

<p style="text-align: right;">Page 1</p> <p>UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK</p> <p>-----X</p> <p>JEAN AZOR-EL, et al.,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 40px;">-against-</p> <p style="padding-left: 40px;">Index No: 1:20-cv-03650-KPF</p> <p>CITY OF NEW YORK, et al.,</p> <p style="padding-left: 40px;">Defendants.</p> <p>-----X</p> <p style="padding-left: 40px;">DATE: April 26, 2021</p> <p style="padding-left: 40px;">TIME: 3:05 p.m.</p> <p style="padding-left: 40px;">EXAMINATION BEFORE TRIAL of the Plaintiff, JEAN AZOR-EL, taken by the Plaintiff, via videoconference, pursuant to Court Order, held on the above mentioned date and time, before a Notary Public of the State of New York.</p>	<p style="text-align: right;">Page 3</p> <p>1 STIPULATIONS</p> <p>2</p> <p>3 IT IS HEREBY STIPULATED AND AGREED, by</p> <p>4 and among counsel for the respective</p> <p>5 parties hereto, that the filing, sealing</p> <p>6 and certification of the within deposition</p> <p>7 shall be and the same are hereby waived;</p> <p>8</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that all objections, except as to form of</p> <p>11 the question, shall be reserved to the</p> <p>12 time of the trial;</p> <p>13</p> <p>14 IT IS FURTHER STIPULATED AND AGREED</p> <p>15 that the within deposition may be signed</p> <p>16 before any Notary Public with the same</p> <p>17 force and effect as if signed and sworn to</p> <p>18 before the Court.</p> <p>19</p> <p>20</p> <p>21 IT IS HEREBY STIPULATED AND AGREED by and</p> <p>22 between counsel for all parties present that</p> <p>23 pursuant to CPLR section 3113(d) this</p> <p>24 deposition is to be conducted by video</p> <p>25 conference, that the court reporter, all</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 KEENAN & BHATIA, LLC</p> <p>4 Attorneys for Plaintiffs</p> <p>5 90 Broad Street, Suite 200</p> <p>6 New York, New York 10004</p> <p>7</p> <p>8 BY: E.E. KEENAN, ESQ.</p> <p>9</p> <p>10 CITY OF NEW YORK</p> <p>11 Attorneys for Defendants</p> <p>12 100 Church Street</p> <p>13 New York, New York</p> <p>14 BY: DAVID THAYER, ESQ.</p> <p>15</p> <p>16 ALSO PRESENT:</p> <p>17 Sonal Bhatia, Esq.,</p> <p>18 Keenan & Bhatia</p> <p>19 Julia Gokhberg, Litigation Manager</p> <p>20 Keenan & Bhatia</p> <p>21</p> <p>22 Chlarens Orsland, Esq.</p> <p>23 City of New York</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 counsel, and the witness are all in separate</p> <p>2 remote locations and participating via</p> <p>3 videoconference (LegalView/Zoom) meeting</p> <p>4 under the control of Lexitas Court Reporting</p> <p>5 Service, that the officer administering the</p> <p>6 oath to the witness need not be in the place</p> <p>7 of the deposition and the witness shall be</p> <p>8 sworn in remotely by the court reporter after</p> <p>9 confirming the witnesses identity, that this</p> <p>10 videoconference will not be recorded in any</p> <p>11 manner and that any recording without the</p> <p>12 express written consent of all parties shall</p> <p>13 be considered unauthorized, in violation of</p> <p>14 law, and shall not be used for any purpose in</p> <p>15 this litigation or otherwise.</p> <p>16</p> <p>17 IT IS FURTHER STIPULATED that exhibits</p> <p>18 may be marked by the attorney presenting the</p> <p>19 exhibit to the witness, and that a copy of</p> <p>20 any exhibit presented to a witness shall be</p> <p>21 e-mailed to or otherwise in possession of all</p> <p>22 counsel prior to any questioning of a witness</p> <p>23 regarding the exhibit in question. All</p> <p>24 parties shall bear their own costs in the</p> <p>25 conduct of this deposition by video</p>

<p style="text-align: right;">Page 5</p> <p>1 conference, notwithstanding the obligation 2 by CPLR to supply a copy of the transcript to 3 the deposed party by the taking party in 4 civil litigation matters. 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 7</p> <p>1 J. AZOR-EL 2 Q. Do you understand that a deposition 3 is testimony with the same force and effect 4 as if you're testifying in open court? 5 A. Yes. 6 Q. We're doing this deposition by 7 Microsoft Teams or Skype and so we all know 8 that sometimes that can patch in and out. If 9 there is anything that you cannot hear 10 clearly from either me or Mr. Thayer when 11 he's asking you questions or anybody else, 12 will you let us know that? 13 A. Yes, I will. 14 Q. If there is any question that 15 anybody asks you that isn't clear or that you 16 need to be clarified, will you ask us to do 17 that? 18 A. Yes, I will. 19 Q. Are you feeling able to give a 20 deposition today? 21 A. Yes. 22 Q. My questions are going to be focused 23 on two issues that the Court has asked us to 24 focus on in this phase of discovery and those 25 are mask wearing by guards, correction</p>
<p style="text-align: right;">Page 6</p> <p>1 J E A N A Z O R - E L, 2 the witness herein, having been first duly 3 sworn by a Notary Public of the State of New 4 York, was examined and testified as follows: 5 THE REPORTER: State your name 6 for the record, please. 7 THE WITNESS: Jean Azor-El. 8 THE REPORTER: State your 9 address for the record, please. 10 THE WITNESS: 1500 Hazen Street. 11 EXAMINATION BY 12 MR. KEENAN: 13 Q. Mr. Azor-El, I know we usually use 14 first names in our conversations, but for the 15 record we have to be more formal. It's good 16 to see you today. I'll just put on the 17 record, of course, I'm one of your attorneys 18 in the case that you and several other people 19 have filed again the City of New York and New 20 York City Department of Corrections as well 21 as some others regarding conditions of 22 confinement during COVID. 23 Do you understand you're here today 24 to give a deposition in that case? 25 A. Yes, sir.</p>	<p style="text-align: right;">Page 8</p> <p>1 J. AZOR-EL 2 officers, and also sanitation, especially 3 sanitation of high-touch areas, so I'm going 4 to focus my questions on that, but you 5 understand that you might give broader 6 testimony at a later phase of this 7 litigation. 8 Right? 9 A. Yes, I will. 10 Q. So Mr. Azor-El, how long have you 11 been in Rikers? 12 A. Oh, Rikers, totaling about sixteen 13 months, say. 14 Q. So you've been in Rikers for the 15 duration of the pandemic? 16 A. Yes. 17 Q. During that whole time, have you 18 been at NIC in the north infirmary command or 19 have you been at some other unit at Rikers as 20 well? 21 A. Well, I got to NIC, I believe it was 22 around December -- I been around NIC December 23 2020. No, no, no. December 2019, 24 correction. 25 Q. Then the pandemic kind of officially</p>

<p style="text-align: right;">Page 9</p> <p>1 J. AZOR-EL 2 set in, if you will, in 2020, right? 3 A. Yes. 4 Q. I want to ask you first about staff, 5 meaning correction officers or civilian 6 employees inside Rikers who you have observed 7 regarding the wearing of masks. Can you sum 8 up for us what your observations have been 9 regarding the extent to which correction 10 officers and civilian staff are or are not 11 wearing masks and wearing them properly? 12 A. It's a constant thing that, you 13 know, civilians and officers that comes in 14 the unit does not really wear they masks 15 properly. You know, that they have some that 16 does. You have, predominantly, the steadies 17 who comes around and they just don't wear 18 them or they have them on, they have under 19 they chin. 20 Q. So I want to unpack that a little 21 bit. You said that it's an ongoing problem 22 that correction officers and staff are not 23 wearing masks, and that when they -- and that 24 also some of them are wearing them under 25 their chins and not over their face and nose,</p>	<p style="text-align: right;">Page 11</p> <p>1 J. AZOR-EL 2 Q. Sum up, tell us who the captain is 3 and what this practice is that the captain 4 has with masks? 5 A. Well, the steady captain at the 6 time, which is not now, we have a captain 7 named Captain [REDACTED]. Sometimes he wears his 8 mask. Sometimes he's not even as consistent 9 as in wearing it, but predominantly he'll 10 have it on. Another captain Captain [REDACTED]. 11 A lot of times he have those type of masks 12 where it's like a turtle neck. Usually a lot 13 of times he don't have it on. And Captain 14 [REDACTED] (phonetic), which is one of the steady 15 captains. He usually keeps his mask on. 16 He's one captain that don't play around with 17 not keeping that mask on. You know, the 18 deps, they come and, they keep the mask on, 19 you know, predominantly. It's just a couple 20 of captains, that predominantly the captains 21 are wearing they masks and officers is like, 22 they off and on. And then they toss the 23 stuff. They don't really wear gloves. A lot 24 of times they don't even have no gloves on. 25 Q. Just to be clear in terms of</p>
<p style="text-align: right;">Page 10</p> <p>1 J. AZOR-EL 2 correct? 3 A. Yes, correct. 4 Q. Do you have an estimate, just 5 percentage-wise, say, in the past month, in 6 your observation, of what percentage of 7 correction officers and other DOC staff are 8 wear a mask properly, meaning over their nose 9 and mouth and what percentage are not? 10 A. Well, I would say -- seems like 30 11 percent of them are wearing masks over there, 12 and a majority of them don't, and when they 13 do they never consistent in keeping the mask 14 on unless the captain is walking around. If 15 the captain is coming around they tend to -- 16 tend to get it adjusted but majority of the 17 time, you know, I would say about 30 percent. 18 Q. So your observation is that, in 19 general, correction officers and other staff 20 are wearing masks properly about 30 percent 21 of the time, and then if the captain is 22 coming around they might readjust their mask 23 to put it on properly when the captain is 24 around? 25 A. Definitely.</p>	<p style="text-align: right;">Page 12</p> <p>1 J. AZOR-EL 2 clarifying on officers wearing or not wearing 3 masks and other correctional staff, 4 employees, wearing masks, are officers 5 wearing masks properly when they are within 6 six feet of you and other detainees? 7 A. Some officers do. A lot of times 8 they don't. 9 Q. Would you use that same 30 percent 10 estimate in terms of when officers are within 11 closer than six feet of you and other 12 inmates? 13 A. Yes. 14 Q. So even when officers are within 15 closer than six feet of you and other inmates 16 or detainees, you would estimate that the 17 compliance rate with wearing a mask properly 18 is about 30 percent when the captain is not 19 walking around? 20 A. That's correct. Same with the 21 civilian. I mean, the nurses, they wear they 22 masks pretty much, most steady. Physician's 23 assistant that comes in the unit, you know, a 24 lot of times -- he had the COVID before and 25 he won't wear his mask over his nose. Most</p>

<p style="text-align: right;">Page 13</p> <p>1 J. AZOR-EL</p> <p>2 of the time, and he had just came back from</p> <p>3 with COVID. Up to now he still is like wears</p> <p>4 his mask either down -- when I went to see</p> <p>5 him today, his mask was down over his nose</p> <p>6 and I had my mask on, so I put my mask up and</p> <p>7 that's when he remembered to rise it back up</p> <p>8 a little bit, but it constantly comes down.</p> <p>9 He's getting a little lax. In the beginning</p> <p>10 he wears the mask and after that he</p> <p>11 constantly, even the COVID is still in</p> <p>12 effect, he still be like -- they been</p> <p>13 slacking off and on a lot.</p> <p>14 Q. Just a moment, Mr. Azor-El. Tell us</p> <p>15 about the practice of the captains. I want</p> <p>16 to ask you a little bit about that. It's my</p> <p>17 understanding that there are three tours or</p> <p>18 shifts per day at Rikers?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know roughly what the times</p> <p>21 are of the tours or shifts?</p> <p>22 A. I believe -- I believe the time is</p> <p>23 seven to three. I mean seven, seven in the</p> <p>24 morning to three, and three to 11, and 11 --</p> <p>25 or three to the 11, three in the afternoon to</p>	<p style="text-align: right;">Page 15</p> <p>1 J. AZOR-EL</p> <p>2 bathroom. It leaks out a lot. When it rains</p> <p>3 the whole room leaks out. They have</p> <p>4 construction over the roof that's debris</p> <p>5 coming down. And it's just full of pipes.</p> <p>6 It's not really a medical dorm. They just</p> <p>7 make it into a medical dorm.</p> <p>8 Q. Do you have a dorm number?</p> <p>9 A. It's Dorm 3.</p> <p>10 Q. Dorm 3?</p> <p>11 A. Yeah.</p> <p>12 Q. Help us understand what the full</p> <p>13 composition is of the correctional staff on a</p> <p>14 given tour, like how many captains are there,</p> <p>15 how many officers are there with whom you</p> <p>16 will interact in your housing unit. Give us</p> <p>17 a sense of who all is there on a given tour?</p> <p>18 A. On a given tour, usually it would be</p> <p>19 two officers. You got an A post officer.</p> <p>20 You got a B post officer. It's only one</p> <p>21 captain making the tour. You have a dep that</p> <p>22 makes tours maybe twice or three times a day.</p> <p>23 Captain make tours maybe three times within a</p> <p>24 shift, I think. If I'm correct, a lot of</p> <p>25 times seeing them, they make a morning tour,</p>
<p style="text-align: right;">Page 14</p> <p>1 J. AZOR-EL</p> <p>2 11 o'clock at night. 11 o'clock at night to</p> <p>3 seven in the morning, I believe it's seven in</p> <p>4 the morning, to three o'clock in the</p> <p>5 afternoon.</p> <p>6 Q. Are you in a specific dorm in NIC?</p> <p>7 A. Yes, I'm in pretty much lock up.</p> <p>8 Well, this is a medical facility. Every dorm</p> <p>9 is considered supposed to be a medical, but</p> <p>10 they consider my dorm to be medical</p> <p>11 disability dorm, but they have a treatment</p> <p>12 room built inside the dorm. I'm in like</p> <p>13 pretty much a big dorm. Some of the dorms is</p> <p>14 kind of small. Only got to hold the capacity</p> <p>15 of 20 or 22. My dorm holds the capacity of,</p> <p>16 I think, about 30-something, 38 or something</p> <p>17 like that.</p> <p>18 Q. Go ahead.</p> <p>19 A. It's like -- it's not actually like</p> <p>20 a medical dorm. It's an old garage made into</p> <p>21 a medical dorm, which is full of pipes all up</p> <p>22 in the airs, dusty, and it's very unsanitary.</p> <p>23 Boils on the wall, tiles is off the floor.</p> <p>24 You can see the metal pieces hanging out</p> <p>25 inside the bathroom when you go to the</p>	<p style="text-align: right;">Page 16</p> <p>1 J. AZOR-EL</p> <p>2 they made an afternoon tour. Unless a</p> <p>3 situation happened to occur, then they have</p> <p>4 to come in. We got an officer that's in a</p> <p>5 bubble. If they feel -- it's the A post</p> <p>6 officer. The B post officer stays on the</p> <p>7 floor in the dormitory interacting with</p> <p>8 everybody all the time. He got a desk. He</p> <p>9 doesn't have no partition around the desk.</p> <p>10 He's out in the open. It's just a table. A</p> <p>11 regular table and he's out in the open to</p> <p>12 interact. So when they bring the wagon from</p> <p>13 outside the dorm, they have to open the door,</p> <p>14 bring the food wagon in, and officers goes in</p> <p>15 the food wagon, open up the food wagon, see</p> <p>16 what they have, tell the A post what they</p> <p>17 might have, then push the wagon towards the</p> <p>18 pantry. The pantry is located inside the</p> <p>19 dorm. The dorm area in the dayroom because</p> <p>20 the dayroom is connected to the pantry, so</p> <p>21 you have to come through the dayroom in order</p> <p>22 to get to the pantry, and then whoever works</p> <p>23 in the pantry lay out the food. And slop.</p> <p>24 They have to open the slop, what they call it</p> <p>25 a feed-up. Everybody supposed to form in a</p>

<p style="text-align: right;">Page 17</p> <p>1 J. AZOR-EL</p> <p>2 line and they feed you the slop.</p> <p>3 Q. Go ahead.</p> <p>4 A. As far as the treatment room -- as</p> <p>5 far as the medical treatment that's built in</p> <p>6 the dorm, it's only like one physician's</p> <p>7 assistant that comes every day, sometimes 12,</p> <p>8 one o'clock in the afternoon, and the nurses</p> <p>9 that come in to give out medication, or</p> <p>10 nurses that comes in to do treatment for</p> <p>11 those that need, you know, treatment in the</p> <p>12 dormitory.</p> <p>13 Q. So it sounds like that there is not</p> <p>14 a captain assigned just to your dormitory.</p> <p>15 There is a captain who covers several housing</p> <p>16 units on a given shift, right?</p> <p>17 A. That's correct. That's correct.</p> <p>18 Q. Do you know how many housing units</p> <p>19 or how many areas of the facility a captain</p> <p>20 covers on a shift?</p> <p>21 A. On this side. On this side where</p> <p>22 I'm at is called -- it's called an annex</p> <p>23 which is the medical side. They have another</p> <p>24 side of the building that they call the main,</p> <p>25 so I would keeping the focus on the annex.</p>	<p style="text-align: right;">Page 19</p> <p>1 J. AZOR-EL</p> <p>2 three feet a bunk. The bunks is about</p> <p>3 approximately three feet but next to each</p> <p>4 other. But due to the social distancing we</p> <p>5 have to skip a bunk in order to make the six</p> <p>6 feet distance.</p> <p>7 Q. So you will spend time in the actual</p> <p>8 dormitory sleeping area, right, and then you</p> <p>9 will spend time in the dayroom?</p> <p>10 A. Yes.</p> <p>11 Q. And you will also spend time in the</p> <p>12 pantry?</p> <p>13 A. Yes.</p> <p>14 Q. Is the pantry also a food service</p> <p>15 area where you actually serve food or is it</p> <p>16 just a food prep area?</p> <p>17 A. It's basically a food serving area.</p> <p>18 It's where they keep the warmers for the food</p> <p>19 and to serve.</p> <p>20 Q. So do you work in the pantry?</p> <p>21 A. Sometimes.</p> <p>22 Q. Even if you're not working in the</p> <p>23 pantry, if you're just getting food during</p> <p>24 the day, do you go get it in the pantry?</p> <p>25 A. Not necessarily. I would have to</p>
<p style="text-align: right;">Page 18</p> <p>1 J. AZOR-EL</p> <p>2 The annex is the medical side so it's only</p> <p>3 like one, two -- like four dorms, I believe.</p> <p>4 You got Dorm 1. You got Dorm 2. They have</p> <p>5 two sides. You have Dorm 3 which is one</p> <p>6 dorm. Then you have Dorm 4, I think, that</p> <p>7 has two sides and one of the sides in Dorm 4</p> <p>8 is abandoned, they claim, because they say</p> <p>9 the floor fell down and never fixed it, so</p> <p>10 they have one part that they use in that dorm</p> <p>11 and maybe a little isolated area, and also</p> <p>12 they got an X-ray machine and an X-ray in the</p> <p>13 back of that dorm. It's in Dorm 4. And then</p> <p>14 they got a little small little closet little</p> <p>15 library. It looks just as big as this. It's</p> <p>16 closed. Since the pandemic it's been closed.</p> <p>17 So we haven't been able to go interact and do</p> <p>18 anything as far as that is concerned.</p> <p>19 Q. During the course of a given day,</p> <p>20 what are all of the areas in a normal day</p> <p>21 that you will spend time at?</p> <p>22 A. As far as like, you know, my section</p> <p>23 of the day room -- or I'm by the dayroom.</p> <p>24 The phone and the area where I slept in by</p> <p>25 the bunk. It's an open dorm. It's only</p>	<p style="text-align: right;">Page 20</p> <p>1 J. AZOR-EL</p> <p>2 ask the officer permission to open the door</p> <p>3 to get something out of there. They don't</p> <p>4 keep food stored in it. It only comes in</p> <p>5 about an hour or two until it gets served,</p> <p>6 and if you wasn't in the unit, they have the</p> <p>7 warmers that they may keep your tray until</p> <p>8 you come back from whatever service you may</p> <p>9 attend.</p> <p>10 Q. You said a service that you're</p> <p>11 attending. Tell us what that refers to?</p> <p>12 A. Basically they call you and tell you</p> <p>13 you might have a visiting or counsel visited,</p> <p>14 or like I'm -- the unit right now where I'm</p> <p>15 at right now and I'm having this conference</p> <p>16 with you all here, I had to leave the</p> <p>17 dormitory to come here. It's not in the dorm</p> <p>18 to have that -- but they have a treatment</p> <p>19 room where the physician assistants or</p> <p>20 sometimes doctors that comes in from time to</p> <p>21 time may use and they have a communication</p> <p>22 where they could have conference within that</p> <p>23 television as well, but they have this</p> <p>24 particular one just for counselors or lawyers</p> <p>25 or courts, so we had to come out for therapy.</p>

<p style="text-align: right;">Page 21</p> <p>1 J. AZOR-EL</p> <p>2 Q. Mr. Azor-El, can you give us a</p> <p>3 sense, from the time you get up to the time</p> <p>4 you go to sleep, what a typical day looks</p> <p>5 like? Why don't you pick a day yesterday if</p> <p>6 it works, you know, another day recently, and</p> <p>7 give us a walkthrough of what a typical day</p> <p>8 is like for you inside NIC?</p> <p>9 A. Well, basically, you know, me, I</p> <p>10 don't really sleep much because I do a lot of</p> <p>11 reading at times, so when I do get some rest</p> <p>12 I get up, brush my teeth, goes to the</p> <p>13 bathroom, because the bathroom is like --</p> <p>14 there is a lot of leakage going on. It's</p> <p>15 just stopped. It was a lot of brown water</p> <p>16 coming out the bathroom. So it was real</p> <p>17 filthy with insects. So whenever I go to the</p> <p>18 bathroom, I go to the bathroom this morning,</p> <p>19 there was a big water bug coming out of there</p> <p>20 by the toilet area because all of the areas</p> <p>21 around in the bathroom like on the floors</p> <p>22 where they have like a rubber, a rubber matt</p> <p>23 that's supposed to stay to the wall is all</p> <p>24 detached and was very unsanitary, so the</p> <p>25 housekeeping will come in the morning.</p>	<p style="text-align: right;">Page 23</p> <p>1 J. AZOR-EL</p> <p>2 phone. I did forget my sock but I took an</p> <p>3 alcohol pad from the nurses to clean this</p> <p>4 phone before I got on it.</p> <p>5 Q. You mentioned that to go back to the</p> <p>6 captains, you said that the captain will</p> <p>7 generally come around, did you say -- was it</p> <p>8 two or three times on a given shift?</p> <p>9 A. Yeah, pretty much two or three</p> <p>10 times. Two or three times. Like they come</p> <p>11 in the morning upon the changing the shifts.</p> <p>12 The same captain that got that tour, he will</p> <p>13 come, and then he will leave and he will come</p> <p>14 back one more time. I don't remember exactly</p> <p>15 the time he will come. And after the shift</p> <p>16 ends around three o'clock, there will be a</p> <p>17 different captain, or unless that captain has</p> <p>18 to work a double, he will double back. Other</p> <p>19 than that I usually see them like two or</p> <p>20 three times. If there is a situation in the</p> <p>21 unit and you call for them they supposed to</p> <p>22 come. Sometimes they come, sometimes they</p> <p>23 don't. You know what I mean. If they have</p> <p>24 to make a report or something happened, then</p> <p>25 you might see him more than two or three</p>
<p style="text-align: right;">Page 22</p> <p>1 J. AZOR-EL</p> <p>2 They'll probably clean the bathrooms, sweep</p> <p>3 and mop the floors. So I go in after that,</p> <p>4 after the bathroom area, and then I go to the</p> <p>5 dayroom area and -- go to the dayroom area.</p> <p>6 I watch the news. You know, I go to the</p> <p>7 news. I go to the news. I start watching</p> <p>8 the news. I may make a phone call but there</p> <p>9 is three more cells within that dormitory</p> <p>10 that they have that's condemned and closed</p> <p>11 down. Nobody is allowed to be in it. There</p> <p>12 is a phone there and there is two more phones</p> <p>13 on the wall which is only maybe two feet</p> <p>14 apart, three feet apart in the most -- that's</p> <p>15 in the dormitory unit. So whenever we have</p> <p>16 to use that phone, we turn each other's back</p> <p>17 back to back and wear our mask, had to turn</p> <p>18 and like try to clean the phone before we use</p> <p>19 the phone because we don't have no sanitizer</p> <p>20 wipes on the walls or no cloth, no liquid or</p> <p>21 anything to get from the officers to clean</p> <p>22 the phones. Sometimes we may have to get</p> <p>23 some alcohol pad or just use like pretty much</p> <p>24 like regular soap and water just to clean the</p> <p>25 phone. I usually use a sock to put on the</p>	<p style="text-align: right;">Page 24</p> <p>1 J. AZOR-EL</p> <p>2 times.</p> <p>3 Q. So in general it's two or three</p> <p>4 times a shift unless there is a special</p> <p>5 incident or a special need for them to</p> <p>6 respond to something?</p> <p>7 A. Then there will be a way out to</p> <p>8 serve and to do what they must have to do to</p> <p>9 make sure that they keep everything</p> <p>10 overseeing everything the way it's supposed</p> <p>11 to be.</p> <p>12 Q. Other than the captain, how many</p> <p>13 correction officers and other correction</p> <p>14 staff will you interact with during a given</p> <p>15 shift?</p> <p>16 A. Sometimes we have the -- we have the</p> <p>17 officer that pushes the wagon. The officer</p> <p>18 that brings the food wagon may come in and</p> <p>19 push the wagon in. Then you have rec</p> <p>20 officers that comes in in the morning. Maybe</p> <p>21 like two or three of them that comes in, and</p> <p>22 two or three of the work officers they come</p> <p>23 in -- sometimes they come really early. And</p> <p>24 a lot of times they come in, they don't have</p> <p>25 their mask around their neck. And you have</p>

<p style="text-align: right;">Page 25</p> <p>1 J. AZOR-EL</p> <p>2 officers that come in for the physical</p> <p>3 therapy. She comes in, you know, once a day</p> <p>4 and you have other officers that comes in to</p> <p>5 relief, to do mail relief. In other words,</p> <p>6 you know, whatever, an officer that had to go</p> <p>7 on lunch or something like that. And there</p> <p>8 is always another officer taking over, so</p> <p>9 it's usually be like a few officers. Like</p> <p>10 less than ten, less than eight comes in every</p> <p>11 day like in and out.</p> <p>12 Q. Say in the dayroom, is there an</p> <p>13 officer present in the dayroom?</p> <p>14 A. No, the officer is not really</p> <p>15 present in the dayroom. He sits outside the</p> <p>16 dayroom. The way it's built is like where</p> <p>17 his table is at, he's only like a few feet</p> <p>18 away from the dayroom. And the dayroom also</p> <p>19 has a door and they have the X signs to put</p> <p>20 in the dayroom in order to keep the social</p> <p>21 distancing happening, so it was no more than</p> <p>22 12 allowed to the dayroom so we haven't been</p> <p>23 having that many detainees at this time so</p> <p>24 when we're in the dayroom, we like three,</p> <p>25 four, five of us, and we go by the X signs to</p>	<p style="text-align: right;">Page 27</p> <p>1 J. AZOR-EL</p> <p>2 they have an issue they need to resolve, you</p> <p>3 know, we could address it to the captain.</p> <p>4 And if not, they make a round. They signing</p> <p>5 the book when they come in. They make a</p> <p>6 round, and after they make a round, they sign</p> <p>7 the -- put something down in the B post book.</p> <p>8 Then they go to the bubble which is the A</p> <p>9 post, and they sign the book. After they</p> <p>10 sign the book, if there is no issues that</p> <p>11 need to be brought up to their attention,</p> <p>12 they just sign the book. Some of them talk</p> <p>13 for a little bit, maybe shortly, or if not</p> <p>14 they just go ahead to the next house.</p> <p>15 Q. Mr. Azor-EL, is there anything else</p> <p>16 that you think the court should know at this</p> <p>17 time, that you can think of at this time,</p> <p>18 about officers and other staff wearing or not</p> <p>19 wearing masks?</p> <p>20 A. Basically my opinion is they all</p> <p>21 have to conform to the rules just like we</p> <p>22 have to do it, because since I been in this</p> <p>23 unit and the COVID hit, you know nobody was</p> <p>24 being quarantined at the time. So we're like</p> <p>25 about 18 or 19 episodes of who catch COVID</p>
<p style="text-align: right;">Page 26</p> <p>1 J. AZOR-EL</p> <p>2 stay there unless we have our mask on. When</p> <p>3 they do a search, they try to like pile us</p> <p>4 all up in there and then we have to remind</p> <p>5 them like it's still distancing. It's more</p> <p>6 than 12 in the dayroom, so it's like 16, 17,</p> <p>7 19 people in there and you trying to stuff</p> <p>8 everybody together and, you know, when they</p> <p>9 come on a search a lot of times, you know,</p> <p>10 they get real very close proximity. And a</p> <p>11 lot of times I have to tell the officer,</p> <p>12 "Your mask got to be up." He said he took</p> <p>13 the vaccine. I said, "Even if you have the</p> <p>14 vaccine, you comes out everyday. You still</p> <p>15 have to wear the protective mask." So I</p> <p>16 always make sure I put my mask on. And they</p> <p>17 also emphasize that too when they come in,</p> <p>18 "Wear your mask."</p> <p>19 Q. When the captain does come around</p> <p>20 that two or three times per shift, how long</p> <p>21 does the captain stay around? Are they just</p> <p>22 walking through, or are they sticking around</p> <p>23 for a while?</p> <p>24 A. They make a round. They make a</p> <p>25 round and if somebody got a question that</p>	<p style="text-align: right;">Page 28</p> <p>1 J. AZOR-EL</p> <p>2 including me. You know, I was exposed to the</p> <p>3 COVID because people was coming in. They was</p> <p>4 not being quarantined before they came in.</p> <p>5 And also medical staff has already examined</p> <p>6 my situation and noticed that I was a high</p> <p>7 risk of catching the COVID. But they never</p> <p>8 followed up with the COVID letter to get that</p> <p>9 rectified for my release so, therefore, I</p> <p>10 ended up catching the COVID and I was sick.</p> <p>11 And officers was coming in, they got sick.</p> <p>12 There is a couple of officers that had caught</p> <p>13 the COVID that left and never came back as</p> <p>14 well. You know, they just come in. Some of</p> <p>15 them is inconsistently wearing their mask and</p> <p>16 if they do have it on, I would just would</p> <p>17 like to suggest to the Court to have somebody</p> <p>18 get on them to make sure that they have they</p> <p>19 masks on at all times and not under their</p> <p>20 nose or they gloves. Not having no sanitizer</p> <p>21 -- not having nothing to sanitize our hands</p> <p>22 every time and we don't get gloves. They</p> <p>23 just give us masks. You understand. The</p> <p>24 area, the living condition. The dormitory is</p> <p>25 not non-compliable to medical standards, so</p>

<p style="text-align: right;">Page 29</p> <p>1 J. AZOR-EL 2 it's like -- it's very dusty in there. It's 3 very unsanitary in there, and I would like, 4 if it's possible, if you could send somebody 5 to come look at the area, come look at the 6 dorm and come see it for theyself so they 7 could see what the conditions really is, how 8 horrible it is. 9 Q. I think that might bring us to our 10 next topic but I want to clarify one thing. 11 You mentioned that there is an officer or 12 officers who will come bring things into the 13 dorm, and they're wearing their mask, you 14 mentioned, on their neck or something. Tell 15 us what you mean by that? 16 A. Meaning like when they came from 17 outside the dormitory, they have to bring a 18 wagon from another building which is across 19 the street from this building. 20 Q. Food wagon? 21 A. It's a food wagon, because they 22 don't do nothing inside this facility. They 23 carry the food coming from another facility. 24 And they got trucks, because where we at, 25 there is like a -- it's like a parking lot</p>	<p style="text-align: right;">Page 31</p> <p>1 J. AZOR-EL 2 high-touch surfaces? 3 A. I'm glad you asked me that question 4 because I just made a complaint in that 5 regard because they have housekeeping 6 civilians that comes in. They don't wear 7 their masks. So they have a specific 8 housekeeping for pretty much that they 9 assigned to certain houses unless one of them 10 is off and want to take over, but when they 11 come in, they usually just sweep and mop. 12 They never really sanitize the doorknobs, the 13 tables. They don't really do the glass 14 because they got some glass, they don't do 15 those. So when they go to the bathroom, they 16 just sweep and mop so I noticed that they 17 wasn't doing the toilet bowl. So I asked 18 him, you know, "Why is it that you don't 19 clean inside the toilet bowl, because there 20 is still a lot of defecation particles that's 21 under these tables. He said he doesn't have 22 a brush so the last time I spoke to him, he's 23 supposed to be the head supervisor. I think 24 his name was Nick. I asked him, I said, "Why 25 don't you all have the proper equipment to</p>
<p style="text-align: right;">Page 30</p> <p>1 J. AZOR-EL 2 right behind the facility, so you can hear 3 all the trucks all the time. Sometimes the 4 gas fumigates and it's crazy. And the 5 windows are real unsanitary. It's really 6 black. It's dusty. When they come in -- the 7 officer comes in, he has his mask down on his 8 neck. You know, like the mask you wear with 9 a turtle neck type of mask and you just raise 10 it up like that. So this one officer in 11 particular, he don't wear it at all. So 12 there is basically like three different ones 13 I saw that comes in, and they just never 14 really wear their mask when they come to the 15 door. And sometimes they have to come get 16 the wagon all the way through from the pantry 17 and they don't wear the mask. 18 Q. You mentioned some things, Mr. 19 Azor-El, about cleaning and wipes, 20 sanitation, things like that. I want to ask 21 you just generally about sanitation of 22 high-touch surfaces, such as tables, chairs, 23 doorknobs, toilets, phones, other high-touch 24 surfaces. What are you seeing in terms of 25 sanitization or not sanitization of those</p>	<p style="text-align: right;">Page 32</p> <p>1 J. AZOR-EL 2 clean the toilet bowl?" You know, because 3 it's very unsanitary that a lot of times we 4 have to ask for a spray to try to spray 5 around the edges, but under inside the toilet 6 bowl is not being cleaned at all and they 7 said they don't have the proper tool. They 8 said they had ordered the brush but up until 9 now they haven't got the brush and it's been 10 over like two or three months now. As far as 11 like cleaning the bathroom surface like, they 12 clean the sink. They clean the outer 13 surface. But inside the corners, that's not 14 being cleaned at all. As far as like 15 sanitizing the phone that we use constantly 16 and sanitizing the doorknobs, sanitizing the 17 hot pot that's located in the dormitory right 18 in front of the B post officer, because he 19 sits like maybe five-foot distance from the 20 hot pot, none of that being sanitized at all. 21 They don't sanitize it. In the walls -- in 22 the windows. The windows is horrible. They 23 supposed to come up with a sponge or 24 something to try and soak in all the debris 25 that's in the windows. The windows look</p>

<p style="text-align: right;">Page 33</p> <p>1 J. AZOR-EL</p> <p>2 black. If you go to the pantry, the windows</p> <p>3 look so black you can't barely see outside of</p> <p>4 dust and particles. And as far as in, you</p> <p>5 know, all the irons on all the pipes that's</p> <p>6 in the ceiling of the dorm. It's all dusty.</p> <p>7 You could look at the pipes. They got red</p> <p>8 pipes up there. You could see all the dusts</p> <p>9 and it just brings a lot of dust in the area</p> <p>10 a lot. So I keep on my mask on almost all</p> <p>11 the time because I be coughing. I be feeling</p> <p>12 sometimes I swallow the dust that's in there.</p> <p>13 It's very crazy. They got little trees</p> <p>14 growing in the windows in the dormitory. So</p> <p>15 that's why I was asking can, you know, Mr.</p> <p>16 David or the judge, can they order somebody</p> <p>17 just to come in and just come take a look at</p> <p>18 Dorm 3 and tell me what do you rally think?</p> <p>19 Just take an overview of the dorm. Look at</p> <p>20 the windows. Look at the pipes. Look at the</p> <p>21 unsanitary -- look at the dayroom. You know,</p> <p>22 look at the bathroom. Look at the tiles off</p> <p>23 the floor, for months. Guy fell on the floor</p> <p>24 almost broke his arm and ankle because he</p> <p>25 used a stick because he got a little blind</p>	<p style="text-align: right;">Page 35</p> <p>1 J. AZOR-EL</p> <p>2 on, and I have multiple nasal surgery because</p> <p>3 I had issues with my sinuses and diagnosed</p> <p>4 with CPAP, and I have, you know, a permanent</p> <p>5 medical damage in my arms. And whenever I go</p> <p>6 to rest, I have to put my CPAP on to rest and</p> <p>7 breathe properly. Because it interferes with</p> <p>8 my sleeping. Sometimes I jump out of my bed.</p> <p>9 I have a lot of anxiety, so I don't rest</p> <p>10 eight hours every day. So I'm pretty much</p> <p>11 always up. I cough a lot in the area. The</p> <p>12 atmosphere don't really console me. I don't</p> <p>13 feel healthy there. And when I comes outside</p> <p>14 to go out to another place, I'm going to</p> <p>15 court, and the bus comes to get me, I leave</p> <p>16 the island, and for seem reason I feel I</p> <p>17 breathe a little better. In that dormitory</p> <p>18 area, that atmosphere is very unsanitary.</p> <p>19 It's not healthy. It's not healthy. It</p> <p>20 doesn't comply to a medical standard. It's</p> <p>21 not plastered up. It's a garage used as a</p> <p>22 medical dorm.</p> <p>23 Q. Mr. Azor-El, do you have access to</p> <p>24 cleaning supplies if you want to sanitize</p> <p>25 high-touch surfaces?</p>
<p style="text-align: right;">Page 34</p> <p>1 J. AZOR-EL</p> <p>2 situation. Some eyesight seeing situation.</p> <p>3 He was coming in the bathroom and he fell on</p> <p>4 the tile and up until now they haven't fixed</p> <p>5 the tile. Sometimes a smell coming, seems</p> <p>6 like it's coming from inside the bathroom.</p> <p>7 And the water. Dark water was leaking on the</p> <p>8 ceiling. You know, just very unsanitary.</p> <p>9 And they don't clean the surfaces that we</p> <p>10 touch very constantly. We don't have that</p> <p>11 luxury to do it.</p> <p>12 Q. Just a few kind of side questions.</p> <p>13 You gave a sworn declaration previously in</p> <p>14 this case, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Was everything in that declaration</p> <p>17 true and correct?</p> <p>18 A. Yes, it is.</p> <p>19 Q. You suffer from some health</p> <p>20 condition or --</p> <p>21 A. Sleep apnea.</p> <p>22 Q. -- health conditions. Can you</p> <p>23 describe for us what those are and how they</p> <p>24 impact you?</p> <p>25 A. Well, I have to sleep with my mask</p>	<p style="text-align: right;">Page 36</p> <p>1 J. AZOR-EL</p> <p>2 A. No. I don't have access to that.</p> <p>3 They get -- those access are for the</p> <p>4 housekeepers, for the guys that do the</p> <p>5 housekeeping. They have access to it, what's</p> <p>6 in the janitor room and stuff like that.</p> <p>7 Q. Say that one more time?</p> <p>8 A. They have a like a janitor room. A</p> <p>9 janitor room where they keep like mops. They</p> <p>10 just keep mops and liquid detergent just to</p> <p>11 mop the floor or just to -- to that aspect.</p> <p>12 They don't have like, you know, no spray or</p> <p>13 sanitizers, chemical spray, wipes, something</p> <p>14 that could disinfect. It doesn't have that.</p> <p>15 Only the housekeepers are supposed to have</p> <p>16 those things. Because they are supposed to</p> <p>17 come in there three times a day, take out the</p> <p>18 garbage and clean out the bathroom and clean</p> <p>19 out the dayroom and clean off those surfaces.</p> <p>20 They doesn't do that. When they come in,</p> <p>21 they just do the regular stuff, sweep, mop,</p> <p>22 take out the garbage.</p> <p>23 Q. The housekeeping crews, are those</p> <p>24 detainee crews, are they civilian crews, or</p> <p>25 something else?</p>

<p style="text-align: right;">Page 37</p> <p>1 J. AZOR-EL</p> <p>2 A. Those are civilian guys. Civilian.</p> <p>3 Q. Sir, are they contractors, are they</p> <p>4 DOC employees or do you not know?</p> <p>5 A. I'm not sure.</p> <p>6 MR. THAYER: Mr. Keenan, before</p> <p>7 you ask your next question, VCBC</p> <p>8 keeps calling me. Can we just pause</p> <p>9 for a second?</p> <p>10 MR. KEENAN: Sure. We'll go off</p> <p>11 the record for a moment.</p> <p>12 (Whereupon, a discussion was</p> <p>13 held off the record.)</p> <p>14 Q. Mr. Azor-El, we're back on the</p> <p>15 record after a very brief break. The</p> <p>16 civilian cleaning crews, are they generally</p> <p>17 wearing masks or not?</p> <p>18 A. No, they not really wearing masks.</p> <p>19 In the beginning they did, but now they not.</p> <p>20 Q. When you said "in the beginning,"</p> <p>21 you mean at the beginning of the pandemic?</p> <p>22 A. Yeah, at the beginning of the</p> <p>23 pandemic.</p> <p>24 Q. Say in the past month or so, have</p> <p>25 you observed them wearing masks or not?</p>	<p style="text-align: right;">Page 39</p> <p>1 J. AZOR-EL</p> <p>2 maybe eight, ten feet distance from where the</p> <p>3 other two phones are at, but the two phones</p> <p>4 they got in the dormitory, in their unit,</p> <p>5 they're like very, very close to each other.</p> <p>6 You know, they're very, very close to each</p> <p>7 other, and I saw -- I was trying to speak to</p> <p>8 the captain even before the pandemic and said</p> <p>9 that it's hard to try to speak over somebody</p> <p>10 with the phone so close, so a lot of time</p> <p>11 what we have to do is turn each other's back</p> <p>12 to back so the next person that's speaking to</p> <p>13 you, you don't have to hear the loud</p> <p>14 commotion of what they talking about. You</p> <p>15 still hear it but that's what we have to deal</p> <p>16 with.</p> <p>17 Q. Is there any type of sanitizing</p> <p>18 solution or wipes or anything that is made</p> <p>19 available to you to sanitize those phone</p> <p>20 handsets that you have to hold when speaking</p> <p>21 on the phone or in video?</p> <p>22 A. None at all.</p> <p>23 Q. You mentioned alcohol wipes. Do the</p> <p>24 correction officers issue those wipes or is</p> <p>25 it something where you just have to rely on</p>
<p style="text-align: right;">Page 38</p> <p>1 J. AZOR-EL</p> <p>2 A. Not at all. Not at all. Especially</p> <p>3 there is a steady that comes in, I believe.</p> <p>4 I don't remember his name but he don't wear</p> <p>5 no mask. He don't wear no mask at all. He</p> <p>6 don't wear no mask and I remember him</p> <p>7 speaking to somebody that he didn't even take</p> <p>8 the vaccine, so a lot of times they come in</p> <p>9 there not wearing masks.</p> <p>10 Q. I want to ask you about phones are</p> <p>11 you're holding a phone right now. It's like</p> <p>12 a traditional plastic phone handset as you</p> <p>13 speak with us, you're holding a traditional</p> <p>14 like hard plastic --</p> <p>15 A. Plastic.</p> <p>16 Q. -- black phone set, right?</p> <p>17 A. That's correct.</p> <p>18 Q. Are there also phones on the walls</p> <p>19 in the dayroom?</p> <p>20 A. Yeah, there is two phones, two</p> <p>21 phones on the wall that's of the same like</p> <p>22 this one I'm holding, and then it has just</p> <p>23 one phone that's kind of like regular where</p> <p>24 the three -- three cells are located within</p> <p>25 the dorm. That's a little bit -- that's like</p>	<p style="text-align: right;">Page 40</p> <p>1 J. AZOR-EL</p> <p>2 the medical staff being willing to give you</p> <p>3 one?</p> <p>4 A. Yes, I have to rely on them.</p> <p>5 Sometimes, you know, officers in the bubble</p> <p>6 have some alcohol pads and I may ask for a</p> <p>7 alcohol pad, they give it. When the barber</p> <p>8 shop used to come there, they have it, and</p> <p>9 the nurses will have it. So that's the only</p> <p>10 way sometimes we get one or two pads. A lot</p> <p>11 of times they don't even want to give it to</p> <p>12 you.</p> <p>13 Q. So it's kind of ad hoc in whether</p> <p>14 the staff want to give it to you; they're not</p> <p>15 issued to you on request?</p> <p>16 A. No, not issued to us on request at</p> <p>17 all.</p> <p>18 MR. KEENAN: David, I might have</p> <p>19 more. I don't think so. If I do,</p> <p>20 it's brief but why didn't you go</p> <p>21 ahead and if I have anything more, I</p> <p>22 can ask you that.</p> <p>23 MR. THAYER: Thank you, Mr.</p> <p>24 Azor-El. Am I saying your last name</p> <p>25 correctly?</p>


<p style="text-align: right;">Page 41</p> <p>1 J. AZOR-EL</p> <p>2 THE WITNESS: That's good. It's</p> <p>3 either "el" (phonetic) or "eel"</p> <p>4 (phonetic). That's all good.</p> <p>5 Your name is Thayer?</p> <p>6 MR. THAYER: Yes, David Thayer.</p> <p>7 EXAMINATION BY</p> <p>8 MR. THAYER:</p> <p>9 Q. Nice to meet you. I mentioned</p> <p>10 earlier I'm an attorney for the City here.</p> <p>11 I'm going to ask you some questions, not too</p> <p>12 many. I just want to follow up on some</p> <p>13 things you and Mr. Keenan were talking about.</p> <p>14 You mentioned just now that there is no</p> <p>15 sanitizer or sanitizing solution for you to</p> <p>16 wipe down the phones, and that you don't have</p> <p>17 access, it seems, to the janitor's closet</p> <p>18 that you referred to; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. If you did have access to the</p> <p>21 janitor's closet, would you say that you</p> <p>22 would go and get some solution from there and</p> <p>23 use that to wipe down the phones?</p> <p>24 A. Well, the only solution that is</p> <p>25 built within that janitor closet is for the</p>	<p style="text-align: right;">Page 43</p> <p>1 J. AZOR-EL</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. You mentioned that when they come</p> <p>5 through, if there are issues or if there are</p> <p>6 no issues, I believe you said, they will just</p> <p>7 make a notation in the logbook and then leave</p> <p>8 the housing area; is that correct?</p> <p>9 A. They will make a rounds too.</p> <p>10 They'll walk around the whole dormitory unit</p> <p>11 and around the beds. They will look up and</p> <p>12 down, whatever, and they make a notation,</p> <p>13 they'll go to the bubble, make a notation and</p> <p>14 then leave.</p> <p>15 Q. In the course of your time at NIC,</p> <p>16 have you or have you seen others approach</p> <p>17 captains during this round to complain about</p> <p>18 the lack of sanitizing solution or the</p> <p>19 cleanliness about that?</p> <p>20 A. Yes, yes a lot of us did. A lot of</p> <p>21 us in this unit there and they said they</p> <p>22 doesn't give it to us, so they don't what to</p> <p>23 do, and they point it out to the medical, ask</p> <p>24 medical, and before we go to medical, medical</p> <p>25 said "ask DOC," so it's like a back and forth</p>
<p style="text-align: right;">Page 42</p> <p>1 J. AZOR-EL</p> <p>2 floor. It's not really for outer surfaces.</p> <p>3 It's something for them to use for the mop</p> <p>4 buckets, because that's what they</p> <p>5 predominantly keep in the janitor's closet.</p> <p>6 They keep the brush, broom, dustpan, and</p> <p>7 mops, mop heads, that's it.</p> <p>8 Q. Are you familiar with the term</p> <p>9 Virex?</p> <p>10 A. Virex?</p> <p>11 Q. Virex, yes.</p> <p>12 A. I think I heard of it but I haven't</p> <p>13 seen anything like that.</p> <p>14 Q. If there were a solution in the</p> <p>15 janitor's closet that could be used on the</p> <p>16 phones, do you think you would use it?</p> <p>17 A. We have to ask the officers, because</p> <p>18 the officers has the keys to the janitor's</p> <p>19 closet. They keep the janitor's closet</p> <p>20 locked.</p> <p>21 Q. If they unlocked it for you, do you</p> <p>22 think you would use it?</p> <p>23 A. Yes, if it was made available.</p> <p>24 Q. You also mentioned that the captains</p> <p>25 come through two to three times per shift,</p>	<p style="text-align: right;">Page 44</p> <p>1 J. AZOR-EL</p> <p>2 between them two.</p> <p>3 Q. When you say they go to medical, can</p> <p>4 you explain that a little bit more for me?</p> <p>5 A. Like if I step to a captain and the</p> <p>6 captain comes in, ask "we need some</p> <p>7 sanitation wipe," then they'll, you know,</p> <p>8 blame it on the administration or say "speak</p> <p>9 to medical," and the when we speak to medical</p> <p>10 about it, medical said that the Department of</p> <p>11 Corrections don't wish for them to have the</p> <p>12 sanitation because they're saying people</p> <p>13 drink the sanitizer. And I said what the --</p> <p>14 whoever drinks the sanitation could have been</p> <p>15 one out of a hundred. What that got to do</p> <p>16 with the rest of the 99?</p> <p>17 Q. Since the beginning of the pandemic,</p> <p>18 have you or others in your housing area, to</p> <p>19 your knowledge, had an opportunity or</p> <p>20 complained to the captain about mask wearing</p> <p>21 by officers and other staff?</p> <p>22 A. Well, some captain we'd say that to,</p> <p>23 and it's like we don't want to get in a</p> <p>24 tossup telling them, because the steady</p> <p>25 worker in our units, we don't want to be</p>

<p style="text-align: right;">Page 45</p> <p>1 J. AZOR-EL</p> <p>2 going through no trouble with them, I guess,</p> <p>3 so we prefer to ask them per se put the mask</p> <p>4 on. They be like, wearing that mask I can't</p> <p>5 breathe, so to avoid any of the confrontation</p> <p>6 I just keep my mask on.</p> <p>7 Q. So am I right to understand that</p> <p>8 you're saying that you don't ask captains, or</p> <p>9 you don't complain to captains about the</p> <p>10 staff not wearing their masks, correct?</p> <p>11 A. Not predominantly, not too much. We</p> <p>12 don't want to have -- we don't want to create</p> <p>13 a friction with the officer that works in our</p> <p>14 unit every day, so we don't want to have</p> <p>15 conflict with them but they know what they</p> <p>16 supposed to do.</p> <p>17 Q. I understand that. Would you be</p> <p>18 willing to here identify the steadies and</p> <p>19 other officers that have not been wearing</p> <p>20 their masks correctly in your housing area?</p> <p>21 A. Put me on the spot. Yes, I could</p> <p>22 point out a few of them. I'm willing to</p> <p>23 point out, you know, the ones that don't wear</p> <p>24 their masks when they come in.</p> <p>25 Q. What are their names?</p>	<p style="text-align: right;">Page 47</p> <p>1 J. AZOR-EL</p> <p>2 to come here. She comes sometimes to relief,</p> <p>3 sometimes she don't. She seems to wear many</p> <p>4 these masks, it's not steady.</p> <p>5 Q. You also mentioned that you</p> <p>6 estimated that about 30 percent of staff were</p> <p>7 wearing their masks properly; is that</p> <p>8 correct?</p> <p>9 A. That's correct.</p> <p>10 Q. How, if at all, has that number</p> <p>11 changed since the beginning of the pandemic?</p> <p>12 A. You said how?</p> <p>13 Q. Have more people worn theirs masks</p> <p>14 properly, have less since the beginning of</p> <p>15 the pandemic?</p> <p>16 A. Since the beginning?</p> <p>17 Q. Yes.</p> <p>18 A. Since the beginning it was off and</p> <p>19 on. It was like a lot of times they wasn't</p> <p>20 even wearing it and until they start wearing</p> <p>21 it. And then when they started wearing it,</p> <p>22 even then it was off and on. It was off and</p> <p>23 on a lot of times and I feel that a lot of</p> <p>24 times that they should have had it on. It</p> <p>25 was off and on.</p>
<p style="text-align: right;">Page 46</p> <p>1 J. AZOR-EL</p> <p>2 A. They got one names [REDACTED]. One</p> <p>3 named [REDACTED]. The lady that came and got me</p> <p>4 now her name is [REDACTED] (phonetic), no, no,</p> <p>5 [REDACTED]. Some of the names I can't really</p> <p>6 remember. A lot of times I know them by</p> <p>7 face. I don't be focusing on their name.</p> <p>8 But you have one names [REDACTED] that don't</p> <p>9 wear it. Another guy that come from the food</p> <p>10 pantry, I don't remember his name. I just</p> <p>11 remember his face.</p> <p>12 Q. How about the nurses and PAs? I</p> <p>13 believe you mentioned that there was a PA who</p> <p>14 never had his mask on his nose?</p> <p>15 A. He always had his mask pretty up and</p> <p>16 down. His name is [REDACTED]. His</p> <p>17 name is [REDACTED]. I believe he had</p> <p>18 COVID before, and a lot of times his mask be</p> <p>19 up under his nose.</p> <p>20 Q. Are COs [REDACTED] and [REDACTED] and the</p> <p>21 pantry CO in your housing area every day?</p> <p>22 A. No, no. They're not in the house</p> <p>23 every day. [REDACTED] is the one that comes to</p> <p>24 get me in and out. She comes, she come get</p> <p>25 you for counsel visits and stuff like that,</p>	<p style="text-align: right;">Page 48</p> <p>1 J. AZOR-EL</p> <p>2 Q. Would you say that when the captains</p> <p>3 come through the housing area, the correction</p> <p>4 officers and other staff make sure they're</p> <p>5 wearing their masks properly?</p> <p>6 A. Yes, I think I saw one captain say</p> <p>7 to one of the staffs, "Why you don't have</p> <p>8 your mask on?" And, you know, he put his</p> <p>9 mask on right after that. So ever since then</p> <p>10 every time there is a captain making a tour,</p> <p>11 the officer will make sure that if the mask</p> <p>12 is in his pocket or her pocket, she will put</p> <p>13 the mask on.</p> <p>14 Q. Out of curiosity, you mentioned that</p> <p>15 you had been exposed to COVID. Have you ever</p> <p>16 been tested for COVID antibodies?</p> <p>17 A. Every week.</p> <p>18 Q. Are you positive for COVID</p> <p>19 antibodies, to the best of your knowledge?</p> <p>20 A. Not now.</p> <p>21 Q. Have you been offered the vaccine?</p> <p>22 A. Yes, I been offered the vaccine. I</p> <p>23 can't take the vaccine because I'm allergic</p> <p>24 to the vaccine, so I haven't taken any</p> <p>25 vaccine.</p>


<p style="text-align: right;">Page 49</p> <p>1 J. AZOR-EL</p> <p>2 Q. Do you know what aspect of the</p> <p>3 vaccine you're allergic to?</p> <p>4 A. Whatever the vaccine is contained in</p> <p>5 it, that's what I'm allergic to.</p> <p>6 Q. Just one last question. You</p> <p>7 mentioned that you don't have the COVID</p> <p>8 antibodies right now. I just want to be sure</p> <p>9 we're talking about the same test. Because</p> <p>10 as you may be aware, there are two COVID</p> <p>11 tests. One is to see if you currently have</p> <p>12 COVID, and the other one is to see if you had</p> <p>13 COVID in the past.</p> <p>14 Are you aware which test you're</p> <p>15 receiving weekly?</p> <p>16 A. Yeah, well, I had a test for the</p> <p>17 antibodies. This is how I know I had the</p> <p>18 COVID, so I was positive for that and that</p> <p>19 was back in June. Now, the COVID test that I</p> <p>20 took was at Bellevue Hospital before I had</p> <p>21 surgery for my nose, so that's the COVID test</p> <p>22 you're talking about and I'm negative on</p> <p>23 that. I doesn't have it. And since then</p> <p>24 they been giving me weekly COVID tests</p> <p>25 because I use CPAP, so every week they give</p>	<p style="text-align: right;">Page 51</p> <p>1 J. AZOR-EL</p> <p>2 staying around the atmosphere in certain</p> <p>3 areas in the dorm, I developed a cough and I</p> <p>4 be feeling that I -- I feel like I be</p> <p>5 breathing dust. Because they was doing</p> <p>6 construction in the dorm at times and the</p> <p>7 debris fell right down while we was in the</p> <p>8 dorm. Like I said, if you come, I would love</p> <p>9 for you to come and just see the unit. You</p> <p>10 will see it's not complying to a medical</p> <p>11 standard. This is like a garage. It used to</p> <p>12 be a garage, from what one of the old</p> <p>13 officers stated, made into a medical dorm.</p> <p>14 So we have, you know, guys in there using</p> <p>15 CPAP. You have guys with half legs and, you</p> <p>16 know, we have guys where he have, you know,</p> <p>17 diseases in they legs, infections, and stuff</p> <p>18 like that, and we breathing that dust every</p> <p>19 day in there. It's just horrible.</p> <p>20 MR. THAYER: Thank you.</p> <p>21 THE WITNESS: You're welcome.</p> <p>22 MR. THAYER: I'm all done, Mr.</p> <p>23 Keenan.</p> <p>24 MR. KEENAN: Just a few</p> <p>25 follow-up questions for you.</p>
<p style="text-align: right;">Page 50</p> <p>1 J. AZOR-EL</p> <p>2 me a COVID test, and I haven't got it right</p> <p>3 now because I'm using all my preventions</p> <p>4 carefully now. Back when it first was there,</p> <p>5 I wasn't really -- I didn't feel like I could</p> <p>6 catch the COVID. I didn't feel -- even</p> <p>7 though my health wasn't that good, I just</p> <p>8 felt like that COVID was not going to -- it</p> <p>9 was already there, I didn't even really was</p> <p>10 aware of it until after I was exposed to it.</p> <p>11 Q. So then, truly, this is the last</p> <p>12 question, and I think Mr. Keenan will likely</p> <p>13 be interested in this as well. Other than,</p> <p>14 you know, you mentioned using a sock to hold</p> <p>15 the phone and wearing your mask regularly,</p> <p>16 are there any other things that you are doing</p> <p>17 to avoid the risk of exposure to COVID?</p> <p>18 A. I'm just using the preventions that</p> <p>19 they stressed the most. Staying at a six</p> <p>20 feet distance, using my mask, washing my</p> <p>21 hands even though I have to use regular soap.</p> <p>22 I'm not really a socialized person with</p> <p>23 everyone. If somebody else is not really</p> <p>24 wearing they mask, we don't talk. I don't</p> <p>25 socialize with them. And as far as me</p>	<p style="text-align: right;">Page 52</p> <p>1 J. AZOR-EL</p> <p>2 CONTINUED EXAMINATION BY</p> <p>3 MR. KEENAN:</p> <p>4 Q. There is a term that Mr. Thayer</p> <p>5 mentioned with you that I think you mentioned</p> <p>6 earlier, the steadies, S-T-E-A-D-I-E-S. Who</p> <p>7 are the steadies?</p> <p>8 A. Who are the steadies? I mean, they</p> <p>9 kind of switched up a little bit. Some</p> <p>10 steadies been going and never came back.</p> <p>11 It's like it's hard for me to really pinpoint</p> <p>12 them now, but I could say what I see on a</p> <p>13 regular basis, instead of seeing steadies, it</p> <p>14 would be like -- yeah, [REDACTED] (phonetic),</p> <p>15 that's at night. We have a guy named [REDACTED]</p> <p>16 that's like a steady. You have a guy named</p> <p>17 [REDACTED] (phonetic). And you have -- what's</p> <p>18 the bubble A post -- like the B post</p> <p>19 steadies, I remember, is like [REDACTED].</p> <p>20 It was another guy named [REDACTED] (phonetic) but</p> <p>21 he left. He recently left. [REDACTED]</p> <p>22 (phonetic). Another steady that used to be</p> <p>23 in the bubble called [REDACTED]. I can't spell</p> <p>24 it. I'm trying to think. Oh, [REDACTED]</p> <p>25 (phonetic). [REDACTED] is one of the steadies at</p>

<p style="text-align: right;">Page 53</p> <p>1 J. AZOR-EL 2 night in the A post. This guy right there. 3 Unbelievable. He don't like to wear his mask 4 at all. Very unruly, you know, the A post. 5 The guy [REDACTED], he wears his mask steady. He 6 pretty much wears his mask unless he is away 7 from us being six feet distance, but the guy 8 [REDACTED]. A couple of others ones that seems 9 to take steady posts when some go on 10 vacation. It just varies the way they do it. 11 It's like sometimes you think you have a 12 steady all the time and next thing you turn 13 around, you don't see him for a week. 14 Q. When you say a steady, does that 15 just refer to a correction officer who is 16 regularly on staff in your dorm? 17 A. Basically, people that we see 18 predominantly that work that unit. They have 19 just different officers that comes in or that 20 works the unit at times, but those are the 21 faces that we are familiar with most of the 22 time that seems to come to work more steady 23 than others, unless they're on a vacation. 24 Q. Mr. Azor-El, on a daily basis, so 25 every day, do you interact with correction</p>	<p style="text-align: right;">Page 55</p> <p>1 J. AZOR-EL 2 soon as I leave here, I put my mask up if I'm 3 going to speak to. But they don't speak to 4 me, three feet distances and don't have his 5 mask on, so instead of going into 6 confrontation, I put mines up. They just 7 like, you know, they just don't be conforming 8 to the rules. And they touching everything 9 and I don't see them wash their hands. 10 Another thing I don't see. I don't see the 11 officers wash their hands so often. I don't 12 see them with no wipes. I think some of them 13 might have wipes in the bubble for theyself 14 that they may use, but I don't see them 15 constantly wipe their hands and they touching 16 everything. 17 Q. Mr. Azor-El, you mentioned, we 18 talked about the captain coming around, 19 people putting their mask on when the captain 20 comes around. Have you noticed, after the 21 captain leaves, whether correction officers 22 then take their masks off or do they leave 23 them on? 24 A. They take them off. Take them off. 25 Q. Then do you know what type of mask</p>
<p style="text-align: right;">Page 54</p> <p>1 J. AZOR-EL 2 officers and staff who are not wearing a mask 3 or not wearing it properly? 4 A. Pretty much every day. Even the 5 officer just called me just now, [REDACTED], he 6 ain't even had his mask on when he called me. 7 And I told him, "Put your mask on." And I 8 told him, "My name Azor-El, not Azor." He 9 ain't had his mask on. He sits in the table, 10 falling asleep all day pretty much, and we 11 have to interact with him because we got to 12 pass him to go to the bathroom because that's 13 a little hallway where the table is sitting 14 at next to the treatment roomed, and we have 15 to pass that officer. Look around, if you 16 need to call somebody for the doctors or 17 whatever, so we had to interact with him 18 every day. 19 Q. He does not wear his mask? 20 A. He didn't have his mask on. 21 Q. Did not? 22 A. He had it on his neck but didn't put 23 it on. They have the mask on but they just 24 feel like -- like right now I don't got 25 nobody around me, so I keep my mask down. As</p>	<p style="text-align: right;">Page 56</p> <p>1 J. AZOR-EL 2 most of the correction officers have? 3 A. Some of them wear the exact same 4 surgical mask we have. Sometimes they have 5 their own personal masks and sometimes they 6 got those neck masks. You know those that 7 look like a turtle neck. You just raise it 8 up like that, so I see a lot of them wearing 9 that. Especially the security officers, when 10 they come around they have those particular 11 masks on. So they'll put it up and easy to 12 bring it down. I guess to breath in, because 13 some of them can't really breathe too much 14 with the masks. It's not that easy to 15 breathe through the mask. I ain't going to 16 -- I tell the truth about that. Even me, I 17 have to force myself to wear it. The chest 18 pain that I have from that COVID, I don't 19 want to feel that again. 20 Q. Those kind of turtleneck-type things 21 that go around your neck, those are made of 22 cloth, correct? 23 A. Yes. I believe so, yes. 24 Q. Mr. Azor-El, do you see any signage 25 up in your dorm regarding masks and social</p>

<p style="text-align: right;">Page 57</p> <p>1 J. AZOR-EL</p> <p>2 distancing?</p> <p>3 A. Yes, they have that. They have</p> <p>4 that. The B post officer, they have a sign</p> <p>5 in the back of their head where they sit.</p> <p>6 They have X signs for the social distancing.</p> <p>7 They put them in place and in the dorm in the</p> <p>8 housing area so everybody can still be aware.</p> <p>9 But that still doesn't stop them from coming</p> <p>10 in sometimes and try to get us to compromise</p> <p>11 to violate the six-feet distancing. We stand</p> <p>12 against it, so that's why they're unable to</p> <p>13 do it.</p> <p>14 MR. KEENAN: I have no further</p> <p>15 questions at this time about these</p> <p>16 topics.</p> <p>17 MR. THAYER: Thank you,</p> <p>18 Mr. Azor-El.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 MR. THAYER: We will adjourn for</p> <p>21 this deposition.</p> <p>22 (Whereupon, a discussion was</p> <p>23 held off the record.)</p> <p>24 (Counsels agreed to resume</p> <p>25 record.)</p>	<p style="text-align: right;">Page 59</p> <p>1 DECLARATION</p> <p>2</p> <p>3 I hereby certify that having been first</p> <p>4 duly sworn to testify to the truth, I gave</p> <p>5 the above testimony.</p> <p>6</p> <p>7 I FURTHER CERTIFY that the foregoing</p> <p>8 transcript is a true and correct transcript</p> <p>9 of the testimony given by me at the time and</p> <p>10 place specified hereinbefore.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 _____</p> <p>15 JEAN AZOR-EL</p> <p>16</p> <p>17 Subscribed and sworn to before me</p> <p>18 this ____ day of _____ 20__.</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 58</p> <p>1 J. AZOR-EL</p> <p>2 THE WITNESS: I just want Mr.</p> <p>3 Thayer to just, you know, can he</p> <p>4 have the power to just send somebody</p> <p>5 over just to come visit the dorm</p> <p>6 area to see what I'm saying, see</p> <p>7 what we saying. See it for yourself</p> <p>8 so you can see where we're at.</p> <p>9 We're in the dumpster. That's all I</p> <p>10 wanted to say. All right, have a</p> <p>11 blessed day.</p> <p>12 MR. KEENAN: We'll close the</p> <p>13 record out here.</p> <p>14 (Whereupon, at 4:04 p m., the</p> <p>15 Examination of this Witness was</p> <p>16 concluded.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 60</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE</p> <p>4 Mr. Keenan 6, 52</p> <p>5 Mr. Thayer 41</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 61</p> <p>1 EXHIBITS</p> <p>2</p> <p>3 NONE</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 63</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF NEW YORK)</p> <p>4 : SS.:</p> <p>5 COUNTY OF QUEENS)</p> <p>6</p> <p>7 I, Elizabeth A. Hoban, a stenotype</p> <p>8 reporter and Notary Public within and for the</p> <p>9 State of New York, do hereby certify:</p> <p>10 That the witness, JEAN AZOR-EL, whose</p> <p>11 Examination Before Trial is hereinbefore set</p> <p>12 forth, was first duly sworn by me, and that</p> <p>13 such Examination Before Trial is a true and</p> <p>14 accurate record of the testimony given by</p> <p>15 said witness; and I further certify that I am</p> <p>16 not related to any of the parties of this</p> <p>17 action by blood or marriage and that I am in</p> <p>18 no way interested in the outcome of this</p> <p>19 matter.</p> <p>20 IN WITNESS WHEREOF, I have hereunto</p> <p>21 set my hand this 26th day of April, 2021.</p> <p>22 </p> <p>23 ELIZABETH A. HOBAN</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 62</p> <p>1 REQUESTS</p> <p>2</p> <p>3 DOCUMENT REQUESTS: PAGE</p> <p>4 NONE</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 INSERTS: PAGE LINE</p> <p>11 NONE</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 RULINGS: PAGE LINE</p> <p>18 NONE</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

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