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Superior Court of California
County of Los Angeles

APR 29 2020

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

ROBERT DURST,

Defendant.

Case Number: SA089983

PEOPLE'S MOTION TO DECLARE OUT-
OF-STATE WITNESSES UNAVAILABLE
UNDER EVIDENCE CODE § 240 DUE TO
THE COVID-19 PANDEMIC;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF;
DECLARATION OF JOHN LEWIN IN
SUPPORT THEREOF; DECLARATION OF
EUGENE MIYATA IN SUPPORT THEREOF

Date: TBD
Time: TBD
Court: Dept. 81

TO THE HONORABLE MARK E. WINDHAM, JUDGE OF THE ABOVE
ENTITLED COURT, DEFENDANT ROBERT DURST, AND HIS ATTORNEYS OF
RECORD:

THE PEOPLE OF THE STATE OF CALIFORNIA submit the following
memorandum of points and authorities in support of their Motion to Declare Out-of-State
Witnesses Unavailable Under Evidence Code § 240 Due to the COVID-19 Pandemic. More
specifically, the People request that the following four out-of-state witnesses be found
unavailable, so that the admissible portions of their videotaped conditional examinations may

1 be played for the jury: (1) Nathan Chavin ("Nick Chavin"), (2) Charles Lachman, (3)
2 Stephen Silverman, and (4) Detective Michael Struk. This motion is based upon the attached
3 memorandum of points and authorities filed herein, the attached declaration of John Lewin,
4 the attached declaration of Eugene Miyata, all other papers and pleadings in the clerk's file in
5 this action, or on any oral or documentary evidence to be presented at the hearing on this
6 motion.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 Los Angeles, along with the state of California, the state of New York, and much of the
5 world at large, is under orders to shelter-in-place in response to the life-threatening pandemic
6 caused by the COVID-19 virus. On March 4, 2020, California Governor Gavin Newsom
7 declared a state of emergency in California.¹ On March 13, 2020, President Donald Trump
8 declared a national state of emergency.² The United States Centers for Disease Control and
9 Prevention (“CDC”) has documented nearly 1,000,000 positive tests and over 50,000 deaths
10 caused by COVID-19 in the United States, and the state health departments of California, New
11 York and New Jersey have documented over 40,000, over 280,000 and over 100,000 positive
12 tests of COVID-19 respectively.³ CDC classifies everyone over 65 years old as being at higher
13 risk of severe illness, with this group accounting for 8 out of 10 deaths reported in the U.S.⁴
14 Furthermore, strict CDC travel recommendations against air travel apply “especially if you are at
15 higher risk of severe illness.”⁵

16 As the Court is well aware, four New York and New Jersey residents over 65 years old
17 (Nick Chavin, Charles Lachman, Stephen Silverman, and Detective Michael Struk) are at higher
18 risk of severe illness or death to COVID-19. Each of these witnesses previously testified at
19 length under oath in videotaped conditional examinations pursuant to Penal Code sections 1335
20 et seq. Prior to their respective conditional examinations the parties were advised that the
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22 ¹ Exhibit 1 – Proclamation of a State of Emergency, March 4, 2020.

23 ² Exhibit 2 – Proclamation 9994 of March 13, 2020 Declaring a National Emergency Concerning the Novel
Coronavirus Disease (COVID-19) Outbreak

24 ³ Exhibit 3 – CDC Cases of COVID-19 in the U.S. as of April 26, 2020 (<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>)

25 ⁴ Exhibit 4 – CDC Older Adults Are at Higher Risk (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>)

⁵ Exhibit 5 – CDC Coronavirus and Travel in the United States (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-in-the-us.html>)

1 examinations should be treated as if they would be the only opportunity to question and cross-
2 examine the witnesses. The Court made clear that it would give a wide berth with respect to
3 relevance and Cal. Evid. Code section 352 as to ensure that all possible relevant areas of inquiry
4 could be pursued. Each of the witnesses was extensively questioned and both parties were given
5 extreme latitude in their questioning. Consequently, it would be unnecessary under the law and
6 reckless with the lives of these witnesses and their families for any court to order them to fly
7 across the country, enduring two international airports, to testify a second time. . For these
8 reasons, the People respectfully ask the Court to declare these witnesses unavailable because due
9 to the risks that would be incurred by traveling interstate to testify.

10 A trial is a search for the truth, and that search would in no way be aided by endangering
11 the lives elderly and at-risk out-of-state witnesses who have previously testified under oath and
12 been subject to cross-examination in conditional examinations that were conducted expressly in
13 the event of such unavailability.

14 II.

15 STATEMENT OF FACTS

16 Nick Chavin was conditionally examined on February 15-17, 2017. He is seventy-five
17 years old and a resident of New York state.⁶ Charles Lachman was conditionally examined on
18 October 17, 2018. He is sixty-eight years old and a resident of New York state.⁷ Steven
19 Silverman was conditionally examined on October 16, 2017. He is sixty-eight years old and a
20 resident of New York state.⁸ Detective Michael Struk joined NYPD in 1965 and retired in 1985;
21 he seventy-six years old and a resident of New Jersey.⁹

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24 ⁶ Exhibit 6 – Transcript of Nick Chavin Conditional Examination page 3.

25 ⁷ Exhibit 7 – Transcript of Charles Lachman Conditional Examination pages 7-8.

⁸ Exhibit 8 – Transcript of Stephen Silverman Conditional Examination pages 3-5.

⁹ Exhibit 9 – Transcript of Michael Struk Conditional Examination pages 5-6.

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III.

PHYSICAL INFIRMITY MAKES A WITNESS UNAVAILABLE UNDER EVIDENCE

CODE SECTION 240(A)(3) AND THE COVID-19 PANDEMIC MEETS THIS
STANDARD WHEN WITNESSES, OVER SIXTY-FIVE YEARS OLD, MUST FLY
ACROSS THE COUNTRY TO TESTIFY, SUBJECTING THEMSELVES TO AN
UNDUE AND UNREASONABLE HEALTH RISK

Evidence Code Section 240 governs the unavailability of witnesses and reads as follows:

(a) Except as otherwise provided in subdivision (b), "unavailable as a witness" means that the declarant is any of the following:

(1) Exempted or precluded on the ground of privilege from testifying concerning the matter to which his or her statement is relevant.

(2) Disqualified from testifying to the matter.

(3) Dead or unable to attend or to testify at the hearing because of then-existing physical or mental illness or infirmity.

(4) Absent from the hearing and the court is unable to compel his or her attendance by its process.

(5) Absent from the hearing and the proponent of his or her statement has exercised reasonable diligence but has been unable to procure his or her attendance by the court's process.

(6) Persistent in refusing to testify concerning the subject matter of the declarant's statement despite having been found in contempt for refusal to testify.

(b) A declarant is not unavailable as a witness if the exemption, preclusion, disqualification, death, inability, or absence of the declarant was brought about by the procurement or wrongdoing of the proponent of his or her statement for the purpose of preventing the declarant from attending or testifying.

(c) Expert testimony that establishes that physical or mental trauma resulting from an alleged crime has caused harm to a witness of sufficient severity that the witness is physically unable to testify or is unable to testify without suffering substantial trauma may constitute a sufficient showing of unavailability pursuant to paragraph (3) of subdivision (a). As used in this section, the term "expert" means a physician and surgeon, including a psychiatrist, or any person described by subdivision (b), (c), or (e) of Section 1010.

1 The introduction of evidence to establish the unavailability of a witness under this
2 subdivision shall not be deemed procurement of unavailability, in absence of
3 proof to the contrary.

4 The standard for unavailability under Evidence Code section 240(a)(3) is clearly met
5 during the present pandemic. Over fifty-thousand people have been confirmed dead because of
6 COVID-19 in the past two months. The CDC states that 8 out of 10 of those now dead were
7 older than 65. Each of the four previously examined witnesses at issue is older than 65 and at a
8 higher risk of severe illness or death if required to come within six feet of potentially infected
9 persons¹⁰ numerous times, including, but not limited to, passing through security, waiting to
10 board, boarding, taking a six-plus hour transcontinental flight, getting off the plane, and being
11 transported to a hotel. In addition to the CDC and Governor Newsom, the Chief Justice of the
12 California Supreme Court and the Presiding Judge of Los Angeles Superior Court have detailed
13 at length the health issues these older out-of-state witnesses would face if required to in fly out
14 to Los Angeles to testify again.¹¹ Notwithstanding the unprecedented nature of this pandemic,
15 the People have included below a brief review of cases discussing the legal standard for
16 unavailability and how it was met in circumstances far less dire than those facing these elderly
17 witnesses who are at an enhanced risk of severe illness or death if forced to travel against CDC
18 recommendation.

19 The People have the burden of proving by “competent evidence” that a witness is
20 unavailable before prior testimony may be admitted at trial, and this burden of proof is must be
21 demonstrated by a preponderance of the evidence. (*People v. Winslow* (2004) 123 Cal.App.4th
22 464, 471.) Competent evidence “means that the exclusionary rules such as the hearsay, best
23 evidence and opinion rules apply to the evidence offered at a hearing to determine this issue of
24 declarant's unavailability as a witness.” (*People v. Williams* (1979) 93 Cal.App.3d 40, 51

25 ¹⁰ Air travel is especially dangerous because, according to the CDC, a person infected with COVID-19 may be an asymptomatic carrier for up to 14 days after exposure to the virus. (See Exhibits 4-5).

¹¹ Exhibit 10 – Statewide Order by the California Supreme Court Chief Justice, Chair of the Judicial Council, March 23, 2020; Exhibit 11 - Administrative Order of Presiding Judge re: COVID-19, March 23, 2020.

1 [disapproved on other grounds related to attorney work product], citing *People v. Green* (1963)
2 215 Cal.App.2d 169, 171; see also *People v. Smith* 30 Cal.4th 581, 609.) Because the
3 circumstances giving rise to a physical or mental infirmity vary with the underlying facts, the
4 showing required to establish unavailability under Evidence Code Section 240(a)(3) “**must be**
5 **left to the trial court’s discretion.**” (*People v. Alcala* (1992) 4 Cal.4th 742, 779 [holding
6 witness’ own statement that she had lost all memory of the events was sufficient foundation for
7 medical unavailability].) Expert medical testimony is not essential to the foundational showing.
8 (*Id.* at p. 780; *People v. Rojas* (1975) 15 Cal.3d 540, [holding, despite no expert medical
9 evidence, that witness’ fear for his safety was a mental infirmity making him unavailable under
10 Evidence Code section 240(a)(3)].) Medical unavailability under Evidence Code Section
11 240(a)(3) requires no showing of diligence. (*People v. Gomez* (1972) 26 Cal.App.3d 225, 228.)
12 “To require proof of reasonable attempts to secure the attendance of a witness who, in any event,
13 could not come to court even if subpoenaed, would be an asinine bow to futility.” (*Ibid.*)

14 In *People v. Mays* (2009) 174 Cal.App.4th 156, 161, a witness’ videotaped conditional
15 examination testimony was played for the jury after the trial court found the witness unavailable
16 due to physical infirmity. The trial court’s ruling was based on (1) the testimony of a psychiatry
17 resident that the witness had a panic disorder with agoraphobia and (2) its own observations that
18 the witness was visibly trembling and shaking and had to use an inhaler twice after having
19 difficulty breathing. (*Id.* at p. 169-70.) The trial court said the witness’s ability to give “feisty”
20 answers did not change the ruling because the ruling was based on the court’s concern that the
21 witness would suffer an attack and go into rapid breathing and pass out. (*Ibid.*) The Court
22 affirmed the witness’ unavailability, explaining the trial court’s ruling was subject to a
23 deferential standard of substantial evidence. (*Id.* at p. 172.) The Court held that the trial court’s
24 personal observations of the witness met the standard that it was relatively impossible to elicit
25 the witness’ testimony without risk of inflicting substantial trauma on the witness. (*Ibid.*)

Moreover, the Court expressly rejected the claim that the defendant was permitted to engage in voir dire of the witness as to her unavailability after the conditional examination. (*Id.* at p. 173.)

The dangers facing the witnesses in the case at bar far exceed the “panic disorder and agoraphobia” deemed sufficient in *Mays* because there is a real danger that cross-country travel during this pandemic could add a witness’ name to the list of over 50,000 dead so far to COVID-19.

In *People v. Macioce* (1988) 197 Cal.App.3d 262, 281, after testifying at preliminary hearing, a witness was diagnosed by a family practice physician with “symptoms of extreme stress, including absence of menstruation, water retention, acne, hair loss, chronic gastritis, and hyperventilation syndrome.” These symptoms improved after five months of treatment. (*Ibid.*) However, the family practice physician testified that “there’s maybe a seventy percent chance that it could—that it would be detrimental to her.” (*Id.* at p. 282.) Despite the witness’ presence in the hallway outside the courtroom, the trial court declared the witness unavailable pursuant to Evidence Code Section 240(a)(3). (*Ibid.*) The Court affirmed, reasoning “there was substantial evidence from which the trial court could reasonably have concluded that the witness was “unable to testify without suffering substantial trauma.”

As in *Macioce*, the fact that it is physically possible to get the witnesses at issue into court is not dispositive. This Court could and should draw from the substantial evidence of the present health risks associated with cross-country air travel during this pandemic that a physical infirmity prevents these witnesses from testifying again.

In a distinguishable civil case, the Court of Appeal affirmed that the trial court did not abuse its discretion in declining to find a deponent unavailable to testify at trial. (*Sanchez v. Bagues & Sons Mortuaries* (1969) 271 Cal. App. 2d 188, 194.) In *Sanchez*, the plaintiff’s attorney asked the court to declare a deponent unavailable to testify despite the plaintiff’s attorney knowing of no medical evidence that precluded the witness from coming to court and

1 despite that fact that the plaintiff's attorney made no attempt to speak with the deponent's doctor.
2 (*Ibid.*) Under very different circumstances from the present situation, where elderly witnesses are
3 being asked to fly cross-country against CDC advice during a global pandemic, the court
4 nonetheless held "The court's requirement that medical evidence be produced to establish
5 nonavailability cannot be said to be unreasonable." (*Ibid.*) Unlike in *Sanchez*, however, there is
6 no dispute about the legitimacy and danger of the pandemic, nor about the specific health status
7 of any particular witness because COVID-19 puts *everyone*, particularly those over the age of
8 sixty-five, at higher risk of severe illness or death. Each of the witnesses at issue was is over the
9 age of sixty-five and in fact were over that age at the time they were conditionally examined.
10 Whether or not Defendant believes that the recorded testimony of these witnesses would be
11 damaging is irrelevant. Defendant has stipulated to the unavailability of the majority of the
12 previously conditionally examined witnesses most at-risk.¹² This Court should not allow a
13 tactical decision by Defendant to challenge the clear unavailability of these witnesses simply
14 because the alternative of admitting the prior testimony is simply too damaging to his case. We
15 must not put these witnesses' health in peril when there is prior sworn testimony that was
16 memorialized precisely and in preparation for the situation we face today.

17 Finally, the Sixth Amendment right to confrontation is not implicated where a witness is
18 unavailable and has given testimony at a prior judicial proceeding against the same defendant at
19 a time when the witness was subject to cross-examination by that defendant. (*People v. Winslow*
20 (2004) 123 Cal.App.4th 464, 469, 473 [holding unavailable victim's preliminary hearing
21 testimony was properly admitted where victim's PTSD made him unavailable to testify at trial];
22 *People v. Ware* (1978) 78 Cal.App.3d 822, 828, 838 [holding videotaped preliminary hearing
23 testimony of witness in Spain was admissible despite no attempt to bring the witness to trial];
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¹² See *Stipulation 50*, filed February 5, 2020 and *Stipulation 51*, filed March 3, 2020.

1 (*People v. Hernandez* (1968) 263 Cal.App.2d 242, 252 [holding no Sixth Amendment violation
2 because defense counsel neglected to thoroughly cross-examine medically unavailable witness at
3 preliminary hearing].)

4 IV.

5 **CONCLUSION**

6 For the reasons above, the People respectfully request that this Court declare that Nick
7 Chavin, Charles Lachman, Stephen Silverman, and Detective Michael Struk unavailable because
8 of an existing physical illness or infirmity pursuant to Evidence Code Section 240(a)(3). The
9 People have made reasonable efforts to secure the attendance of these witnesses through the
10 courts' process, but now due to the pandemic intend to present the admissible portions of the
11 prior sworn testimony of these witnesses to the jury at trial.

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13 DATED: April 29, 2020

Respectfully submitted,

14 JACKIE LACEY

15 District Attorney

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17 By:  _____

18 JOHN LEWIN

19 Deputy District Attorney
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DECLARATION OF JOHN LEWIN

1. I am an attorney duly licensed to practice law in the State of California, and I am presently employed by the County of Los Angeles as a Deputy District Attorney presently assigned to the Major Crimes Division, located at 211 West Temple Street, Suite 1130A, Los Angeles, California 90012.
2. I am a Deputy District Attorney assigned to prosecute this matter and am informed and believe as follows:
3. Defendant Robert Durst ("Defendant") is charged in the above-captioned action with committing a violation of Penal Code section 187; the personal use and discharge of a firearm causing great bodily injury and death to Susan Berman ("Susan") during the commission of that crime, pursuant to Penal Code sections 12022.53(b)-(d); and two special circumstance allegations pursuant to Penal Code sections 190.2(a)(10)&(15).
4. Attached hereto as Exhibit 1 is California Governor Gavin Newsom's Proclamation of a State of Emergency dated March 4, 2020, downloaded April 27, 2020 from the California government state website at <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>. This State of Emergency remains in effect.
5. Attached hereto as Exhibit 2 is President Donald Trump's Proclamation 9994 of March 13, 2020 Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, downloaded April 27, 2020 from the Federal Register at <https://www.govinfo.gov/content/pkg/FR-2020-03-18/pdf/2020-05794.pdf>. This State of Emergency remains in effect.
6. Attached hereto as Exhibit 3 is the information from the CDC website related to Cases of COVID-19 in the U.S. as of April 26, 2020, downloaded April 27, 2020 from <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

- 1 7. Attached hereto as Exhibit 4 is the information from the CDC website related to Older
2 Adults Being at Higher Risk, downloaded April 27, 2020 from
3 <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>.
- 4 8. Attached hereto as Exhibit 5 is the information from the CDC website related to
5 Coronavirus and Travel in the United States, downloaded April 27, 2020 from
6 <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-in-the-us.html>.
- 7 9. Nick Chavin was conditionally examined in this court on February 15-17, 2017. He is
8 seventy-five years old and a resident of New York state. Attached hereto as Exhibit 6 is a
9 section of the transcript of his Conditional Examination.
- 10 10. Charles Lachman was conditionally examined on October 17, 2018. He is sixty-eight years
11 old and a resident of New York state. Attached hereto as Exhibit 7 is a section of the
12 transcript of his Conditional Examination.
- 13 11. Steven Silverman was conditionally examined on October 16, 2017. He is sixty-eight years
14 old and a resident of New York state. Attached hereto as Exhibit 8 is a section of the
15 transcript of his Conditional Examination.
- 16 12. Detective Michael Struk joined NYPD in 1965 and retired in 1985; he is sevnty-six years
17 old and a resident of New Jersey. Attached hereto as Exhibit 9 is a section of the transcript
18 of his Conditional Examination. Detective Struk was called by the defense.
- 19 13. Attached hereto as Exhibit 10 is a true and correct copy of the Statewide Order by the
20 California Supreme Court Chief Justice, Chair of the Judicial Council, dated March 23,
21 2020.
- 22 14. Attached hereto as Exhibit 11 is a true and correct copy of the Administrative Order of the
23 Los Angeles Superior Court Presiding Judge re: COVID-19, dated March 23, 2020.
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1 I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF
2 CALIFORNIA THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE
3 BEST OF MY KNOWLEDGE.

4 Executed April 29, 2020, in Los Angeles, California

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6 JOHN LEWIN
7 Deputy District Attorney
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DECLARATION OF EUGENE MIYATA

1. I am an attorney duly licensed to practice law in the State of California, and I am presently employed by the County of Los Angeles as a Deputy District Attorney presently assigned to the Hardcore Gang Division, located at 211 West Temple Street, Suite 1179, Los Angeles, California 90012.
2. I am a Deputy District Attorney assigned to prosecute this matter and am informed and believe as follows:
3. On April 27, 2020, I spoke with Michael Struk over the telephone regarding his out-of-state subpoena to testify as a witness. Mr. Struk clearly stated to me that in light of the COVID-19 pandemic, he will absolutely not travel to California to testify in this case regardless of whether a court orders him to do so. He told me his concerns for his health and the health of his wife override all else. He further informed me that Bergen County, New Jersey (where he and his wife reside) has the second highest per capita COVID-19 death rate in the United States, the first being New York City. Furthermore, Mr. Struk informed me that five of his friends and/or family members have recently died as a result of COVID-19. Mr. Struk also stated he suffers from several pre-existing medical conditions and due to the pandemic, he has been unable to get medical treatment for these conditions for the last month. As a result, he informed me he is in a great deal of pain, making it difficult for him to walk.
4. On April 27, 2020, I spoke with New York County Assistant District Attorney Lauren Angelo ("ADA Angelo") on the telephone. ADA Angelo assisted the People in obtaining an out of state subpoena for Charles Lachman prior to the onset of the COVID-19 pandemic. ADA Angelo informed me that due to the pandemic, the court system in New York County has essentially shut down, opening only for emergency matters. Furthermore, a shelter in place order is in effect for the whole of New York County. In light of the

1 changes in circumstances that COVID-19 has brought to the state of New York, ADA
2 Angelo stated she is very concerned about Mr. Lachman being over the age of 65. ADA
3 Angelo told me that she would not feel comfortable advocating for Mr. Lachman to testify
4 in California given his age and the fact that he had previously testified on this case. ADA
5 Angelo then stated that to require him to do so would constitute an unnecessary risk to his
6 health.

- 7 5. On April 27, 2020, I spoke with Bronx County Assistant District Attorney Ryan
8 Licciardello ("ADA Licciardello") on the telephone. ADA Licciardello assisted the People
9 in obtaining an out of state subpoena for Nathan "Nick" Chavin prior to the onset of the
10 COVID-19 pandemic. ADA Licciardello informed me that due to the pandemic, the court
11 system in Bronx County has essentially shut down, opening only for emergency matters. In
12 light of the changes in circumstances that COVID-19 has brought to the state of New York,
13 ADA Licciardello stated he would not be comfortable advocating for Mr. Chavin to testify
14 in California due to Mr. Chavin's age and the fact that Mr. Chavin previously testified in
15 California on this matter. ADA Licciardello stated to require Mr. Chavin to do so would be
16 an undue risk to Mr. Chavin's health.

17
18 I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF
19 CALIFORNIA THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE
20 BEST OF MY KNOWLEDGE.

21 Executed April 29, 2020, in Los Angeles, California

22 
23 EUGENE MIYATA
24 Deputy District Attorney
25

1 **DECLARATION OF SERVICE BY ELECTRONIC MAIL**

2 The undersigned declares under the penalty of perjury that the following is true and
3 correct:

4 I am over eighteen years of age, not a party to the above cause, and employed in the
5 office of the District Attorney of Los Angeles County with offices at 211 West Temple Street,
6 Room 1130A, Los Angeles, California 90012. On the date of execution hereof, at the prior
7 request of defense counsel, I served the attached document by sending a true copy by Electronic
8 Mail (E-Mail) addressed as follows:

9
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11 chip@chiplewislaw.com

12 donaldrmre@yahoo.com

13 ddeguerin@aol.com

14 dzchesnoff@cslawoffice.net
15
16
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18 Executed this 29th day of April, 2020, at Los Angeles, California.
19
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21 

22 JOHN LEWIN
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EXHIBIT 1

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

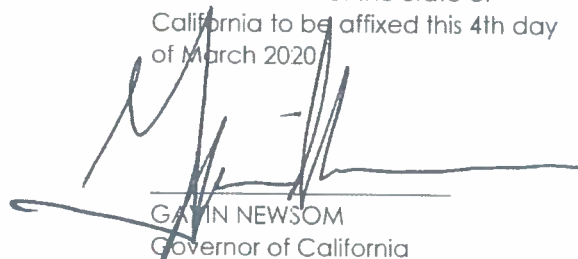
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 4th day
of March 2020



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT 2

Presidential Documents

Proclamation 9994 of March 13, 2020

Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak

By the President of the United States of America

A Proclamation

In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of foreign nationals seeking entry who had been physically present within the prior 14 days in certain jurisdictions where COVID-19 outbreaks have occurred, including the People’s Republic of China, the Islamic Republic of Iran, and the Schengen Area of Europe. The Federal Government, along with State and local governments, has taken preventive and proactive measures to slow the spread of the virus and treat those affected, including by instituting Federal quarantines for individuals evacuated from foreign nations, issuing a declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d), and releasing policies to accelerate the acquisition of personal protective equipment and streamline bringing new diagnostic capabilities to laboratories. On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States.

The spread of COVID-19 within our Nation’s communities threatens to strain our Nation’s healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability. Additional measures, however, are needed to successfully contain and combat the virus in the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020. Pursuant to this declaration, I direct as follows:

Section 1. Emergency Authority. The Secretary of HHS may exercise the authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children’s Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.

Sec. 2. *Certification and Notice.* In exercising this authority, the Secretary of HHS shall provide certification and advance written notice to the Congress as required by section 1135(d) of the SSA (42 U.S.C. 1320b-5(d)).

Sec. 3. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.

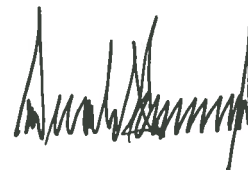


EXHIBIT 3



Coronavirus Disease 2019

Cases of Coronavirus Disease (COVID-19) in the U.S.

This page is updated daily based on data confirmed at 4:00pm ET the day before. Numbers reported on Saturdays and Sundays are preliminary and not yet confirmed by state and territorial health departments. These numbers will be modified when numbers are updated on Mondays.

CDC does not know the exact number of COVID-19 illnesses, hospitalizations, and deaths for a variety of reasons. COVID-19 can cause mild illness, symptoms might not appear immediately, there are delays in reporting and testing, not everyone who is infected gets tested or seeks medical care, and there may be differences in how states and territories confirm numbers in their jurisdictions.

U.S. At A Glance^{1,2}

As of April 26, 2020

Total Cases*	Total Deaths*	Total Jurisdictions**
957,875	53,922	55

*Total cases includes 4,999 probable cases and total deaths includes 6,142 probable deaths.

**Total jurisdictions includes 50 states, District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S Virgin Islands.

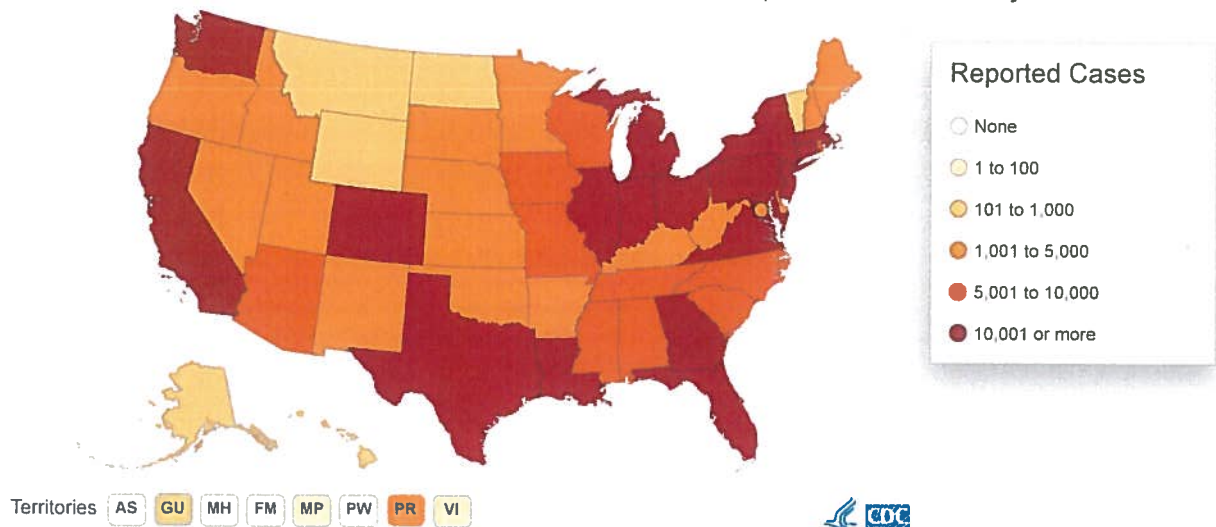


Number of COVID-19 Cases in the U.S. by State or Territory^{2,3}

NUMBER OF COVID-19 CASES IN THE U.S., by State or Territory

As of April 26, 2020

This map shows confirmed and probable COVID-19 cases reported by U.S. states, U.S. territories, and the District of Columbia. Each [state's health department](#) reports how much the virus has spread in their community.



States			
Jurisdiction	Range	Cases Reported	Community Transmission
Alabama	5,001 to 10,000	6627	Yes, defined area(s)
Alaska	101 to 1,000	341	Yes, defined area(s)
American Samoa	None	None	N/A
Arizona	5,001 to 10,000	6526	Yes, widespread
Arkansas	1,001 to 5,000	2941	Yes, widespread
California	10,001 or more	42164	Yes, widespread
Colorado	10,001 or more	13350	Yes, widespread
Connecticut	10,001 or more	25269	Yes, widespread
Delaware	1,001 to 5,000	4162	Yes, widespread
Washington D.C.	1,001 to 5,000	3841	Undetermined
Florida	10,001 or more	30680	Yes, widespread
Georgia	10,001 or more	23410	Yes, widespread
Guam	101 to 1,000	142	Yes, widespread
Hawaii	101 to 1,000	550	Yes, defined area(s)
Idaho	1,001 to 5,000	1897	Yes, widespread
Illinois	10,001 or more	43903	Yes, widespread
Indiana	10,001 or more	15012	Undetermined
Iowa	5,001 to 10,000	5475	Yes, widespread
Kansas	1,001 to 5,000	3174	Yes, defined area(s)
Kentucky	1,001 to 5,000	4074	Undetermined
Louisiana	10,001 or more	26832	Yes, widespread
Maine	1,001 to 5,000	1023	Yes, widespread
Marshall Islands	None	None	N/A
Maryland	10,001 or more	19487	Yes, widespread
Massachusetts	10,001 or more	54938	Yes, widespread
Michigan	10,001 or more	37778	Yes, widespread
Micronesia	None	None	N/A

 Minnesota	1,001 to 5,000	3602	Yes, widespread
 Mississippi	5,001 to 10,000	6094	Yes, widespread
 Missouri	5,001 to 10,000	6997	Yes, widespread
 Montana	101 to 1,000	449	Yes, defined area(s)
 Nebraska	1,001 to 5,000	3028	Yes, widespread
 Nevada	1,001 to 5,000	4602	Yes, widespread
 New Hampshire	1,001 to 5,000	1864	Yes, widespread
 New Jersey	10,001 or more	109038	Yes, widespread
 New Mexico	1,001 to 5,000	2726	Yes, widespread
 New York	10,001 or more	282991	Yes, widespread
 North Carolina	5,001 to 10,000	8830	Yes, widespread
 North Dakota	101 to 1,000	867	Yes, defined area(s)
 Northern Mariana Islands	1 to 100	14	Undetermined
 Ohio	10,001 or more	15963	Yes, defined area(s)
 Oklahoma	1,001 to 5,000	3253	Yes, widespread
 Oregon	1,001 to 5,000	2311	Yes, widespread
 Palau	None	None	N/A
 Pennsylvania	10,001 or more	41165	Yes, defined area(s)
 Puerto Rico	1,001 to 5,000	1371	Undetermined
 Rhode Island	5,001 to 10,000	7439	Yes, widespread
 South Carolina	5,001 to 10,000	5490	Yes, widespread
 South Dakota	1,001 to 5,000	2212	Yes, widespread
 Tennessee	5,001 to 10,000	9698	Yes, defined area(s)
 Texas	10,001 or more	24631	Yes, defined area(s)
 Utah	1,001 to 5,000	4214	Yes, widespread
 Vermont	101 to 1,000	851	Yes, widespread
 Virgin Islands	1 to 100	57	Yes, defined area(s)
 Virginia	10,001 or more	13535	Yes, widespread
 Washington	10,001 or more	13521	Yes, widespread
 West Virginia	1,001 to 5,000	1053	Yes, defined area(s)
 Wisconsin	5,001 to 10,000	5911	Yes, widespread
 Wyoming	101 to 1,000	502	Yes, defined area(s)

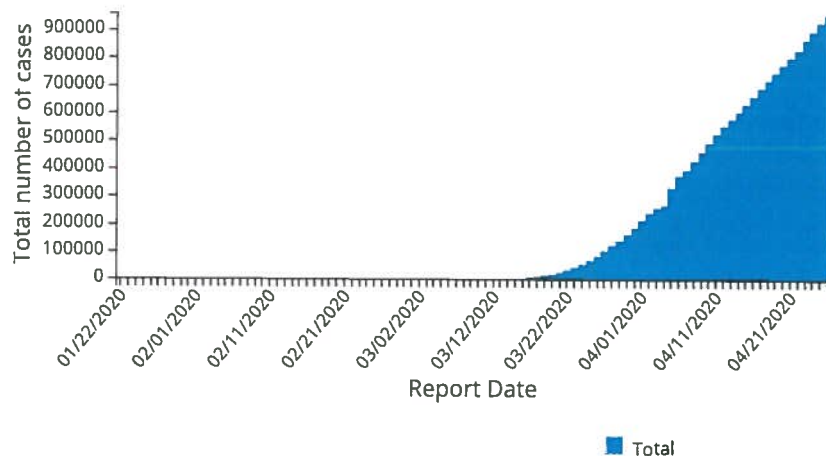
Add U.S. map to your website.

<iframe src="https://cdc.gov/TemplatePackage/contrib/widgets/cdcMaps/build/index.html?configUrl=/coronavirus/"



Number of COVID-19 Cases in the U.S., by Date Reported²

January 22 to April 26, 2020
(n=957,875)



Total number of COVID-19 cases in the United States by date reported

	01/22/2020	01/23/2020	01/24/2020	01/25/2020	01/26/2020	01/27/2020	01/28/2020	01/29/2020	0
Total	1	1	2	2	5	5	5	5	0

Scroll for additional info

Demographic characteristics of COVID-19 cases in the U.S. (n=723,314)⁴

As of April 26, 2020

Age group (years)	No. of cases (% of total)						Total
	< 18	18-44	45-64	65-74	75+	Unknown	
Totals	14,408	255,991	256,242	79,702	87,296	29,675	723,314
Race missing/unspecified	9,815 (68.1%)	162,426 (63.4%)	151,195 (59.0%)	38,898 (48.8%)	36,022 (41.3%)	12,307 (41.5%)	410,663 (56.8%)
Race specified	4,593 (31.9%)	93,565 (36.6%)	105,047 (41.0%)	40,804 (51.2%)	51,274 (58.7%)	17,368 (58.5%)	312,651 (43.2%)
Among those with race specified							
American Indian or Alaska Native	44 (1.0%)	628 (0.7%)	542 (0.5%)	173 (0.4%)	117 (0.2%)	72 (0.4%)	1,576 (0.5%)
Asian	221 (4.8%)	5,119 (5.5%)	5,642 (5.4%)	1,880 (4.6%)	1,895 (3.7%)	828 (4.8%)	15,585 (5.0%)
Black or African American	1,123 (24.5%)	26,349 (28.2%)	33,458 (31.9%)	13,189 (32.3%)	11,451 (22.3%)	6,594 (38.0%)	92,164 (29.5%)
Native Hawaiian or other Pacific Islander	20 (0.4%)	363 (0.4%)	304 (0.3%)	95 (0.2%)	59 (0.1%)	43 (0.2%)	884 (0.3%)
White	2,359 (51.4%)	46,740 (50.0%)	51,393 (48.9%)	21,463 (52.6%)	33,740 (65.8%)	6,376 (36.7%)	162,071 (51.8%)
Multiple/other	826 (18.0%)	14,366 (15.4%)	13,708 (13.0%)	4,004 (9.8%)	4,012 (7.8%)	3,455 (19.9%)	40,371 (12.9%)
Ethnicity missing/unspecified	10,045 (69.7%)	172,548 (67.4%)	165,064 (64.4%)	45,665 (57.3%)	46,259 (53.0%)	14,005 (47.2%)	453,586 (62.7%)
Ethnicity specified	4,363 (30.3%)	83,443 (32.6%)	91,178 (35.6%)	34,037 (42.7%)	41,037 (47.0%)	15,670 (52.8%)	269,728 (37.3%)
Among those with ethnicity specified							

Among those that currently reported

Age group (years)	No. of cases (% of total)						Total
	< 18	18-44	45-64	65-74	75+	Unknown	
Hispanic/Latino	1705 (39.1%)	25483 (30.5%)	22587 (24.8%)	6046 (17.8%)	5286 (12.9%)	4862 (31.0%)	65969 (24.5%)
Non-Hispanic/Latino	2658 (60.9%)	57960 (69.5%)	68591 (75.2%)	27991 (82.2%)	35751 (87.1%)	10808 (69.0%)	203759 (75.5%)

More U.S. COVID-19 Data from CDC

COVIDView

A weekly surveillance summary of U.S. COVID-19 activity. The report summarizes and interprets key indicators including information related to COVID-19 outpatient visits, emergency department visits, hospitalizations and deaths, as well as laboratory data.

Cases & Surveillance

This website features links to different CDC data platforms, FAQs about data and surveillance, and highlights recent data reports.

CDC COVID Data Tracker

CDC COVID Data Tracker is a website that allows users to interact with a variety of data on COVID-19 that is updated daily. The site presents data using visual dashboards that include interactive maps, graphs and other visuals. It is being developed in phases. The first phase showcases data on U.S. cases and deaths of COVID-19 and social impacts of COVID-19 disease.

Previous U.S. COVID-19 Case Data

CDC has moved the following information to the [Previous U.S. COVID-19 Case Data](#)

- When did people in the U.S. get sick from COVID-19,
- How did people in the U.S. get COVID-19, and
- Cases of COVID-19 from Wuhan, China and the Diamond Princess cruise.

About the Data on This Page

1. State and local public health departments are now testing and publicly reporting their cases. In the event of a discrepancy between CDC cases and cases reported by state and local public health officials, data reported by states should be considered the most up to date.

2. As of April 14, 2020, CDC case counts and death counts include both confirmed and probable cases and deaths. This change was made to reflect an [interim COVID-19 position statement](#) issued by the Council for State and Territorial Epidemiologists on April 5, 2020. The position statement included a case definition and made COVID-19 a nationally notifiable disease.

A confirmed case or death is defined by meeting confirmatory laboratory evidence for COVID-19. A probable case or death is defined by i) meeting clinical criteria AND epidemiologic evidence with no confirmatory laboratory testing performed for COVID-19; or ii) meeting presumptive laboratory evidence AND either clinical criteria OR epidemiologic evidence; or iii) meeting vital records criteria with no confirmatory laboratory testing performed for COVID-19.

3. Self-reported by health department characterizing the level of community transmission in their jurisdiction as: "Yes, widespread" (defined as: widespread community transmission across several geographical areas); "Yes, defined area(s)" (defined as: distinct clusters of cases in a, or a few, defined geographical area(s)); "Undetermined" (defined as: 1 or more cases but not classified as "Yes" to community transmission); or "N/A" (defined as: no cases).
4. Case notifications were received by CDC from U.S. public health jurisdictions and the National Notifiable Diseases Surveillance System (NNDSS).

Related Pages

[Previous U.S. COVID-19 Case Data](#)

[FAQ: COVID-19 Data and Surveillance](#)

[Testing in the U.S.](#)

[World Map](#)

[Health Departments](#)

Page last reviewed: April 26, 2020

EXHIBIT 4



Coronavirus Disease 2019

Older Adults

Older adults and people who have severe underlying medical conditions like heart or lung disease or diabetes seem to be at higher risk for developing more serious complications from COVID-19 illness.



Steps to Reduce Risk of Getting Sick

There are things you can do to reduce your risk of getting sick.

- Stay home if possible.
- Wash your hands often.
- Keep space between yourself and others (stay 6 feet away, which is about two arm lengths).
- [What You Can Do](#),
- [How to Protect Yourself](#)



Stress & Coping

You may feel increased stress during this pandemic. Fear and anxiety can be overwhelming and cause strong emotions. Learn about [stress and coping](#).



Symptoms

Symptoms of COVID-19 can range from mild symptoms to severe illness and death. Symptoms may appear 2-14 days after exposure. Watch for fever, cough, and shortness of breath. Watch for [symptoms](#).




Develop a Care Plan

A care plan summarizes your health conditions, medications, healthcare providers, emergency contacts, and end-of-life care options (for example, advance directives). Complete your care plan in consultation with your doctor, and if needed, with help from a family member or home nurse aide.

A care plan can have benefits beyond the current pandemic. You can update your care plan every year, or any time you have a change in your health or medications. Care plans can help reduce emergency room visits and hospitalizations, and improve overall medical management for people with a chronic health condition, resulting in better quality of life.

During the COVID-19 pandemic, having a care plan is an important part of emergency preparedness.

- [Guidance on how to develop your emergency preparedness care plan](#).
- [Download a fillable care plan form](#)  [5 pages]



Senior Living Facilities

People with loved ones in nursing homes, assisted living facilities, and other types of senior living facilities may be understandably concerned about their loved one's risk of illness from COVID-19.

may be understandably concerned about their loved one's risk of illness from COVID-19.

To protect these vulnerable friends and family members, CDC has advised that long-term care facilities

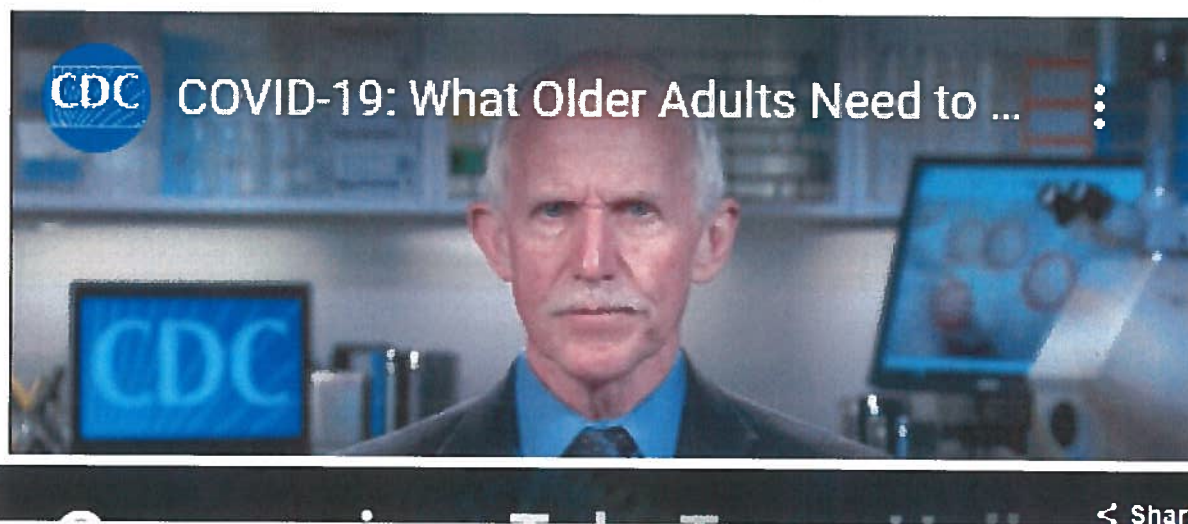
- restrict visitors,
- regularly check healthcare workers and residents for fevers and symptoms, and
- limit activities within the facility to keep residents safe.

Older Adults are at Higher Risk

8 out of 10 deaths reported in the U.S. have been in adults 65 years old and older. See below for estimated percent of adults with confirmed COVID-19 reported in the U.S:

	Adults 65 – 84	Adults 85+
Hospitalizations	31-59%	31-70%
Admission to intensive care	11-31%	6-29%
Deaths	4-11%	10-27%

Digital Resources



More Information

[People at Higher Risk](#)

[Prevent Getting Sick](#)

[If You Are Sick](#)

[Symptoms & Testing](#)

Cases & Latest Updates

What You Can do if You are at Higher Risk of Severe Illness from COVID-19

Are You at Higher Risk for Severe Illness?



Based on what we know now, those at high-risk for severe illness from COVID-19 are:

Here's What You Can do to Help Protect Yourself



Stay home if possible.



Wash your hands often.

What You Can do if You Are at a Higher Risk

Learn what you can do to protect yourself.

EXHIBIT 5



Coronavirus Disease 2019

Coronavirus and Travel in the United States

The COVID-19 outbreak in United States is a rapidly evolving situation. The status of the outbreak varies by location and state and local authorities are updating their guidance frequently. The [White House's Opening Up America Again](#) [plan](#) means some parts of the country may have different guidance than other areas. Check with the [state or local authorities](#) where you are, along your route, *and* at your planned destination to learn about local circumstances and any restrictions that may be in place.

Travel Recommendations

Cases of coronavirus disease (COVID-19) have been reported in all states, and some areas are experiencing community spread of the disease. Travel increases your chances of getting and spreading COVID-19.

CDC recommends you [stay home](#) as much as possible, especially if your trip is not essential, and [practice social distancing](#) especially if you are at [higher risk of severe illness](#). Don't travel if you are sick or travel with someone who is sick.

Essential Errands (within your local area)

As communities across the United States take steps to slow the spread of COVID-19 by limiting close contact, people are facing new challenges and questions about how to safely run essential errands to meet basic household needs, like:

- Grocery shopping
- Getting delivery or takeout food
- Banking
- Getting gasoline
- Going to the doctor or getting medicine

CDC provides advice about how to meet these [essential household needs](#) in a safe and healthy manner on another webpage; content on this page is about travel.

Essential Travel (outside your local area)

Some travel may also be essential, like:

- Travel to provide medical or home care to others
- Travel necessary for a job considered an [essential service](#) [link](#)

The following travel recommendations provide advice about how to prevent getting and spreading COVID-19 if you *must* travel. Don't travel if you are sick or plan to travel with someone who is sick.

Considerations if You *Must* Travel During the President's 30 Days to Slow the Spread

CDC recommends you [stay home](#) as much as possible and avoid close contact, especially if you are at [higher risk of severe illness](#). If you *must* travel, there are several things you should consider before you go.

Some types of travel (bus, plane, train) may require sitting next to others for a period of time. Travel may also expose you to new parts of the country with differing levels of community transmission. And, if you're infected, your travel may put others at risk—along the way, at your destination, and when you return home.

If you *must* travel, consider the following risks you might face, depending on what type of travel you are planning:

- **Air travel:** Because of how air circulates and is filtered on airplanes, most viruses and other germs do not spread easily on flights. However, there may be a risk of getting COVID-19 if you are seated within 6 feet of someone who has the virus.
- **Bus or train travel:** Sitting or standing within 6 feet of others for a prolonged period of time can put you at risk of getting or spreading COVID-19.
- **Car travel:** The stops you need to make along the way could put you and others in the car with you in close contact with others who could be infected.
- **RV travel:** Traveling by RV means you may have to stop less often for food or bathrooms, but RV travelers typically have to stop at RV parks overnight and other public places to get gas and supplies. These stops may put you and those with you in the RV in close contact with others who could be infected.

State and Local Travel Restrictions or Orders

CDC recommends you [stay home](#) as much as possible and avoid close contact, especially if you are at [higher risk of severe illness](#). If you *must* travel, follow any state and local travel restrictions currently in place. It is possible that some state and local governments may put in place travel restrictions, stay-at-home or shelter-in-place orders, mandated quarantines upon arrival, or even state border closures while you are traveling. For more information and travel guidance, check with the [state or local health department](#) where you are, along your route, *and* at your planned destination. Just because there are no restrictions at the time you plan to leave does not mean there won't be restrictions in place when you arrive.

Lodging

CDC recommends you [stay home](#) as much as possible and avoid close contact, especially if you are at [higher risk of severe illness](#). Staying in temporary accommodations (hotels, motels, and rental properties) may expose you to the virus through person-to-person contact and possibly through contact with contaminated surfaces and objects.

If you *must* stay in a hotel, motel, or rental property:

- Take the same [steps](#) you would in other public places—for example, avoid close contact with others, wash your hands often, and wear a cloth face covering.
- When you get to your room or rental property, [clean and disinfect](#) all high-touch surfaces. This includes tables, doorknobs, light switches, countertops, handles, desks, phones, remote controls, toilets, and sink faucets.
 - Bring an EPA-registered disinfectant and other personal [cleaning supplies](#), including cloths and disposable gloves.
- Wash any plates, cups, or silverware (other than pre-wrapped plastic) before using.

Road Trips

CDC recommends you [stay home](#) as much as possible and [practice social distancing](#), especially if you are at [higher risk of severe illness](#). However, if you must travel, be aware that many businesses (such as restaurants and hotels) may be closed.

Anticipate your needs before you go:

- Prepare food and water for the road. Pack non-perishables in case restaurants and stores are closed.
- Bring any medicines you may need for the duration of your trip.
- Pack a sufficient amount of alcohol-based hand sanitizer (at least 60% alcohol) and keep it in a place that is readily available.
- Book accommodations in advance if you *must* stay somewhere overnight.

- Plan to make as few stops as possible, but make sure you rest when you feel drowsy or sleepy.
- Bring an EPA-registered disinfectant and other personal [cleaning supplies](#).

Don't travel if you are sick or plan to travel with someone who is sick.

If you *must* travel, protect yourself and others during your trip:

- Clean your hands often.
 - [Wash your hands](#) often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
 - If soap and water are not readily available, use a [hand sanitizer that contains at least 60% alcohol](#). Cover all surfaces of your hands and rub them together until they feel dry.
 - [Avoid touching your eyes, nose, and mouth](#).
- Avoid close contact with others.
 - Keep 6 feet of physical distance from others at all times.
 - This is especially important if you [are at higher risk of getting very sick](#) from COVID-19.
- [Wear a cloth face covering in public](#).
- Cover coughs and sneezes.
- Pick up food at drive-throughs, curbside restaurant service, or stores. Do not dine in restaurants.

Frequently Asked Questions

Is it safe to travel to visit family or friends?

CDC recommends you [stay home](#) as much as possible and [practice social distancing](#). Traveling to visit friends and family increases your chances of getting and spreading COVID-19. It is possible for someone to have COVID-19 and spread it to others, even if they have no symptoms. Getting infected may be especially dangerous if you or your loved ones are at [higher risk for severe complications from COVID-19](#). People at higher risk for complications need to take [extra precautions](#).

Although it can be hard to remain apart from loved ones during challenging or stressful times, try to connect with them in other ways, using video chats or phone calls.

Is it safe to travel to campgrounds/go camping?

CDC recommends you [stay home](#) as much as possible and avoid close contact, especially if you are at [higher risk of severe illness](#). Going camping at a time when much of the United States is experiencing community spread of COVID-19 can pose a risk to you if you come in close contact with others or share public facilities at campsites or along the trails. This is because it is possible for someone to have COVID-19 and spread it to others, even if they have no symptoms. Exposure may be especially unsafe if you are at [higher risk for severe complications from COVID-19](#) and are planning to be in remote areas, far away from medical care. Also be aware that many local, state, and national public parks have been temporarily closed due to COVID-19.

Page last reviewed: April 23, 2020

EXHIBIT 6

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

HON. MARK E. WINDHAM, JUDGE

DEPARTMENT NO. W81

PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

01 ROBERT DURST,)

DEFENDANT.)

NO. SA089983-01

COPY

SEALED PROCEEDINGS - CONDITIONAL EXAMINATION

FEBRUARY 15, 16, 17, 2017

CONFIDENTIAL - MAY NOT BE EXAMINED WITHOUT COURT ORDER

APPEARANCES:

FOR THE PEOPLE:

JACKIE LACEY, DISTRICT ATTORNEY

BY: JOHN LEWIN, DEPUTY

HABIB BALIAN, DEPUTY

DAVID YAROSLAVSKY, DEPUTY

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LAS VEGAS, NV 89101

REPORTED BY:

BEVERLY J. NICHOLS, C.S.R. NO. 5092

RONA K. MATSUZAKI, C.S.R. NO. 6002

1 TRUTH, SO HELP YOU GOD?

2 THE WITNESS: YES.

3
4 NATHAN ALLEN CHAVIN,
5 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
6 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

7
8 THE CLERK: PLEASE BE SEATED IN THE WITNESS STAND.

9 PLEASE STATE AND SPELL YOUR FIRST AND LAST
10 NAME.

11 THE WITNESS: NATHAN ALLEN CHAVIN. N-A-T-H-A-N,
12 A-L-L-E-N, C-H-A-V AS IN VICTOR-I-N.

13 THE CLERK: THANK YOU.

14 THE COURT: YOU MAY PROCEED, MR. LEWIN.

15

16 DIRECT EXAMINATION

17

18 BY MR. LEWIN:

19 Q MR. CHAVIN, HOW OLD ARE YOU?

20 A 72, SIR.

21 Q AND I'M NOT ASKING YOU SPECIFICALLY WHERE YOU
22 LIVE BUT CAN YOU TELL ME IN WHAT STATE DO YOU LIVE?

23 A NEW YORK STATE.

24 Q AND WHEN DID YOU COME OUT TO LOS ANGELES WITH
25 RESPECT TO TESTIFYING IN THIS PROCEEDING?

26 A LAST SATURDAY, I BELIEVE. SATURDAY OR SUNDAY.

27 Q MEANING FOUR DAYS AGO OR DO YOU MEAN THE
28 WEEKEND OF JANUARY 30TH, 31ST, AROUND THAT TIME?

EXHIBIT 7

1 CHARLES LACHMAN,
2 CALLED AS A WITNESS BY THE PEOPLE, HAVING
3 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
4

5 DIRECT EXAMINATION

6 BY MR. LEWIN:

7 Q. MR. LACHMAN, COULD YOU TELL ME WHAT IS YOUR
8 AGE.

9 A. SIXTY-SIX.

10 Q. CAN YOU TELL ME WHAT IS YOUR CURRENT
11 OCCUPATION.

12 A. I'M EXECUTIVE PRODUCER OF THE T.V. SHOW
13 INSIDE EDITION.

14 Q. AND HOW LONG HAVE YOU HAD THAT POSITION?

15 A. OH, 25 YEARS OR SO.

16 Q. AND PREVIOUS TO THAT, AT SOME POINT IN YOUR
17 CAREER, WERE YOU A REPORTER FOR THE NEW YORK POST?

18 A. YES.

19 Q. AND WHEN WERE YOU A REPORTER FOR THAT ENTITY?

20 A. 1981 THROUGH 1988.

21 Q. AND AS A REPORTER THERE, WHAT WERE YOUR
22 RESPONSIBILITIES? WHAT DID YOU DO THERE?

23 A. I WAS A GENERAL ASSIGNMENT REPORTER. I'D GO
24 DO REPORTS.

25 Q. AND WHAT DOES THAT MEAN IN TERMS OF WHEN YOU
26 SAY "GENERAL ASSIGNMENT REPORTER"? WHAT DOES THAT MEAN?

27 A. I WOULD BE ASSIGNED TO ANY STORIES THAT WOULD
28 HAVE COME UP DURING THE COURSE OF THE DAY THAT THE EDITORS

1 THOUGHT WAS WORTH -- WERE WORTH PURSUING.

2 Q. AND YOUR EDUCATION, CAN YOU TELL ME WHAT KIND
3 OF EDUCATION YOU HAVE, WHERE DID YOU GO.

4 A. I'M A GRADUATE OF BROOKLYN COLLEGE, 1974.

5 Q. AND IS THAT WITH A BACHELOR'S DEGREE?

6 A. YES.

7 Q. LET ME JUST ASK YOU: AS YOU SIT HERE TODAY,
8 HOW DO YOU FEEL ABOUT TESTIFYING IN THIS CASE?

9 A. NOT GREAT.

10 Q. AND WHEN YOU SAY "NOT GREAT," CAN YOU EXPLAIN
11 WHAT YOU MEAN BY THAT.

12 A. WELL, I'D RATHER BE OUT THERE THAN ON THE
13 WITNESS STAND. JUST MY BACKGROUND AS A JOURNALIST AND
14 PURELY SELFISHLY, I DON'T -- I WASN'T FEELING GOOD ABOUT
15 FLYING -- LEAVING MY OFFICE IN NEW YORK AND FLYING HERE, BUT
16 HERE I AM.

17 Q. AND, MR. LACHMAN, BEING CONTACTED FOR THIS
18 CASE, HAVE YOU EXPRESSED IN THE PAST DURING OUR
19 CONVERSATIONS AT ANY POINT A CONCERN ABOUT POTENTIALLY YOUR
20 ROLE AS A JOURNALIST RELATING TO WHAT WE'RE GOING TO CALL
21 PRIVILEGED INFORMATION?

22 A. YES.

23 Q. AND YOU HAVE A COUPLE OF ATTORNEYS HERE
24 TODAY; IS THAT CORRECT?

25 A. YES.

26 Q. AND PURSUANT TO THE QUESTIONS THAT YOU
27 RAISED, WAS THERE AN AGREEMENT MADE ABOUT WHAT THE SUBJECT
28 AND THE KIND OF GUIDELINES REGARDING THE QUESTIONS I WAS

EXHIBIT 8

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

HON. MARK E. WINDHAM, JUDGE

DEPARTMENT NO. W81

PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

ROBERT DURST,)

DEFENDANT.)

NO. SA089983-01

COPY

SEALED PROCEEDINGS
CONDITIONAL EXAMINATION OF STEPHEN SILVERMAN
OCTOBER 16, 2017

CONFIDENTIAL - MAY NOT BE EXAMINED WITHOUT COURT ORDER

APPEARANCES:

FOR THE PEOPLE:

JACKIE LACEY, DISTRICT ATTORNEY

BY: JOHN LEWIN, DEPUTY

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REPORTED BY:

BEVERLY J. NICHOLS, C.S.R. NO. 5092

RONA K. MATSUZAKI, C.S.R. NO. 6005

OFFICIAL COURT REPORTERS

1 SO YES.

2 Q HAVE YOU EVER TESTIFIED IN COURT BEFORE?

3 A IN COURT, NO.

4 Q CAN YOU TELL ME -- I'LL START OFF WITH THE
5 EASY ONES -- HOW OLD ARE YOU?

6 A 65.

7 Q AND YOUR EDUCATION?

8 A I HAVE A MASTER'S DEGREE FROM COLUMBIA
9 UNIVERSITY.

10 Q IN WHAT AREA?

11 A JOURNALISM.

12 Q AND WHAT ARE YOU CURRENTLY -- ARE YOU STILL
13 WORKING OR ARE YOU RETIRED?

14 A WELL, I'M AN AUTHOR. FOR 20 YEARS I WAS AN
15 EDITOR AT *TIME INCORPORATED*.

16 Q AND ARE YOU -- WHEN YOU SAY YOU'RE RETIRED,
17 ARE YOU STILL --

18 A NO. I'M STILL WRITING. I HAVE A BOOK ON
19 TRACK. I DO TRAVEL PIECES FOR THE *CHICAGO TRIBUNE*. BUT I'M
20 NOT WORKING AT THE *PACE* I DID DURING MY YOUNGER CAREER.

21 Q AND WHEN YOU SAID YOU WERE AN EDITOR, WHAT DID
22 YOU DO DURING YOUR CAREER AS AN EDITOR?

23 YOU SAID FOR *TIME*?

24 A FOR *TIME INC.*

25 I HELPED ESTABLISH *PEOPLE MAGAZINE'S* WEBSITE.
26 I'VE ALSO BEEN A JOURNALISM PROFESSOR AT COLUMBIA UNIVERSITY
27 FOR NINE YEARS. I'VE WRITTEN 12 BOOKS.

28 Q AND WHEN I SAY THE NAME "SUSAN BERMAN," IS

1 THAT SOMEBODY -- A NAME YOU'VE HEARD OF?

2 A YES.

3 Q AND HOW DO YOU KNOW SUSAN BERMAN?

4 A WHEN I WAS A VERY YOUNG EDITOR, FRESH OUT OF
5 GRAD SCHOOL, I EDITED A MAGAZINE IN LOS ANGELES. ONE DAY OUT
6 OF THE BLUE SUSAN ARRIVED IN MY OFFICE, INTRODUCED HERSELF.
7 SHE DID NOT REALLY NEED AN INTRODUCTION BECAUSE SHE HAD
8 WRITTEN A STORY FOR A SAN FRANCISCO PUBLICATION THAT GOT
9 NATIONAL ATTENTION. AND SHE WANTED TO WRITE FOR MY MAGAZINE.
10 BUT I ASSURED HER IT WASN'T A GOOD FIT.

11 Q WHAT WAS YOUR MAGAZINE?

12 A IT WAS CALLED COAST. IT WAS A REGIONAL
13 MONTHLY. IT WAS ONE OF THE FEW TITLES GOING OUT HERE EXCEPT
14 FOR LOS ANGELES AT THE TIME, LOS ANGELES MAGAZINE.

15 Q AND SO SUSAN CAME TO YOU AND SHE BASICALLY
16 SAID SHE WANTED TO WRITE FOR YOU?

17 A SHE INTRODUCED HERSELF. I'D NEVER MET ANYONE
18 LIKE HER. SHE SPOKE A MILE A MINUTE. I GOT HER WHOLE LIFE
19 STORY, I WOULD SAY, IN TWO MINUTES.

20 Q DO YOU REMEMBER ABOUT WHAT YEAR THIS WOULD
21 HAVE BEEN?

22 A IT MORE THAN LIKELY WAS 1976.

23 Q AND CAN YOU EXPLAIN -- THAT WAS NOT YOUR LAST
24 INTERACTION WITH SUSAN --

25 A OH, NO, NO, NO, NO, NO.

26 A FEW MONTHS AFTER THAT WE WERE BOTH AT THE --
27 THERE WAS A BOOK CONVEN- -- THE NATIONAL BOOK CONVENTION AND
28 IT WAS IN SAN FRANCISCO AND SHE WAS THERE, AND I THINK I SAID

1 TO HER, "I'M THINKING OF MOVING TO NEW YORK." AND I DON'T
2 KNOW IF SHE WAS LIVING IN NEW YORK YET OR WHETHER SHE WAS
3 STILL LIVING IN SAN FRANCISCO.

4 UH, AND THEN THE FOLLOWING YEAR OR MONTHS
5 LATER SHE CALLED AND SAID THERE WAS AN APARTMENT NEXT TO HERS
6 IN NEW YORK AND SHE WANTED ME TO TAKE IT. SUSAN NEVER -- SHE
7 WOULD TELL YOU WHAT TO DO.

8 Q SO AT SOME POINT --

9 A I DID TAKE IT.

10 Q SO YOU MOVED FROM L.A. TO NEW YORK?

11 A I DID.

12 Q THAT WOULD SEEM TO NOT BE A REAL CONVENIENT
13 APARTMENT FOR YOU IF YOU WERE STILL LIVING OUT HERE.

14 A YES. I HAD SEVERAL JOB PROS- -- VERY GOOD JOB
15 PROSPECTS AND I MOVED TO NEW YORK AND I SOON GOT A JOB.

16 Q AND DO YOU -- APPROXIMATELY DO YOU KNOW ABOUT
17 WHAT YEAR THIS WAS?

18 A OH, I KNOW EXACTLY. IT WAS 1977, IN THE
19 FALL.

20 Q AND WHEN YOU SAID THAT SHE HAD AN APARTMENT
21 THAT SHE WANTED YOU TO TAKE, DO YOU REMEMBER WHERE THAT WAS?

22 A OH, I DO. SHE LIVED AT NO. 34 BEEKMAN PLACE.
23 AND THIS WAS IN NO. 32. THESE WERE TINY, TINY APARTMENTS ON
24 REALLY ONE OF THE MOST EXCLUSIVE STREETS IN MANHATTAN.

25 Q AND SO YOU ENDED UP TAKING THAT APARTMENT?

26 A I DID.

27 Q AND IS IT FAIR TO SAY THAT LIVING NEXT DOOR TO
28 SUSAN THAT THE TWO OF YOU HAD CONTINUED INTERACTIONS AFTER

EXHIBIT 9

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

HON. MARK E. WINDHAM, JUDGE DEPARTMENT NO. W81

PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,) NO. SA089983-01
)
 VS.)
)
 ROBERT DURST,)
)
 DEFENDANT.)

SEALED PROCEEDINGS
CONDITIONAL EXAMINATION OF MICHAEL STRUK
NOVEMBER 14 AND 15, 2017

CONFIDENTIAL - MAY NOT BE EXAMINED WITHOUT COURT ORDER

APPEARANCES:

FOR THE PEOPLE: JACKIE LACEY, DISTRICT ATTORNEY
BY: JOHN LEWIN, DEPUTY
HABIB BALIAN, DEPUTY
DAVID YAROSLAVSKY, DEPUTY
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REPORTED BY: BEVERLY J. NICHOLS, C.S.R. NO. 5092
RONA K. MATSUZAKI, C.S.R. NO. 6005
OFFICIAL COURT REPORTERS

1 STILL FREE TO CHALLENGE THAT RECORD. BUT FOR THE MOST PART,
2 THE TELEPHONE RECORDS WE AGREE ARE AUTHENTIC AND WE NEED NOT
3 CALL A CUSTODIAN, EITHER SIDE.

4 THE COURT: THANK YOU FOR THAT STIPULATION. THE
5 COURT ACCEPTS THE STIPULATION.

6 MR. DE GUERIN: AND, IN FACT, ONE OF OUR EXHIBITS
7 TODAY WILL BE SOME RECORDS THAT WERE GATHERED AT ONE TIME BY
8 DETECTIVE STRUK. AND WE'LL GET TO THOSE THAT WE'VE GOT.

9 THE COURT: THANK YOU. YOU MAY PROCEED.

10

11 MICHAEL STRUK,
12 CALLED AS A WITNESS BY THE DEFENDANT, HAVING
13 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

14

15 DIRECT EXAMINATION

16 BY MR. DE GUERIN:

17 Q. GOOD MORNING.

18 WOULD YOU STATE YOUR NAME TO THE RECORD AND
19 SPELL -- AND SPELL IT.

20 THE COURT: THAT'S BEEN DONE. THANK YOU.

21 MR. DE GUERIN: OH, HAS IT?

22 THE COURT: YES. AND SWORN, YES.

23 MR. DE GUERIN: THANK YOU.

24 Q. GOOD MORNING.

25 A. GOOD MORNING.

26 Q. YOU RETIRED FROM THE NEW YORK POLICE
27 DEPARTMENT IN WHAT YEAR, DETECTIVE STRUK?

28 A. 1985.

1 Q. AND SINCE THAT TIME, YOU HAVE CONTINUED TO
2 WORK IN THE CRIMINAL JUSTICE SYSTEM AS A PRIVATE
3 INVESTIGATOR; IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. WHAT I'D LIKE TO DO BEFORE WE EVEN GET INTO
6 THE FACTS OF THIS CASE, DETECTIVE STRUK, IS -- IS TO GET
7 YOUR BACKGROUND. HOW LONG -- WHAT'S YOUR EDUCATION?

8 A. ABOUT THREE YEARS OF COLLEGE.

9 Q. AND WHERE WERE YOU BORN AND RAISED?

10 A. I WAS BORN IN BROOKLYN, NEW YORK.

11 MR. LEWIN: YOUR HONOR, I'M HAVING A LITTLE HARD
12 TIME. I DON'T KNOW IF IT'S THE MIC. BUT HOWEVER IT'S PLACE
13 RIGHT NOW IT SOUNDS LIKE IT'S COMING OFF AS MUMBLING ON MY
14 END. I KNOW MY HEARING IS NOT THE BEST, BUT MAYBE DETECTIVE
15 STRUK CAN ADJUST THAT.

16 THE WITNESS: BROOKLYN, NEW YORK. IS THAT BETTER?

17 MR. LEWIN: THANK YOU.

18 THE COURT: THANK YOU.

19 Q. BY MR. DE GUERIN: THAT'S A LITTLE BETTER. I
20 WAS HAVING THE SAME DIFFICULTY. BUT I DON'T WEAR A HEARING
21 AID LIKE MY COMPATRIOT HERE DOES.

22 SO TELL US A LITTLE BIT ABOUT YOUR
23 BACKGROUND. WHEN DID YOU GET INTO POLICE WORK?

24 A. AFTER LEAVING THE ARMY, I HAD ENTERED THE
25 POLICE DEPARTMENT IN 1965 AND THEN SPENT 20 YEARS IN NYPD
26 WITH ASSIGNMENTS IN PATROL, VICE AND GAMBLING, NARCOTICS FOR
27 QUITE AWHILE, AND THE HOMICIDE SQUAD AND AS WELL AS GENERAL
28 INVESTIGATION.

EXHIBIT 10

JUDICIAL COUNCIL OF CALIFORNIA
STATEWIDE ORDER BY HON. TANI G. CANTIL-SAKAUYE,
CHIEF JUSTICE OF CALIFORNIA AND CHAIR OF THE JUDICIAL COUNCIL
MARCH 23, 2020

The World Health Organization, the United States Centers for Disease Control and Prevention (CDC), and the State of California have recognized that the world, country, and state face a life-threatening pandemic caused by the COVID-19 virus. As of March 23, 2020, the CDC reported that there are more than 40,000 confirmed COVID-19 cases in the United States, and more than 500 deaths. In California, the Department of Public Health reports more than 1,700 confirmed cases and more than 30 deaths. Health officials expect these figures to rise dramatically unless the population adheres to shelter-in-place guidelines and appropriate social distancing. As of this date, there is no known cure or vaccination.

In response to the spread of COVID-19, Governor Newsom on March 4, 2020, declared a state of emergency in California, which was followed on March 13, 2020, by President Trump declaring a national emergency. Beginning on March 16, 2020, California counties began issuing shelter-in-place or stay-at-home orders. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all Californians to stay home, subject to certain limited exemptions. Courts are included in this exemption. Schools have been closed statewide.

The CDC, the California Department of Public Health, and local county health departments have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces.

Courts cannot comply with these health restrictions and continue to operate as they have in the past. Court proceedings require gatherings of court staff, litigants, attorneys, witnesses, and juries, well in excess of the numbers allowed for gathering under current

executive and health orders. Many court facilities in California are ill-equipped to effectively allow the social distancing and other public health requirements required to protect people involved in court proceedings and prevent the further spread of COVID-19. Even if court facilities could allow for sufficient social distancing, the closure of schools means that many court employees, litigants, witnesses, and potential jurors cannot leave their homes to attend court proceedings because they must stay home to supervise their children. These restrictions have also made it nearly impossible for courts to assemble juries.

Pursuant to my authority under the California Constitution, article VI, section 6 and Government Code section 68115, and after careful consideration, balancing the constitutional due process rights of parties in both criminal and civil proceedings with the health and safety of these parties, the public, court staff, judicial officers, attorneys, witnesses, jurors, and others present at these proceedings, among other considerations, I find good cause to order that:

1. All jury trials are suspended and continued for a period of sixty (60) days from the date of this order. Courts may conduct such a trial at an earlier date, upon a finding of good cause shown or through the use of remote technology, when appropriate.
2. The time period provided in Penal Code section 1382 for the holding of a criminal trial is extended for a period of sixty (60) days from the date of this order. Courts may conduct such a trial at an earlier date, upon a finding of good cause shown or through the use of remote technology, when appropriate.
3. The time period provided in Code of Civil Procedure sections 583.310 and 583.320 for the holding of a civil trial is extended for a period of sixty (60) days from the date of this order. Courts may conduct such a trial at an earlier date, upon a finding of good cause shown or through the use of remote technology, when appropriate.
4. All superior courts are authorized under rule 10.613(i) of the California Rules of Court to adopt any proposed rules or rule amendment that is intended to address the impact of the COVID-19 pandemic to take effect immediately, without advance circulation for 45 days of public comment. A court adopting any such rule change must provide a copy to Judicial Council staff and post notice of the change prominently on the court's website, along with the effective date of the new or

amended rule. Additionally, the court must immediately distribute the new or amended rule as set forth in rule 10.613(g)(2). No litigant's substantive rights shall be prejudiced for failing to comply with the requirements of a new or amended rule until at least 20 days after the rule change has been distributed.

Courts are urged to timely communicate with attorneys and self-represented litigants regarding the status of pending proceedings.

I reserve the authority to rescind or modify this order, as appropriate, to address changing circumstances. This order may be deemed part of the record in affected cases for purposes of appeal without the need to file the order in each case.

Date: March 23, 2020

Tani G. Cantil-Sakauye

Hon. Tani G. Cantil-Sakauye
Chief Justice of California and
Chair of the Judicial Council

EXHIBIT 11

FILED
Superior Court of California
County of Los Angeles

MAR 23 2020

Sherri R. Carter, Executive Officer/Clerk
By Rizalinda Mina, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ADMINISTRATIVE ORDER OF THE
PRESIDING JUDGE RE COVID-19
PANDEMIC

GENERAL ORDER

WHEREAS, Donald J. Trump, the President of the United States has declared a national emergency in response to the outbreak of the coronavirus, also known as COVID-19; and

WHEREAS, Gavin Newsom, the Governor of the State of California has declared a state of emergency in response to the outbreak of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has recommended that, for at least eight (8) weeks, all gatherings throughout the United States should be limited to no more than 10 people; and

WHEREAS, the Los Angeles County Department of Public Health has recommended that large gatherings should be avoided, that persons over 65 years of age, and other vulnerable populations should avoid person-to-person contact and maintain a social distance of at least six (6) feet, and that employers allow their employees to telework to the extent reasonable and practical; and

WHEREAS, as of March 23, 2020, 536 people within the County of Los Angeles have been confirmed to be infected with COVID-19, and seven (7) people within the County of Los Angeles have died from COVID-19, and the number of those infected continues to rise, thus causing an emergency pandemic; and

WHEREAS, on March 19, 2020, Governor Newsom and Los Angeles Mayor Eric Garcetti, both issued, respectively, stay at home and safer at home orders; and

1 **WHEREAS**, the Superior Court of California for the County of Los Angeles has obtained
2 emergency powers pursuant to the provisions of California Government Code section 68115, and has
3 issued general orders to implement the emergency powers the Chief Justice of the State of California
4 delegated to the Court.

5 **EFFECTIVE IMMEDIATELY THIS COURT HEREBY ORDERS AS FOLLOWS:**

- 6 1. Access to any and all Los Angeles County Courthouses shall be restricted at all times to
7 judges, commissioners, court staff and authorized persons¹ until further notice; and
- 8 2. Access to any and all court proceedings, including but not limited to arraignments,
9 preliminary hearings, motions, ex partes or trials, shall be limited to parties, attorneys,
10 witnesses or authorized persons until further notice; and
- 11 3. The full and complete temporary public closure of the Sylmar Juvenile Courthouse for
12 three (3) days; and
- 13 4. The full and complete public closure of the Beverly Hills, Catalina and Spring Street
14 Courthouses, until further notice; and
- 15 5. The Executive Officer/Clerk of Court may provide telephonic and electronic assistance
16 to assist in those essential services as outlined in the [March 17, 2020](#) and [March 19,](#)
17 [2020](#) Administrative Order of the Presiding Judge re COVID-19 Pandemic, as well as
18 any subsequent Orders, to the largest extent possible only; and
- 19 6. The suspension of any and all criminal or civil jury or non-jury trials per the [March 19,](#)
20 [2020](#) Administrative Order of the Presiding Judge re COVID-19 Pandemic, including
21 unlawful detainer trials, until further notice; and
- 22 7. In all criminal cases, a 90-day continuance of any and all status reports and progress
23 reports; and
- 24 8. The continuance of any and all criminal misdemeanor cases, with out-of-custody
25 defendants, for 90 days, unless otherwise statutorily required; and
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¹ Authorized persons include but is not limited to news reporters and news media representatives.

- 1 9. Bail review hearings under Penal Code section 1275 for any and all misdemeanor or
2 felony pretrial detainees will be deemed a priority matter on the court's calendar for the
3 next 60 days; and
4 10. Social distancing of at least six (6) feet shall be enforced in all courthouse and
5 courtrooms to the extent possible.
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7 **THIS ORDER IS EFFECTIVE IMMEDIATELY AND WILL REMAIN IN EFFECT**
8 **UNTIL JUNE 22, 2020 AND MAY BE AMENDED AS CIRCUMSTANCES REQUIRE.**
9 **IT IS SO ORDERED.**

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12 DATED: March 23, 2020



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KEVIN C. BRAZILE
Presiding Judge