action.
4 So unless you can show how this relates to that,
I'm 5 going to instruct her not to answer.
6

7 MS. HAMILL: And, again, this goes to
8 credibility of the witness, and it goes to the
9 plaintiff's theory of the case as to why social
media comments were shutdown, and the timing.

10 MR. RAYGOR: If you want -- again, if you
want 11 to ask questions about did this have any role to
12 play in shutting down those commentaries, you are
13 welcome to ask that. But these questions that you
14 just asked -- or question that you just asked is
not

15 directed at that.

16 BY MS. HAMILL:

17 Q. Are you familiar with the authors of this

18 article?

19 A. I'm familiar with all but one.

20 Q. Which one are you not familiar with?

21 A. Sherry Yin.

22 Q. Sherry Yin.

23 And Kaitlin Barnes identified here is your

24 daughter; correct?

25 A. Yes, she is.

101

1 Q. And at the bottom of the second page, at the

2 very end, it says, "All authors have completed and

3 submitted the International Committee of Medical

4 Journal Editors form for disclosure of potential

5 conflicts of interest. No potential conflicts of

6 interest were disclosed."

7 Are you familiar with that?

8 A. I'm familiar with what's written here, yes.

9 Q. And -- and no conflicts of interest were

10 disclosed with this article?

11 MR. RAYGOR: Instruct the witness not to
answer
12 for the reasons stated previously.

13 MS. HAMILL: On relevance?

14 MR. RAYGOR: Hmm?

15 MS. HAMILL: You're instructing on relevance?

16 MR. RAYGOR: On scope of discovery.

17 MS. HAMILL: Relevance?

18 MR. RAYGOR: CCP 2017.010. It's no longer
the
19 subject of this action. Unless you can ask a
20 question whether this had any role to play in the
21 closing of public commentary on the social media
22 accounts.

23 BY MS. HAMILL:

24 Q. Did this report have any role to play in the
25 closing of comments on social media posts?

102

1 A. No.

2 Q. Are you aware that people were referring to
3 this study in the conflict of interest in the

4 comments section of the Department of Public
5 Health's Twitter account?

6 MR. RAYGOR: Lacks foundation.

7 THE WITNESS: I mean, the answer is no.

8 BY MS. HAMILL:

9 Q. I'm going to have marked as Exhibit 8 a
Twitter
10 thread from July 20th, 2020.

11 MR. RAYGOR: What was the date?

12 MS. HAMILL: July 20th, 2022. Sorry.

13 (Exhibit 8 marked.)

14 BY MS. HAMILL:

15 Q. Have you seen this before?

16 A. No, I have not.

17 Q. So this begins -- this is a Twitter thread
that
18 starts with a tweet from the Department of Public
19 Health on July 20th, 2022 that provides the
COVID-19
20 daily update. And there are a series of responses
21 in the comments below. The first is a quote tweet
22 of Bill Melugin from Fox LA, saying, "A study
cited
23 by the CDC that found that COVID mitigation
efforts
24 like masks mandates in schools were effective was
25 authored by LA County bureaucrats including the

1 daughter of Barbara Ferrer. The conflict of
2 interest was never disclosed. @jenvanlaar
reports."

3 And then below that, there are a couple of
4 photos and references to a purported conflict of
5 interest and nepotism.

6 But this had nothing to do with the
7 department's decision to turn off public comments?
8 A. Absolutely not. I mean -- first of all, I
9 never saw it.

10 Second of all, as you're well aware, there
11 were lots of other places where people were bringing up
12 the same issue, and complaining. And the conflict
13 of interest, there can be no conflict of interest
14 between two parties that are working on either a
15 study or an article together. A conflict of
16 interest, in our world, is a third party that's
17 interfering. So there's no third party here. A
lot
18 of the information in this study is from people
who

So 19 work for me at the Department of Public Health.
20 it's just -- I mean, I think we answered this
21 question over and over again. We understand that
but 22 some people look at this and see it differently
23 there -- there really is no conflict of interest
24 when two organizations are partnering together, in
25 terms of those disclosures. That's not what's

104

1 expected on the disclosures. And as you are well
2 aware, people, for three years, have posted
people's 3 everywhere, on their own accounts, on other
4 accounts. You know, their disagreements or their
5 worries about me or some actions I've taken. And,
6 you know, that -- there will be no reason to close
7 this down for that. I mean -- and I've really --
it 8 I've he never seen this until you're just showing
9 to me. And it's never come up in any of the
10 discussions.
11 Q. So you've never heard about the comments

12 regarding potential conflicts of interest --
13 A. Not on -- not that were posted on social
media.
14 Q. Where did you hear about it?
15 A. Well, I think -- I think television. I think
16 Fox, in particular, did a lot of TV and asked
direct
17 questions about this. So I was well aware, and
have
18 indicated that I'm well aware that there were
issues
19 being raised. But I'm not aware, and have never
20 seen the posts that you just showed me, that
showed
21 up on our social media. And I didn't really know
22 about this. And I think in some ways, it doesn't
23 change anything. I mean, there are lots of other
24 places where people were expressing their
concerns.
25 And I was very aware ever them. But not that it
was

105

1 showing up on our sites.
2 Q. Can you provide an example of the other
places

3 that people were able to express their concerns?
4 A. I mean, people have their own Twitter
accounts
5 and their own Facebook accounts. I don't -- you
6 know, the way lots of people are communicating
with
7 each other is not a way I communicate with people.
8 So I can't speak, really, on the depth of how
people
9 are communicating with each other, and exactly
which
10 social media platforms they're using. But I do
know
11 that there are lots of places where people are
able
12 to post negative remarks or disagreements, or --
you
13 know, dislikes, you know, about me personally, or
14 about other people, or about positions that we're
15 taking. And all you would have to do is probably
do
16 a search on Twitter to find all those other
17 accounts. So I -- they're not my accounts. And
18 they're not our department's accounts. But I do
19 think there's plenty of places where people have
20 felt like they have a lot of opportunities to go
21 ahead and let each other know and let others know
22 how they feel. I think there's some formal
routes.

People 23 The Board of Supervisors has public comment.
24 e-mail me with their comments. People e-mail the
my 25 director's box with their comments. People call

106

tons 1 office with their comments. So I think there's
2 and tons of ways that people can express
themselves,
3 and have expressed themselves. And none of those
4 got closed down because people were being negative
5 or saying things. You know, you can still call
the
6 office, you can still send e-mails. So it seems
7 like it would be a far stretch to equate any
closing
8 of public comments on the sites we use to give out
9 information with -- with this campaign. And I
also
10 don't know the time sequence, because, you know,
11 this would -- this would be a blur to me. Like,
12 sort of, when did things -- when did this happen,
13 when did things close down, when did people in my
14 office start talking about closing things down. I

15 think that would be something you could get more
16 information about Brett about.

17 Q. Okay.

18 THE WITNESS: Am I keeping this?

19 MR. RAYGOR: Yeah, keep that in the pile for
20 the court reporter.

21 BY MS. HAMILL:

22 Q. Do you have a personal relationship with
anyone
23 at the CDC?

24 A. Yes, I do.

25 Q. And who is that?

107

1 A. Well, I have a professional relationship, so
2 the answer is no. I have no personal
relationships
3 -- the CDC is huge. There probably are a couple
of
4 people, I'm not sure they still work at CDC, but
5 have worked at CDC that I have personal
6 relationships with.

7 Q. Do you have a relationship with Rochelle

8 Valensky?

9 A. I have a professional relationship with her,
10 yes.

11 Q. How frequently do you speak?

12 A. I would say infrequently.

13 Q. Infrequently.

14 A. Infrequently.

15 Q. Maybe once a month if you had to estimate?

16 A. I don't even think we speak that often.

17 Q. Were there any periods of time where you were
18 speaking with her more frequently?

19 A. She made a site visit to LA. And, you know,
we

20 probably spoke more frequently right before she

21 came. And then in sort of the couple of weeks
after

22 she was here, just sort of following up on some of

23 the places she had visited and questions she had.
I

24 don't think there's any other period that stands
out

25 where, you know, we had frequent conversation.

not

1 Q. Do you recall when the site visit took place?

2 A. I -- I want to say spring of 2022, but I'm

3 positive. So I don't recall.

4 Q. Have you considered reopening public comments
5 on social media?

6 A. We have not.

7 Q. And why not?

want

8 A. The decision is based on the fact that we

9 to use our sites to convey the information we want
10 to communicate with the public. And that remains
11 true today.

12 Q. So when I say Soothiness Wednesdays --

13 A. When you say what?

anything

14 Q. Soothiness Wednesdays, does that mean
15 to you?

16 A. No.

17 Q. No, okay.

18 THE WITNESS: Does it mean anything to you?

19 MR. RAYGOR: Soothiness?

20 MS. HAMILL: Soothiness.

21 MR. RAYGOR: S-o-o-t-h-i?

22 MS. HAMILL: It's probably not a real word.

23 THE WITNESS: Okay.

24 MS. HAMILL: It's a phrase used. Soothiness

25 Wednesdays.

109

1 THE WITNESS: Never heard of it.

2 BY MS. HAMILL:

3 Q. Have you ever watched the weekly town hall
4 videos that the CMO, CEO --

5 Q. I'm sorry. I need to drink calm tea.

6 Have you seen the weekly videos that the CMO,
7 CEO, and Chief Epidemiologist at LA County USC put
8 out for their staff?

9 MR. RAYGOR: If I could just ask, CMO, Chief
10 Medical Officer?

11 MS. HAMILL: Uh-huh.

12 THE WITNESS: I have not.

13 BY MS. HAMILL:

14 Q. No, never?

15 A. Never.

16 Q. Have you heard about those videos?

17 A. I've heard about a couple of those videos.

18 Q. What did you hear about them?

19 A. There's a video where a couple of people from

20 USC, LA County, LAC, were talking about the fact
21 that the epidemic was over. And that there were
--
22 there was, really, no need for people to be
worried.
23 It was a staff meeting, I think. But I think
24 there's -- I don't know if we're talking -- I
don't
25 know if this is the same thing. There is a staff

110

1 meeting that was held where there was
communication
2 about the sense from the team there that the
3 pandemic was over.
4 Q. And did that concern you?
5 A. Yes, it did.
6 Q. Why?
7 A. At the time, the pandemic clearly wasn't
over.
8 And I always worry about what hospitals experience
9 in a large county like ours, with over ten million
10 people. And that hospital, in particular, does
11 maybe about three percent of the volume of

12 hospitalizations, making an assessment about a
13 pandemic ending without additional information.
14 Q. Did you review the video of the town hall
staff meeting?
15

16 A. I did not.

17 Q. You just heard about it?

18 A. I just heard about it.

19 Q. Who told you about it?

20 A. I cannot recall.

21 MS. HAMILL: Are we on 8?

22 MR. RAYGOR: 9.

23 (Exhibit 9 marked.)

24 BY MS. HAMILL:

25 Q. Passing over to mark as Exhibit 9 another
tweet

111

1 thread that starts with an LA County Department of
2 Public Health tweet, dated July 27th, 2022. And
3 this provides another COVID-19 daily update. I'll
4 give you time to look at it before I ask
questions.

5 A. Okay.

6 MR. RAYGOR: I think one's for me.

7 THE WITNESS: Okay.

8 BY MS. HAMILL:

9 Q. And I'll assume you haven't seen this before?

10 A. I haven't seen this.

11 Q. Have you heard the phrase "snowflake
weepies"?

12 A. I've heard it. I'm not sure what it means.

13 Q. I just mention that because it's in the --

14 A. I know. I have no idea what it really means.
15 But I have heard it.

16 Q. Well, in the third -- well, the second reply
17 from Pavement 1999, it says, "I encourage anyone
who
18 believes there is a COVID emergency in LA to watch
19 today's LA County USC press conference. Read
20 through this thread, too." And then it quote
tweets
21 Phil Kerpen who includes a video from LA County
USC
22 Medical Center.

23 To your knowledge, did the sharing of this
town
24 hall video have any influence on the department's
25 decision to disable public comments?

1 A. It did not.

2 Q. So you weren't concerned about misinformation
3 about the end of the pandemic being posted on the
4 Department of Public Health's social media
accounts?

5 A. I've already said that the reason for closing
6 the social media accounts to public comment was so
7 that there wouldn't be misinformation. So if this
8 information was going to be posted along with
other
9 pieces of misinformation on our accounts, that
would
10 be in that broader category.

11 But this one particular instance did not play
12 into that decision. As far as I know, this got
13 broad dissemination through other people's
accounts.

14 So, again, it's not about a particular piece of
15 misinformation that's showing up. It's about
people
16 coming to our site and having access to
information
17 that's not ours.

18 Q. And so is it your opinion, then, that the
19 information shared by the LA County USC doctors in

20 that staff meeting saying that the pandemic was
21 over, that's misinformation?
22 A. I would say that's misinformation or mis- --
23 yeah. I would never use that -- I mean, I -- I'm
24 not going to -- I'm not going to quibble. I mean,
25 that's not language I would have used. I don't

113

that 1 think particularly -- when did this happen? At
 2 point in time anybody would have said the
pandemic's 3 over, really. I mean most people were not using
 4 those terms in Public Health. So -- but certainly
 5 people are entitled to their opinions about when
you 6 they think the pandemic ended or started. And,
 7 know, there's -- there's no way of my controlling
 8 that kind of misinformation. The issue for us is
on 9 our site. We don't want to be magnifying that
 10 information. I can't really do much about the
 11 differences of opinion that people hold outside of
 12 -- you know, outside, and other places. And I'm
not

13 even intending to be disrespectful to people who
14 hold independent or different decisions. All I
can
15 say is we curate our information really carefully.
16 As I described, we have a whole team of folks that
17 look at information to determine its accuracy and
18 determine what's -- what needs to be on our
website.

19 That's the intent here.

20 Q. And what is your fear with respect to
something

21 like this town hall video reflecting that staff
22 meeting? What is your specific fear about that
23 being shared and disseminated widely?

24 A. I don't have a fear of it being disseminated
25 widely, because I can't control that. And there's

114

1 no -- there's no point of being fearful about lots
2 of things you can't control. I think, you know,
3 that -- you'd be -- you'd be scared of a lot then.
4 I try to, sort of, narrow what I'm going to really
5 worry about that. And that's what I'm saying.

I 6 Those are not the reasons -- there's no particular
7 instance that you could point to that -- you know,
8 would say, like, oh, this is misinformation that,
9 you know, we have to do something about
immediately.

10 In general, this kind of information that goes out
11 and gets a lot of attention, I think doesn't help
us 12 encourage people to continue to protect each other
13 when there's a need for people to protect each
14 other.

15 I think at last July, on average, there were
16 to 20 deaths a day of COVID, one of the highest
17 mortality rates that we have when compared to
other 18 diseases. And, you know, for us, we're very
focused 19 on trying to prevent as many people from being
20 severely ill or dying from COVID.

21 So, you know, it's sort of a global issue and
22 not particular to this. And I don't see it as my
23 job to prevent this kind of misinformation from
24 being circulated by other sources. I think we
need 25 to counter it. And we need to make sure that
we're

1 giving people what we think is an accurate
2 assessment, as a public health department.

3 Q. And you mentioned a stat about deaths per
day, 4 15 to 20?

5 A. Yeah, I think. Again, to the best of my
6 recollection.

7 Q. Would those be from or with COVID?

8 A. Deaths are classified as being COVID deaths
by 9 a very strict definition. And so they're deaths
of 10 people who either died of COVID or COVID
contributed 11 to their cause of death. And that determination
is 12 made, in some cases, by a medical examiner. In
13 other cases by death certificates, record reviews.

14 Q. And so does your --

15 A. Not a decision we make. I guess is what I'm
16 saying. Not a decision made by the Department of
17 Public Health.

18 Q. And so would your office review medical
19 examiner records and death certificates to

determine

20 the death count?

21 MR. RAYGOR: I'm going to instruct you not to
22 answer, because now, again, we are outside the
23 subject matter of the remaining claim in this
24 lawsuit.

25 THE WITNESS: Okay.

116

1 MS. HAMILL: And I will state that there are
2 other exhibits I intend to provide where people
are
3 commenting about the distinction between deaths
from
4 and with COVID. And the contention there is that
5 public comments were shut off so that people
weren't
6 aware of such a distinction. So this is highly
7 relevant, and I would like to continue this course
8 of questioning.

9 MR. RAYGOR: Well, you can ask -- certainly
you
10 can ask those questions about whether people were
11 aware of that. And you can ask whether or not
that

12 awareness or those pieces of information had
13 anything to do with the decision to close off
public 14 commentary.

15 BY MS. HAMILL:

16 Q. Were you aware that people were expressing
17 concern that you were using deaths with COVID
rather 18 than from COVID and overstating the death count?

19 A. Yes.

20 Q. Were you concerned about that?

21 A. No.

22 Q. Why not?

23 A. The definition of how deaths are classified
is 24 an agreed-upon definition that gets used to
classify 25 deaths. Not just of COVID, but all kinds of

117

1 diseases: Cancer, infant deaths, maternal deaths.
2 I mean, there are definitions that get used for
all 3 deaths. And it's a fairly complex algorithm that
is

4 used. And then we use that to do the
5 classifications. I can understand that some
people
6 might not really understand exactly how death
7 classifications are done. But I wasn't worried
that
8 there was significant over count or under count of
9 deaths. And the bigger conversation was,
actually,
10 always around hospitalizations, not deaths.

11 BY MS. HAMILL:

12 Q. So on this Exhibit 9, in the COVID-19 update,
13 it says there's 1280 currently hospitalized.

14 Do you know if that is broken up by from
COVID
15 or with COVID?

16 A. I don't know what you're referring to.

17 Q. I'm looking at Exhibit 9.

18 A. Oh, this exhibit here?

19 Q. Yes. And so the very top -- the first tweet
is
20 from Department of Public Health. And it has a
21 COVID-19 daily update. And it says 1280 currently
22 hospitalized.

23 A. Yeah.

24 Q. And that -- is that --

25 A. That's the total number of people
hospitalized.

around 1 But we did start producing and probably back
2 -- in 2022 -- differentiating between people
for 3 hospitalized with COVID and people hospitalized
quite 4 COVID. It sounds straight forward. It's not
are 5 so straight forward. You can -- the people who
6 incidental are people who come to the hospital and
7 they are classified as being positive for COVID
8 because they got tested. They didn't necessarily
9 come to the hospital to get care. And then there
they're 10 are people who came to the hospital because
getting 11 sick, with COVID-related illness and they're
when 12 care. Some people who test positive for COVID
they're 13 they come in, two or three days later, while
14 still in the hospital, may, in fact, develop COVID
15 illness. So none of this is particularly -- you
16 know, it's not perfect. But we have produced the

on

17 differences between incidental COVID
18 hospitalizations and hospitalizations for people
19 with COVID disease -- related disease. It's not

20 this, but we have it, and we've shared it a lot.

21 Q. So Doctors Spellberg and Holtom of LA County
22 USC are part of health services; is that correct?

23 A. They are.

24 Q. Okay. And I think you told me earlier that
25 with respect to an organization chart, you are

119

1 equals with the director of health services?

2 A. That's right.

3 Q. Okay. And so Dr. Spellberg and Dr. Holtom do
4 not report to you?

5 A. They do not.

6 Q. They report to --

7 A. I don't know who they report to so I'm not
8 going to comment.

9 Q. Okay.

10 A. I mean, I know who the director is of

who

11 Department of Health Services, but I don't know

12 they directly report to.

13 Q. Who's the director again?

14 A. Dr. Christina Galli.

15 Q. And I'm going to hand a two-page document to
16 mark as Exhibit 10.

17 (Exhibit 10 marked.)

18 BY MS. HAMILL:

19 Q. I'll give you a moment to look it over. Just
20 look at me when you're finished and I'll start
21 asking questions.

22 A. Okay.

23 Q. Thank you.

which

24 So the first page is the original tweet,

25 is from the Department of Public Health. And it

120

county

1 says, "LA County enters high COVID-19 Community

2 Level and will require masking indoors if the

3 remains high for two consecutive weeks, effective

4 July 29th."

5 And the second page shows two responses. And
6 the first response says, "Why do real doctors have
a very different perspective? Public Health Social
7 Justice Warriors should be ignored. I prefer to
8 listen to actual doctors."
9

10 And then it includes a video of Paul Holtom
at LA County USC.
11

12 And then below that is another response that
13 says, "Meanwhile, on Earth..." And it includes
14 another video of Paul Holtom, Jorge Orozco, and
Brad Spellberg of LA County USC, saying, "Only ten
15 percent of our COVID positive admissions are
16 admitted due to COVID. Virtually none of them go
to the ICU. And when they do go to the ICU, it is
17 not
18 for pneumonia. They are not intubated. We have
not seen one of those since February."
19

20 Do you recall -- I know that you haven't seen
21 this, because you don't go on Twitter -- but do
you recall your office issuing the statement on Page
22 1,
23 on July 15th, that we are entering high Community
24 Level?
25

1
happened.

A. Yeah, I don't recall, but I think it

2
County

Q. And do you remember hearing that the LA

3 USC doctors were saying only ten percent of COVID
4 positive admissions were admitted due to COVID?

5 A. No, I don't.

6 Q. Is it concerning to you to see that as a
7 comment on the department's social media?

8 A. I -- I don't know what -- what you're asking
9 me. This is a comment on our -- these are people
10 posting on our account?

11 Q. Yes.

12
with

A. I think this is part of what was happening

13
14
message

the account. But, no, does this particularly
concern me? It concerns me only in that the

15
16
17
lot

we're trying to give out is this message. And now
people are paying a lot of attention to this
message. We're trying to tell people there's a

18 more transmission. The truth of the matter is,
19 there was a lot more transmission. I mean, the
way
20 you measure transmission is an agreed-upon
measure.
21 Again, similar to deaths. And so when the
Community
22 Level went high, as defined by the CDC, it does
mean
23 that it is real; that more people can get
infected.
24 So this is the message I want people to get.
25 And what's upsetting is not the content of this

122

on 1 message, but that it's different from this. And
2 our site, all I want people to see is this.
3 MR. RAYGOR: So the very first use of "this
4 message," the third use of "this message," the
fifth
5 and the sixth use of "this message," we're
referring
6 to the first page of Exhibit 10. And then the
7 intervening uses of "this message," we're
referring
8 to the second page of Exhibit 10.

9 THE WITNESS: Thank you, sorry about that.

10 MR. RAYGOR: It's okay.

11 BY MS. HAMILL:

12 Q. The video can help with that, as well.

13 I'm handing over a two-page document that I'd
14 like to have marked as Exhibit 11.

15 (Exhibit 11 marked.)

16 BY MS. HAMILL:

17 Q. And this is a statement on behalf of LA
18 County's -- LA County and USC Medical Center on
19 state of current COVID-19 hospitalizations from
20 health services.

21 Have you seen this letter before?

22 A. I don't recall.

23 MR. RAYGOR: Objection, lacks foundation that
24 it's a letter.

25 MS. HAMILL: Statement.

123

1 BY MS. HAMILL:

2 Q. Have you seen this statement before?

3 A. Yeah, I don't recall. It's not our

statement.

4 Q. And this is from health services?

5 A. Yeah.

6 Q. And health services is the entity for which
7 Dr. Spellberg and Dr. Holtom work; correct?

8 A. Yes.

9 Q. And this appears to have come out two days
10 after -- well, three days after the LA County
11 Department of Public Health statement on the first
12 page of Exhibit 10; is that correct?

13 A. That's what it appears.

14 Q. Do you recall health services issuing this
15 statement?

16 A. I believe I do.

17 Q. Did you have any involvement in -- in getting
18 this statement issued?

19 A. No, I did not.

20 Q. Did you express concerns to Dr. Galli -- or
is

21 it Galli?

22 A. Galli.

23 Q. Did you express any concerns to Dr. Galli
about

24 the LA County USC town hall video?

25 A. I may have. I really can't recall.

1
contacted

Q. Do you think Brett Morrow would have

2

health services regarding this statement?

3

A. I don't know.

4
out

Q. But you don't recall specifically reaching

5

to Dr. Galli to have them issue this statement?

6
reaching

A. No, but it's really an I don't recall

7

out as opposed to -- yeah, I just don't recall. I

8
can't

-- I talk very frequently with Dr. Galli, so I

9

-- I can imagine that we had a conversation, just

10

about making sure that we were all messaging

11

together; that the pandemic wasn't over.

12

Q. Do you recall her being upset with

13

Dr. Spellberg and Dr. Holtom?

14
me

A. I do not. And I -- she would not have told

15

that anyway.

16

Q. We're making progress. I'm passing over a

17

one-page document that I would like to have marked

18

as Exhibit 12.

19

(Exhibit 12 marked.)

20 BY MS. HAMILL:

21 Q. And I assume you haven't seen this before?

22 A. I haven't seen this.

23 Q. Did you hear about Dr. Spellberg tweeting
this statement on September 4th?

24 A. Well, I don't know if I heard about it. I

125

1 mean, I'm reading it now. It's -- it's
inaccurate.

2 Q. How is it inaccurate?

3 A. If people test positive for COVID, and then
4 they die, and they were in a car accident, they
were

5 in a homicide, they were a suicide, they had, you
6 know, some injury, they had some other compelling
7 factor that caused them to die, they're not --
even

8 if they tested positive, they are not counted as a
9 positive -- by nobody. Nobody's counting those as
10 positive -- as COVID deaths. So it's just an
11 inaccurate definition. I'm not sure where --
where

12 he got that definition. But he's also not the
13 person either at his hospital that is -- that is
14 really signing death certificates or entering in
15 that information. So he might not have known what
16 the definition was. But those -- all of those
17 people who die, even if they had tested positive
for
18 COVID, those are not counted as COVID deaths.
lots
19 That's why I was saying, there's an algorithm,
20 of things come out when you establish there's
21 another cause of death.

22 Q. Is there a place where one could review that
23 algorithm? Where does that exist?

24 MR. RAYGOR: Objection, I instruct the
witness
25 not to answer. You're far outside the scope of
the

126

1 subject -- remaining subject matter of this
action.

2 And for the same reason, this particular
3 Exhibit 12 was -- it postdates the posting of
public

4 commentary on social media.

5 BY MS. HAMILL:

6 Q. Were you aware that this tweet was deleted?

7 MR. RAYGOR: Objection, lacks foundation.

8 THE WITNESS: Which tweet?

9 MR. RAYGOR: I don't --

10 MS. HAMILL: The Brad Spellberg tweet from

11 September 4th.

12 THE WITNESS: Oh, no.

13 BY MS. HAMILL:

14 Q. Did you have any involvement in the deletion
of

15 this tweet?

16 A. I did not.

17 Q. Were you aware that Dr. Spellberg had agreed
to

18 an interview with local Fox affiliate in
September,

19 around the time of this tweet?

20 A. I was not. I mean.... I don't -- I was not.

21 Q. And Dr. Spellberg wouldn't have to go through

22 --

23 A. Absolutely not.

24 Q. He would have to go through the
communications

25 Department of Health Services?

1 A. Health services, yeah.

2 Q. And they have an entirely separate --

3 A. Completely separate.

4 Q. Okay. I accidentally marked someone else's

5 copy as 13. Sorry. I'm going to ask to mark as

6 Exhibit 13 a two-page exhibit that is from the

7 County of Los Angeles, Department of Public
Health's

8 website. And it's called Communicable Disease

9 Investigation and Response Protocol Revisions for

10 Schools.

11 (Exhibit 13 marked.)

12 BY MS. HAMILL:

13 Q. Are you familiar with this document?

14 MR. RAYGOR: Is there a date on this?

15 THE WITNESS: Yeah, I'm looking for the same

16 thing.

17 BY MS. HAMILL:

18 Q. It was printed off of the Department of
Public

19 Health's website either yesterday or the day
before.

20 There's an effective date in the first paragraph

of

21 January 14th, 2019.

22 A. So it was printed off as a --

23 Q. I printed this.

24 A. But as an archive document.

25 Q. Um...

128

I'm

1 A. It's not the current protocol. That's what

2 trying to ask.

3 Q. This is --

4 A. I don't know.

5 Q. This was printed directly off of the
6 department's website.

7 A. Right. On our website, we keep copies of
8 everything we've ever issued. And then we have a
9 current protocol. I would suspect this isn't the
10 current protocol, but I'm not sure. That's why --
11 that's why I was asking you, was there a date on
12 this document. Because if -- I can't really
answer
13 the question.

14 Q. I'll direct your attention to the second --
15 A. Okay.
16 Q. -- page. And there's a row for influenza and
17 other acute respiratory diseases.
18 A. Yep.
19 Q. And there are outbreak and exclusion
criteria.
20 A. Yep.
21 Q. And I'm curious as to why this guidance was
not
22 followed for COVID?
23 MR. RAYGOR: Objection, lacks foundation;
lacks
24 authentication; incomplete hypothetical.
25 BY MS. HAMILL:

129

1 Q. Is COVID considered a respiratory disease?
2 A. Yes, it is. It is the most deadly
respiratory
3 virus we have circulating.
4 Q. And is there a reason why your department
5 deviated from the influenza and respiratory
disease
6 outbreak?

7 MR. RAYGOR: I'll instruct the witness not to
8 answer because this has nothing to with the
current
9 subject matter of the lawsuit, unless you can tie
10 this to some reason for why public commentary was
11 closed on social media accounts.

12 BY MS. HAMILL:

13 Q. Were you aware that people were commenting
14 about the deviation from the outbreak and
exclusion
15 criteria that the department had in place for
COVID?

16 A. No, I was not.

17 Q. And, again, I disagree with counsel's
18 instruction not to answer on relevance grounds, as
19 these go to credibility and to the defendant -- or
20 the plaintiff's theory of the case.

21 MR. BIRNIE: Do you need to make arrangements
22 for your 4:00?

23 THE WITNESS: What time are we at?

24 MR. BIRNIE: We're at 3:30.

25 THE WITNESS: Do we know about how much
longer?

22 from.
23 MS. HAMILL: It's from CVPH. The printing
was
24 not wonderful.
25 BY MS. HAMILL:

131

1 Q. I'm not asking you to authenticate this
2 document.
3 A. Oh okay.
4 Q. Are these -- in your opinion, are the CVPH
5 tables and data reliable? Are they something that
6 you use in your work?
7 MR. RAYGOR: Objection, outside the scope of
8 the subject matter of this lawsuit. Unless you
can
9 tie this to some rationale or basis for closing
10 public commentary on the department's Twitter and
11 other social media accounts.
12 MS. HAMILL: And I will --
13 MR. RAYGOR: I'm going to foreclose -- I'll
14 instruct her not to answer. I'll give you a few
15 questions to see if you can tie it up.

16 MS. HAMILL: And I will again disagree with
17 counsel's instruction not to answer on relevance
18 grounds. There are credibility issues at play.
And
19 what this document shows is that there are about
98
20 total deaths from COVID or associated with COVID
in
21 California for kids under 18 for the entire
duration
22 of the pandemic. And the information shared from
23 the official Department of Public Health account
24 made things sound quite different, and quite
scary.
25 And it's part of the theory of the case that
public
132

1 comments were shut off to avoid having information
2 like this shared.

3 MR. RAYGOR: This is eight months after it
was
4 cut off, the commentary was closed.

5 MS. HAMILL: Yes. This data has held
6 relatively steady for the entire pandemic. So I'd
7 like to question the witness now.

8 MR. RAYGOR: Okay. Do you have data from
9 August of 2022? The same kind of CDPH data?

10 MS. HAMILL: Well, I can ask Dr. Ferrer.

11 BY MS. HAMILL:

12 Q. Have you been monitoring these CDPH reports?

13 A. I don't personally monitor these reports. We
14 have our own reports with the same data for
15 LA County. So I would be much more interested in
16 monitoring LA County. But I am aware of these
17 reports.

18 Q. Do the County of Los Angeles numbers deviate
19 much from these numbers?

20 A. I think a quarter of the deaths in children
are
21 from LA County residents.

22 Q. So a quarter of these deaths listed here?

23 A. Yeah. I mean, I -- we'd have to look at the
24 dates, but...

25 Q. So would it be fair to say that there's

133

1 significant age stratification in COVID risk?

2 A. Yes. And if you look on our website, we
3 publish the data on children's deaths, and have
for 4 the entire pandemic. So there's no effort made to
5 not share this data. This data actually gets
6 updated every week on our website. Or was updated
7 frequently every week. We're not doing it quite as
8 now.

9 Q. Are you aware of any harms of masking
children?

10 MR. RAYGOR: Objection, that's part of your
11 lawsuit that was dismissed with prejudice. Your
12 claims one, two, and four, as I recall. So it's
13 outside the scope of discovery of the subject
matter 14 of the action as it presently stands, and I'll
15 instruct the witness not to answer.

16 MS. HAMILL: Again, I disagree with counsel's
17 instruction not to answer on relevance grounds.
18 It's totally inappropriate. This goes to
19 credibility. And it also goes to the constant
20 recommendation and mandate issued on Department of
21 Public Health social media that children wear
masks 22 to be safe, without ever acknowledging the harms.
23 And those harms were constantly acknowledged in
24 public comments below the Department of Public

25 Health's official posts.

134

1 MR. RAYGOR: So if you can tie that to any
2 decision to close off public commentary on social
3 media accounts for that reason to not share that
4 data, then pursue that --

5 MS. HAMILL: And, again, I'm not required to
do 6 that. But I will endeavor to do so. These are
7 totally improper instructions not to answer. So
we 8 will have a voluminous motion to compel and
9 sanctions motion.

10 BY MS. HAMILL:

11 Q. Were you aware that people in the public were
12 expressing concerns over harms to children that
were 13 forced to mask?

14 A. For the duration of the pandemic?

15 Q. Uh-huh.

16 A. At any particular time?

17 Q. At any particular point.

18 A. Oh, yes, of course.
19 Q. Did you ever consider those harms?
20 A. Consider the harms or consider what people
were
21 noting as harms?
22 Q. Either one.
23 A. Uh-huh, yes.
24 Q. Did those go into how you crafted the COVID
25 policies and COVID mandates?

135

1 A. Just as a reminder, health officer orders are
2 issued by a health officer and not by me. But our
3 conversations around masking obviously weighed
risks
4 and benefits.
5 Q. Is there any place that the public could go
to
6 see weighing of harms versus benefits?
7 A. I think they could look at the information
they
8 were sharing, and, yes, they could see that. I
9 don't know that we called it risks and benefits.
10 But we spelled out -- particularly before
vaccines,

11 therapeutics and testing. That's why we were
12 available. We were left with nonmedical
13 interventions to mitigate a pandemic -- a deadly
14 pandemic. So I think it was a question of people
15 getting seriously ill, people getting infected.
16 Maybe they didn't get seriously ill, but they
17 clearly can pass it on to others who will get
18 seriously ill. So I think there was a lot of
19 weighing. And I think the public had access to
all that information.

21 Q. Have you reviewed this petition for writ of
22 mandate/complaint?

23 A. I don't know --

24 Q. Have you read it?

25 A. I don't know which -- what document --

136

1 Q. The lawsuit that was filed.

2 A. No, I have not.

3 Q. If you want to take a quick break, I'm just
4 going to go through the documents that were
produced

that 5 this morning and see if there are any questions

6 I have --

7 A. Okay.

8 Q. Then we'll wrap it up.

9 A. Okay.

10 THE VIDEOGRAPHER: We're going off the record

11 at 3:48 p.m.

12 (Off the record.)

13 THE VIDEOGRAPHER: We're back on record at

14 4:00 p.m. Please continue.

15 BY MS. HAMILL:

16 Q. Okay. Thank you very much for being here

17 today. I'm sorry to do this to you, but I'm going

18 to have to suspend the remainder of the deposition

19 in order to have you conduct a search for all

20 documents requested in the demand for production.

21 We are going to seek to compel testimony on

22 questions where counsel instructed not to answer,

23 and we will be seeking sanctions for wrongful

24 exclusion of my client.

25 So I would like to order a rough draft of the

1 transcript here. And we will have to take care of
2 that and then reschedule you to come back.

3 But other than that, I have no further
4 questions for you at this time.

5 THE WITNESS: Are these going back to you?

6 THE COURT REPORTER: Yes, they are.

7 THE WITNESS: Okay.

8 THE VIDEOGRAPHER: This concludes the
9 deposition for today. We're going off the record

at

10 4:01 p.m.

11 (Off the record.)

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138