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IN THE MATTER OF THE INDEPENDENT
INVESTIGATION UNDER EXECUTIVE
LAW 63 (8)
-----x

VIRTUAL ZOOM INVESTIGATION

May 24, 2021
11:00 a.m.

TESTIMONY of **State Entity Employee #2** taken by the
First Deputy Attorney General of the New York
Attorney General's Office pursuant to Subpoena in
the above-entitled action remotely held, taken
before William Visconti, a Shorthand Reporter and
Notary Public within and for the State of New
York.

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A P P E A R A N C E S:

CLEARY, GOTTLIEB, STEEN & HAMILTON LLP
Attorneys for The New York State Attorney
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CAPEZZA HILL LLP

Attorneys for The Witness

30 South Pearl Street, Suite P110
Albany, NY 12207

BY: THOMAS CAPEZZA, ESQ.

ALSO PRESENT:

MARCO SOZIO, Videographer.

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THE VIDEOGRAPHER: Good morning.
We are going on the record at 11:01 a.m. on
May 24, 2021. Please note that the
microphones are sensitive and my pick up
whispering, private conversations and
cellular interference. Please turn off all
cells phones or place them away from the
microphones as they can interfere with the
audio. Audio and video recording will
continued to take place unless all parties
agree to go off the record.

This is media unit 1 of the recorded
interview of Witness May 24th, 2021 taken
by Special Deputy for the New York Attorney
General's Office in the matter of the
Independent Investigation Under New York
State Executive Law Section 63 (8). This
deposition is being held remote virtual
Zoom located in Albany, New York 12207.

My name is Marco Sozio from the firm
Veritext New York and I'm the videographer.
The court reporter is William Visconti from
firm Veritext New York.

I'm not authorized to administer an

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oath. Will the court reporter please swear
in the witness.

██████████ State Entity Employee #2 ██████████ ,
having been first duly sworn by the Notary Public,
was examined and testified as follows:

EXAMINATION CONDUCTED BY MS. MAINOO:

Q. Good morning. Abena Mainoo from
the firm Cleary, Gottlieb, Steen & Hamilton but
acting as a Special Deputy to the First Deputy
Attorney General for the New York State
Attorney General's Office.

MR, KIM: Joon Kim from Cleary
Gottlieb as well, same role as Miss Mainoo.

MR. CAPEZZA: Thomas Capezza in
Albany on behalf ██████████ State Entity Employee #2 ██████████ .

MS. CHUN: Charlotte Chun with the
law firm of Cleary, Gottlieb, Steen &
Hamilton as well.

Q. Good morning, again, ██████████ State Entity Employee #2 ██████████

A. Good morning.

Q. Thank you for meeting with us
today. As I just mentioned my name is Abena
Mainoo. I have been appointed as a Special

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Deputy to the First Deputy Attorney General.
The New York Attorney General has appointed the law firm of Cleary, Gottlieb, Steen & Hamilton as well as the law firm of Vkadeck, Raskin & Clark to do in an independent investigation under New York Executive Law Section 63 (8) into allegations of sexual harassment brought against Governor Cuomo as well as the surrounding circumstances.

You're here today pursuant subpoena issued in connection with this investigation. I will note at the outset that this proceeding is being video recorded. You are under oath, that means you must testify fully and truthfully just as if you were in a court of law sitting before a judge and jury. Your testimony is subject to the penalty of perjury.

If you would like to make any sworn statement we ask you to do so at the conclusion of our examination today.

Although this is a civil investigation the New York Attorney General's Office also has criminal enforcement powers.

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[REDACTED]

You have the right to refuse to answer a question if answering the question would incriminate you. Any failure to answer however could be used against you in a court of law in a civil that is noncriminal proceeding.

Asserting your Fifth Amendment privilege does have evidentiary significance. If you choose to assert your Fifth Amendment privilege, that fact could be presented to a judge or jury in a similar proceeding who will be free to draw a conclusion from your assertion of that privilege.

You're appearing here today with your attorney. You may consult with your attorney about matters covered by the attorney-client privilege. As you can see we have a court reporter present with us in the virtual room and he needs to take down my questions and your answers to create a transcript. So that the court reporter can create a clean record, please provide a verbal response to each question. Do not shake or nod your head or give responses like ah huh. Do you understand?

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A. Yes, I understand.

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Q. If you do not know an answer to a question, say you do not know. Please allow me to finish my question before you begin to answer so we don't talk over each other. That is important to allow our court reporter to create the transcript, particularly since we are not all in the same room.

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You will not be permitted to review a transcript of this examination. If at any time today you want clarify an answer, please let me know. If you do not understand a question please let me know and I will try to ask the question in a different way.

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I will be asking about names and dates and other specific information, even if don't remember a specific name or date, I would ask that you give me your best approximate answer while indicating that your answer may not be exact.

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If you a need a break at any point please let me know, but if there is a question pending please answer the question first and then we could take a break.

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[REDACTED]

Please confirm that other than Mr. Capezza, you are alone in the room.

MR. CAPEZZA: I am in the room with State Entity Employee #2 in Albany, New York.

A. And there is no one else in the room.

Q. Please confirm that neither of you is using any technology to create a recording of the proceeding on your end including by using any screen capturing tools?

A. Correct on my end.

MR. CAPEZZA: There is none.

Q. Please also confirm also that you're not allowing anyone else to listen in including through any devices?

MR. CAPEZZA: Correct and we are actually putting the shades down to make sure this is completely private.

Q. State Entity Employee #2, can you also confirm on the record?

A. Correct, on my end there isn't anyone listening in.

Q. Please confirm that you are not and will not communicate in real time or during

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[REDACTED]
breaks with anyone else about the substance of
your testimony?

A. Correct, I will not.

MS. MAINOO: Mr. Capezza?

MR. CAPEZZA: Same, I will not
communicate with anyone other than my
client but give notice to you.

Q. Executive Law 63 (8) the provision
under which this investigation being done
prohibits you, [REDACTED] and your counsel,
Mr. Capezza, from revealing anything about what
we ask or what you say during your testimony to
anyone. If anyone asks you to disclose any
such information, please let us know including
any reason they provide for seeking such
information and we will discuss with you
whether a disclosure will be permitted.

A. Okay.

Q. [REDACTED], are you taking any
medication or drugs that might make it
difficult for you to understand my questions?

A. No, I am not.

Q. Have you had any alcohol today?

A. No, I have not.

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[REDACTED]

Q. Is there any reason why you would not be able to answer my questions fully and truthfully?

A. No, there is no reason.

Q. Please state your name, date of birth and current home and business address for the record?

A. Sure. My name is [REDACTED] State Entity Employee #2

[REDACTED] My a home address is -- my date of birth is [REDACTED]. My home address it [REDACTED].

[REDACTED]

[REDACTED]

Q. [REDACTED] State Entity Employee #2 have you ever given testimony before?

A. Not on the -- I have for my job. Not like this.

Q. When did you give testimony for your job?

A. When you say testimony you mean on the record testimony?

Q. Correct.

A. So only once before this one.

[REDACTED]

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[REDACTED]
[REDACTED] as an expert witness for a lawsuit against the state regarding [REDACTED] and I was -- I had signed an affidavit as an expert witness and then I was called for cross-examination.

Q. Was this in [REDACTED]?

A. This was [REDACTED], correct, [REDACTED]
[REDACTED] [REDACTED]

Q. Just to be complete. Have you ever testified at a trial?

A. No, just that was the only time I've ever been under oath in a trial.

Q. Other than conversations with Mr. Capezza, did you do anything to prepare to testify?

A. I spoke with Mr. Capezza, I spoke with my husband, maybe close friends, I don't know if that is considered preparation or not and I did write some notes on my computer for myself about four days ago just, maybe more than preparation, just for myself. I'm not sure why. I didn't share them with anybody though.

Q. How many times did you speak with

1

2 Mr. Capezza?

3

A. We spoke a few times recently
4 about this. Just about this you're asking?

5

Q. Correct?

6

A. Maybe two or three times including
7 just now.

8

MR. CAPEZZA: Right.

9

Q. You mentioned speaking with your
10 husband. How many times did you speak with
11 your husband in preparation for today?

12

A. I don't even know if it is in
13 preparation or just sharing a nervousness.
14 Maybe two or three times.

15

Q. You mentioned close friends, which
16 close friends did you speak with in preparation
17 for your testimony today?

18

A. I'm trying to remember specific
19 conversations. I told my close friends [REDACTED]
20 and [REDACTED] that I had to do this. But I didn't
21 speak about preparations, just that I had to do
22 this. I think I might have told my friend and
23 former mentee [REDACTED] that I had this coming
24 up. And I think I might have told [REDACTED]. I
25 can't recall if I gave them specifics though or

1

[REDACTED]

I had to do something and there was kind of a lot going on. Yes.

4

Q. You mentioned earlier that you wrote some notes on your computer, what was the reason for writing the notes on your computer?

7

A. I was nervous and I felt like I needed to sort of collect some of my thoughts. The reason why I left was multifactorial and I get nervous that it is hard to summarize if I'm asked about it.

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11

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Q. I take it from what you just said that one of the topics the notes covered was the reason why you left. Was there anything else that the notes discussed?

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A. The things that we will discuss today.

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Q. What in particular?

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A. Just any comments made to me that might be of relevance.

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Q. We are going to put up Exhibit 1.

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(Exhibit 1 for identification,

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Testimony subpoena.)

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Q. Please just give us a moment while

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we put it up.

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[REDACTED]

State Entity Employee #2, do you recognize

Exhibit 1 as the testimony subpoena you received from our office?

A. Yes, I have that here as well.

Q. Did you read the subpoena?

A. I did not read this, no.

Q. You understand that your testimony today is being taken pursuant to this subpoena?

A. I do understand that.

Q. State Entity Employee #2 we are going to turn to your work history and educational history. Please describe your educational history?

A. Sure. Starting?

Q. Starting with college.

A. Okay, I went to under graduate at [REDACTED] and subsequently went to medical school [REDACTED]. After medical school I completed an internship and residency in [REDACTED] at [REDACTED] in New York. Subsequently my now husband at the time was not yet married but we subsequently went to [REDACTED] together for a year after residency where we are volunteered as a pediatric faculty member as what is called in

1 [REDACTED]
2 the program a team leader. Volunteered as a
3 faculty member on the ground in [REDACTED]
4 in a city called [REDACTED] Where I worked as a
5 volunteer faculty for [REDACTED] and
6 the university in [REDACTED] and
7 primarily did hospital based care and clinic
8 based care for pediatric HIV and pediatric
9 hospital care.

10 Subsequently I returned for a
11 position that I already put in place in
12 pediatric infectious disease training at [REDACTED]
13 [REDACTED]. That
14 was a three-year fellowship. I did that for
15 three years and went back a couple of times
16 more to [REDACTED] for a month at a time during that
17 time. Also did other mobile health education
18 work and co-founded a global health task force
19 for residents there. Stayed there for a year
20 as a faculty member in pediatric infectious
21 diseases at [REDACTED] and the hospital in
22 [REDACTED]

23 I moved back to the area, I am
24 originally from [REDACTED], New York. Move
25 back to the area and worked at [REDACTED],

1 [REDACTED]
2 [REDACTED] and [REDACTED]
3 [REDACTED] as a pediatric infectious disease
4 physician for four plus years. And then found
5 out about a public posting for the position at
6 the health department and interviewed and
7 applied and received that job and accepted it
8 until about six and a half years ago.

9 I started as medical director in
10 the division of epidemiology at the State
11 Health Department. I was in that position for
12 six years and 2 1/2 some months and then
13 resigned in mid-December. I put my letter in,
14 my last day officially sort of working was
15 December 23rd although I had another two weeks
16 with personal leave, days, etc. that I was able
17 to use to continue to clean out projects and
18 hand off files until January 8th of 2021.

19 Q. You mentioned that you found out
20 about a public posting for a position with the
21 Department of Health. How did you find out
22 about that posting?

23 A. My former boss, [REDACTED]
24 who was the director of the division of
25 epidemiology at the time of that post and the

1 [REDACTED]
2 whole time that I was there, she also was the
3 assistant program director for the preventative
4 medicine residency. That is a co-hosted
5 residency between the State Health Department
6 and [REDACTED]. And
7 my husband did his residency and she shared the
8 post with him on a piece of paper and as he was
9 finishing, often people that do that residency
10 apply for jobs at the Department of Health.
11 It's a training pathway in a sense to public
12 health. And he had already taken a job he
13 really liked and was excited about and looked
14 at the report and said, oh, it's all of these
15 infectious diseases, I happen to have someone
16 who is just thinking about maybe getting into
17 public health and who is much better with
18 infectious diseases than I am. I was an
19 infectious disease doc. I had been thinking of
20 kind of transitioning my career into more
21 public health ever since I worked in global
22 health but [REDACTED]
23 I was thinking of public health. So I applied
24 and received the offer.

25 Q. When is it that you applied for

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the position?

A. I don't know the exact date. I remember it being hot, so it was summer. I want to say summer -- I started October, 2014 so it must have been maybe Juneish, Julyish of 2014.

Q. What was your title when you started in October, 2014?

A. That was medical director in the division of epidemiology.

Q. Did that title ever change during your tenure at the Department of Health?

A. It did not.

Q. What were your responsibilities as medical director in the division of epidemiology?

A. So there is a broad array of projects and programs within the division of epidemiology and many staff that worked on them. So often I would be tasked with joining a team to provide more clinical or infectious disease clinical direction for projects and/or lead other projects where other grant funded individuals who had other needs and if a new

1 [REDACTED]
2 disease came up, a new issue, Ebola, Zika, I
3 might lead a specific project that didn't have
4 other staff that were directly assigned to it.

5 So I worked on Ebola in 2014
6 when I started. I worked on Zika extensively
7 throughout that outbreak. I worked on the
8 hepatitis A outbreak with many others, when we
9 had a situation more recently we had 11
10 antimicrobial resistance task, statewide task
11 force, started that and continued leading that
12 for a few years. I worked on candida auris,
13 it's a multi drug resistance yeast. I worked
14 on the measles outbreak we had in New York
15 State and of course, COVID.

16 I also served as medical director
17 for emerging infections program which is a
18 program funded through the CDC and in
19 collaboration with CDC and nine other states.
20 And there were many different projects within
21 that emerging infections program, but it is
22 considered sort of a key surveillance platform
23 nationally.

24 I also in the last couple of
25 years, or a year and a half took on a

1 [REDACTED]
2 supervisory role and leadership in what is
3 called standard SETNET. Surveillance for
4 emerging threats network for mothers and
5 babies. It was formally known as the Zika
6 pregnancy registry and as Zika issues declined
7 and that became less of an issue, we started to
8 look at hepatitis C infections, hepatitis C virus
9 infections in women who were pregnant and their
10 infants and as COVID came up looking at COVID
11 and how it infected pregnant women and their
12 infants.

13 I also oversaw in my last year and
14 a half or so, plus or minus, I don't know
15 exactly, the hepatitis B and C surveillance
16 program. And there were other routine
17 communicable diseases, outbreaks that came up
18 that I was involved in. I would say that hit a
19 lot of the highlights.

20 Q. Thank you. Who did you report to
21 in your role as Medical Director in the
22 division of epidemiology?

23 A. During my entire time there I
24 reported to [REDACTED] our director of
25 division of epidemiology.

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[REDACTED]
Q. Who reported to you?

A. In my first few years I didn't have any direct reports. However, by later and I don't have those exact dates, a year and a half plus or minus my last time there, I had -- at the end I had eight staff reporting to me, but one was a recent hire, but prior to that it was seven staff.

Q. What are the names of the staff members who reported to you in your last say year and a half at the DOH?

A. The SETNET program was [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]. It just pops up automatically on my e-mail. [REDACTED] [REDACTED]
[REDACTED] And then the hepatitis B and C surveillance program was [REDACTED]
[REDACTED] [REDACTED] was very new right before I left. Maybe there was two weeks overlap. That was [REDACTED] and we had two contractors on that team, [REDACTED]
[REDACTED] I don't know the exact spelling. I'm sorry. It always pops up. [REDACTED]

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[REDACTED]
And there was another individual there but then she -- her funding ran out and she went to a different position before [REDACTED] came on.

Q. Who were in the top leadership positions at the Department of Health before in January, 2020?

A. Before January, 2020, okay, Dr. Zucker the commissioner. [REDACTED] was our Executive Deputy Commissioner. There is another deputy commissioner [REDACTED]. There is a bunch of deputies -- should I go down the line from my line of command?

Q. I think that level is good enough. I will let you know if I have follow up questions. Thank you.

Before January, 2020 who at the Department of Health did you interact with most frequently?

A. I would say my boss, our associate director in the division of epidemiology, I would say we had five bureaus under our division and so all of those directors of those bureaus and their staff I interacted with a lot. There was a lot of people that I

1

interacted with in that role.

3

We had regional staff, so we were often on the phone with our regional staff frequently. Also in the position before me, so

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was the -- above my boss is her boss is the center for community health

7

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director and above that is the director of the office of public health and deputy

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10

commissioner. So in December of 2019 that was

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OPH director, Office of Public Health director

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was and was the head of the community health director.

13

14

I would interact with

15

relatively frequently but also with as

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much or even more frequently as he was often

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involved in a lot of the outbreak work. And

18

's deputy was , I interacted

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with her frequently. Yes, a lot.

20

Q. How were the interactions, how did

21

you feel about the interactions?

22

A. They were all great. Very

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professional, very appropriate. I thought that

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the work environment was wonderful.

25

Q. Are you aware of any incidents of

1 [REDACTED]
2 harassment or bullying or other hostile of
3 aggressive behaviors taking place before
4 January, 2020 between or among DOH staff?

5 A. I don't believe so, other than
6 like minor issues that were resolved with usual
7 conflict resolution. Usual workplace
8 environment with personality clashes amongst
9 different people I would say. I would say that
10 I was loosely aware of -- very loosely aware of
11 challenges in another center, the center for
12 environmental health, but I didn't really know
13 any of the details.

14 That is when they were working on
15 a water quality concern and I didn't really
16 understand, I guess, as they don't understand
17 those issues. But a friend came to argue from
18 there to remove herself from those concerns
19 which reportedly were similar to what we
20 experienced during COVID, I guess. I don't
21 have specifics

22 Q. Do you have any other information
23 about the nature of those challenges or
24 concerns?

25 A. Just that my colleague and friend,

1

2 she came to be a second medical director after
3 I started in the division of epidemiology and
4 she left right before COVID and she went to
5 another state.

6 She, I believe, enjoyed her time
7 in epidemiology, but had come to us out of
8 concerns from the center where she had been
9 working which at the time I just assumed was a
10 personality issue with her director. But in
11 retrospect, we are friends and we keep in
12 touch, she expressed an understanding what I
13 was going through during COVID as a similar
14 potential experience to one that she
15 experienced with other issues in her center.

16 Q. Did she explain the similarities
17 between your experience during COVID and what
18 she had experienced in her center?

19 A. It was when she came to us she
20 explained a very harsh work environment and so
21 I guess I assumed that it was due to her
22 director, but I think more recently she
23 explained maybe that the director was under a
24 lot of pressure from the Chamber and that
25 pressure continued to come down into a sort of

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toxic work environment.

She did explain that she had concerns with the way that was handled. It was vague, I don't have details. But she mentioned concerns that made her uneasy about how data was handled.

Q. What is the name of that center?

A. The Center for Environmental Health.

Q. Do you know what time period your colleague had these concerns about how data was handled at the Center for Environment Health?

A. I don't know exactly. And I know it was before she came to us and after she had finished her -- she did an EIS. Epidemic Intelligence Service sort of fellowship with the CDC. And then she was placed with the State Health Department. That was completed before I started, so before 2014. I think shortly before I started she finished that. Around 2014 to 2016 maybe she was in the Center for Environmental Health. I didn't know her at the time or knew of her.

And then maybe around 2016 plus or

1 [REDACTED]
2 minus, I really don't know exactly, she came to
3 work as second medical director in the division
4 of epidemiology. She I believe requested to
5 leave where she was but stay within the
6 department and so our leadership assisted her
7 in finding a solution to that challenge and she
8 came to us and I worked with her closely every
9 day until she moved to another state just prior
10 to COVID.

11 Q. Are you aware of any incidents of
12 harassment, bullying or other hostile or
13 aggressive behaviors taking place before
14 January, 2020 involving the DOH staff and
15 anyone else, setting aside what you just
16 mentioned?

17 A. No.

18 Q. Did you ever experience before
19 January, 2020 anyone yelling or being upset at
20 you?

21 A. No. Just one, literally one
22 person who sometimes just had a workplace
23 environment that I would say it was in the
24 normal range of personality issues and I asked
25 them to stop and work professional and they did

1

2

[REDACTED]

and we worked well together from that point

3

onwards. And I went to my boss about the

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individual and she also addressed it. So it

5

was normal workplace issues I would say. But

6

no other.

7

Q. When you say it was normal

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workplace issues, can you elaborate on that

9

briefly?

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A. Sure. This colleague just seemed

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to be maybe putting me down in front of other

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people or speaking in a sort of louder tone

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that I thought was appropriate. So I went to

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the individual and asked them to stop and to

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their credit they did and we worked together

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very well for two years thereafter. At the

17

same time I went to my boss and she also

18

addressed it.

19

Q. Was is a colleague at DOH who was

20

engaging in the unprofessional behavior that

21

you just described?

22

A. Yes. But again, I did feel it was

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within the range of normal workplace issues and

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personality issues.

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Q. Before January, 2020, were there

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occasions when you yelled at or were upset at anyone at DOH?

A. Never yelled and upset would have been internally meaning of this one individual and we addressed it professionally.

Q. Did you experience anyone threatening you before January, 2020?

A. No.

Q. Did you threaten anyone before January, 2020?

A. No.

Q. Did you experience anyone belittling you at work before January, 2020?

A. No. Because even this other incident I think was, again, within the normal conflict of personality, so no.

Q. Did you belittle anyone at work before January, 2020?

A. No.

Q. Were you upset by the treatment that you received from anyone at work before January, 2020?

A. No, just what I mentioned.

Q. Did you ever cry at work before

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January, 2020 due to the behavior of your
colleagues or anyone else?

A. I don't think so. I had a couple
of people cry to me about this one individual.

Q. Before January, 2020, did you ever
see or hear DOH employees yelling or being
upset at anyone?

A. No

Q. Did you hear about any such
incidents?

A. No, just the one I mentioned. I
heard again this is not like direct knowledge
of center environment.

Q. Did you ever see or hear DOH
employees threatening anyone?

A. No.

Q. Did you hear about any such
incidents?

A. No.

Q. Did you ever see or hear DOH
employees upset by the treatment they received
from anyone other than what you mentioned
before?

A. No.

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Q. Did you hear about any such incidents?

A. I can't think of anything right now, no.

Q. Other than what you mentioned before, did you ever hear or see DOH employees crying at work before January, 2020?

A. Just the couple of individuals I mentioned about one person and I went to my boss about it.

Q. Did that person's conduct change towards other colleagues as well?

A. I believe it did.

Q. Can you describe the relationship between the Department of Health and the Executive Chamber before January, 2020 based on what you understood?

A. I didn't really -- I wasn't really knowledgeable about that relationship, I have to say. I knew that Dr. Zucker did his appropriate work with them to keep them abreast of anything that was relevant. I didn't know too much more than that.

Q. When you say appropriate work,

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what do you mean?

A. You know, I guess I assume that he kept them abreast of any major issues and the minor ones he probably didn't. I think it was a lot of assumption on my part. I wasn't really knowledgeable about those -- that level of interactions at the time.

Q. Were you aware of any involvement by the Executive Chamber in setting DOH internal policies before January, 2020?

A. No.

Q. Were you aware of any instructions from members of the Executive Chamber before January, 2020 that went against DOH protocol?

A. No.

Q. Were you aware of any instructions from members of the Executive Chamber before January, 2020 that went against the professional judgement of DOH employees?

A. No.

Q. Were you aware of interference by the Executive Chamber before January, 2020?

A. No. I think another individual who resigned before COVID alluded to that.

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2 This person was at a higher level and alluded
3 to those challenges with other high level high
4 profile outbreaks. But it was -- honestly, I
5 don't know any specifics. It was something
6 that they vaguely said, I understand what
7 you're going through when you're resigning, I
8 have been there, even though I left before
9 COVID. That did happen with other higher level
10 staff with other high profile outbreaks that
11 the allusion was made, but I can't say any
12 specifics.

13 Q. Did that individual say anything
14 else about what happened with other outbreaks?

15 A. They alluded to having to
16 implement things that were not maybe typically
17 considered scientific or a public health
18 approach. I mentioned sending staff to JFK for
19 Ebola. I don't have the specifics other than
20 that.

21 Q. Did they mention when this
22 happened?

23 A. They mentioned dealing with the
24 Ebola outbreak and the quarantine issues and
25 JFK issues. And I they mentioned I think

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[REDACTED]
requests for some sort of scientific support
for medical marijuana. That was that
individual. And the other one environmental
health mentioned the water quality issues.

Q. Do you know when the medical
marijuana issue came up?

A. I actually don't, because my unit
didn't have anything to do with that. I just
know it was some time I think it was after 2014
when I started I remember hearing before it and
before 2019. It's a wide range, I just don't
know.

Q. Did you interact with the
Executive Chamber at all before January, 2020?

A. No.

Q. Did any Executive Chamber staff
ever make any requests to you or of you before
January, 2020?

A. No.

Q. Did you ever interact with the
Governor before January, 2020?

A. No.

Q. Do you ever meet the Governor,
before January, 2020?

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[REDACTED]

A. No.

Q. Are you aware of any incidents of harassment, bullying or other hostile or aggressive behaviors taking place before January, 2020 between Executive Chamber members and DOH staff?

A. No, only what I mentioned, nothing else.

Q. Did you ever see or hear about the Governor yelling or being upset at anyone before January, 2020?

A. No.

Q. Did you ever hear about the Governor threatening anyone before January, 2020?

A. No.

Q. You mentioned earlier when you were describing your responsibilities that you worked on the -- you did work relating to the COVID 19 pandemic. What work did you do?

A. Early on before we even had cases in New York I was working very long hours with my peers on getting protocols in place to deal with travelers who were returning and if they

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2 became sick and getting tested and getting the
3 tests to the CDC. All that kind of work.
4 Isolation and quarantine protocols and things
5 like that for the local health departments to
6 implement and working closely with the local
7 health departments and our New York City
8 Department of Health and Mental Hygiene. And
9 so we were working on that before we had cases
10 in New York.

11

12 And then March 1st, we were
13 doing a lot work -- I was doing a lot of work
14 on healthcare provider education and outreach.
15 I worked with New York City Department of
16 Health on a joint weekly call for healthcare
17 providers. And I organized that and would
18 often present on that. And that continued
19 throughout the outbreak and that continued
20 until I left.

21

22 I also worked on advisory
23 documents, guidance documents of various sorts.
24 I worked on flyers for the public of various
25 sorts. You know, how to wear a mask, isolation
and quarantine, etc. I worked on, starting on
around March 20th, 21st I worked on

1 [REDACTED]
2 hydroxychloroquine, that was by a very big
3 project that I led.

4 It was a long complicated thing
5 but we ended up scientifically evaluating
6 hydroxychloroquine and getting that quickly
7 published in a medical literature in JAMA to
8 establish if that was or was not a helpful
9 medical treatment for COVID. So I led that
10 team and that project.

11 Soon after that project I led the
12 evaluation of multisystem inflammatory syndrome
13 in children also known as MIS-C and that is
14 when COVID would effect children and make them
15 quite ill. And so we had a stand up surveillance
16 system so I led that project. A standing up
17 surveillance system in all of the hospitals in
18 the state and taking care of pediatric patients
19 and then --

20 Q. I can see the court reporter is
21 losing you so --

22 A. Multisystem inflammatory syndrome
23 in children MIS-C. So hydroxychloroquine work,
24 the MIS-C work. I also was tracking and
25 analyzing PF fatalities in New York State

1 [REDACTED]
2 related to COVID. I also worked on school
3 guidance. I worked on other webinars other
4 than the one that I did every week biweekly
5 such as for schools or universities. I worked
6 on our emerging infections program. I was
7 doing work on COVID that provided some of the
8 key surveillance data on COVID across the
9 country nationally. And our SETNET program
10 which was on COVID and pregnant women and
11 infants. Many other random issues that came
12 up. Speaking with the MTA when they had
13 concerns, helped them sort out their questions,
14 things like that.

15 Many other issues that came up in
16 our daily work related to COVID. Some of those
17 big ones are the ones that I mentioned.

18 Q. When did your work related to
19 COVID begin?

20 A. I want to say it was the teens of
21 January, but I could be off a little bit. I
22 know one our colleagues remembers with one of
23 his first all-nighers dealing with that. I
24 think he said the 22nd of January or something.
25 It was around that time we were starting to

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2 work really around the clock.

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Q. In was some time in January, 2020?

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A. Yes.

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Q. After January, 2020, who was in the top leadership position at DOH?

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A. Well, in the beginning from January to March I would say it was all the same as I what I described to you before.

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Q. What changed in March, 2020?

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A. In March around March 1st we had our first case in New York State I think there was more involvement at the highest levels at the Governor's office level.

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Q. What do you mean by that there was more involvement at the highest levels?

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A. I think they were more involved, but I don't know that I even in the first of couple of weeks -- I don't know that I would -- I think probably there was more involvement from that point going forward, but I don't think that affected me at that point.

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Q. Were there any changes in terms of who held the highest leadership position at DOH at any point between March, 2020 and December,

1 [REDACTED]
2 replacement when she was still there or co-lead
3 or lead, I don't know what you call him, that
4 was [REDACTED]. And there was -- he never
5 claimed to have her title. Just to be clear.
6 He just said he was leading the response at
7 that point. [REDACTED] was still there. After
8 [REDACTED] left it was vacant for awhile and
9 eventually I want to say summer, 2020 [REDACTED]
10 came in.

11 Q. What did you mean when you
12 described [REDACTED] as [REDACTED]'s unofficial
13 replacement even though [REDACTED] was still there
14 and [REDACTED] said he was replacing her?

15 A. I shouldn't say replacement. He
16 just -- he was sent to us from the Governor's
17 office as I understand it to lead us. And said
18 you will now -- I don't know his exact words,
19 just I will now be leading instead of [REDACTED],
20 something like that.

21 Q. What did you make of that?

22 A. We were quite shocked and I
23 personally spoke up and expressed to him that
24 the department had great respect for [REDACTED] and
25 would have issued this unless she was in the

1 [REDACTED]
2 room that she wanted this. And he affirmed my
3 concerns. He acknowledged it and said he
4 understood them and was glad to hear them. I
5 was a little bit more vocal than others who
6 were pretty shocked and scared. And he did
7 converse with me about it, but said this is
8 what was happening.

9 Q. What did you understand was

10 [REDACTED] background?

11 A. I personally did not know who he
12 was. I guess others think that he had been a
13 commissioner of something like office of
14 general services. Not being around the DOH for
15 many years I did not know of him personally.
16 When I asked around I heard that about his
17 background and he shared that with us and I
18 heard that he was a close individual to the
19 Governor who fixes situations. And it was felt
20 people gathered that the numbers of the DOH
21 sort of needed fixing.

22 Q. What experience did you understand

23 [REDACTED] had?

24 A. Oh, he was very up front with us
25 that he did not have public health experience,

1 [REDACTED]
2 but had administrative experience. And he did
3 to his credit explain that he would defer to us
4 for public health expertise and ask our
5 opinions. That he did not claim to know these
6 things. And there were occasions where I did
7 see him do that where he would say, what do you
8 think and we would share it and there were
9 occasions where he pushed for, as I understand
10 it, I don't know what happened on the other
11 end, he would push for that outcome based on
12 our expert opinion.

13 Q. Were there situations where
14 [REDACTED] would not defer to your experience
15 and recommendations?

16 A. There may have been, but I can't
17 recall specifics at this time other than for
18 one I do remember specifics in one scenario.

19 Q. What happened in that scenario?

20 A. It was in the -- I don't have
21 exact dates and I don't have access to anything
22 to find dates, but it was the earlier days of
23 COVID when commercial labs were not yet able to
24 test for COVID and so the only lab in New York
25 State that was able to test for COVID was our

1 [REDACTED]
2 state public health lab also known as the
3 Wadsworth Center. I will call that Wadsworth.

4 So Wadsworth was ramping up
5 a lot of testing, doing a lot of testing at
6 that time and I don't know the exact details
7 because I wasn't able to see it, but in our
8 program we were under the impression that we
9 weren't able to see the results in the way that
10 we normally would see the results. I kind of
11 generally heard that.

12 Then I remember being at night in
13 the conference room where we would work at that
14 time and I remember [REDACTED] speaking with my
15 colleague, [REDACTED], about the data from those test
16 results needing to being routed rather than
17 through the regular system called ECLRS,
18 instead having it go to the Chamber first and
19 delaying putting it into ECLRS where once in
20 ECLRS the results are seen by the local health
21 departments so they can take action or
22 isolation and quarantine. Our state public
23 health people -- it was only who is appropriate
24 to see it. By law there are certain
25 permissions and then state and local health and

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then for the system where it goes to the
doctor, of course.

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So I was in the room and overhead
telling our director of the bureau of
surveillance and data systems that it needed to
go first to the Chamber. And I remember
saying no, I can't do that. And he said, you
have to do it and she said I can't do it and
this went back and forth and she became quite
emotional and ran into the hall and I ran out
and I remember sort of raising my voice saying
I'm not leaving . She is not dealing with
this by herself. And we need to all discuss
this.

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I remember crying and
saying -- she is normally never -- she is a
very, very calm and collected individual and
she was emotional and saying I can't do this.
And said you can do this or you can quit.

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And then around that time my
boss came around the other door in the
conference room and told me, State E.E. #2 go, I got
this. And she asked me to leave. I said no,
I'm not leaving and she said State E.E. #2 go. And

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2 I trust my boss and she is a good person and I
3 sensed maybe she was asking me to help [REDACTED]
4 directly and not have as many people around. I
5 never asked her why she asked me to leave, but
6 she did and I left.

7 But I did have concerns about that
8 incident and I did go to our legal affairs
9 director and asked to speak with him about the
10 issue. I have concerns that lab results were
11 not being reported to the local health
12 departments or to the doctors in the optimal
13 timely fashion as what should happen. And I
14 requested him to speak at a high level of a
15 lawyer to the lawyer in the Chamber.

16 He listened to my request, there
17 was other people in the room and he asked if I
18 wanted legal counsel and I said yes. And he
19 asked me at some length if I wanted to be like
20 a whistle blower, and I said no, I just want
21 you to tell them to stop, the labs have to get
22 to the doctors and the local health departments
23 immediately with this disease, it's very
24 important. I don't know what the laws are, but
25 if feels to me if someone could explain it to

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[REDACTED]

them maybe they'll change this.

And then I went back to -- I was going to check back with them in some time but because other commercial labs came onboard with this testing it sort of made it a moot point.

Q. When did that incident happen?

A. I wish I could say. I don't know. If I had my e-mail I might have been able to try to figure it out, but I didn't other than speak with other our legal director and one of the other lawyers. I didn't document it and I really don't recall. It must have been February 28th the lab developed the FDA approval and later in March other commercial labs came onboard. So somewhere in that timeframe I'm guessing, but I don't have specifics without access to my stuff.

Q. You mentioned that when you were out in the hallway with [REDACTED] your boss came, were you referring to [REDACTED]?

A. Yes.

Q. Did you speak with [REDACTED] after -- did you ever speak with [REDACTED] about that incident?

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[REDACTED]

A. I didn't.

Q. Did you ever speak with [REDACTED] about that incident?

A. I didn't. I did speak with legal again and they let me know they touched base with [REDACTED].

Q. Other than legal, did you speak with anyone else about that incident?

A. My husband for sure. I don't think I did other than my husband. I have to think if I told any friends. I'm trying to think. I don't think so. I was just kind of aware of [REDACTED]'s privacy I was concerned about that to be honest.

Q. What did you say to your husband?

A. I remember telling him about it that night. I was upset and I don't recall if we discussed me going to legal. I assume we did because that is what I did next. There was a lot going on at the time. I don't recall my conversation with him exactly at that time. And since then we've talked about it.

Q. When was [REDACTED] brought in to lead instead of [REDACTED] ?

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[REDACTED]

A. There was so much going on I could probably figure out if I had my invites and stuff like that, but I don't have that. It was that time period, I think it was a couple of days before this incident with [REDACTED]. I think it was that time period maybe March teens if I had to guess, but that is a guess, I don't know. I'm sure [REDACTED] could give the date, I don't know.

Q. What was [REDACTED]'s background?

A. She was a nurse for many years. She was in a leadership position as a nurse and with the Department of Health for a number of years. Between those things I think she was somewhere else in government maybe even like health and human services that area with the Executive Chamberish area, I'm not sure and then came to the Department of Health, but she had extensive health experience.

Q. Did you ever speak with [REDACTED] about her departure from the Department of Health?

A. I didn't. I haven't been in touch with her and so no.

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[REDACTED]

Q. Did [REDACTED] continue to lead throughout the period from when he joined until your resignation from the Department of Health?

A. It was maybe a couple of months plus or minus of that really intense time period in New York State and then they moved him to lead efforts for procurement of PPE and ventilators and things like that. But I really don't remember specifics exactly because, again, there was so much going on, I apologize.

Q. No need to apologize.

When you say they moved him, who are you referring to as they?

A. I presume he was moved by the Governor's office, the Chamber.

Q. Did anyone replace [REDACTED] at the Department of Health?

A. Not in that same type of position. [REDACTED] came after he left. She was inserted in a leadership role until I resigned. She is a volunteer I guess what I heard and used to be commissioner of the office OTDA, temporary disability assistance. But she didn't have the same -- we weren't told to

1 [REDACTED]
2 report exclusively to her and those sort of
3 things. She was a part of the leadership team.
4 That is how she approached it or what she was
5 told to do, I don't know. She worked with
6 Dr. Zucker and [REDACTED] when she was there and
7 [REDACTED], etc.

8 Q. You mentioned that [REDACTED] was a
9 volunteer, how did you hear that [REDACTED] was a
10 volunteer?

11 A. I don't know if it is true, a
12 friend told me that she -- at some point I
13 asked what is her title. I was trying to
14 figure it out and that was the answer that I
15 got from a friend, she is volunteer.

16 Q. Did the friend explain what it
17 meant that [REDACTED] was a volunteer?

18 A. We didn't know why -- no, we don't
19 know anything more than that, that I'm aware.
20 Someone mentioned casually that she has a
21 [REDACTED], I don't know if that
22 is true.

23 Q. Did you have any understanding of
24 [REDACTED]'s background?

25 A. I just heard she had been

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[REDACTED]
intense work hours but purpose driven.

Q. Did anything change after May, 2020?

A. For me personally around June on and some other colleagues have shared the same, things did start to change a little bit or a lot to be a more challenging work environment. I don't know if that was related to resignations above me. It is possible things changed for other reasons or it's possible [REDACTED] and [REDACTED] who I liked very much may have been sort of protecting some of us from some challenges.

Q. What do you mean when you say that the environment became more challenging from June on?

A. We were working all the time from June on, without given the ability for staff to have mental health breaks or Respbid when the cases were at there lowest point in the summer of 2020 and we knew they would get bad again in the fall and knew that was the time to sort of have some recoup time. So that was part of it, was the consent work.

I think part of it was we would

1 [REDACTED]
2 work hours or days on end on certain projects
3 that would then never reach the public or
4 never -- commonly it just happened would never
5 be used or reach the public. So it also felt
6 that the work was -- for myself and for staff
7 that I had concerns about that the constant
8 work that we were giving up our family life for
9 and personal life for was maybe in vein. It
10 was not a public health value.

11 There was a lack of sort of
12 strategy or organization or clear response
13 roles and [REDACTED] the alternates that allowed for
14 what is typical of any Health Department of a
15 sort of clarity of roles and clarity of topics
16 and that also allows you to have schedule in
17 some Respbid for people here and there if there
18 is clarity on that end. But that was something
19 that we tried to ask for and implement but was
20 not allowed. So that might have been part of
21 it. Yes.

22 Q. Would you describe the dynamics
23 at the Department of Health after January,
24 2020?

25 A. I think in the beginning it was --

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2 [REDACTED]
3 it was still purpose driven and then around
4 early summer or so things, morale started to be
5 very low. There was a lot of staff were out.
6 People with mental health issues or family
7 issues. There was anger among staff and it was
8 a pretty challenging work environment. And I
9 think in some context we described it to each
10 other as sort of a toxic work environment.

11 Q. Did you describe it as a toxic
12 work environment?

13 A. Did I?

14 Q. Yes.

15 A. Yes, I did.

16 Q. What did you mean when you
17 described it is a toxic work environment?

18 A. It was -- there was a lot of
19 yelling and unprofessional behavior by some.
20 There was, again, a focus on work that -- it is
21 hard to describe, that maybe was not the way
22 that it would normally be approached in public
23 health, but it seemed to be higher level
24 decisions based on other approaches. I can't
25 say what the approach is.

And so partly staffed or and

1 [REDACTED]
2 myself having challenges, implementing that
3 work was not the typical way to do it and
4 partly it was we would continue to try to do
5 public health work, but it would never be
6 approved, it would never get to the healthcare
7 providers, the public or the local health
8 departments.

9 We were not allowed to collaborate
10 with our peers in the local health departments
11 and New York City Department of Mental Health
12 and Hygiene which is a critical component in an
13 outbreak response to collaborate with different
14 facets of public health. They actually
15 implemented it and we do not. So generally, so
16 not being able to collaborate with them in the
17 way we normally would really hindered our
18 ability to perform our jobs we felt. And
19 collaborate with other associations,
20 organizations and community based or statewide
21 associations or organizations. That would be
22 normal during an outbreak response or certainly
23 during a pandemic.

24 Q. Taking those one by one. You
25 mentioned a lot of yelling and unprofessional

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2 [REDACTED]
3 behavior by some. Did you observe anyone
4 yelling at anyone at work?

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6 A. I'm trying to think of direct
7 observations. Yes, I have.

8

9 Q. What did you observe?

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11 A. A few times doctor -- more than a
12 few times, Dr. Zucker would yell, but honestly
13 I would have ask him to stop and he would. And
14 I did not -- I knew he was under a lot of
15 stress and he was getting yelled at a lot.
16 That was not a major concern for me, to be
17 perfectly honest. But I'm answering honestly,
18 but I did see him yell at me or others, but
19 that was not a big problem for me or any
20 problem for me to be honest.

21

22 Others I heard about them yelling,
23 I suppose, I don't know if I observed it
24 directly.

25

26 Q. What did you hear about?

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28 A. I would hear often about the
29 Chamber yelling at our leadership. And [REDACTED]
30 [REDACTED] yelling at people. I heard Linda Lacewell
31 screaming at [REDACTED]. I heard [REDACTED] on some
32 calls probably raise her voice a bit. I don't

1

2 know if I ever heard anything dramatic, but I
3 heard she would engage in that behavior. I
4 would hear about our center community health
5 director likewise. That is all that I can
6 think of at this time.

7 Q. Going back to Dr. Zucker. You
8 said he would yell at you or others. What
9 would he yell about?

10 A. Dr. Zucker, it was more he was
11 stressed out, there was a lot going on and he
12 would say what are we doing for this and why
13 haven't we done that. And I thought his
14 questions were often on target and he always
15 treated myself and others respectfully and I
16 didn't have an issue with that, to be honest.

17 When he was just one on one with
18 me and if he ever started to get to that point,
19 I would say we can't solve this problem while
20 you're yelling, can you speak in a more
21 appropriate tone and he would. I did not have
22 an issue with Dr. Zucker's behavior. He was
23 always very professional around me.

24 Q. You mentioned earlier that
25 Dr. Zucker was getting yelled at, who was

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yelling at Dr. Zucker as far as you understood?

A. This is just what we would hear. I would hear that many many of those in the Chamber would be yelling at Dr. Zucker or other members of our leadership, ██████████ or others. The only one that I could say I witness was like I said, Linda Lacewell, because she was on speaker phone while she was screaming at ██████████.

Otherwise I would hear that others in the Chamber would do that likewise, but I was never able to listen myself.

Q. You mentioned that you heard Linda Lacewell screaming at ██████████, where were you?

A. In ██████████'s office.

Q. What was Linda Lacewell screaming at ██████████ about?

A. She was screaming about swabbing people. Why haven't you already done this. Why aren't you doing this. What's wrong with you. I can't remember all of the details. I didn't write it down anywhere. It was definitely a harsh tone, definitely some unprofessional comments. And she was asking ██████████ to swab people some of whom didn't need

1 [REDACTED]
2 to be swabbed, but in her belief they needed
3 swabbing, but public healthwise it didn't make
4 sense. But [REDACTED] kept trying to say that and
5 she wouldn't allow [REDACTED] to say that and cut
6 her off and say what's wrong with you.

7 Q. You mentioned that she also made
8 unprofessional comments. Do you remember any
9 of the unprofessional comments that Linda
10 Lacewell made on that occasion?

11 A. I don't remember the specifics so
12 I don't want to misspeak. I just remember that
13 there were comments beyond swabbing to almost
14 imply someone's professional conduct was not up
15 to par. But I don't want to misspeak because I
16 don't remember the exact terms used.

17 Q. Just to be clear, so you're saying
18 the unprofessional conduct by Linda Lacewell
19 implied that [REDACTED]'s professional conduct was
20 not up to?

21 A. Not [REDACTED]'s professional conduct
22 in that way, but like that [REDACTED] didn't know
23 what she was doing, that sort of thing, but a
24 bit harsher.

25 Q. What did you think about that

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2 interaction?

3 A. It was awful. I was trying to
4 console [REDACTED]. She was emotional, tears were
5 there. We were the only ones in the room when
6 Linda was on speaker, but my former mentee and
7 colleague, [REDACTED] was in the other
8 room and I think came in at some point and we
9 were trying to support [REDACTED]. And I remember
10 trying to cut in and say like the contact or
11 contact of a contact don't need to be swabbed,
12 but see first if the first person is positive
13 who has a runny nose. And trying to explain if
14 that person is positive then we will do all of
15 these others. And it was like she didn't quite
16 follow it. Because it is understandable that
17 people not public health officials can get
18 confused with the difference with a contact and
19 a contact of a contact, right. While the
20 results are pending it may or may not be
21 relevant.

22 We were trying to explain this to
23 support of [REDACTED] but we weren't able to get a
24 word in in that manner. There was a lot of
25 yelling.

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[REDACTED]

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Q. How did [REDACTED] respond to Linda
Lacewell during that interaction?

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A. Like I said, she was emotional. I
think there were some tears I didn't see and
she was trying to explain it and kept getting
yelled at and she was getting -- she was
getting emotional and frustrated because she
was trying to, my impression of it I don't know
how she felt, but it looks like she was getting
frustrated because she was trying to do what
was right, but being told stop talking, you're
opinion doesn't matter and you need to do what
I say. That kind of thing. And swab these
people.

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Q. That was coming from Linda
Lacewell?

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A. Yes.

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Q. What did you understand was Linda
Lacewell's position at that time?

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A. I didn't know who she was at all.
I had no idea. I had to ask around afterwards.

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Q. Who did you ask?

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A. I called a friend of mine who is
deputy commissioner in another agency. I asked

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[REDACTED]
I don't understand how to interact with these folks and do you have any advice.

Q. What were you told?

A. I was told that this is how they work. That they are very challenging to work with.

Q. I couldn't hear the end?

A. Challenging to work with and could be very difficult to get them to see reasons sometimes.

Q. Was that your first interaction with Linda Lacewell when you heard her on speaker phone scream as [REDACTED]?

A. Yes.

Q. Did you ever interact with Linda Lacewell again?

A. Not directly.

Q. Did you ever interact with her in any other way?

A. No.

MR. KIM: Did anyone explain to you what Linda Lacewell's role was beyond just giving you advice on how they are difficult to deal with?

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[REDACTED]

THE WITNESS: No, I think I saw somewhere in a press release or something like that she might have been on the COVID task force put together by the Governor. But I think I just saw that somewhere reading through those news or press releases.

MR. KIM: How about others that you spoke with at the Department of Health, did they seem to have an understanding of what her official role was or were they just responding to her because she was demanding answers?

THE WITNESS: I don't know what others thought per se, I can't answer that. But I can say that I do remember -- I remember at some point I just remember seeing something about the someone said she -- someone in another agency, all I heard, Linda is now in charge of the COVID response, oh she is, and I Googled it and found she was on the task force or something like that. I honestly I don't remember.

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[REDACTED]

MR. KIM: Do you know what her actual day-to-day job is?

THE WITNESS: From asking around and Google, director of financial services of Medicaid, not Medicaid, the overarching not like in the health department Medicaid but financial services. As I understood it.

MR. KIM: Okay, thank you, sorry Abena.

BY MS. MAINOO:

Q. Did you have any understanding of Linda Lacewell's background?

A. I think I Googled her and I think she is a lawyer. That's all I knew. And the financial director of this department of financial services or whatever. I don't know if I have it exactly right right now. I remember Googling it at the time.

Q. How did you feel about that interaction between Linda Lacewell and [REDACTED] [REDACTED]?

A. I mean it was upsetting to see my executive deputy commissioner being treated

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[REDACTED]
that way. And it was upsetting that it was by someone who really wasn't clear, didn't know or understand how contagious diseases work or that the core concepts around containing them or how to attempt to contain them. It was clear she didn't understand the terms isolation and quarantine and how they are different and things like that.

So it was upsetting to see her treating [REDACTED] that way and forcing sort of implementation of things that were basically a waste of time at the time when we had zero time to waste.

MS. MAINOO: I see our videographer, I think we may need to change the tape.

THE VIDEOGRAPHER: Is that okay?

MS. MAINOO: How much time do you need, [REDACTED] State Entity Employee #2

THE WITNESS: It would be good for me to take a two-minute break.

MS. MAINOO: Absolutely.

THE VIDEOGRAPHER: This is end of media unit one and we are now off the

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[REDACTED]

record at 12:30 p.m.

(Recess taken)

THE VIDEOGRAPHER: This is the beginning of media unit 2 and we are now on the record at 12:40 p.m. Back from break.

MR. CAPEZZA: Just one quick point. First, thank you for the break. We received the exhibits this morning. I had my paralegal print them and put them into sealed envelopes, but I did independently go over those, not those exhibits, but the items, the subpoena and the three e-mails that [REDACTED] provided in April. So I don't know what the other exhibits are, it seems as though the first one that you had was the subpoena, I went over that with [REDACTED] and I don't know if the other exhibits are her e-mails. But I want to be clear that I did go over the -- provided her copies of e-mails because she provided them to us and we provided them to you in April.

MS. MAINOO: Okay, thank you.

MR. CAPEZZA: We have the items

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[REDACTED]

here sealed.

MS. MAINOO: Thank you.

BY MS. MAINOO:

Q. [REDACTED] State Entity Employee #2 did you hear about any interactions involving Linda Lacewell similar to the one that you described with [REDACTED] [REDACTED] ?

A. Vaguely, yes, from other folks but I don't know if I have any specific details. I don't think I do, about it, no.

Q. Did you hear of Linda Lacewell yelling at anyone else?

A. Generally speaking, yes, but I don't have any specifics. The incident with [REDACTED] I can attest to. The manner in which it occurred. I don't have any other specifics. I just heard this that is a common occurrence.

Q. Did you have any personal experiences of anyone yelling at you in the period after January, 2020 other than Dr. Zucker as you mentioned earlier?

A. I don't think I did personally in the role that I was in. I seem to have been spared from that.

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[REDACTED]

Q. Earlier you had mentioned a lot of yelling and unprofessional behavior by some. Is there any unprofessional behavior that you observe or heard about in the period after January, 2020 that you haven't already talked about?

A. I remember other staff just to report this, but I don't have the details that went down that had the concerns about the [REDACTED] director, I don't know the -- I don't know the exact title who was displaying similar loud and unprofessional tone in the field with that that went in the field.

Myself and my direct staff, my direct colleagues didn't go into the field. We were too busy where we were so they pulled others in the field. I heard about that, but I don't have the details of that.

Q. Do you know the name of the [REDACTED] director in question?

A. Everyone described him as [REDACTED] [REDACTED] I think is his last name. That's what I heard from others, I never met him.

Q. Did you understand what agency he

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[REDACTED]
was affiliated with?

A. As I understood it [REDACTED]
[REDACTED] and now the official title is
escaping me, but I could be wrong.

Q. You also mentioned when you were
describing the work environment particularly in
the period after January, 2020, that there was
a focus on work that maybe wasn't approached in
the way it would normally be done from a public
health perspective and you referred to higher
level decisions based on other approaches.
Can you elaborate on that?

A. Yes. So it was a busy time and a
complicated time, so I'm trying to summarize
and articulate it properly. Normally we keep
healthcare providers abreast on for the issues,
they are the ones educating patients and their
communities across the state. We send out
advisories and updates and informational
message to 100,000 plus healthcare providers,
doctors, nurses, nurse practitioners, school
nurses, universities, health centers and we
normally send out these updates regularly.
These were not allowed to be sent out. So we

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[REDACTED]

would get feedback from individuals if there was a policy of information at the time when they kind of needed us the most. Both information and guidance that they were seeking.

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We also would work closely with all of these partners through their association when it comes to healthcare providers because it is hard to work with each one obviously and then through the local health department would look to us for guidance and information so that things could be standardized across counties and they could have support in doing their implementation of public health on the ground.

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But we weren't really able to communicate with them openly as we normally would or send out information and updates as we normally would. These were things that had to go through approval and would either not be approved or it would take so many months it was quite out of date and irrelevant by the time the approval was received.

That would be one example. You'll have to remind me of your exact question again.

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[REDACTED]

Q. You mentioned just now that you were not allowed to send out the advisories to healthcare providers, for example. Who prevented you from sending those advisories?

A. We always had approval process which is appropriate as any public health entity does. And so the approval process for my direct couple of levels of chain of command was the same as it would have been during other normal times and where my boss would check in and make edits and make sure it is consistent etc. etc. and appropriate. And we wouldn't even write it without discussing with her first. That is usually done in a collaborative manner. Her superior would review it to make sure it is consistent with things from other bureaus and departments.

There is that process which is appropriate and my direct superior and we understood it. The process as it got to our highest levels of executive deputy commissioner while [REDACTED] was there and after she left when she wasn't there getting to that point and getting the approval from the Chamber to be

1 [REDACTED]
2 able to send it out was taking a long time and
3 sometimes wouldn't happen.

4 [REDACTED] did try to streamline the
5 process so my friend and colleague [REDACTED]
6 [REDACTED] worked extensively on that. But it
7 still made it so that a lot of what we normally
8 would do was not able to be -- to reach the
9 public or to reach the healthcare providers or
10 the local health arm of public health.

11 Q. I think earlier you were referred
12 to higher levels of decisions being based on
13 other approaches that were different from the
14 way the Department of Health normally
15 approached issues. What do you mean by that?

16 A. I'm trying to come up with the
17 specifics for you. So let me use that example
18 of the guidance document or our collaboration
19 with New York City and the local health
20 departments. So that would normally be a core
21 tenent of our work that would always happen and
22 we would build on that. And even those core
23 tenents were blocked, it was unclear that it
24 was due to why we can't work with them or send
25 out these important messages. I can't speak to

1 [REDACTED]
2 why, maybe they felt it was for the health of
3 the public. From our public health point of
4 view it was not assisting the public in that
5 manner.

6 Q. Who blocked the Department of
7 Health of New York State from collaborating
8 with peers and local departments and New York
9 City?

10 A. We were advised that we couldn't
11 really have our routine unofficial meeting, the
12 official meeting everything had to be approved
13 in advance. So it took so long to get things
14 approved it made them very challenging to even
15 logistically organize.

16 And so but I can't say exactly who
17 I know who relayed the message to me because I
18 don't know who it ultimately came from. They
19 implied it came from the Chamber. It was sort
20 of the implication. I can't say that they --
21 it was them exactly. We had to stop doing
22 webinars with them. We couldn't collaborate
23 with them on evaluations of different problems
24 and projects.

25 Our informal discussions had to

1 [REDACTED]
2 cease and formal ones, everything that to be
3 approved first which was very, very challenging
4 to even accomplish. So its basically made it --
5 indirectly made it so that the formal
6 discussions were almost either impossible to
7 have or you couldn't really share any valuable
8 information. So it was a pretty uninformative
9 discussion.

10 Q. Who implied that this direction
11 came from the Executive Chamber?

12 A. I just remember my boss
13 mentioning, I think it came from her boss,
14 [REDACTED], I think [REDACTED] at some point said it,
15 [REDACTED]. I think it was repeated by multiple
16 people. I can't remember specifics of any of
17 those conversations of when or where, but I
18 knew it didn't come from them per se.

19 Q. How did you know it didn't come
20 from them?

21 A. That is not how we normally work
22 and I know how they worked. I worked with them
23 six years. It was just clear it wasn't from
24 them. And they weren't happy about it. You
25 have to ask them, but I believe they were upset

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2 about it.

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Q. You also mentioned a lack of
4 strategy and organization or a clear response
5 or roles. As you understood it, what was the
6 reason for that?

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A. Well, I don't want to judge with
20/20 hindsight because the outbreaks are
9 challenging, pandemics for sure even more.

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Typically with an outbreak there is an
11 organizational structure. There are leads of
12 certain topics and leads of certain projects
13 and there is typically a backup in case that
14 individual may get sick or what have you, goes
15 on quarantine. Especially during an outbreak
16 where people are going to get sick, that is
17 important.

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That just would be expected in a
20 public health entity, but in our work it was
21 very much instead that we were -- we would get
22 a directive from the Chamber to a level between
23 me and them through my leadership and then that
24 would come to us. It often had a 24-hour turn
25 around time. It was frantic work and often
what people described as every day putting out

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fires as that common phrase instead of a more global outlook and strategy and organizational structure.

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Q. You mentioned earlier working for hours or days on projects that would never reach the public or be used. What did you understand was the reason for that?

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A. I think that -- I don't know the exact reason. I think that the -- there was a desire for messaging to come from the Governor, not multiple people as it normal happens in an outbreak. And there was a desire to ensure that everything was very consistent and exactly as desired by the Chamber's leading of the outbreak response.

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So it was to ensure that things were consistent and of the manner in which they wanted it to be, as I understood it. Sometimes things would get -- like advisories to healthcare providers are written with a scientific tone, sometimes the language would get changed to a layperson's tone for instance and we would explain this is for healthcare providers. Those are common healthcare

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[REDACTED]
provider labelings. They know what
nasopharyngeal means. That is a common thing.
But that would be changed perhaps or things
like that.

So maybe sometimes they felt it
was the language that we used or the consistent
with other directives or the desire for things
to come from one place, those were reasons that
I heard, I can't say what their motives were.

Q. You used language like there
was the desire. Was that a desire from the
Executive Chamber as understood?

A. As I understood it.

Q. What was the basis of that
understanding?

A. People would just refer to it's
stuck with Chamber approval. That was the term
that was used.

Q. You also mentioned you felt that
the work that you, at times you and you
colleagues were doing, sacrificing your
personal and family life was not of public
health value. What did you mean by that?

A. This was a, partly for me one of

1 [REDACTED]
2 reasons for resigning, but also I felt in a
3 position of leadership I wasn't comfortable
4 being in a title even if I wasn't actively
5 enforcing this with any staff, I still felt in
6 a position of leadership I didn't feel it was
7 appropriate to have staff sacrifice their time
8 and many were having challenges, many
9 challenges with family and mental health and
10 burnout and for things that -- by that point we
11 knew when we would be asked to do something --
12 there was certain things we knew we were being
13 asked that would be used and there were other
14 things that were clear were not ever going to
15 reach the public.

16 And I think part of that was
17 coming from the Chamber. I think part of it
18 was good people within the Department of Health
19 still trying to do public health and like
20 trying their best. Let's keep trying. Let's
21 keep trying. I respect the part -- that aspect
22 of it. Trying to do the best that we could do.
23 But it was at a cost of people's -- I guess my
24 concern was mental health.

25 Q. What are examples of things that

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2 the Chamber wanted the Department of Health to
3 do that you knew would never reach the public?

4 A. One weekend we spent a weekend --
5 just this comes to mind. We spent a weekend
6 working on a plan that was desired I guess by
7 the Governor and [REDACTED] was requesting it to
8 rollout 40 million doses of vaccine in one
9 month to New York State. And we had been
10 wanting to work on vaccine plans for some time,
11 nothing would get approved, and we finally were
12 able to engage in that and start preparing and
13 we tried to express that the manufacturing made
14 that -- that that was not going to happen in
15 reality. We wished it could, but we knew we
16 were close enough to that time period to know
17 that was an impossibility.

18 There was no way that, A,
19 20 million New Yorkers would agree to be
20 vaccinated or that kids, 25 percent of the
21 population would be any time soon. And that
22 there would be anywhere near that many doses
23 available. I remember it was a weekend
24 spending day and night until later than 10
25 p.m., I can't remember how late, working on

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2 [REDACTED]
3 these plans that we knew were not based in
4 reality. That is one of them that comes to
5 mind.

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7 Q. Do you remember when that was?

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9 A. It was before the vaccine was out,
10 but it was close. I want to say late summer or
11 September. We knew the number of doses that we
12 would have when and we knew it was quite far
13 from 40 million doses to New York State. So we
14 agreed that -- we agreed with the idea of
15 planning for an aggressive roll out, you know,
16 100 percent. How big can we do whatever doses
17 that we get and let's address different
18 scenarios with different amounts of doses. But
19 [REDACTED] kept yelling this doesn't make sense. Why
20 are we spending our time doing this, it's not
21 realistic scenarios. She said this is what you
22 need to do. The Governor wants it. He's
23 screaming at her and she is screaming at her.
24 I don't know. That's what I heard

25

26 Q. Who was saying this doesn't make
27 sense?

28

29 A. We were, I was, my colleagues were
30 saying to [REDACTED] and [REDACTED] was raising her voice

1 [REDACTED]
2 saying this has to be done because they want
3 it, they being the Chamber and then she
4 specifically said the Governor. It was the
5 fall I think, either very late summer or fall,
6 I think it was September, because I remember [REDACTED]
7 [REDACTED] went to an Apple orchard.

8 Q. In your experience did the
9 leadership at DOH ever say no to the Executive
10 Chamber when they made requests?

11 A. Like I said, I remember [REDACTED]
12 saying that no, this doesn't make sense. When
13 the hydroxychloroquine issues came up,
14 President Trump called Commissioner Zucker, he
15 called me and we were told to rollout the
16 distribution of hydroxychloroquine statewide
17 and I said, Dr. Zucker, we can't do that. We
18 don't even know that it is effective. We need
19 to study this and he did push back on that.
20 And we were able to work with science with that
21 one and study it rapidly. That was successful.

22 I know that Dr. Zucker would push
23 back on many other issues. I just don't know
24 that it was successful often, but I know he
25 tried. I would hear about that from other

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2 [REDACTED]
3 people. We also assumed that Brad did push
4 back because things were harder when he left.

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6 Q. You mentioned that [REDACTED] said no.
7 Which occasion -- are you referring to a
8 particular occasion?

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10 A. When Linda was trying to insist
11 that many individuals be swabbed.

12

13 Q. Do you know what ultimately
14 happened in terms of Linda's request that many
15 individuals should be swabbed?

16

17 A. I don't remember all the details
18 well, but I believe that [REDACTED] was able to push
19 back on a few inappropriate individuals, some
20 were appropriate and [REDACTED] and I swabbed
21 them. They had been at the testing site and
22 some were a little borderline and she was not
23 successful, but it wasn't like wholly unethical
24 and we were going to swab the others and we
25 just did a couple more. That is my
26 recollection of it.

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28 Q. You mentioned Dr. Zucker pushing
29 back with respect to hydroxychloroquine. You
30 referred to President Trump making the request.
31 Did the Executive Chamber also want to push for

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2 this hydroxychloroquine initiative?

3 A. The hydroxychloroquine topic, I
4 think their stance shifted at times based on
5 the relationship with Trump. It was a little
6 bit complicated. At one point Trump was asking
7 for data from our site and data was not ready
8 to be shared in a manner that would be ethical
9 or appropriate because it wasn't half in or
10 less. So we were being told through the
11 Chamber to share the data with Trump.

12 I went to our legal affairs to see
13 if I had any legal recourse to prevent sharing
14 the data and essentially, each though I could
15 have a confidentiality research agreement for
16 this study, it doesn't hold for the White
17 House. I didn't have any legal recourse, but
18 we knew it was unethical.

19 So myself and my study partner,
20 partners, my two key study partners who are not
21 Department of Health staff, but they were very
22 supportive, we decided to resign before we
23 would share the data. So we were being told to
24 do it, but we didn't and we didn't get fired.
25 I don't know if that was allowed.

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Q. You said you were being told to do it. By whom? Who were you being told to do it?

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A. Dr. Zucker who was told by the Governor or Trump's people. I don't know if it was him directly. I do know we spoke -- I know Dr. Zucker spoke with Trump directly twice and on one occasion I was on the phone. However the data discussion I do not know through which route that came to the Governor.

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Q. Was that data shared ultimately?

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A. We promised them we would share it with the public as soon as it was ethical to do so. We were working like day and night to analyze the data, we didn't wait until people had a certain amount of time passed to see if they had a bad outcome or not. We promptly submitted to JAMA with the agreement that it would be published immediately and we shared at the same time as we sent it to JAMA we shared it with the FDA.

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Q. JAMA the medical journal?

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A. Yes.

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Q. Earlier you had referred to

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[REDACTED]
constantly work all the time without the ability to get mental health breaks. What did you understand were the reasons for that?

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A. Well in the early months it was just the sheer amount of work as appropriate and we felt that was appropriate. In the summer is when it became more of a concern from staff because the rates were down and they just needed a break before it would rise again in the fall. We also wanted to prepare for the fall instead of working on daily response to the Chamber. But I don't know the reason. I was just told that we couldn't.

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Q. Who told you you couldn't?

A. This came in the summer from my boss and I asked for it in writing and I was asking for -- well, it started because for me personally I was asking to telecommute from another location [REDACTED]

[REDACTED] [REDACTED]
[REDACTED] I asked to telecommute from [REDACTED]. And we were told we could not travel an hour and a half or more away telecommuting or not on any time even

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2 the weekend or what have you.

3 And then I said, well I'm actually
4 going to work, but I'm assuming that staff will
5 take vacation and that's when she let me know
6 the staff will not be allowed to take any time
7 off in the summer including a weekend. This is
8 coming as a policy from above. She asked if I
9 want to be a test case and I initially said no.
10 Because I was busy and didn't really want to do
11 that. And then I went back and said yes, I was
12 concerned I wasn't a very good test because I
13 planned on working long hours the entire time.
14 But I did want to advocate for the staff to
15 take a Respbid and recharge.

16 And she said it was coming from
17 her, from our office of public health director
18 [REDACTED] and his deputy [REDACTED]. And I inquired
19 further because it was very much unlike their
20 style of working. I know them both well and I
21 respect them hugely and I was quite surprised
22 that it was coming from them.

23 I asked for it in writing and
24 there was a few days of back and forth. This
25 is the end of June early July. Multiple days

1 [REDACTED]
2 back and forth where I insisted that it be put
3 in writing and that a verbal policy is
4 inefficient for a staff of our entire division
5 which is a very large division working night
6 and day since January.

7 It is now July and at that point
8 they did not -- they were unwilling to put it
9 in writing. So verbally my boss informed
10 staff, myself that I could telecommute from
11 Massachusetts and the other staff that they
12 could have some Respbid.

13 I don't remember any of the
14 parameters sounding that at the time. They
15 might remember more. They were told they could
16 have some Respbid.

17 At that point some of them did
18 take some time, some did not because they
19 didn't have anyone to cover their work. Or it
20 was too late to sort of organize because it was
21 already July.

22 Q. These discussions that you had
23 were with [REDACTED] ?

24 A. Yes, and I'm not sure if I spoke
25 directly to [REDACTED] or [REDACTED], I don't think so.

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[REDACTED]
I think it was just with [REDACTED].

Q. What did you understand when [REDACTED] referred to the policy as coming from above, the policy that staff could not take vacation?

A. At the time she was saying it was [REDACTED] and [REDACTED] and I was still in my mindset I thought it was them, although I was very shocked. I later heard through other colleagues that it was from above them, from the Chamber. But I can't speak to that directly because that is really their camp.

Q. Other than what we have talked about, are you aware of any incidents of harassment, bullying or other hostile or aggressive behavior taking place between the DOH staff after January, 2020?

A. There is one thing that I was not there for, but I just have enough concern that was for me part of my consideration in resigning, one piece of it. A very brave colleague and good person and friend [REDACTED] [REDACTED] used to be in the hierarchy, she was in a bureau within our division and chief of the

1 [REDACTED]
2 public health physicians in our bureau of
3 healthcare associated infection and she oversaw
4 healthcare associated infection's work in the
5 metropolitan area regional office.

6 As I understood it, she submitted
7 a letter of resignation around August but then
8 there were discussions about, appropriately,
9 you're great, we would like you to stay. How
10 can we improve this work situation and she had
11 said she had so many things on her plate if
12 some of those were taken off. In that process
13 she took a different position as an advisor to
14 the commissioner around I want to say late
15 August, early September. And so before that I
16 had always worked closely with her even though
17 she was in a different office and then after
18 even more so.

19 So she was upset and we were
20 supposed to discuss a -- Dr. Zucker's chief of
21 staff was doing really doing her best to try to
22 develop an organizational structure to respond
23 and maybe this -- another colleague [REDACTED] and
24 [REDACTED] had been talking about a unit that
25 could look at data coming from all the

1 [REDACTED]
2 subunits. A unit that would look at data
3 streams from all different data to try to make
4 sense of them for public health action.

5 And [REDACTED], the chief of staff,
6 wanted to do this, it was a good thing and she
7 asked if we could sketch out an organizational
8 structure. And I wouldn't be in that unit per
9 se, but she asked about help I said I was happy
10 to and [REDACTED] and [REDACTED] would be in the
11 unit. We went to meet on a Friday at 6 p.m.
12 and I could tell something was wrong with
13 [REDACTED] and she really wasn't interested in
14 doing the work which was very, very, very
15 unlike her.

16 I later heard from [REDACTED] later
17 from [REDACTED] there was a meeting that I was not
18 at, others were at it, I don't know who,
19 wherein the Governor had been very upset about
20 an issue with nursing homes not having 90 days
21 of PPE. In early December he was upset about
22 that and wanted to know who was to blame in DOH
23 for not following his executive order that
24 nursing homes don't have that and some
25 consequence happened. I don't know what the

1 [REDACTED]
2 executive order stated or what consequence that
3 is.

4 Someone in the Chamber mentioned
5 [REDACTED] name because she worked on nursing
6 home infection control. We have two arms of
7 the health department, the regulatory arm and
8 the public health arm and she is in the public
9 health arm. She doesn't fine or close down
10 nursing homes, but somehow her name was
11 mentioned.

12 So subsequently on a call I heard,
13 I was not witness to it, that the Governor was
14 screaming at her and another public health
15 physician, [REDACTED], and that blaming
16 them for the problem and using words like
17 negligence and malpractice that were sort of
18 threatening to their professional life.

19 And she was really shaken up
20 about it. And I was concerned for her and also
21 concerned for myself that there were not many
22 physicians left at the Department of Health at
23 this point and that made me concerned that
24 these two physicians were targeted because
25 neither worked exactly on this issue. It did

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████████████████████
make me concerned about sort of scapegoating
sort of issues. That is the only other
incident that I'm aware of.

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Q. You mentioned a meeting on a
Friday at 6 p.m. with ██████████ and I think
████████████████████. Do you remember when that
meeting took place?

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A. I don't have my calendar, I don't
remember. I thought it was a Friday 6 p.m. for
some reason that's in mind. It could be off
because we worked every weekend. So like
Fridays weren't a typical thing. I remember
thinking that was odd she said no, let's not
make that organizational structure I want to
go. Maybe that is why I remember it being a
Friday. Does she have plans. No, she hasn't
plans for a year. I don't think it was plans.
I knew something is wrong.

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Q. Do you remember what season it
was?

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A. This was early December for sure
because I really felt for me that was the --
that concern about scapegoating for me
especially at the public health physicians of

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[REDACTED]

which there were a few of us, meaning I was concerned and that that definitely for me was the straw that broke the camel's back for my decision to resign in mid-December. I believe it was early December.

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Q. Why was that the straw that broke the camel's back for you?

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A. I had been contemplating it heavily since October 12th and but I kept trying to figure out if I could positively impact the department. I knew if I leave every time everyone that was ethical and competent and experienced left, it was harder for those remaining and not necessarily for the best of the public, so I was reluctant to leave. I knew the vaccine rollout was coming.

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And I have been consulting with my [REDACTED] who is [REDACTED] and talking how could I try to not just leave but make a positive impact on the organization. From October 12th to early December I think that is my focus and I felt like those attempts did not produce value and then I also felt that it was concerning that my professional

1 [REDACTED]
2 integrity, I had concerns about that and but
3 also that literally my professional license
4 could be at stake if there is scapegoating and
5 my livelihood and my children and my family
6 kind of just pushed my over the edge.

7 Q. Is there a reason why you started
8 contemplating leaving heavily starting around
9 October 12? What's the significance of that
10 date?

11 A. That was the date -- so we did
12 not take any time off in the summer. And
13 leadership and a lot of the staff they were
14 finally given the approval, leadership we did
15 not and I remember looking at my colleague,
16 other leaders in the division in September,
17 saying, you don't look well. You need to take
18 a break and take a week off and the other four
19 of us or four plus will cover.

20 So I really pushed my colleague
21 [REDACTED] who's since resigned to take a break and
22 [REDACTED], you're just not productive when you're
23 this burned out and worried about your family
24 and such. So [REDACTED] took a week, we all covered
25 him. [REDACTED] took a week and we covered her. I

1 [REDACTED]
2 encouraged [REDACTED] too, she hadn't yet. And
3 [REDACTED] had taken some time, we cover him a few
4 days here and there.

5 So October single digits was my
6 time to take off with my family. I worked on
7 the weekend from Albany but not just long
8 hours, I worked like four hours or something on
9 a Saturday and maybe a couple of hours on
10 Sunday, I can't remember now.

11 Then the Monday to Friday that I
12 was taking off we went to [REDACTED] and I
13 got a call at 10 a.m. on Monday from my boss
14 who was very emotional, I'm really really sorry
15 I'm getting screamed at that I need to call you
16 back and not allow you to take time off. She
17 said but I'm not going to do that. I'm just
18 letting you know that that is going on, but I'm
19 not giving you that directive. You should take
20 your time.

21 However, a judge is calling you to
22 be cross-examined in a court case where I
23 signed as a witness an affidavit. That court
24 case was a Tuesday. So my boss said I'm not
25 willing to call you back from vacation. I want

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[REDACTED]
you to take the break even if I'm getting
yelled at. However, you have to do the court
case because the judge is calling you.

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So I spoke with legal affairs and
they did confirm that I had wrapped up
everything with every legal case that I signed
witness statements for and she thought
everything was wrapped up, but this came up
after Friday and she said probably someone
could have covered if it was sorted out on the
weekend but it wasn't and understanding people
are busy and/or not willing to sign these. By
that point I had to do it. It was me being
called and I had to do it.

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So I prepped on Monday, we were at
[REDACTED], I had my husband [REDACTED] leave so I
could prep and Monday night and Tuesday morning
because I had never done this before and then
Tuesday around noon I had to log in and the
cross-examination was around 1, supposed to be
an hour, but then there's a technical issue on
the court's side and basically went to 5:30.
So regardless I worked all of Monday and
Tuesday which was fine and then Wednesday,

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[REDACTED]

Thursday and Friday we said, okay, I'm done with that and I'm taking off. So I took off Wednesday, Thursday and Friday and did not work. Legal assured me anything new would go to someone else.

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Of course I knew I had all of these folks covering me who had the same content knowledge and abilities and they could call me at no one called me.

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So I then got back on the weekend, but Monday came back to work, I think it was October 12th, I'm not sure, whatever the Monday is of that timeframe, and I see an e-mail from our acting director of the office of public health, [REDACTED], who I respect. I don't hold this against her, but I disagreed with the e-mail. I see an e-mail that stated that there is a new policy for the division of epidemiology staff only, not others in the Department of Health, not others working on COVID and the reason was because of a situation where a staff member who is very, very experience could not answer a question right away for a Chamber on a Wednesday and because

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2 she was covering someone else who took the day
3 off on Wednesday because she worked weekends.
4 That was one reason they gave in the e-mail for
5 the policy, a new policy --

6 So there was an e-mail detailing
7 the policy for the division of epidemiology
8 staff which is a large division limiting their
9 time off and by time off that included like a
10 weekends. And the reason given was this other
11 individual who could not answer a question for
12 the Chamber on a Wednesday and then they
13 detailed out in the e-mail the other reason was
14 **State Entity Employee #2** our medical director for
15 the division of epidemiology was unavailable on
16 vacation all week, had no one covering her,
17 didn't tell anyone she left and made Dr. Zucker
18 do her work which were untrue statements, but
19 it was upsetting to me nonetheless.

20 And again, I felt that instead of
21 addressing a system's issue of coverage which
22 we had set up a system of coverage, I had a
23 system of coverage and I had worked for two
24 full days from a cabin on a court case, but
25 instead of kind of addressing whatever might

1 [REDACTED]
2 have happened when I was out and they felt they
3 needed me, instead it was easier to blame and
4 then force 150 people or how many ever are in
5 our division who are already working night and
6 day since January and it is now October and
7 saying they couldn't have even a weekend off
8 and they had to be available at all times even
9 their one day off without on-call pay, it
10 didn't seem appropriate to me.

11 And I had concerns both about
12 the policy and supporting that as a leader,
13 which I did not. I refused to send it to my
14 staff that are direct reports to me and I had
15 concerns about the fact that I was being made
16 as the cause of this problem rather than the
17 sort of system issues and that this e-mail went
18 to all as I understood it of DOH leadership
19 which I was upset about.

20 Q. Did that e-mail identify you and
21 the other colleague who happened to be out by
22 name?

23 A. It identified me by name. The
24 other colleague was listed as the person
25 covering Orange County. So everyone who knows

1 [REDACTED]
2 who covers knows who it is, so she and the
3 person that she was covering who primarily does
4 Orange County were both very upset because they
5 are incredibly hard working people. The one
6 listed as problematic who was covering and
7 could not answer a question right away, she
8 also resigned after that. I can't say that is
9 the only, I'm sure it wasn't the only reason,
10 but she did also resign.

11 Q. You said the person that sent this
12 e-mail was [REDACTED]?

13 A. It didn't come from [REDACTED], but I
14 have to say she apologized to me on multiple
15 occasions later and I have always respected her
16 and her work and I heard from other friends
17 that that came from above her. I don't want to
18 apply that I have any anger at her because I do
19 not.

20 Q. Did you understand based on what
21 you heard from other friends where the e-mail
22 came from?

23 A. People just alluded it to the
24 Chamber or above. Which above her is basically
25 the Chamber.

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[REDACTED]

Q. You said that during the time when you were in [REDACTED] you got a call from [REDACTED] and she was emotional. Can you explain what you mean when you say [REDACTED] was emotional during that call?

A. I just am saying that it also sounded to me she was crying or near crying, but I don't want to say that because I'm not looking at her so I don't really know. She didn't state she was crying. She seemed [REDACTED] upset that she was having to make that call to me.

Q. Did you understand from your conversation with [REDACTED] who was screaming at her?

A. I think she implied that as I understand it was [REDACTED]. Again, they normally would work quite well together, but I believe it was [REDACTED] relaying that concern and message.

Q. Did you have any understanding of who [REDACTED] was relating that concern and message from?

A. I didn't ask [REDACTED] and I just

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[REDACTED]
had other colleagues allude to it being -- when I expressed disbelief about [REDACTED] doing that, it is not coming from [REDACTED] it is coming from above what.

Q. What did you understand that to mean?

A. The Chamber.

Q. Backing up to the -- I guess going forward to the meeting in early December with [REDACTED] I just want to be clear, did you hear the Governor screaming at [REDACTED] and [REDACTED]?

A. No, I was not on that call at all, so I'm only saying what was described to me by two other individuals.

Q. Who are those two individuals?

A. [REDACTED] and [REDACTED] [REDACTED]. I don't think [REDACTED] was on the called. She heard about it. [REDACTED] was on the call because she was receiving it and there were others on the call who were giving her advice on getting lawyers and things like that. Right away. So I know there were others on the call who had concerns for her professional standing.

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[REDACTED]

Q. After January, 2020 did you ever yell at or be upset at anyone at work?

A. No.

Q. After January, 2020 did anyone threaten you at work?

A. Threaten me, no.

Q. Did you ever threaten anyone?

A. No.

Q. Did anyone belittle you at work after January, 2020?

A. I don't think I received any of that directly to me, no.

Q. Did you ever belittle anyone?

A. No.

Q. Were you upset by the treatment that you received from anyone at work after January, 2020?

A. I became upset with this particular incident with [REDACTED], but again, I'm not angry at her, but that did upset me.

What was your exact question again?

Q. My question was whether you were upset by the treatment that you received from

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anyone.

A. It was very tense when I was being told to release the data. It was very tense, I don't know if upset is the right word, no one threatened me.

Q. You're referring to the hydroxychloroquine data?

A. Yes, it was upsetting. I wasn't upset at anyone in particular, but it was very challenging ethically and legally, but I was able, I think, to maneuver through that in a way that was ethical.

I was upset when we had to cancel our webinars with our New York City Department of Health peers because that is not what should be done. And they were very upset when we kicked them off webinars that they invited us to join and that was upsetting. I wasn't upset at any one person in particular. I knew it wasn't coming from the people that told me do that .

I was upset that we couldn't work with New York City. The valuation and surveillance system for MIS-C, it was causing

1 [REDACTED]
2 our staff to do many hours of redundant work
3 because we couldn't collaborate, that was
4 upsetting. And it was upsetting to me that it
5 was just an inappropriate processes and
6 inappropriate for public health and
7 inappropriate to writeup these cases without
8 these folks involved from the New York City
9 Department of Health and Mental Hygiene and I
10 tried pushing back on that and was not
11 successful and I was upset about that. But I
12 wasn't upset with one person in that instance.

13 Q. You mentioned an incident where
14 the New York State Department of Health kicked
15 out New York City employees from a webinar that
16 New York City Department had invited the State
17 Department of Health. Can you speak more to
18 that?

19 A. My peers at New York City and I'm
20 friends with one of them, asked if we wanted to
21 do a combined webinar. We hear often from
22 healthcare providers they wished they could
23 hear about both policies and approaches on one
24 call and get all the information they needed in
25 one hour rather than having multiple different

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2 things to attend when they are very busy. We
3 said, yes, we understand that.

4 We started doing we weekly calls
5 to healthcare providers on COVID and we got
6 very good feedback from providers on them. At
7 some point I was asked, told, they can no
8 longer present on them. So really they were
9 the ones to initiate it, if you recall. That
10 was very upsetting to them and I was upset. I
11 told them outright that I was very upset to be
12 relaying this message and that if they wanted
13 to -- I had to relay it an hour before the
14 webinar.

15 They just sent announcements to
16 all of New York City healthcare providers that
17 that was going to happen, a reminder. I said I
18 was willing to risk get fired over it with them
19 and still do the webinar with them with that
20 one in an hour and probably moving forward I'm
21 being told that we can't. At that point they
22 were so upset they said forget about it, we
23 don't want this and I moved on.

24 Q. Do you remember when that
25 happened?

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[REDACTED]

A. It would be easy to figure out when they stopped presenting, but I don't know offhand, I'm sorry. Maybe June, but that's a guess.

Q. Who told you that the New York City Department could not participate in those webinars?

A. It either came from [REDACTED] or [REDACTED] or I think both. But again I knew it wasn't really their -- it is not their -- it is not the way they are at all. They are collaborative.

Q. Where did you understand they were receiving that direction from?

A. I don't know if they had an exact record like don't do these webinars or it was more that there were directives that we had a different policy than New York City and we weren't working with them per se and so it was how they dealt with that situation. If that makes sense.

I don't know if they were told exactly cancel this webinar per se. But it was the way they were dealing with the general directives coming from the Chamber as I

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[REDACTED]
understand it.

Q. I think you mentioned earlier when we were talking about the events from October, 2020 when that happened that you spoke with other people about it.

Who did you speak with about that incident, that situation?

A. Which do you mean?

Q. The e-mail that [REDACTED] sent.

A. The e-mail that [REDACTED] sent who did I speak with about that? I mean multiple people. The e-mails were going every day to all of our staff and the staff were really, really upset. They were demoralized already, burned out, and they were getting an e-mail every day about these random -- not random, I take back that word. About these policies that were being developed every day and being altered every day about them being unable to take any weekends off or a Wednesday off if he they worked on the weekend or even the one day off. They had to be available at all times without on-call pay.

Every day it was changing a little

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[REDACTED]

bit with a new e-mail that was coming out, six of them or five of them. I can't remember all the variations, but many staff were upset. It was coming up frequently. I think that -- and they all read the e-mail with me being listed in it. I have to say I probably discussed that e-mail with many staff. I can't recall exactly who. Certainly my in-depth feeling about it I certainly discussed it with my closer colleagues and my husband probably.

(Exhibit 2 for identification,
E-mail from [REDACTED] to State Entity Employee #2
dated 0/14/20.)

Q. I'm going to put up the next document which is our tab 5.

State Entity Employee #2 take a moment to review to document?

(Witness Reviewing Document)

Q. Did you recognize this document?

A. I do.

Q. What do you recognize it as?

A. This was my colleague and friend, [REDACTED], who is another unit in the office of [REDACTED]

1 [REDACTED]
2 [REDACTED]. He had shared with
3 me this e-mail that I guess went to -- I
4 presume it went to or it looks like he copied
5 and pasted it is my assumption from a senior
6 staff meeting when I was unavailable that
7 Wednesday to Friday. He was upset about it for
8 me on my behalf.

9 Q. Is this different from the e-mail
10 that [REDACTED] sent?

11 A. Yes.

12 Q. Did you speak with [REDACTED]
13 about the situation?

14 A. I did because when I received this
15 e-mail I said I was very perplexed because I
16 didn't know why -- it was sort of out of the
17 blue to me because I had no idea what anyone
18 was upset about because no one had called me
19 with any concerns of any issues that were sort
20 of my primary responsibility. And so I was
21 trying to seek out information as to why anyone
22 was upset that I wasn't available Wednesday to
23 Friday. What does that mean no one could cover
24 me when there were multiple people who have a
25 similar skill set that could cover me.

1 [REDACTED]
2 So I did speak with him and I
3 don't remember if it was him that told me or
4 someone else as to what the heck was going on
5 because I was confused that it was about a
6 lawsuit [REDACTED]
7 [REDACTED]
8 [REDACTED] and they wanted me to be
9 available as an expert witness, although I had
10 never even known what a [REDACTED] was. I had
11 not been in one meeting or call or invite or
12 verbal or written anything about what a red
13 zone was. I only knew what it was through the
14 New York Times. So I was really perplexed why
15 this was felt to be solely my responsibility,
16 but that is what I heard was the reason for the
17 concern.

18 Q. Did you ever speak with Dr. Zucker
19 about this situation when you were out?

20 A. I did not, no.

21 Q. Was there a reason you did not?

22 A. I didn't think this was -- he was
23 always very professional with me. I didn't
24 think this was coming from him. And I didn't
25 think that he was saying he had to cover for

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[REDACTED]

me. I think that they were looking for someone to be an expert witness on that case and some people as I understood it were refusing to go do these legal attestations or affidavits. Some had resigned and were no longer available to do that and their positions were left empty or replaced with people without expertise.

I think part of the challenge was the system of not having other experts willing to do it, but even if I had been available I would not have done it. I didn't know how they determined a [REDACTED] and no one that I worked closing with knew how they determined a [REDACTED], what the metrics for -- at that time how they determined it.

Q. When you say how they determined the [REDACTED], who is they?

A. The Chamber.

(Exhibit 3 for identification, E-mail from [REDACTED] to [REDACTED] dated 10/14/20.)

Q. Let's put up our tab 4.

[REDACTED] State Entity Employee #2, take a moment to review this document. Do you recognize it?

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[REDACTED]

A. Yes, yes.

Q. What do you recognize it as?

A. It has been a while since I read all the details. But our union of stewards, I forgot the term, also happened to be my colleague, [REDACTED] who is our -- was, he resigned, our director of bureau of [REDACTED]. So he took the concerns of all of us, myself and other staff, with these e-mail policies and directors and brought them to PEF to see if we had any legal recourse in regard to our collective bargaining agreement. And also even if it is allowed in a public health emergency why is it for some staff and not others working on COVID. And if some of this even is allowed. Is it illegal, we brought that forward to PEF.

Q. Do you know what came of that inquiry?

A. Before I resigned there were a couple of meetings that I did attend and we had asked for the lawyer to be present and there was concern that -- at that time that meeting the lawyer wasn't present but the president of

1 [REDACTED]
2 PEF was and he had a lot of concerns. He was
3 being honest with us, which is good, that a lot
4 of the concerns they raised in the
5 administration or legally brought to the
6 administration in a lawsuit were not successful
7 because of the emergency powers under the
8 Governor and he was being honest with us that,
9 my impression I understood from what they said
10 this is not, there is no legal recourse that we
11 had. It is not illegal during a public health
12 emergency.

13 He wanted to be upfront that we
14 may go through a lot of challenges in coming
15 forth publicly with it and yet not get much in
16 return. So the staff were very concerned about
17 that and they were afraid to use their names in
18 meetings and things like that.

19 I then sort of dropped out of a
20 lot of that active discussion because I think
21 because I resigned and even since I resigned
22 staff had continued to bring concerns with PEF
23 and they shared it with me so I can fill out
24 the survey as well if they still wanted my
25 results because we were always told that a

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2 certain grade and above could not get overtime
3 pay, but then staff found out that at agg and
4 markets their grade 27 and above were able to
5 get overtime pay and have been during COVID and
6 of our staff at that rate and above had not
7 gotten any pay or compensation. So that is the
8 current attempts as I understand it.

9 Q. Now you referred to a group that
10 was able to overtime pay. I missed it. What
11 was it?

12 A. The lower grades staff get
13 overtime pay. The sort middle grade staff have
14 to volunteer at a certain amount per pay period
15 and then they get overtime beyond that. And
16 then the grade 27 above called the leadership
17 had gotten no overtime at all or compensation
18 for the work, but they heard that the
19 Department of Agriculture and Markets, Agg and
20 Markets, that their staff working on COVID were
21 getting, their grade 27 and above got
22 extraordinary overtime pay was the term as I
23 understand it.

24 Q. Did you understand how the
25 leadership at Department of Agriculture and

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Markets were able to get the COVID pay?

A. We did not. We just understood it as someone's friend there, they happened to be talking about it and learned that they got that and they had gotten with other emergencies before and so they shared that with their friends and it had been happening all year as we understood. Again, I don't know when it started. Maybe not all year.

So the attempts more recently -- I'm not there anymore but that is what I'm hearing that they are attempting to work on that now.

Q. I think earlier you mentioned that staff were afraid, which staff were you referring to?

A. Anyone that was PEF. A lot of the staff are not PEF. Anyone that was PEF who were individual epidemiology who were invited to join the meeting, but many of them ██████ and myself used our names and couple of others used our names, but many were reluctant to use their names for fear of retribution.

Q. Did you have an understanding of

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[REDACTED]
what or who they feared retribution from?

A. The Chamber.

Q. Did any of those --

A. DOH leadership, from the Chamber,
I can't say.

Q. Did any of those staff members
speak with you about the fears they had?

A. Yes, we had a lot of conversations
about it at that time. That they were torn
because they wanted to advocate for staff and
each other, but they were very afraid, they had
concerns about how they would be treated by
leadership. It wasn't as specific, like very
specific thing that I can say they shared.

Q. Were there any reasons they gave
for fearing retribution?

A. That's a good question. I don't
think I heard any specific reasons.

Q. How you doing, [REDACTED] State Entity Employee #2 would
you like a break?

A. I'm okay.

MS. MAINOO: Let's to go our tab 3.

(Exhibit 4 for identification,

E-mail from [REDACTED] to [REDACTED] and

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[REDACTED]
other dated 10/25/20.)

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Q. [REDACTED] State Entity Employee #2 do you recognize this document?

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A. Yes.

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Q. What do you recognize it as?

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A. I think this was another variation of the e-mails. I don't know if this is the final one or not. There were multiple and I kind of lost track after a while and it has been a little while since I read this in detail. But this might have been the final policy in writing about division of epidemiology staff time off procedure. I think this might have been the last one.

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Q. What was your reaction to this iteration of the policy?

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A. It appeared that it had been -- it was less severe than the initial and we had heard that were discussing with HR because of the complaints that we brought back on the initial. And that's why we continued to see variations, but staff still felt that they had concerns that it was worded in a way that maybe appeared to be more appropriate from a HR

1 [REDACTED]
2 perspective, but they had concerns that it was
3 the same thing. Instead of staff person
4 expected to work on a weekend, due to program
5 needs they may not have a schedule adjustment
6 of a weekday off within the same pay period.
7 And program needs were there every weekend. So
8 they felt this basically meant they had to work
9 every weekend whether there were needs and then
10 every Monday to Friday.

11 The time off on the weekend could
12 be done through a shared coverage plan and they
13 had a schedule that they were consistently sort
14 of criticizing us about that schedule or that
15 they shouldn't have more than one day off and
16 they were all very confused as to what it meant
17 or that schedule on the weekend. Because they
18 rarely take off and what that meant. So they
19 felt that it was slightly better, but they felt
20 still quit upset.

21 MS. MAINOO: Let's take a break.

22 THE VIDEOGRAPHER: This is the end
23 of media unit 2 we are now off the record
24 at 1:52 p.m. for a break.

25 (Recess taken.)

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[REDACTED]

THE VIDEOGRAPHER: This is the beginning of media unit 3. We are now on the record at 1:56 p.m. back from break.

MS. MAINOO: Thank you.

Mr. Visconti can you read back last question I asked?

(Requested portion of record read.)

BY MS. MAINOO:

Q. [REDACTED] State Entity Employee #2, was there anything else that you wanted to say in response to that question?

A. No, just in summary that I guess how I felt about this iteration was I still had concerns and the staff still had concerns and I respected their concerns and in a position of leadership I had concerns that this wasn't addressing staff's mental health issues and things like that.

Q. [REDACTED] State Entity Employee #2, after January, 2020 did you cry at work on any occasion?

A. Yes.

Q. When?

A. I had been trying to put out a guidance document for a number of weeks and it

1 [REDACTED]
2 seemed very important at the time about COVID
3 for healthcare providers to know. I was tasked
4 with doing that by our Department of Health
5 leadership, my leadership, and I just couldn't
6 get it approved. And that is just the back
7 story.

8 And then my friend and colleague,
9 [REDACTED] came up to me and in the conference
10 room and said like, why are we not sending out
11 advisories saying X, Y and Z which is what I
12 ran. And I looked at him and said I have been
13 and then [REDACTED] and [REDACTED]
14 [REDACTED] and [REDACTED] saw me [REDACTED] and
15 was [REDACTED]
16 [REDACTED].

17 Then twice when our Deputy
18 Commissioner [REDACTED] checked in on me,
19 he would check in on the staff knowing that
20 people were burned out and he was concerned
21 about them and twice when we checked in on me
22 he was very caring and professional,
23 appropriate and checked in on me twice and I
24 [REDACTED],
25 but that was it.

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[REDACTED]

Q. Other than what we have talked about earlier, did you ever see or hear DOH employees yelling or being upset at anyone?

A. We talked about it earlier, but you want me to double check again? Is that what you saying? I'm sorry.

Q. No, we can set aside what we already talked about. Is there anything else other than what we already talked about?

A. Ask your question again.

Q. Sure. Did you ever see DOH employees yelling or being upset at anyone other than what we have already talked about?

A. I mean I would just hear other times when people were being yelled at and our contact tracing team was getting yelled at, [REDACTED] who was getting yelled at by, I don't know various people. This was not direct knowledge.

[REDACTED] at one point was getting upset with BCDC, I don't know if yelling is the right term or upset with them, I was not on the call. It was very surprising out of character for him. That happened a couple of times maybe three times meeting that group, that bureau.

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2 And then soon after I was surprised and then
3 soon after he resigned.

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Q. What is BCDC?

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A. Oh, the Bureau of Communicable
6 Disease Control. I can't think of any other
7 specifics right now. There was so much going
8 on. That is all I can recall specifically.

9

Q. Did you ever see or hear DOH
10 employees threatening anyone?

11

A. I guess what's already been
12 mentioned. I guess another one that I'm
13 recalling, I heard, I was not there before, I
14 think [REDACTED] might have threatened [REDACTED]
15 [REDACTED] or maybe threatened is not the right
16 term. I can't speak to that directly.
17 Certainly yelling as I understand it. I was
18 not there for that.

19

Q. What did you hear happened between
20 [REDACTED] and [REDACTED] ?

21

A. I wish I could remember exact
22 details, I can't. It was maybe yelling, it was
23 maybe unprofessional comments. But I don't
24 know exactly what they were. I just knew they
25 were, the way that I interpreted them at the

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[REDACTED]
time, it was unprofessional behavior and
[REDACTED] said she would no longer be on calls or
meetings alone with her. She would only be
with her when other people are present

Q. Her referring to [REDACTED] ?

A. Yes.

Q. Did you ever interact directly
with [REDACTED] ?

A. Yes, not commonly.

Q. Did you ever have similar
experiences with [REDACTED] to the one that
[REDACTED] described?

A. Not like that, no.

Q. Did you ever have any interaction
with [REDACTED] in which [REDACTED] acted
unprofessionally or was upset?

A. Not to me and I don't think I was
on any calls where she acted that way directly,
no. That I can recall.

Q. Other than what we have talked
about, did you ever see or hear about DOH
employees belittling anyone?

A. I think we've spoken to the
situations that I can think of.

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[REDACTED]

Q. Other than what we have spoken about, did you ever see or hear about DOH employees being upset by treatment they received from anyone?

A. I mean it was like an everyday occurrence, but I'm having a hard time recalling specific details.

Q. Other than what we have talked about, did you ever see or hear DOH employees crying at work?

A. I feel like there might have been other instances for sure over this year, but I'm not recalling like specific people at specific times at this moment. Let me just think about it for a minute.

Q. Did you ever see [REDACTED] crying at work?

A. No, I didn't see her at work, no. I spent a lot time on the phone we she seemed concerned. I don't know if she was crying or not. And [REDACTED] on the phone when she was apologizing later. And [REDACTED] telling me that she [REDACTED]. [REDACTED], when [REDACTED] came in and he said I'm

1 [REDACTED]
2 taking over and kind of pushed [REDACTED] in the
3 corner and [REDACTED].

4 Q. Who is she there, are you
5 referring to [REDACTED] or someone else?

6 A. Yes, [REDACTED]. I feel like there
7 might have been our instances, but I just can't
8 recall specifics. I apologize.

9 Q. No need to apologize. You said
10 just now [REDACTED] when she [REDACTED],
11 what were you referring to just then?

12 A. When [REDACTED] asked me why didn't we
13 put out guidance on this we should do that. [REDACTED]
14 [REDACTED] and
15 she saw me in the bathroom.

16 Q. How would you describe the
17 relationship between the DOH and the Executive
18 Chamber after January, 2020?

19 A. It was a -- I don't know the right
20 terms, it's a point of relationship between two
21 entities. There was a request for the
22 Department of Health to do things and they had
23 to be done immediately. That was the daily
24 flow of things or it would be announced in
25 press events, we would hear about it and if you

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[REDACTED]
caught the press event, if we knew there was going to be one of if someone called up to ask about it and then we would have to implement said directive.

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Q. Who made the announcements at a press event?

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A. The Governor would announce something and then we would implement or sometimes we would find out in advance we need to do this and then it would be announced. It went either way. At times we were -- I got the sense like they didn't fully understand the public health system to understand what our role is in it. Sort of the significant role of local health departments and New York City and influencing public health action and that we don't have an operational arm. And they were really most interested in us doing operations, setting up swabbing people, swabbing tents, vaccine tents and that's not the typical process. There is certainly a role for that. I'm not saying there isn't.

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Sometimes it seemed like they kind of thought of us as a healthcare entity which

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[REDACTED]
is different than a public health entity.

Q. [REDACTED] State Entity Employee #2 I just ask you to slow down a little bit. Thank you.

A. Sure. Sometimes it seemed there was a limited understanding of how all the parts connected and what our goal was in that, but there was a desire for us to do more operations which we did not have staff to do the operations with. So that was a challenge at times as well.

Q. Earlier when you were talking about announcements being made at press events, just to make sure I'm clear, were you referring to announcements being made by the Executive Chamber that the Department of Health then need to implement or work on?

A. Yes.

Q. Are you aware of any involvement by the Executive Chamber after January, 2020 in setting internal policies at DOH?

A. Yes.

Q. What are you aware of other than what we have already talked about?

A. All the policies. I don't know

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how to be more specific. Most of the policies or majority.

Q. Are you aware of any interference by the Executive Chamber at the Department of Health after January, 2020?

A. Everything was going through their approval first if it got out. So I'm not sure how to define interference, I guess.

Q. Did you have any understanding of what the approval process should have been?

A. Other outbreaks and I do understand this was not the same as other outbreaks, but in those settings information sharing and collaborative efforts for public health with healthcare providers, associations, local health departments would happen with DOH leadership level approval, but not the Governor's level approval.

And so it was really in the past if I understand it there were more topics that might cross different agencies or things like that that would go to that high level or be very high profile. In this case during the COVID it was just every, every, every.

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Q. What was the relationship between DOH leadership to the Governor's office?

A. As I understood it they were directed by the Chamber to do certain activities and they would then feed that down the chain to staff to implement often.

Q. Who appointed DOH leadership?

A. I guess the Chamber. My boss was an appointed position, but I think it's a lower level position that probably was technically on paper appointed, but I don't know that that was a high profile decision of any sort.

However, the higher up you go clearly it is a political appointed position. Appointed position, not political. The political administration is making these decisions as I understand.

Q. Which decision? The decision to appoint?

A. Yes.

Q. Are you aware of any instructions from members of Executive Chamber after January, 2020 that were inconsistent with DOH protocols? Setting aside anything that we

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2 [REDACTED]
3 already talked about.

4 A. Setting aside what we already
5 talked about. The nursing home issues I was
6 not personally involved in, but I was hearing
7 from colleagues involved in that that they had
8 concerns about wanting to release data that
9 wasn't being released and writing up a paper
10 that they said would never see the light of day
11 based on the lack of approvals.

12 I think other times I was involved
13 in school and university issues and I think in
14 regards to those issues they were more minor
15 differences in how things should be approached.
16 So luckily there was concordance in those
17 areas, I think.

18 Some things were just very, very
19 minor. We wanted to make a flier that could be
20 used by local health departments given to the
21 public very very early on on what is isolation
22 and what is quarantine. Just someone needed to
23 get it out and we couldn't get it approved.
24 It's still, as I heard last, not approved.

25 Q. Who was holding up the approval?

A. I can't say specifically because

1 [REDACTED]
2 there were so many guidance documents and it
3 was very complicated. After a while we asked
4 where is that one, where this is one. Some of
5 them that were stuck with DOH because they
6 probably knew that the other ones that were
7 stuck with the Chamber were more important so
8 they had to do like triage, so I don't want to
9 fault the DOH leadership for trying to make
10 decisions to the best they could at the time.
11 So I can't really can't say.

12 Every couple of months they
13 would say where is our flier on isolation and
14 quarantine. So we could leak to it and we
15 would have to explain that we don't have one
16 for the State of New York and then it would go
17 in circles all over again.

18 Q. Are you aware of any instructions
19 from members of the Executive Chamber after
20 January, 2020 that went against the professional
21 judgement of DOH employees? Setting aside
22 anything that we have already talked about.

23 A. The zones were very complicated.
24 There were metrics that our staff would work
25 on, but they would only be announced that

1 [REDACTED]
2 people met the metrics if that came from the
3 Chamber. Some areas met the metrics and would
4 be called a zone and others met the metrics and
5 would not be called a zone.

6 Our staff who worked for hours and
7 hour on these metrics and then nothing would be
8 announced and it was very unclear as to why
9 they would get very frustrated. And for me
10 that was part of my not wanting to be involved
11 in a lawsuit about the metrics without having
12 clarity on how they were established. I didn't
13 feel professionally that I could do that even
14 if you were not taking three days off.

15 Q. You're referring to the [REDACTED] ?

16 A. Yes, in that case. There were
17 other [REDACTED] later and this went on for
18 weeks and months.

19 What else, we would be trying to
20 get guidance out for schools how to open safely
21 but it would come out after schools opened and
22 feedback would be provided by people who don't
23 know public health or medicine. But luckily
24 that feedback was minor.

25 Q. Who provided that feedback?

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A. The folks in the Chamber, Beth Garvey, Malatras, these folks.

Q. What is the reason that the guidance went out after the schools had already been opened?

A. I can't say. It is not from my team, so I can't say. What was your original question again, I'm sorry?

Q. No need to apologize. The question was about your awareness of any instructions of members from the Chamber that went against the professional judgment of DOH employees.

A. I think I mentioned a bunch of the scenarios that I can think of specifically. There may be others. There was so much going on that don't come to mind right now.

Q. Did you interact directly with members of the Executive Chamber after January, 2020?

A. Just very rarely.

Q. On which occasions did you interact with members of Chamber?

A. Early on when there was a lot less

1 [REDACTED]
2 cases, we would get called in the morning by
3 [REDACTED], I interacted with her. Later
4 though less so. On a meeting about school or
5 what have you there might be Beth Garvey on the
6 meeting with multiple people I was on. And
7 other interactions I can't even think of any
8 other specific ones. Like in e-mail chains
9 that start from Malatras and then goes through
10 a lot of layers before it gets to me.
11 Something like that

12 Q. What were your interactions with
13 [REDACTED] like?

14 A. It was a stressful time. I think
15 there might have been stress and there was -- I
16 remember like it was 5 a.m. she was yelling at
17 us about something and I asked her to stop
18 yelling and she actually did after that. Acted
19 a little more professionally to me which was
20 nice.

21 Q. What about Beth Garvey, what were
22 your interactions like?

23 A. I don't remember anything
24 remarkable.

25 Q. Malatras, did you ever interact

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[REDACTED]
directly with him?

A. No, I don't think

Q. Did you ever interact with Melissa DeRosa?

A. Just once briefly [REDACTED]
[REDACTED].

Q. What was that interaction like? I don't mean the subject. How was it?

MR. CAPEZZA: [REDACTED]

[REDACTED] and for that reason [REDACTED] State Entity Employee #2 saw it as [REDACTED] and didn't go into detail.

Q. What about Stephanie Benton?

A. Likewise. I interacted with Stephanie when I went to swab the Governor on health on the press event and it was unremarkable. She was helpful and appropriate.

Q. What was interaction with Stephanie Benton when you swabbed the Governor at a press event?

A. It was brief. She was helping me get to the right place and right time. That sort of thing.

Q. Did any Executive Chamber staff

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ever make requests to you after January, 2020?

A. I don't think I received any directly, honestly, not that I can think of right now.

Q. Did you get any requests to host webinars after January, 2020?

A. Yes.

Q. Who made those -- who asked you to host webinars after January, 2020?

A. I started working on it. I'm not sure if anyone asked me to or I did it with my New York City colleagues as part of what we normally do. So that was a Department of Health initiative and then I continued it.

Q. Other than what we have talked about, are you aware of incidents of harassment, bullying or other hostile or aggressive behavior taking place between Executive Chamber staff and DOH employees?

A. I think I shared any specifics that I can think of.

Q. I will just go over these questions, we may have covered it, but in the interest of being complete.

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[REDACTED]

2 Did you ever experience, other
3 than what we have talked about, any members of
4 the Chamber yelling at or being upset at you?

5

A. Only what we mentioned. Nothing
6 else at me directly, no.

7

Q. Did you ever experience a member
8 of the Chamber threatening you?

9

A. No.

10

Q. Did you ever experience a member
11 of the Chamber belittling you?

11

12

A. No.

13

Q. Were you ever upset by the
14 treatment that you received from members of the
15 Chamber?

16

A. No, nothing to me.

17

Q. Did you ever see or hear or hear
18 about members of the Chamber yelling or being
19 upset at anyone? Other than what we have
20 talked about.

21

A. I can't think of any other
22 scenarios.

23

Q. Did you ever see, hear or hear
24 about members of the Chamber threatening
25 anyone? Other than what we have discussed.

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[REDACTED]

A. No that I'm aware of. Not that I can remember.

Q. Did you ever see or hear or hear about members of the Chamber belittling anyone? Other than what we have talked about.

A. Not that I can remember.

Q. Did you ever see or hear or hear about the Governor yelling at or being upset at anyone? Other than what we have talked about.

A. I mean I would periodically hear that he was yelling at Dr. Zucker, but I don't have -- I didn't have direct observation or knowledge of that.

Q. Who would you hear that from?

A. Colleagues, maybe [REDACTED] or [REDACTED] maybe. There may have been others.

Q. Other than what we talked about, did you ever see, hear or hear about the Governor threatening anyone?

A. No.

Q. Let's talk now about interactions that you had with the Governor after January, 2020. Did you ever meet the Governor after January, 2020?

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[REDACTED]

A. Yes.

Q. When?

A. There was one interaction [REDACTED]

[REDACTED] -- I went with Dr. Zucker.

Q. Any other interactions with the Governor?

A. Then a second interaction with the Governor when I went to do a demonstration swabbing of a nasopharyngeal swab for the press event which was at the time a televised event.

Q. [REDACTED], had you met the Governor?

A. No.

Q. [REDACTED]

[REDACTED] interaction with the Governor?

A. That it was an appropriate normal [REDACTED] interaction.

Q. Did the Governor make any comments about anyone's clothes or appearance on that occasion?

A. No

Q. Did the Governor say or do anything that made you feel uncomfortable

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[REDACTED]
during that interaction?

A. No.

Q. Do you remember the date when you did the demo swabbing for the televised press event?

A. I think it was around May 25 or so.

Q. What led to you being the one to do the demo swabbing for the televised press event?

A. Dr. Zucker asked me if I would be willing to do it and I said yes.

Q. Do you remember when Dr. Zucker asked you if you would be willing to do it?

A. I think the day before. I think we thought it might be a possibility that they wanted to do that in the press event. Yes, we heard the day before they might want to do this tomorrow morning and then that morning we spoke more about it and then that ended up happening with later warning.

Q. Was there a discussion the day before about interest in doing the demo swab?

A. The discussion? What do you mean

1

2 by interest, sorry?

3

Q. You said you heard the day before
4 they might want to do that demo swab. Who is
5 they?

6

A. Oh, the Chamber.

7

Q. Was there any discussion about the
8 Chamber's interest in doing that demo swab the
9 next day?

10

A. Yes. We had multiple discussions
11 that day and the next morning about the
12 swabbing because we had concerns that the CDC
13 was not recommending that you swab in a room
14 with anyone else in it. You are supposed to be
15 alone in a room and we had concerns about at a
16 press event with obviously many people in the
17 room. We had a lot back and forth discussions
18 about concerns.

19

Finally that morning of the
20 swabbing we settled on the idea that this is
21 really not a medical concern for the Governor.
22 It is not a medical procedure. We weren't
23 doing it due to exposure or symptoms but rather
24 as a demonstration for the public. So it's a
25 demonstration swabbing. Not a sort of a

1 [REDACTED]
2 medical swab. And we still did everything that
3 we could to have the journalists being farther
4 back in a safe area.

5 But we had played around with
6 recommending a lot of other options. Should
7 that swab be positive we had concern about
8 anything that could risk the health of the
9 journalists and we offered other solutions such
10 as bringing the Governor to a room with just a
11 camera person and streaming or bringing him to
12 a testing site that you would drive up to as
13 the public was doing and things like that. So
14 we had a lot of those discussions.

15 Q. When you say we, who are you
16 referring to?

17 A. Myself, Dr. Zucker, [REDACTED], I
18 believe his chief of staff, I don't remember
19 who else other than the three of us in those
20 and it might have depended on the conversation,
21 [REDACTED] might have been in some.
22 [REDACTED], if he hadn't left yet, he might have been
23 in some. Yeah, he hadn't left yet. He might
24 have been on some. I can't recall. But
25 definitely myself and [REDACTED] and Dr. Zucker.

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[REDACTED]

Q. [REDACTED] is [REDACTED] Green,
Dr. Zucker's chief of staff?

A. Yes. They were discussing with
Chamber to figure out a solution that we felt
comfortable with

Q. Who was discussing with the
Chamber?

A. [REDACTED] and Dr. Zucker.

Q. Do you know what the Chamber said
in response to the concerns about CDC -- about
the CDC guidance around swabbing -- about not
swabbing in a room with other people?

A. I don't know what they said back
because it went to -- the comments went back to
Dr. Zucker and [REDACTED]. So I can't speak to
that. I just know they were not interested in
the other alternatives of taking him to another
room or having him go through a drive through
clinic. They said they wanted to do in a press
event and they felt it would look better.
That's what they wanted to do. That's all I
know.

Q. Did you hear anyone say that the
Chamber felt it would look better to do the

1

2 demo swab at the press event?

3

4 A. I don't know if I heard that term
5 exactly it would look better. But there was
6 some sort implied feeling that's the way they
7 wanted to go. We were saying that is not an
8 okay reason if it is not following CDC
9 protocol, etc.

9

10 Q. Just to be clear, what is not an
11 okay reason?

11

12 A. That it would look better at the
13 press event than in a side room.

13

14 Q. Do you know if the journalists
15 were told or warned about the potential risks
16 relating to being present for the demo
17 swabbing?

17

18 A. I don't know the answer to that.
19 I was told they would be as far back as
20 possible.

20

21 Q. The day before the demo event was
22 there any discussion about who would do the
23 swabbing?

23

24 A. Just that Dr Zucker asked if I
25 would do it and I said yes. We didn't have a
lot of staff who were able to swab. So I had

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done other swabs and so I said yes.

Q. Do you know if anyone else was considered for the role of performing the demo swab?

A. Not that I'm aware. He just asked me and I said yes.

Q. How did you feel about being asked to do the demo swab?

A. I was nervous, I didn't want to go on television. That is not what I do normally, but I recognized there were very few other staff at the Department of Health available to us at the time who had done swabbing recently and I had. So I felt if it is appropriate to do it and we decided it is okay safetywise because of the demonstration swab, etc., it was okay with me.

Q. How did the group, involving you, Dr. Zucker, ██████████ agree and maybe ██████████ get comfortable with the rationale that since the swab wasn't be done for medical reasons, that you could go ahead and do it in the presence of other people?

A. How did we get comfortable with it

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2 was your question?

3

Q. Yes.

4

A. We weren't. We weren't comfortable with it, but we did understand the argument about it being a demonstration swab and the value that that gave to the State of New York. There was value there. And that we didn't have a medical concern for him. That is not why we were doing the swab. So the risk should be low. If it was positive it would have just been just a random finding. We were nervous about that, but we did recognize the value in swabs for the public.

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Q. Do you know if Dr Zucker considered saying no to the request to do the demo swabbing in the presence of the journalists?

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A. I think he -- I remember him very forcefully arguing on the phone, I remember, with folks in the Chamber and it was going back and forth. The night before and the morning of the swab.

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Q. Do you know who he was arguing forcefully with?

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[REDACTED]

A. I don't.

Q. Other than hearing Dr. Zucker argue forcefully, are you aware whether he considered declining the request to do the demo swab in front of the journalists?

A. We discussed, [REDACTED] and Dr. Zucker and I, [REDACTED] was there, maybe [REDACTED] we certainly discussed whether we shouldn't do it at all and we really up until the very last minute kept trying to figure out a solution that would work for everybody and that really wasn't able to be figured out and we ended up feeling that at least as a demonstration swab and with safety measures taken, that that was something that we did.

Q. Just to clarify. What you just said you said you ended you up feeling as a demonstration swab that was something that you did.

A. An a demonstration swab with that sort of approach in mind that it wasn't because we had a concern about him being the COVID positive. It was a demonstration and with the safety measure of them pushing the journalists

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all the way back we would go ahead. We decides
right beforehand.

Q. How did you prepare to do that
demonstration swab?

A. We went to the red room which is
where the press events are in the capitol and
we practiced with a staff member who was seated
where the Governor is seated at the press
events so these folks could check the lighting
and show me where it is and where I'm walking
out from. First we sat and talked with a
woman, I don't know who it was about the plan
and we went to the red room and did that. And
then we went to the lobby of the Governor's
office and we waited there, Dr. Zucker and I.
And then the Governor came in to have
Dr. Zucker and I tell him what was the plan,
how it was going to proceed.

Q. So when did you go to the red room
and practice with the staff member who was
seated where the Governor usually sits?

A. I don't know the time. Sometime
that morning before the press event.

Q. Was the Governor there?

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[REDACTED]

A. No.

Q. How are you doing, do you want a break?

A. I'm fine.

MR. CAPEZZA: Could we take a five-minute break?

MS. MAINOO: Sure.

THE VIDEOGRAPHER: We are now off record the time is 2:38 p.m. for break.

(Recess taken)

THE VIDEOGRAPHER: We are now on the record. The time is 2:50 p.m. Back from break.

MR. CAPEZZA: Thank you for the break. I want to ask just one request. Can you clarify the date of [REDACTED] [REDACTED] event? I think that is right now an open question that it might be a little confusing in terms of the sequence of events and if you could define that date it might help to clarify the date of the public presentation.

MS. MAINOO: Absolutely.

BY MISS MAINOO:

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[REDACTED]

Q. When was [REDACTED] interaction with the Governor?

A. Sure. I don't have the exact date to my -- I don't have that information available to me, but I want to say a couple of weeks, plus or minus before the event on television. The first one being [REDACTED] [REDACTED] and the second one not because it was a demonstration swabbing not a medical procedure.

Q. The day of [REDACTED] interaction, how were you dressed?

A. The [REDACTED] interaction. Probably work attire for me which is typically like a dress. I really don't recall what I was wearing that day.

Q. Just to be clear, I was asking about the [REDACTED] interaction with the Governor.

A. That was a couple of weeks before, yes.

Q. The day of the press event how were you dressed?

A. I was dressed in a black dress and tights and boots with heels and I took off my

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2 jewelry because it was a demonstration, I
3 wanted to be clear that you can't have -- you
4 shouldn't have the bracelets and what not, you
5 can keep your wedding ring, which I did and no
6 earrings and put my hair up because that is the
7 procedure of when you're swabbing. And on
8 stage obviously I had on all the PPE.

9 Q. When you were in the red room
10 practicing with the staff member, did you have
11 the PPE on?

12 A. No, not for that.

13 Q. I think you mentioned earlier
14 after you went to the red room to practice with
15 staff member you went to the lobby of the
16 Governor's office and waited?

17 A. Yes.

18 Q. Who was that the lobby of the
19 Governor's office?

20 A. Just Dr. Zucker and I. There was
21 a desk there, but no one was at it. It was
22 empty at that moment.

23 Q. What did the lobby look like?

24 A. It is like there is a couch, maybe
25 another chair, a coffee table, a desk to the

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[REDACTED]

entry to the Governor's office but that was empty at the time. And there is a pass through from his office to the other side of his office is the red room and they are connected. And his office goes into other set of offices and I would particularly see Melissa DeRosa maybe someone else I didn't know walk through the pass through. We were primarily alone waiting there on the couch, Dr. Zucker and I.

Q. You said the Governor came in to hear the plan?

A. Yes.

Q. Did the Governor come in with anyone else?

A. Not that I recall.

Q. What happened after the Governor came in?

A. We told him about the procedure.

Q. Who told you to prep him on the procedure?

A. I don't remember if it was one of his staff members or Dr. Zucker. I think the staff member, but I don't recall.

Q. Was that before the Governor came

1

2 in?

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A. Yes. And then he came in and we started to run through the process and so first I made Dr. Zucker introduce me and --

6

Q. How did Dr. Zucker introduce you?

7

A. I don't remember exactly to be

8

honest, I can't recall the specifics. I do

9

remember that beforehand Dr. Zucker kept

10

reminding the staff not to call me a nurse,

11

call me Dr. [REDACTED]. And so I presume at that

12

moment Dr. Zucker did the same. He was very

13

aware of that. I had seen him a couple of

14

times asking the staff not to call me a nurse.

15

Q. When you say he, are you referring

16

to Dr. Zucker now?

17

A. Yes, he told me that he had asked

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the Governor not to call me a nurse. I can't

19

remember if it was prior to that interaction or

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at that moment. I can't remember if I saw

21

that, but Dr. Zucker said he asked them a few

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times not to call me a nurse.

23

Q. Did the Governor ever call you a

24

nurse?

25

A. On stage he introduced me as

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2 Dr. [REDACTED] State Entity Employee #2. He gave doctor and my
3 full name. And only later and in his book
4 Dr. Zucker called to apologize to me that I was
5 written up as a nurse. Not that Dr. Zucker
6 wrote it, he just called me to apologize.

7 Q. So you're saying that Dr. Zucker
8 introduced you to the Governor?

9 A. Yes.

10 Q. What happened next?

11 A. Then I recall starting to go
12 through the process. I recall Dr. Zucker
13 getting a call which was a common occurrence,
14 he was always getting a call every minute, so
15 he kind of walked over to the corner to take
16 the call and so I started to go through the
17 procedure with the Governor. I said you will
18 be seated in your usual seat at the press event
19 and I'm going to come out from your office in
20 the red room and come to swab you.

21 And he said I'm going to stand and
22 I said no, you need to sit. That's the usual
23 process. And he said I want to stand. And I
24 said may I ask why, he said it looks better.
25 And I said fair, but I need to be able to reach

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[REDACTED]

you or else I can't go do the swab. And so he was standing next to me at that point and he is a bit taller than me so I was concerned about that. So he pointed at my boots, the heels and he said I think you will be fine with this on. And then said --

8

9

Q. Before you go on, you said Governor was standing next to you?

10

11

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A. I think, yes, we were standing there because I was coming to say this is where you need to sit and whatnot, yes.

13

14

Q. Were you standing face-to-face? How were you standing?

15

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A. Yes, as I recall.

17

18

Q. So the Governor pointed out your boots and said you will be fine with those on and what happened?

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A. I said fair, true, it might help me reach you. And so he said why don't we -- I said I need to know to know that I can reach you, let's do a practice run and he said go ahead and I did like a fake by the side in the air and he said no, do an actual swab so I'm prepared for how this would feel. I said are

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is something we should all approach life that way and the pandemic that way and life that way. And then I changed the subject to talk about where he would be facing his head looking at the fireplace in the red room.

Q. So where was Dr. Zucker when the Governor made that gentle but accurate comment?

A. I think I remember he was physically nearby, what I don't know is if he heard the comment because he was on his phone, on the phone and I kind of intentionally looked down to sort of, I don't know why, so I really can't say if he was aware of the conversation or not.

Q. Where had you been looking before you looked down?

A. I was in a conversation with the Governor, so I was looking at him.

Q. You said that you wanted to stop that conversation. What is the reason that you wanted to stop that conversation?

A. That's a good question. It was a joke of an implied sexual nature and I wanted to change the conversation to focus on the work

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2 that I was doing.

3

Q. What was the Governor's sort of
4 voice when he made the gentle but accurate I
5 heard that comment?

6

A. Kind of the way that people say
7 that in when they are using common language
8 that a slower tone, deeper tone, gentle but
9 accurate, I heard that. It is hard to explain.

10

Q. How did you interpreted the
11 Governor's comment gentle but accurate, I heard
12 that?

13

A. I interpreted it as a something of
14 a inappropriate comment versus a bad joke
15 versus a comment that had sexual undertones and
16 probably wouldn't probably said to a male
17 physician, some sort of combination of those
18 things.

19

Q. How did you feel about the comment
20 gentle but accurate I heard that?

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A. I just wanted to move on, to be
22 honest, and do my work.

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Q. Did you feel uncomfortable after
24 the Governor made the comment, gentle but
25 accurate, I heard that?

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A. I think I was taken by surprise. I wasn't expecting that and I think I felt I needed to change the conversation. I suppose there was some level of discomfort, but I also felt comfortable that I was able to redirect the conversation at the time, I had that opportunity. Overall I felt we were able to move on.

Q. Did you tell Dr. Zucker about the Governor's gentle but accurate I heard that comment?

A. No.

Q. What is the reason you didn't tell Dr. Zucker?

A. I didn't really want to tell anybody. I felt I was just wanted to move on.

Q. Was there a particular reason you didn't want to tell anyone and thought that you would move on?

A. I thought it was an inappropriate comment. I just wanted -- I was in the middle of a pandemic with a lot of work and I didn't think it necessarily by my understanding rose to the level of like an official report and I

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just wanted to move on.

Q. Was the basis of your understanding that it may not have necessarily rose to the level of an official report?

A. Partly I felt like I had sort of cut the conversation off somewhere in the middle of that, but I can't say that the sentence was completed.

Q. Have you told anyone about the Governor's gentle but accurate I heard that before comment?

A. Yes.

Q. Who?

A. I told my husband when I got home and I told my sister-in-law, my sister, my mother and my step mother-in-law and one friend and colleague. I don't actually remember telling her at the time and later we talked about it and she said I did tell her, so I probably did and my best friend from college.

Q. What did you tell your husband when you got home?

A. I wasn't sure how to bring that up, but I did want to share that with him, that

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2 interaction. And it came up because he asked
3 when he saw the comments on the screen about
4 you make that gown look good, he wanted to know
5 if he had met me before without my PPE on and I
6 said yes, and I shared it and he said what
7 happened and I shared it.

8 Q. What did he say?

9 A. What did my husband say?

10 Q. Yes.

11 A. He was upset about it.

12 Q. How did he express that upset?

13 A. Not well. He was upset and sort
14 of upset that I wasn't going to take any action
15 and I said I didn't want to and that was my
16 right. And he didn't want me to be alone with
17 him again. He wanted me to bow to him, he said
18 I don't trust the governor I heard other
19 stories in Albany and now this. I don't want
20 you to be alone with him again. And I said
21 okay. I said no, it is my job, Dr. Zucker has
22 an issue and we have to work with the Governor
23 I'm going to do it but. I'm prepared for this
24 and I can handle myself. That's what happened
25 there.

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[REDACTED]

Q. Did your husband go into any detail about the stories that he had heard about the Governor?

A. Just that he is looking for a girlfriend in Albany. [REDACTED].
These are the things that we hear.

Q. Had you heard these things before?

A. Yes, but nothing specific.

Q. Where did you hear these things?

A. I don't even know, I can't recall. We have a lot of friends who work in state government or other advocacy group or things like that in Albany. Right now I can't think of any specifics.

Q. Had that crossed your mind before your husband mentioned what he had heard about the Governor apparently looking for a girlfriend in Albany?

A. Had that crossed my mind before, no.

Q. Did you say anything else to your husband about the interactions that you had with the Governor before or during the press conference?

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A. I mean he asked me what was the behavior like and I remember calling it a playful banter to him. I remember describing to my best friend from college like, you know, more like a flirtation or something in between.

Q. Here are you referring to the gentle but accurate comment about what you described to your husband as playful banter and to your friend from college more of a potential flirtation?

A. Not just that commend, but the whole thing.

Q. You mentioned -- do you need a moment?

A. No, I'm good.

Q. Go to the best friend from college. When did you speak from your best friend from college about your interactions with the governor?

A. Actually she was later. Because she came to visit outdoors I want to say sometime in June and I shared it with her then.

Q. Is there anyone that you shared your interactions with the Governor between the

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[REDACTED]
time that you talked to your husband and your
best friend from college?

A. Yes.

Q. Who?

A. The other folks I mentioned was
right after I shared, my friend [REDACTED], she
said I shared it with her, I don't remember
exactly. My sister and my sister-in-law and my
mother and stepmother-in-law and presumably my
father and father-in-law kind of know but I
didn't speak with them directly.

Q. Let's start with your mother.
What did you tell you mother?

A. Just there is this interaction
that I described it and his comments [REDACTED]

[REDACTED]

Q. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

A. [REDACTED]

[REDACTED] [REDACTED]nd

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

Q. Do you remember when you spoke with your mother about this?

A. The next day is my guess.

Q. What did your mother say?

A. The similar conversation with her as my sister and sister-in-law and step mother-in-law, I was sharing -- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Did they say how you should deal with the situation at work?

A. No, I don't think so.

Q. Just now you went through your conversation with your mother and sister and sister-in-law and stepmother-in-law together, was there anything else that you said to one of them or one of them said to you that you haven't already talked about?

A. I don't think so. I remember my stepmother-in-law saying -- I remember having a conversation with her about I just want to move

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[REDACTED]

on, this is not like a workplace sexual harassment, like where I feel affected in a major way. I just want to move on. He made a comment. No one saw it on TV. He made another comment beforehand you felt like I want to move on.

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Q. Is there a reason you said this is not a workplace sexual harassment thing?

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A. I remember it came up because my husband said why aren't you like, I don't know, more upset or making a report or what have you. I said I just don't want to. I don't feel that way. That it reached that level of what I understood of -- as I understood through our training and whatever. It was very, very brief, one of was on television and one was very, very -- I just didn't -- I also felt I had a little bit more power, I don't work with him every day, I'm a physician I could leave my job that minute and find another job.

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I felt even as powerful as this person is, I have other opportunities and that allowed me to feel a little more comfortable in my situation. Even if I had to deal with him

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[REDACTED]

again, I felt I could have the power at least to protect myself. From my personal situation. It doesn't mean it is the same for everybody. That is how I felt at the time from my personal situation.

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Q. What was your understanding of sexual harassment based on the trainings that you have done?

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A. I mean there is a lot of different ways of that happening. I guess my understanding was if comments are made and they are making someone uncomfortable if that person is in a supervisory position especially and even a colleague and there were unwanted advances or comments being made -- I'm not a lawyer, I don't know of the details. I do all the training every year and I remember all the scenarios, but I have a hard time figuring out how to apply it to this because it was so incredibly rude.

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Q. Did you understand that this took place at the workplace, the interactions that you had with the Governor?

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A. Yes.

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Q. Did you understand that the Governor was in a supervisory position?

A. Yes, not directly -- but of course, eventually, yes.

Q. Did your understanding of how to characterize your interactions with the Governor ever change?

A. I guess I haven't really delved in the legal aspects of the laws since that time so I don't know anything more specifically about what crosses the threshold when it is such a brief encounter. I just don't know how that works.

Q. In your mind what was the significance of the fact that one of the interactions happened on TV?

A. I couldn't hear what you said.

Q. In your mind what was significance of the fact that of one of the interactions took place on TV, that it was televised?

A. Just that there is nothing to report, it is right there. Everyone saw it and no one really -- I was concerned that there would be questions about it. I alerted our

1 [REDACTED]
2 public affairs director to be prepared to
3 answer questions about it. I took down my
4 Facebook page because the journalists were
5 coming after me right after with it and I hid
6 with the security guard helped me got out
7 without the journalists seeing me. So I had
8 worried that people would pick up on it and
9 until recently they hadn't.

10 Q. What were the worries that you had
11 about people picking up on it?

12 A. Just that they would identify that
13 as an either inappropriate comment or a sexist
14 comment and then it would bring me in the
15 public sphere of which I'm not having any
16 desire to go into.

17 Q. You mentioned talking to your
18 husband, your mother, sister-in-law, sister,
19 stepmother-in-law and then you also mentioned
20 your friend and colleague, [REDACTED].

21 What do you remember discussing
22 with [REDACTED]? Is that [REDACTED]

23 A. Yes. I remember calling her right
24 after the swabbing and saying like did he just
25 say that on stage, oh, my gosh. I don't

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[REDACTED]
remember telling her about the comment
beforehand, but she shared later that I did I
guess when we were chatting.

Q. When did [REDACTED] share that
later?

A. Just more recent times when we
would speak as friends and I have to have this
decision about sharing this.

Q. You mentioned that you spoke with
your best friend from college about your
interactions with the Governor we she came to
visit. What did you tell her?

A. I just remember sharing with her
the comment made and the style of interaction
and that I shared [REDACTED] and
then I said to be fair to him he wasn't that
far off. I described it as playful banter to
him but it definitely seem like it a little bit
that it could be construed as flirtatious.

Q. When you say him or he, you're
referring to your husband there?

A. Yes, and I described it to him
that way, yes. He wasn't too far off is my
husband. Just to say that he thought -- I

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2 shared with him that he thought the Governor
3 was hitting on me is how he worded it and I
4 said his instinct was not inaccurate or not too
5 far off.

6

Q. Is this something that you husband
7 said --

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A. He said earlier, but I hadn't see
9 my friend and I saw her and relayed it.

10

Q. And your husband said he thought
11 the Governor was hitting on you?

12

A. Yes, or he asked me am I sort of I
13 might have use different language playful
14 banter and he said I think this is what
15 happened.

16

Q. Did you construe any of the
17 Governor's comments to you on the day of the
18 press conference either before or during the
19 press conference as potential flirtation?

20

A. Yes, potentially before, yes.

21

Q. What do you mean when you say yes,
22 potentially before?

23

A. You said did I view that as
24 possible flirtation and I said yes, beforehand.

25

I don't know the comment on the stage was one

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2 comment statement.

3

Q. The gentle but accurate comment
4 before the press conference, that was possibly
5 flirtatious?

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A. That was maybe an inappropriate
7 comment, but the conversation surrounding that
8 did appear to be flirtatious, yes, even if it
9 was about the swabbing generally.

10

Q. Which conversation are you saying
11 was possibly flirtatious?

12

A. When we did the practice swab
13 before the swab on the stage.

14

Q. Was there anything else that the
15 governor did during the practice swab that was
16 possibly flirtatious in connection to the
17 gentle but accurate comment?

18

A. I'm trying to think of how to
19 describe it. I guess it's a mannerism or a
20 close standing and being able to like give a
21 gazing kind of appearance, but it is hard to
22 say.

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Q. Can you describe the close
24 standing?

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A. I just remember I had to stand

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[REDACTED]

close to him to do a practice swab, but I just remember sort of after that was completed him still standing closest, he a bit taller. It was not -- I don't know. I'm just sharing how would I know something is flirtatious, flirtatious I'm trying to figure that out.

Q. I'm just asking about your impression. So you mentioned that based on how closely the Governor was standing to you, that's one of the reasons --

A. That was my impression.

Q. To be clear for the record what was your impression?

A. That was part of maybe what would be construed as flirtatious is the closeness of the conversation.

Q. Did you construe it as flirtation when you were standing there with the Governor before the press conference?

A. Did I construe it?

Q. Yes, correct.

A. Yes.

Q. You mentioned at one point some gazing, can you elaborate on that?

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A. Just I asked the Governor or was advising him that he would be looking at the fireplace in the red room which is to the left of where he normal sits in the press event. And at that point he kind of wasn't listening and had this sort of gazing appearance, but it appeared he was sort of gazing, oh, sorry, what did you say and I explained again about the fireplace and where he would have his head facing so I could swab.

Q. What was the Governor or what or who was the Governor gazing at?

A. Myself.

Q. Where was Dr. Zucker at this time?

A. There was a brief encounter, maybe three minutes and he was in and out of a phone call. He was walking in the corner to have a phone call and then he kind of walked back and then he would get another call. There was lot of that stuff going on back and forth.

Q. How did you feel about the interactions that you had with the Governor before the press conference where you felt that he was flirting with you?

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[REDACTED]

A. I honestly was very focused on the COVID pandemic and I thought that, okay, that happened and I will be cautious when I'm alone with him in the future, but other than I was just going to move on and do my work.

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Q. What do you mean when you say that you were thinking you would be cautious with him if you were alone with him in the future?

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A. Not to say that there would be something inappropriate, I can't speak for someone else and their actions. Just that I was more prepared to expect that versus not having to worry about that.

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Q. Just a follow-up on what you just said, were you thinking based on interactions that you had with the Governor before the press conference that going forward one thing that you would have to worry about when you were, if you were alone with the Governor was that he might flirt with you?

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A. Yes, perhaps.

Q. Just to be clear, did you do the practice swab before the press conference?

A. Yes.

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Q. Did the Governor say anything else to you before the press conference?

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A. Not that I recall.

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Q. Did the Governor touch you?

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A. No.

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Q. How much time was there between the practice swab and the press conference?

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A. Minutes, minutes, maybe 10 minutes.

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Q. How did you spend the ten minutes other than doing the practice swab and walking the Governor through what would happen at the press conference?

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A. The time with him was even less, maybe 2, 3, 4 minutes and he left and then we waited for the press event to start, maybe so, 15 minutes, I'm not sure. And he had to view this all -- he had to do his whole press event. This is at the end. I continued to prep all of myself, the PPE and that is what I did during that and I came on stage to do the swab.

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Q. How did you prep your PPE?

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A. Just like in the -- I used this conference table that is between the foyer and

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his office and I prepped and I wanted to make sure because it was a demonstration to get it correctly.

Q. Did you change clothes at any point between the practice swab and the press conference?

A. No.

Q. Did you put on PPE?

A. I put PPE over it, yes.

Q. When did you put the PPE over your clothes?

A. That was before I went on stage.

Q. Was it after the Governor left?

A. After he left, yes. Although I must have had a mask on, we were wearing masks. I must have had a mask on, but not the full PPE.

Q. What kind of mask did you have on when you were interacting with the Governor before the press conference?

A. I would usually use the disposable masks. I'm assuming that is what I had on. I don't really recall.

Q. What PPE did you put on before the

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2 press conference?

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A. The gown, the gloves and the N 95
4 mask and a face shield.

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Q. You put all of that on in the
6 foyer where you were?

7

A. In the conference room that is
8 connected to the foyer.

9

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Q. So describe what happened at the
press conference?

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A. They told me he is ready to have
12 you go swab him and I walked out.

13

Q. Who told you that?

14

A. Stephanie Benton helped open the
15 door and told me when they were ready. So I
16 left from the Governor's office to the red
17 room, the stage is right there. So I left with
18 all the PPE on and went.

19

Q. Did you go with Dr. Zucker?

20

A. No, he wasn't there at this point.
21 No, he probably was on stage.

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Q. So you went to the red room. Who
23 was in the red room?

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A. I don't remember who else was on
25 stage that day. It varied every day, but

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usually Dr. Zucker was.

Q. Who was in the audience?

A. The journalists as usual.

Q. How far away were the journalist from the stage?

A. I have to say I cannot tell because I was taken aback by the amount of clicking and flashing and I was surprised by how blinding it was. I really can't say.

Q. So what did you do you after you entered the red room?

A. I went to swab him.

Q. Describe what happened when you went to swab him, him being the Governor?

A. Yes. And he was making some jokes, a couple jokes one of which was something like what if I fall asleep or something and another one which was you make that gown look good.

Q. What did you say if anything in response to the what if I fall asleep comment?

A. Yes, I think I did. I think I said in a chair. I have to go back and look at the video to see what I said.

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Q. Where was the Governor when you approached him after you went to the red room?

A. He was in the middle of stage and I came inside.

Q. Was he seated or standing?

A. Standing.

Q. How did you respond to the you make that gown like good doctor comment?

A. I didn't.

Q. What did you do then?

A. I ignored it and kept going.

Q. Did the Governor say anything else to you during that press conference?

A. No.

Q. Did anyone say anything to you during the press conference?

A. No.

Q. How do you interpret you make that gown like good doctor, comment?

A. An inappropriate joke, I guess.

Q. Did you say inappropriate joke?

A. Yes. Bad joke, a inappropriate joke, yes.

Q. How did you feel about that

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comment?

A. On a personal level I wanted to move on with my work. Obviously as a woman professional I recognize people's concern with that comment. It would not likely be said to an accomplished male physician. At the time I felt it was a inappropriate joke and wanted to move on.

Q. Is there a reason that you used the qualifier a accomplished male physician?

A. I'm mid-career at this point and so I guess that is to say I'm accomplished is silly. I think it probably wouldn't have been said to a male physician and I'm just sharing. So I do understand that people have concern about that and I shared that concern on sort of a policy level. On a personal level I was eager just to move on with my work.

Q. Did the you make that gown look good doctor make you feel uncomfortable?

A. Briefly on stage, yes.

Q. Did you have any other interaction with the Governor during the press conference?

A. No.

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Q. Did you have any other interaction with the Governor after the press conference?

A. No.

Q. Are what did you do right after you administered the swab?

A. I was able to leave and go back into the foyer, get my stuff and I went to leave, the press conference ended but the journalists came out at the same time and started trying to all talk to me at once, so I snuck back to the foyer and I asked the security guard to let me know when they were gone. So I waited.

Q. Is there a reason that you asked the security guard to let you know when the journalists had all left?

A. Yes, I didn't want to speak with any journalists.

Q. You mentioned earlier that you wanted to avoid publicity. Was there anything else that you were worried about in wanting to avoid talking to the journalists?

A. Generally I didn't want to speak with them, but I was concerned they would pick

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up on that comment and I didn't want to talk about that.

Q. Any other reason in particular you didn't want to talk about that comment?

A. I'm not sure why, I just didn't want to.

Q. Did Dr. Zucker speak with you about the comment that the Governor made during the press conference?

A. I can't recall if he did specifically. I have to think that through. But certainly his chief of staff came up to me afterwards in a meeting and apologized. I called our public affairs director to give him a heads up and he said no, there is no way he said that, are you sure, I said I think so. There was a lot of flashing and clicking maybe I was wrong. Can you check the transcript and he checked the transcript and found that it was there and he was sort of apologizing for the situation.

I remember clearly speaking with those two about it and other -- everybody saw it, so many people picked up on that and said

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[REDACTED]
sorry about that. That was rude.

Q. Did [REDACTED] reach out to you after the Governor's comment during the press conference?

A. I can't remember if she did just like with Dr. Zucker. There was so many people I was getting texted from like anyone that I've known since kindergarten, in San Francisco, South Caroline, Long Island, I mean it was a lot coming in at once. So I'm sure people, probably Dr. Zucker and probably [REDACTED] noticed and said something and maybe apologized that that happened, but I can't say with certainty because so many people were talking to me at this time.

MS. MAINOO: I think it is time to change the tape.

THE VIDEOGRAPHER: This is the end of media unit 3, we are now off the record at 3:36 p.m.

(Recess taken).

THE VIDEOGRAPHER: This is the beginning of media unit 4. We are now on the record at 3:37 p.m.

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[REDACTED]

BY MS. MAINOO:

Q. The people who reached out to you after the Governor's comments on air, what did they say to you?

A. I remember the first text, I was still in his office and it was right after and my old boss where I used to work at [REDACTED] [REDACTED] texted. I'm in the market in the grocery story so I didn't see it, but my husband just texted me that the Governor made a sexist comment to you on stage. That is the first time that I remember. A lot of other ones were friends of my brother's like did the Governor hit on you sister, was that your sister because our name is uncommon and they knew that I worked in this area.

Others would say OMG and text me what was that or yuck. Apparently two different groups of friends had debates on Facebook as to this was inappropriate and texted and stop highlighting that. We should be highlighting [REDACTED] State E.E. #2 accomplishments. But I'm not on Facebook so I really chose not to review those chains, but I did hear about them.

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[REDACTED]

Q. Did you have a view on the two debates going on on Facebook?

A. I didn't view them. I'm not on Facebook.

Q. What I mean is did you have an opinion?

A. Oh, did I have an opinion.

Q. The two positions that you just outlined.

A. Yes, I mean I think they are both right. I think friends were trying to advocate for me and saying that is not an appropriate way to speak to a female physician and others were saying by dwelling on that it is really impacting her reputation in a way we should be talking about the work she is doing over COVID and I respected that.

Q. Did you agree with either or both of those opinions?

A. Yes, both.

Q. Did any journalist reach out about the Governor's on air comments?

A. Not until more recently. So almost a year later or eight months plus later.

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[REDACTED]

Q. Did you engage with any of those journalists?

A. I did not.

Q. Was there a reason you did not engage with the journalists?

A. I don't want to do that.

Q. How did you react to hearing about the Facebook discussions about the Governor's comments on air to you?

A. It was uncomfortable. I wanted to just move on.

Q. Did you ever participate in those Facebook discussions?

A. No.

Q. Did you still have the Facebook page?

A. I don't do Facebook. And I had a skeletal page at the time that was unused for years that I asked a colleague of mine who I was working on we were writing the MIS-C work on these cases in New York State, cases from the CDC and I asked him when I got back from the press event, I asked [REDACTED] to shut down the remains of my Facebook page so I wouldn't have

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a potentially public page, although I don't think it was public.

Q. What was the reason for that?

A. I didn't want to be having a page that journalists are looking at or others. I didn't want to be involved in that.

Q. Did anyone from the Executive Chamber ever reach out to you about the comments that the Governor made to you?

A. No.

Q. Have you had any interactions with the Governor since the press conference?

A. No.

Q. Outside of what you read in the press, have you seen, heard or heard about the Governor touching anyone?

A. No.

Q. The Governor hugging anyone?

A. No.

Q. Groping anyone?

A. No.

Q. Kissing anyone?

A. No.

Q. Making sexually suggestive

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[REDACTED]
comments or jokes?

A. No.

Q. I think earlier when you were talking about your conversation with your husband the day of the press conference you mentioned that he suggested or raised the idea of you making a report.

Did you ever consider making a report of what the Governor said to you either before or during the press conference?

A. I did not.

Q. What influenced your decision to come forward in connection with the investigation that we are doing?

A. I want to be honest about whatever facts there are and for you to have them and do with them as appropriate.

Q. Is there anything that led you to share those facts with us as part of our investigation?

A. I felt that in my situation it was very, very brief. I did not have typical interactions with the Governor and I felt I had a lot of professional opportunities otherwise.

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2 I felt that in my professional standing I
3 should share these facts, whatever they are, in
4 order to support if there are any other women
5 and I can't say there are or not, who are
6 saying they have been put in an uncomfortable
7 position or if there is any sexual harassment,
8 that you have the facts that you might need.

9 Q. Did you speak with anyone about
10 your decision to share those facts with us, the
11 facts about your experience with us?

12 A. Yes, multiple.

13 Q. Who did you discuss it with?

14 A. My parents, my sister, my husband,
15 my friends and I just wasn't sure if this was a
16 significant enough interaction to warrant
17 bringing it up. I had other friends who are
18 lawyers who were saying they will probably call
19 you for it anyway because of what happened on
20 stage and then you resigned. And there were
21 those discussions with friends and also
22 discussions about what is the value or lack of
23 value in this interaction, although it is
24 brief. I had discussions along those lines.

25 Q. Earlier you mentioned trainings

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that you had done regarding sexual harassment,
where were those trainings?

A. Just they are modules that we all
do once a year. I would do it in my office on
a computer. And at least -- there are so many
modules, I am not sure which one started when,
but I know I do them every year.

Q. Were these trainings at the
Department of Health?

A. Yes, they are usually due in
September. So I've probably done them
September, 2019 and again September, 2020
probably.

Q. Were the trainings all online?

A. Yes.

Q. Were any of them in person?

A. No. The ethics one, but not
the --

Q. The sexual harassment training,
okay.

Do you know if the Department of
Health has any policies on sexual harassment?

A. I don't know if we have any
different policies than the state policies that

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I'm not aware of that. Certainly they have policies that are in line with the state policies and state law.

Q. Were you aware of the state policies on sexual harassment?

A. I think generally. I mean there is new ones that I'm not aware. I don't understand, but generally yes.

Q. How did you generally become aware of state policies on sexual harassment?

A. Through those trainings.

Q. Have you ever heard of incidents of sexual harassment involving the Department of Health employees?

A. I did not until I had a friend confidentially share with me from a field site more recently. While I was there, never. And even still I don't even know who that is about. I just know she did file a report and felt that it wasn't addressed properly. And this was all shared in confidence recently so I'm not sure.

Q. Do you know who she filed the report with?

A. I believe her supervisor. She was

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2 not working in my unit at the time. That is a
3 man that is not even in my unit. And she also
4 reported I think to the person in charge of the
5 field site. I think both, but I can't say for
6 sure. I think one or the other but neither of
7 which was in my unit, so I don't know any of
8 the details.

9 I'm sorry, did you say -- I'm not
10 even sure it was -- I don't think it was a Department of
11 Health staff member that she was making the
12 report about. She is a Department of Health
13 staff member, this was someone from another
14 agency I believe actually. I can't recall
15 exactly, but I didn't know the individual. No,
16 it might have been -- no, there might have been
17 one person who was in the Department of Health
18 and one with another agency. She was kind of
19 vague because it was a confidential
20 conversation.

21 Q. But that was responsive to my
22 question because I was interested in finding
23 out whether you were aware of any incidents
24 involving Department of Health employees on
25 either side.

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A. This is like over the last 3 1/2 weeks, she shared this on the phone. While I was there I never saw or heard anything in that manner at all.

Q. Your friend who shared that confidential information with you, was the information about an experience she had herself?

A. Yes. So this is why there was -- I'm getting confused for a minute. Someone else had the experience and then she reported it up. She was supervising the field site and then the person was still there many months later and then it happened to her. So that is my understanding of that. I believe that person was working with the Department of Health but was not a Department of Health staff member and I understand.

Q. Just so I'm clear, there were several references to she. So is it the case that someone else experienced an incident that your friend reported and your friend later experienced sexual harassment herself?

A. Yes.

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[REDACTED]

Q. Involving the same person?

A. Because it was confidential and she wasn't sharing all the details, I'm a little confused. I have the feeling like it was not a Department of Health person. It was another agency and then there was some mention of some concern that she had with someone in the Department of Health and I don't know any names. She is not a close friend and she just called me up about other issues and that came up.

Q. Do you know what other agency or agencies were involved?

A. Something like [REDACTED]. I don't know if that is correct, I'm sorry.

Q. No worries. Other than the reasons that you have given before during your testimony today, are there any other reasons that led to your resignation from the Department of Health in December of 2020?

A. It was not due to sexual harassment. But these other things that we talked about today were pieces of my decision.

I guess the last thing we haven't

1 [REDACTED]
2 talked about yet is just that there were times
3 I was asked to do webinars on topics that I --
4 the Chamber had chosen not to use the work
5 either done by myself or other colleagues in
6 public health. They would say to develop a
7 survey for university either themselves or with
8 these consultants that are paid for, McKenzie,
9 and things like that and then they would ask me
10 to present the webinar.

11 And for me it was becoming a
12 concern, I say why am I presenting this when
13 you didn't use the survey we created and you
14 have to -- I had to have staff bring me to
15 speed on this survey before I did the webinar
16 and why doesn't someone who worked on this do
17 this. And the answer that I was given is
18 because you're a physician. I had lots of
19 concerns that was being used for my
20 professional integrity and qualification and
21 expertise either in that setting or the setting
22 of the lawsuits. But without us actually
23 having myself or my peers like me in the
24 discussions.

25 So I finished that webinar

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2 [REDACTED]
3 because it was coming up in an hour and I
4 looked through it and there was nothing
5 unethetical in the slides and I was okay reading
6 it off and I said I'm not doing that anymore as
7 a matter of professional integrity.

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Q. Did you say that to anyone?

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A. People when they would ask why I
9 left, friends, colleagues, but they all knew.
10 They were experiencing the same thing.

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Q. Who from the Chamber was asking
12 you to do that webinar?

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A. That webinar was not a Chamber
14 person. It was [REDACTED] who I respect very
15 much. She is leader of our agency coming over
16 to work on COVID projects, specifically
17 university after school issues. So I don't
18 know if that was -- I know that she's a good
19 person and I don't have any issues with her,
20 but it came from her.

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Q. I think earlier just now when you
22 mentioned being asked to do webinars you
23 mentioned the Chamber, maybe I misunderstood.

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Did the Chamber ever ask you to do webinars

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that you did not develop?

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[REDACTED]

A. Not directly.

Q. Did the Chamber indirectly, to your understanding?

A. I don't know if it was [REDACTED] who decided to pick me or someone else told her it should be a physician, I don't know. I can't say and I didn't ask her.

Q. Is [REDACTED] a physician?

A. She is not.

Q. Who did you discuss your resignation with before you resigned?

A. Probably a lot of people. I don't know if I could easily make a list. Many of my staff and friends and colleagues and my boss. My colleagues who had or my mentors who already resigned, so [REDACTED], [REDACTED], and [REDACTED] who is our chief information officer and [REDACTED] who was our director of the Lauber Lab. These were mentors of mine and they already resigned.

[REDACTED] who used to be deputy commissioner and he resigned before COVID. My friend [REDACTED] who resigned before COVID. Or she left, I should say she left not resigned. That is not the right term. She left DOH. My friends

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[REDACTED]
[REDACTED] and [REDACTED] also resigned.
[REDACTED] resigned before I did. [REDACTED], I mean all
of them. We were all talking a lot.

Q. Did anyone try to convince you to
stay at DOH?

A. No, not in an appropriate way.
Dr. Zucker and his chief of staff were very
professional and said what can we do to improve
the environment and I shared my thoughts and I
didn't think they would be able to change the
environment what I was looking for, but they
tried God bless them and talk about that and
asked is there some other position that I'm
interested in because new positions were coming
up because other people were resigning and
obviously it would still be a public posting, I
would have to apply but I'm experienced in the
work because I've been doing the work. Or if
they needed someone to lead a public health
core, would I be interested in that.

They were trying to in appropriate
way I think find if there was anything that
they could do and I told them no.

Q. Is there anything that you told

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[REDACTED]

Dr. Zucker and his chief of staff when you shared you thoughts in response to their question about if there is anything that they could do that you haven't already spoken to us about today?

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A. No, nothing else that I could think of.

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Q. You said they tried, what did they do no response to you sharing your thoughts about why you were leaving?

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A. [REDACTED] was trying to work on this unit. She that would -- was really trying to create a more organizational structure. She asked me about how other, if I was aware of any other models of how people could cross-cover each or and have schedules and shifts and give people Respbid and I talked about the New York City Department of Health model and the CDC model and she was eager to try to work on that but I had a sense that it wouldn't play out as much as -- I respected her attempts, I just didn't think it was going to work out at that point.

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Q. Why didn't you think it wasn't

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going to work out at that point?

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A. I think I was ready to leave and I think just kind of move on and I think that every day the work was really reactionary and based on directives from the Chamber and it didn't allow for individuals to really develop their kind of systems [REDACTED] wanted,

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Dr. Zucker wanted to, but Dr. Zucker was always pulled and [REDACTED] was working on so many things it wasn't entirely realistic that she would be able to do that in the midst of everything else, I kind of new that

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Q. To your knowledge how many DOH employees have resigned or retired since January, 2020?

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A. The last I chatted with a friend who was still at DOH she was counting and they counted 28. I had gotten in my counting up to about 25 at that point. Although there has been maybe one or two more since then. So it might be in that range. Most of those are the director level folks. A couple of highly experienced individuals.

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Q. To your knowledge what were the

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reasons for those individuals resigning or retiring when they did?

A. It was similar to what I had described with a toxic work environment and not being able to do the public health work they felt they are tasked to do for the State of New York. And really losing time with their family while simultaneously not having the benefit of productive work. These are hard working people who worked night and day for a year if it was productive work.

Q. Since you last spoke to our team in April have you spoken to anyone else about your interaction with the Governor?

A. Maybe that one friend that shared her story with me and I think I shared generally back.

Q. Is that the friend that shared the confidential experience of sexual harassment?

A. Yes.

Q. Anyone else?

A. Not that I can think of.

Q. Is there anyone that you've spoken to about the investigation since you last spoke

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[REDACTED]
with our team?

A. My friends, [REDACTED] and [REDACTED] who were all dealing with like multiple investigations. So we know we are not supposed to talk about them but someone would say I have something stressful coming up, an interview and we kind of know what the other means. We kind of talk in vague terms like that.

MS. MAINOO: I will pause before I wrap up to ask my colleagues Mr. Kim and Miss Chun if they have any additional questions for you.

MR. KIM: I don't, thank you [REDACTED] We appreciate your time today and before, thank you.

MS. CHUN: Nothing from me either.

Q. [REDACTED], is there anything that would like to add, any other answers that you would like clarify before we finish?

A. I don't think so.

MR. CAPEZZA: Thank you I think we are good.

Q. Is there anything else that you could think that is relevant to our

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[REDACTED]
investigation?

MR. CAPEZZA: I think that's it.

Q. If you would like to make my brief sworn statement you may do so now?

A. I don't have a statement. I was going to say one thing. I remember speaking to two of my best friends about this from April to now, you asked about that. That was [REDACTED] and [REDACTED] I didn't go into detail, but I said I was stressed about having this up coming.

MS. MAINOO: We are going to conclude this examination. Thank you for speaking with us today. I remind you that you have continuing obligations under our subpoena. If we need you to come back to answer additional questions, we will contact you through Mr. Capezza. Also if you have additional documents that are responsive to the document subpoena that we served, you also have a continuing obligation to produce them to us. Thanks again very much.

THE VIDEOGRAPHER: We are off record at 4:01 p.m. and this concludes today's

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testimony given by the recorded interview
of witness May 24th, 2021. The total
number of media units was four and will be
retained by Veritext New York.

(TIME NOTED: 4:01 P.M.)

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C E R T I F I C A T E

STATE OF NEW YORK)

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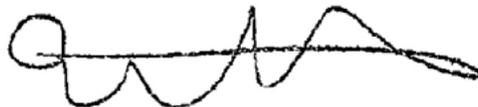
COUNTY OF NEW YORK)

I, WILLIAM VISCONTI, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that the foregoing proceedings were taken before me on May 24, 2021;

That the within transcript is a true record of said proceedings;

That I am not connected by blood or marriage with any of the parties herein nor interested directly or indirectly in the matter in controversy, nor am I in the employ of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, 2021.



WILLIAM VISCONTI