

## **EXHIBIT 2**

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 - - - - - x

4 LORRAINE MASCIARELLI,

5 Plaintiff,

6 -against-

INDEX NO. 22-cv-7553

7 NEW YORK CITY DEPARTMENT OF  
8 EDUCATION,

9 Defendant.

10 - - - - - x

11 April 4, 2025

12 10:05 a.m.

13  
14  
15 VIRTUAL DEPOSITION of ERIC J. EICHENHOLTZ, on  
16 behalf of the Defendant herein, pursuant to Notice,  
17 taken before Ceita Lazar, a Stenographic Reporter  
18 and Notary Public within and for the State of  
19 New York.  
20  
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22

23 SANDY SAUNDERS REPORTING  
24 254 South Main Street, Suite 216  
25 New City, New York 10956  
(845) 634-7561

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

THE SCHER LAW FIRM, LLP  
Attorneys for Plaintiff  
600 Old Country Road  
Garden City, New York 11530  
BY: AUSTIN GRAFF, ESQ.

NEW YORK CITY LAW DEPARTMENT  
Attorneys for Defendant  
100 Church Street, New York  
New York 10007  
BY: KATHLEEN LINNANE, ESQ.  
- and -  
ANDREA MARTIN, ESQ.

ALSO PRESENT:

LORRAINE MASCIARELLI

1 F E D E R A L S T I P U L A T I O N S

2

3 IT IS HEREBY STIPULATED AND AGREED by and between  
4 the attorneys for the respective parties herein,  
5 that filing and sealing be and the same are hereby  
6 waived.

7

8 IT IS FURTHER STIPULATED AND AGREED that all  
9 objections, except as to the form of the question,  
10 shall be reserved to the time of the trial.

11

12 IT IS FURTHER STIPULATED AND AGREED that the within  
13 deposition may be signed and sworn to before any  
14 officer authorized to administer an oath, with the  
15 same force and effect as if signed and sworn to  
16 before the Court.

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1 E. J. EICHENHOLTZ

2 THE REPORTER: Usual stips?

3 MS. LINNANE: I would like  
4 the stips read in, please.

5 THE REPORTER: IT IS HEREBY  
6 STIPULATED AND AGREED by and  
7 between the attorneys for the  
8 respective parties herein, that  
9 filing and sealing be and the  
10 same are hereby waived.

11  
12 IT IS FURTHER STIPULATED AND  
13 AGREED that all objections,  
14 except as to the form of the  
15 question, shall be reserved to  
16 the time of the trial.

17  
18 IT IS FURTHER STIPULATED AND  
19 AGREED that the within deposition  
20 may be signed and sworn to before  
21 any officer authorized to  
22 administer an oath, with the same  
23 force and effect as if signed and  
24 sworn to before the Court.

25 MS. LINNANE: Agreed.

1 E. J. EICHENHOLTZ

2 MR. GRAFF: I'm fine with  
3 them too.

4 THE REPORTER: Pursuant to  
5 Order, Notice, or something else?

6 MR. GRAFF: Notice.

7 THE REPORTER: Ms. Linnane,  
8 would you like to purchase a  
9 copy?

10 MR. GRAFF: I'll provide.

11 MS. LINNANE: Thank you,  
12 Mr. Graff.

13 THE REPORTER: My name is  
14 Ceita Lazar, court reporter. The  
15 parties are present remotely to  
16 take the deposition of Eric J.  
17 Eichenholtz In the Matter of  
18 Lorraine Masciarelli versus New  
19 York City Department of  
20 Education.

21 I ask that everyone please  
22 stay close to the microphone so  
23 that I can provide the best  
24 transcript possible and also so  
25 my interruptions will be minimal.

1 E. J. EICHENHOLTZ

2 Will counsel please state  
3 their name, who they represent,  
4 and then I will swear in the  
5 witness.

6 MR. GRAFF: Austin Graff  
7 from The Scher Law Firm  
8 representing the plaintiff,  
9 Lorraine Masciarelli.

10 MS. LINNANE: Kathleen  
11 Linnane, Corporation Counsel for  
12 the defendants.

13 MS. MARTIN: Andrea Martin,  
14 Corporation Counsel for  
15 defendant.

16  
17 ERIC J. EICHENHOLTZ,  
18 Having been first duly sworn by the  
19 Notary Public (CEITA LAZAR), and stating  
20 his address as 100 Church Street, New  
21 York, New York 10007, was examined and  
22 testified as follows:

23  
24 EXAMINATION

25 BY MR. GRAFF:

1 E. J. EICHENHOLTZ

2 Q. Good morning, Mr. Eichenholtz.

3 My name is Austin Graff. I am the  
4 attorney for the plaintiff, Lorraine  
5 Masciarelli, in this action. I'm going  
6 to ask you a series of questions today.  
7 Please make your responses verbal.

8 Hand gestures and head nods cannot be  
9 taken down by the court reporter. Do  
10 you understand that?

11 A. Yes.

12 Q. If you need to take a break at  
13 any point, please let me know. As long  
14 as there's no pending question, we can  
15 take a break. Do you understand that?

16 A. Yes.

17 Q. If you answer a question, I'll  
18 assume that you understood what I'm  
19 asking. But if you don't understand  
20 the question, please stop me and either  
21 ask me to repeat it, rephrase it, or  
22 we'll have the court reporter read it  
23 back to you. Do you understand that?

24 A. Yes.

25 Q. Do you have anything in front of

1 E. J. EICHENHOLTZ

2 you regarding this case, any paperwork,  
3 any documents, anything related to this  
4 case in front of you?

5 A. No.

6 Q. And where are you currently  
7 located?

8 A. I'm located at the New York City  
9 Law Department, 100 Church Street, New  
10 York, New York.

11 Q. Is there anyone in the room with  
12 you right now?

13 A. Yes. Kathleen Linnane, who is  
14 counsel for the defendant in this case.

15 Q. How did you prepare for today's  
16 deposition?

17 A. I reviewed Ms. Masciarelli's  
18 appeal of her -- the Department of  
19 Education's denial of her religious  
20 reasonable accommodation request. I  
21 reviewed the complaint and some other  
22 litigation papers in this action. And  
23 I also reviewed some portions of the  
24 EEOC guidance that was in place in 2021  
25 and 2022 regarding COVID-19 and the EEO

1 E. J. EICHENHOLTZ  
2 laws. I also reviewed -- I should also  
3 say I also reviewed provisions of the  
4 New York State -- sorry, New York City  
5 Human Rights Law located at  
6 Administrative Code 8107.

7 Q. And you're appearing today  
8 pursuant to a notice of deposition?

9 A. Correct.

10 Q. I'm just going to -- tell me  
11 when you see it on the screen.

12 A. I don't.

13 MS. LINNANE: Yeah, we just  
14 see black here.

15 THE WITNESS: Oh, there it  
16 is.

17 MS. LINNANE: I'm going to  
18 make this bigger, Austin. Just  
19 give me one second here.

20 MR. GRAFF: I can make it  
21 larger on my side too. Just let  
22 me know.

23 MS. LINNANE: Is that big  
24 enough? That's fine.

25 MR. GRAFF: I'll mark this

1 E. J. EICHENHOLTZ

2 as Exhibit A.

3

4 (Plaintiff's Exhibit A,

5 Notice of Deposition, was

6 marked for identification.)

7

8 BY MR. GRAFF:

9 Q. Is this the notice of deposition

10 that you're appearing pursuant to here

11 today?

12 A. Yes, that is my understanding by

13 counsel.

14 Q. And there were a list of

15 subjects of testimony. You're prepared

16 to answer some or all of the topics?

17 A. Some, not all. And I would be

18 happy to, you know, if we reach a point

19 where one of the topics is not within

20 the scope of my knowledge, well, I'm

21 sure we'll be -- I will point it out.

22 I'm sure my counsel will, you know,

23 advise us to anything that the

24 defendant believes is not appropriate

25 to discuss.

1 E. J. EICHENHOLTZ

2 Q. Okay. Are you currently  
3 employed?

4 A. Yes.

5 Q. Who is your employer?

6 A. The City of New York.

7 Q. How long have you worked for the  
8 City of New York?

9 A. Since September of 2002.

10 Q. Is there a particular agency or  
11 department within the City of New York  
12 that you're employed by?

13 A. Yes, the New York City Law  
14 Department.

15 Q. And have you been working for  
16 the city law department since  
17 September, 2002?

18 A. Yes.

19 Q. What is your current title?

20 A. Managing attorney.

21 Q. Did you say "managing attorney"?

22 A. Yes.

23 Q. And as managing attorney, what  
24 are your duties and responsibilities?

25 A. I oversee, at an executive



1 E. J. EICHENHOLTZ  
2 level, the labor and employment law  
3 division, which is the division of the  
4 law department that handles all labor  
5 and employment related legal issues,  
6 litigation.

7 I advise, at a high level,  
8 unemployment law issues. And,  
9 internally, I oversee, at an executive  
10 level, all of the law department's  
11 internal operations and operational  
12 divisions, which include  
13 administration, litigation support,  
14 operations, information technology, as  
15 well as things like budget, fiscal,  
16 personnel, human resources benefits,  
17 things like that.

18 Q. That's it?

19 A. Just that, yes.

20 Q. And how long have you been in  
21 the title of managing attorney?

22 A. Since -- I started in an acting  
23 capacity in late November of 2022. I  
24 was formally appointed in December of  
25 2022, and I've been serving in that

1 E. J. EICHENHOLTZ

2 capacity since.

3 Q. Before you were managing  
4 attorney, what was your job title?

5 A. I was chief assistant  
6 corporation counsel for employment,  
7 policy, and litigation.

8 Q. And when were you appointed to  
9 that position?

10 A. October, 2021.

11 Q. And before you were chief  
12 assistant corporation counsel, what was  
13 your job title?

14 A. Division chief of the labor and  
15 employment law division.

16 Q. And when were you appointed to  
17 that position?

18 A. February of 2013.

19 Q. As chief assistant corporation  
20 counsel appointed in October of 2021,  
21 what were your job duties?

22 A. So I was much like I am now,  
23 providing legal advice, see counsel on  
24 employment law matters to the city  
25 agencies and elected officials. I

1 E. J. EICHENHOLTZ  
2 oversaw -- oversaw, like I do now, the  
3 labor and employment law division in an  
4 executive capacity. At the time, in  
5 addition, I also oversaw affirmative  
6 litigation, e-discovery, and Workers'  
7 Compensation.

8 Q. What is the difference between  
9 your position as managing attorney and  
10 chief assistant corporation counsel?

11 MS. LINNANE: I'm just going  
12 to caution the witness not to  
13 disclose anything that could be  
14 considered privileged pursuant to  
15 the doctrine of attorney-client  
16 privilege.

17 THE WITNESS: Of course.

18 A. The difference is, essentially,  
19 the scope of my responsibilities.  
20 Managing attorney is considered higher  
21 level position because it has  
22 office-wide responsibility. I'm  
23 essentially considered third in line  
24 corporation counsel and the first  
25 assistant corporation counselor ahead

1 E. J. EICHENHOLTZ

2 of me.

3 And, obviously, is you saw from  
4 the division allotment, my portfolio is  
5 slightly different. I still have the  
6 same employment law portfolio, but  
7 instead of overseeing other divisions  
8 and subject areas, my focus is more on  
9 the overall management and operations  
10 of the New York City Law Department  
11 itself.

12 Q. Is the position from chief  
13 assistant corporation counsel to  
14 managing attorney a promotion?

15 A. Yes.

16 Q. Are you a licensed attorney in  
17 New York?

18 A. I am.

19 Q. When were you admitted to  
20 practice?

21 A. January 2003.

22 Q. Do you have any training in  
23 Title 7 issues regarding religious  
24 discrimination?

25 A. Yes.

1 E. J. EICHENHOLTZ

2 Q. What type of training do you  
3 have?

4 A. Many types of training. So I  
5 have, obviously, over a roughly 22-  
6 plus year career. I have taken dozens  
7 of CLE courses on this and other  
8 employment related law topics.

9 The City of New York requires  
10 employees to be trained regularly on  
11 the antidiscrimination laws, including  
12 Title 7 trained on reasonable  
13 accommodations. I have, in addition to  
14 being trained myself, I have presented  
15 CLEs both internally within the law  
16 department, as well as at the  
17 Practicing Law Institute on issues  
18 regarding Title 7, issues regarding  
19 reasonable accommodations, issues  
20 regarding retaliation, EDA, and all the  
21 state and local law as well. Because,  
22 as you know, in New York City, we have  
23 a City Human Rights Law which is -- has  
24 a broader reach, generally, than the  
25 federal counterparts. So we focus on

1 E. J. EICHENHOLTZ  
2 those laws as well when we do training  
3 and when I am being trained, as well as  
4 when I'm presenting training.

5 Q. When you discussed how you  
6 prepared today, you reviewed New York  
7 City Human Rights Law Section 8-107?

8 A. Uh-hum.

9 Q. Why did you review that specific  
10 section?

11 A. I wanted to make sure, because I  
12 understood this case to be involving a  
13 decision on an RA, reasonable  
14 accommodation. I just wanted to make  
15 sure that I had, fresh in my mind, the  
16 particular provisions in the City Human  
17 Rights Law regarding religious  
18 reasonable accommodations. So that's  
19 why I did it.

20 Q. How did that law impact the  
21 COVID vaccine mandate reasonable  
22 accommodation requests?

23 MS. LINNANE: Objection.

24 You can answer.

25 A. Other than it obviously provided

1 E. J. EICHENHOLTZ  
2 legal parameters for which we would  
3 analyze, grant, or deny requests. In  
4 other words, the positive, the  
5 proscriptive parts of that law, would  
6 compel a grant, and the prescriptive  
7 parts are the parts that allowed  
8 employer discretions to deny a grant,  
9 would be a basis for denying the grant  
10 of a reasonable accommodation.

11 So it was part of what governed  
12 the city's analysis and the city's  
13 discretion of whether to grant or deny  
14 a reasonable accommodation request.

15 Q. When you discussed the city's  
16 decision, does that include the New  
17 York City Department of Education?

18 A. Yes. Yes. I'm being general as  
19 to when I say "the city" in that  
20 context, I should say. And I will be  
21 more precise, because you are right.  
22 There are times where the city is not  
23 necessarily the Department of Education  
24 and vice versa.

25 Q. Did the New York City Department

1 E. J. EICHENHOLTZ  
2 of Education have to comply with the  
3 New York Human Rights Law Section 8-107  
4 when it was making determinations  
5 regarding religious accommodations for  
6 the vaccine mandate?

7 MS. LINNANE: Objection.

8 You can answer.

9 A. Yes.

10 (The Reporter requested clarification.)

11 MS. LINNANE: I had lodged  
12 an objection.

13 THE WITNESS: And I said  
14 yes.

15 BY MR. GRAFF:

16 Q. Did you have any role to play in  
17 the implementation of the vaccine  
18 mandate in the New York City Department  
19 of Education?

20 MS. LINNANE: Objection.

21 You can answer.

22 A. I was, from time to time,  
23 consulted as that mandate was being  
24 promulgated and implemented.

25 BY MR. GRAFF:



1 E. J. EICHENHOLTZ

2 Q. Did you have a role to play in  
3 the first iteration of the vaccine  
4 mandate issued by the Department of  
5 Health?

6 MS. LINNANE: Objection.

7 You can answer.

8 A. Same role.

9 BY MR. GRAFF:

10 Q. I'm not trying to impede the  
11 attorney-client privilege, but I'm just  
12 trying to ask, did you have a role to  
13 play -- were you consulted with respect  
14 to the implementation -- with the  
15 implementation of the vaccine mandate  
16 in its first iteration?

17 A. Yes.

18 Q. And that was the iteration where  
19 there was no accommodations for  
20 religious and health issues, correct?

21 MS. LINNANE: Objection.

22 A. No. There was no iteration of  
23 the vaccine mandate that did not  
24 provide for reasonable accommodation  
25 for religious or medical issues.

1 E. J. EICHENHOLTZ

2 BY MR. GRAFF:

3 Q. The first time the vaccine  
4 mandate was promulgated, are you saying  
5 that there was always an accommodation  
6 for religious and medical issues?

7 A. That is correct.

8 MS. LINNANE: Objection.

9 BY MR. GRAFF:

10 Q. Was there a second iteration of  
11 the vaccine mandate?

12 MS. LINNANE: Objection.

13 You can answer.

14 A. No. There was a revision of the  
15 original vaccine mandate --

16 Q. What was --

17 A. -- issued as to the DOE  
18 employees. I want to make sure we're  
19 both being clear on what we're talking  
20 about.

21 Q. What was the amendment or  
22 revision?

23 A. The revision was to add a  
24 statement that explicitly stated that  
25 the accommodations that were required

1 E. J. EICHENHOLTZ  
2 by law were -- were allowable, I guess  
3 you can say, under the accommodation --  
4 under the religious accommodation  
5 policy, which was always the case.  
6 That language made it explicit in that  
7 physical document.

8 Q. So you're saying it was implicit  
9 in the first version, and then it was  
10 explicit in the second version,  
11 correct?

12 MS. LINNANE: Objection.

13 You can answer.

14 A. I'm not just saying that. That  
15 is correct.

16 Q. Okay. Did you have any role to  
17 play in negotiating with the UFT over  
18 the implementation of the vaccine  
19 mandate with the New York City  
20 Department of Education?

21 MS. LINNANE: Objection.

22 I'm going to caution the witness  
23 not to disclose any information  
24 that would be considered  
25 privileged pursuant to the

1 E. J. EICHENHOLTZ

2 doctrine of attorney-client  
3 privilege.

4 A. Then I won't, but I will say  
5 that I was consulted from time to time  
6 as that process, that negotiating and  
7 arbitration process, was ongoing.

8 BY MR. GRAFF:

9 Q. Were you at the bargaining table  
10 when the UFT and the Department of  
11 Education were negotiating the  
12 implementation of the vaccine mandate?

13 THE WITNESS: Objection.

14 A. I was not at the bargaining  
15 table. I was at a discussion that was  
16 held between -- very preliminary  
17 discussion before bargaining between  
18 the UFT and the New York City Office of  
19 Labor relations.

20 BY MR. GRAFF:

21 Q. Do you know when that meeting  
22 was that you attended?

23 A. As I sit here -- years later,  
24 no, I could not tell you.

25 Q. Do you know the identities of

1 E. J. EICHENHOLTZ  
2 the individuals who represented the  
3 Department of Education in negotiations  
4 with the UFT?

5 MS. LINNANE: Objection.

6 A. I -- well, I know that two  
7 people who were regularly involved from  
8 the New York City Office of Labor  
9 Relations was Steven Banks, and from  
10 the Department of Education -- although  
11 I don't know her specific role -- but  
12 the head of labor relations who was  
13 Karen Solimando. They were both  
14 involved at a certain level.

15 BY MR. GRAFF:

16 Q. Were you involved in formulating  
17 the New York City Department of  
18 Education's bargaining position  
19 relating to the implementation of the  
20 vaccine mandate?

21 MS. LINNANE: Objection.

22 You can answer.

23 A. No, I was not.

24 BY MR. GRAFF:

25 Q. Okay. I'm going to show you

1 E. J. EICHENHOLTZ  
2 what I'm going to mark as Exhibit B.

3  
4 (Plaintiff's Exhibit B,  
5 Declaration of Impasse, was  
6 marked for identification.)

7  
8 Q. Let me know when you see it on  
9 the screen.

10 A. I will.

11 MS. LINNANE: Are there  
12 Bates stamps on these documents,  
13 Austin?

14 MR. GRAFF: This is actually  
15 from the docket, and it is Docket  
16 No. 22-2 of the court's docket.

17 MS. LINNANE: For the  
18 record, I would just like to  
19 record for the record that it  
20 says in capital, bold letters at  
21 the top that this page that we're  
22 seeing on the screen, Declaration  
23 of Impasse. I'm stating this  
24 because all of the stamps from  
25 the docket are very mixed up and

1 E. J. EICHENHOLTZ

2 very difficult to see.

3 BY MR. GRAFF:

4 Q. Mr. Eichenholtz, have you ever  
5 seen this document before?

6 A. Not that I can recall.

7 Q. Are you aware that the UFT  
8 declared an impasse in the negotiations  
9 over the implementation of the vaccine  
10 mandate?

11 A. I'm not -- I have no independent  
12 recollection of that happening. I'm  
13 obviously looking at the document  
14 you're showing me. That's what it  
15 appears to indicate.

16 Q. On page 9 of this document, it  
17 addresses what the city's position was  
18 regarding accommodations.

19 MS. LINNANE: What are  
20 you -- please direct us to what  
21 you're looking at, because you're  
22 making a statement about the  
23 document without my client having  
24 read what's in the document. If  
25 we're going to talk about this

1 E. J. EICHENHOLTZ  
2 document, my client has already  
3 stated he does not know what this  
4 document is. He's never seen it,  
5 and he needs the opportunity to  
6 review it in its entirety if  
7 we're going to talk about it.

8 BY MR. GRAFF:

9 Q. At the first paragraph of one,  
10 two, three, fourth line of the  
11 document, it begins, "Yet, the City has  
12 refused insisting that there can be no  
13 exceptions to the mandate medical,  
14 religious, or otherwise." Do you see  
15 where I'm reading from?

16 A. I see that. I can tell you that  
17 statement is inconsistent with my  
18 understanding of -- certainly of the  
19 mandate that was issued and my  
20 understanding of the ultimate outcome  
21 of this negotiation. And that's the  
22 extent of my knowledge. I'm unaware of  
23 any time where the City had refused  
24 insisting there can be no exceptions to  
25 the mandate, medical, religious, or



1 E. J. EICHENHOLTZ

2 otherwise.

3 Q. Is it possible that the City  
4 took that position at the bargaining  
5 table without your knowledge?

6 MS. LINNANE: Objection.

7 A. Based on -- based on the  
8 timeline of this document, I cannot say  
9 yes or no. It would be pure speculation  
10 whether or not that was the case. I  
11 can just tell you that at no time did I  
12 understand the City was going to have a  
13 mandate that had no exceptions.

14 BY MR. GRAFF:

15 Q. What role did you play in  
16 determining whether to grant or deny  
17 teachers religious exemptions from the  
18 vaccine mandate?

19 MS. LINNANE: Objection.

20 You can answer.

21 A. In the initial process, I played  
22 no role. After a decision of the  
23 United States Court of Appeals of the  
24 Second Circuit that found  
25 constitutional infirmities, statutory

1 E. J. EICHENHOLTZ

2 infirmities or perhaps both, of the  
3 process that had been created by the  
4 arbitration award between the UFT and  
5 the Department of Education, the City  
6 agreed to remediate those concerns by  
7 giving teachers a chance to have a  
8 review of denials by a panel that I had  
9 had a primary role in setting up, the  
10 New York City Citywide Vaccine Mandate  
11 Appeals Panel. And just to give you  
12 context, the Citywide Appeals Panel had  
13 been set up prior to that decision,  
14 prior to that case, for the vaccine  
15 mandate that had subsequently after DOE  
16 employees that had been promulgated  
17 with respect to all city employees.

18 And so, ultimately, teachers, as  
19 I understand, were given the  
20 opportunity to be reviewed by the  
21 Citywide Appeals Panel. The Second  
22 Circuit Court of Appeals affirmed that  
23 was an appropriate way to remediate.  
24 And so, at that point, we received  
25 something over 500 -- at some point 500

1 E. J. EICHENHOLTZ  
2 plus appeals from various pedagogical  
3 DOE employees in addition to the work  
4 we were already doing for city  
5 employees.

6 BY MR. GRAFF:

7 Q. Are you aware of what has been  
8 called a general committee that decided  
9 to deny every religious exemption  
10 submitted to the New York City  
11 Department of Education?

12 MS. LINNANE: Objection.

13 You can answer.

14 A. No.

15 BY MR. GRAFF:

16 Q. Are you aware that there was a  
17 decision to deny every religious  
18 exception submitted to the New York  
19 City Department of Education?

20 MS. LINNANE: Objection.

21 You can answer.

22 A. Absolutely not.

23 BY MR. GRAFF:

24 Q. Are you aware that only -- the  
25 only people received exemptions were

1 E. J. EICHENHOLTZ  
2 through the Scheinman Arbitration  
3 Mediation Service appeal process?

4 MS. LINNANE: Objection.  
5 You can answer.

6 A. I don't know the specific  
7 details of how that process worked. My  
8 understanding was that there was a  
9 negotiation that -- that there was --  
10 essentially, part of that process was  
11 that an independent labor arbitrator  
12 make the decision. But I don't know  
13 the particular ins and outs of how that  
14 process works. I was not involved in  
15 it, and I was never working on the  
16 specifics of the process that was  
17 ultimately implemented through that  
18 arbitration award.

19 BY MR. GRAFF:

20 Q. Are you aware of any group of  
21 New York City Department of Education  
22 employees who met and determined that  
23 every religious exemption was going to  
24 be denied?

25 MS. LINNANE: Objection.

1 E. J. EICHENHOLTZ

2 You can answer.

3 A. Absolutely not.

4 BY MR. GRAFF:

5 Q. Do you know how many New York  
6 City Department of Education employees  
7 received religious exemptions?

8 A. I know at least some did,  
9 because I know from my work on the  
10 Citywide Panel that the panel granted  
11 several. I don't have the exact  
12 number, but -- so I know that some did.  
13 I also -- at least it was my  
14 understanding -- and, again, that there  
15 were some that received a religious  
16 reasonable accommodations through the  
17 arbitration award process. So I know  
18 there were some. I don't know how  
19 many. I don't know who or what or  
20 where or why or anything like that.

21 Q. Do you have any knowledge of any  
22 individual employees from the New York  
23 City Department of Education who  
24 received an exemption from the vaccine  
25 mandate without either the arbitration

1 E. J. EICHENHOLTZ

2 appeal or to the appeal panel?

3 MS. LINNANE: Objection.

4 You can answer.

5 A. I would have no way of knowing  
6 that.

7 BY MR. GRAFF:

8 Q. Were you aware of the fact that  
9 the New York City Department of  
10 Education granted zero religious  
11 exemptions to 3,396 people who applied  
12 for religious exemptions?

13 MS. LINNANE: Objection.

14 You can answer.

15 A. Again, that question doesn't  
16 square with my understanding of how the  
17 process works. My understanding was  
18 that those requests pursuant to the  
19 arbitration award were going to outside  
20 of the Department of Education and to a  
21 mutual arbitrator. So when you say  
22 "the Department of Education granted,"  
23 at least that was not my understanding  
24 of how it worked. I could be wrong,  
25 but I just say that because I cannot

1 E. J. EICHENHOLTZ  
2 answer that question because that's not  
3 my understanding of how it works.

4 BY MR. GRAFF:

5 Q. Is it your understanding that  
6 the Department of Education made no  
7 initial determination whether to grant  
8 or deny an exemption?

9 MS. LINNANE: Objection.

10 You can answer.

11 A. My understanding is precisely  
12 what I said to you, which is I  
13 understood that the arbitration award  
14 that was issued regarding how our  
15 requests were to be processed for DOE  
16 employees from the DOE mandate --  
17 employee mandate was that they were to  
18 be adjudicated by a mutual labor  
19 arbitrator and not by what we would say  
20 in the labor relations context was  
21 management.

22 BY MR. GRAFF:

23 Q. And if there was a decision by  
24 the New York City Department of  
25 Education to deny every exemption

1 E. J. EICHENHOLTZ  
2 request from DOE employees, would that  
3 have complied with New York City Human  
4 Rights Law Section 8-107?

5 MS. LINNANE: Objection.

6 A. I'm not going to speculate on a  
7 decision that everything I know  
8 suggests did not happen and did not  
9 exist.

10 BY MR. GRAFF:

11 Q. Are you aware of the arbitration  
12 process for the determination of the  
13 appeals of the denial of exemptions  
14 through the Scheinman Arbitration  
15 Mediation Service?

16 MS. LINNANE: Objection.

17 You can answer.

18 A. As I said previously, I'm aware  
19 of the process. I don't know the  
20 details of the process.

21 BY MR. GRAFF:

22 Q. Do you know if the New York City  
23 Department of Education was represented  
24 by an attorney at those arbitration  
25 hearings?



1 E. J. EICHENHOLTZ

2 MS. LINNANE: Objection.

3 You can answer.

4 A. I do not know.

5 BY MR. GRAFF:

6 Q. Do you know who Veronica -- I'm  
7 going to spell her name, because I  
8 don't know how pronounce it --  
9 P-R-Z-Y-G-O-C-K-I is?

10 A. Sure. I do not know who that  
11 is. And, presumably, that name is  
12 unique enough that it would ring a bell  
13 if I did.

14 Q. Do you know if she's an attorney  
15 in the New York City Law Department?

16 MS. LINNANE: Objection.

17 You can answer.

18 A. Not that I'm aware of. But,  
19 like I said, the fact that I do not  
20 know that name suggests likely not.

21 BY MR. GRAFF:

22 Q. And you said you were -- well, I  
23 don't want to characterize it. What  
24 was your role with the City of New York  
25 Reasonable Accommodation Panel --

1 E. J. EICHENHOLTZ

2 Appeals Panel?

3 A. So when the city employee  
4 vaccine mandate was implemented, there  
5 was discussion on how to implement the  
6 legal obligations, the internal city  
7 policy obligations, because we have a  
8 citywide DO policy, a citywide RA  
9 policy on reasonable accommodations and  
10 whether any adjustments needed to be  
11 made due to the unique contours of the  
12 public health emergency.

13 And there were two things that,  
14 ultimately, the various policy makers  
15 felt were important. One was that  
16 there would be uniformity of decision,  
17 and the other that there be, you know,  
18 careful but expeditious decision  
19 making. So I, as well as some of the  
20 other colleagues in city government,  
21 were tasked with creating a process  
22 that would do that. And, ultimately,  
23 that's where the Citywide Appeals Panel  
24 comes from.

25 Q. Okay. I'm going to show you the

1 E. J. EICHENHOLTZ  
2 next exhibit. Let me know when you see  
3 it. I'm going to mark this Exhibit C.

4  
5 (Plaintiff's Exhibit C,  
6 Appeal to Appeals Panel, was  
7 marked for identification.)

8  
9 A. Okay, I see it.

10 Q. Do you recognize this document?  
11 It's Document No. 1-7 on the court's  
12 docket.

13 A. Could you scroll down so I could  
14 see the whole document?

15 Q. Sure. Let me know if I'm going  
16 too fast.

17 A. So this appears to be a letter  
18 authored by Ms. Masciarelli's counsel.  
19 I believe it looks like to the DOE  
20 regarding her denial for religious  
21 reasonable accommodation and addressing  
22 the decision of the labor arbitrator  
23 that denied the accommodation.

24 MS. LINNANE: To be clear,  
25 it's not the counsel that we're

1 E. J. EICHENHOLTZ

2 talking to right now. It's the  
3 counsel -- appears to be Giulia  
4 Miller, M-I-L-L-E-R.

5 BY MR. GRAFF:

6 Q. When you said you reviewed  
7 documents in preparation for today's  
8 deposition, was this one of the  
9 documents you reviewed?

10 A. I remember a document that looks  
11 something like this. I can't tell you  
12 as I sit here today if it's the precise  
13 document.

14 Q. What documents did the appeals  
15 panel use to determine whether to grant  
16 a religious exemption to a New York  
17 City Department of employee --  
18 Department of Education employee?

19 A. Are you asking me generally or  
20 in Ms. Masciarelli's case?

21 Q. Let's talk generally, and then  
22 we'll talk about Ms. Masciarelli.

23 A. Okay. Generally, we would  
24 receive a submission of some sort from  
25 the appealing employee. Just remember,

1 E. J. EICHENHOLTZ  
2 everything we saw were appeals of  
3 denials, so an employee was bringing us  
4 an appeal, some sort of submission,  
5 some material, whatever material they  
6 wanted to provide us. The DOE could  
7 but did not -- was not required to  
8 provide us also with material to  
9 explain or contextualize their  
10 decision. Sometimes the DOE did so.  
11 Sometimes the DOE did not do so.

12 Q. Do you have any recollection of  
13 what was presented to the appeals panel  
14 regarding the plaintiff?

15 A. Yes. I remember there was a --  
16 a position statement submitted. And  
17 I'm assuming you're talking about the  
18 DOE now? I should ask. Are you  
19 talking about the DOE or  
20 Ms. Masciarelli?

21 Q. Regarding Ms. Masciarelli, what  
22 the process was with Ms. Masciarelli's  
23 appeal to the appeal panel?

24 A. I remember Ms. Masciarelli had a  
25 submission of some sort and that the

1 E. J. EICHENHOLTZ  
2 DOE in Ms. Masciarelli's case submitted  
3 a position statement as well.

4 Q. Do you -- do you know the name  
5 of the person who ultimately reviewed  
6 Ms. Masciarelli's appeal to the appeal  
7 panel?

8 MS. LINNANE: Objection.

9 You can answer.

10 A. There wouldn't be one person.  
11 It would be three. Because the way the  
12 appeal panel worked was there were  
13 three voting agencies.

14 BY MR. GRAFF:

15 Q. What were the three voting  
16 agencies with respect to  
17 Ms. Masciarelli?

18 MS. LINNANE: Objection.

19 You can answer.

20 A. So I -- specifically with  
21 respect to religious reasonable  
22 accommodations, the three agencies that  
23 had a vote were the law department, the  
24 Department of Citywide Administrative  
25 Services, as well as the City

1 E. J. EICHENHOLTZ

2 Commission on Human Rights.

3 BY MR. GRAFF:

4 Q. Were these three agencies --  
5 were the representatives of these three  
6 agencies consistent for all appeals, or  
7 did it rotate amongst employees of the  
8 different departments?

9 A. Given the workload, each agency  
10 designated multiple employees to review  
11 the appeals of religious reasonable  
12 accommodations that went to the panel.  
13 So it was done on a rotational basis.  
14 How, specifically, that rotation worked  
15 depended on how the panel members in  
16 that agency organized themselves  
17 internally.

18 Q. Is there any way to know who  
19 made the decision regarding  
20 Ms. Masciarelli's appeal?

21 A. Again, the "who" is multiple  
22 people. But there is -- with every  
23 case, the panel has a vote report that  
24 we can generate from the database that  
25 was managing our work flow, that would

1 E. J. EICHENHOLTZ  
2 show both the name of the  
3 representative, the representative's  
4 vote. And that representative also had  
5 notes for their own internal  
6 recollection purposes, as well as it  
7 would tell us which member -- there  
8 were two members of the panel who did a  
9 quality assurance review at the end --  
10 would also tell us who on the panel did  
11 that quality assurance review.

12 Q. Are there any privileges or any  
13 objections to releasing those documents  
14 through discovery?

15 A. That I'm aware of? I think I  
16 don't -- I need to defer to counsel on  
17 that. I don't know whether there could  
18 be, and I don't want to say no when  
19 there is or yes when there isn't. So I  
20 would refer you to counsel on that.

21 Q. Do you know how many New York  
22 City Department of Education employees  
23 received a religious exemption from the  
24 appeals panel?

25 MS. LINNANE: Objection.



1 E. J. EICHENHOLTZ

2 You can answer.

3 A. I do not know that number  
4 offhand.

5 BY MR. GRAFF:

6 Q. Were there any?

7 A. Yes. I know that.

8 Q. Do you know if any of them were  
9 Catholic?

10 MS. LINNANE: Objection.

11 You can answer.

12 A. I believe so. It's very tough.  
13 And I'll say this, because I'm sure  
14 you're going to be asking me this a  
15 lot, Mr. Graff.

16 It's very tough to say whether  
17 or not someone was Catholic, because  
18 there were a lot of Catholic employees  
19 who would identify as Christian or  
20 would not necessarily label their faith  
21 specifically, but would explain to us  
22 what their religious belief system was.

23 So, certainly, there were  
24 beliefs that were professed by many  
25 Catholics that were sincerely held,

1 E. J. EICHENHOLTZ  
2 that were held by members of other  
3 religions. So I would never conclude  
4 from the beliefs that I was presented  
5 that someone was a Catholic, and I  
6 would have no way of knowing, because I  
7 did not -- we did not ask. I don't  
8 believe the DOE asked. Certainly, we  
9 did not receive. They weren't saying,  
10 Hey, before you give us your  
11 submission, what's your religion? So I  
12 would have no independent way of saying  
13 to you for sure this person is a  
14 Catholic, this person's not, unless  
15 they affirmatively said in their appeal  
16 paperwork, I am a Catholic.

17 BY MR. GRAFF:

18 Q. Are you aware that the -- we're  
19 going to mark this first as Exhibit D.

20  
21 (Plaintiff's Exhibit D,  
22 Reasonable Accommodation  
23 Appeal Determination, was  
24 marked for identification.)  
25

1 E. J. EICHENHOLTZ

2 Q. Let me know when you see it on  
3 the screen.

4 A. I see it on the screen.

5 Q. Are you aware that  
6 Ms. Masciarelli's appeal was denied?

7 A. Based from my review of her  
8 documents, yes.

9 Q. But you -- did you participate  
10 in the decision to deny Ms. Masciarelli  
11 her appeal to the appeal's panel?

12 MS. LINNANE: Objection.

13 You can answer.

14 A. Yeah. I was not a member of her  
15 appeal's panel, no.

16 BY MR. GRAFF:

17 Q. As we sit here, do you know who  
18 the members of her appeal panel were?

19 MS. LINNANE: Objection.

20 You can answer.

21 A. I don't -- I did read the names  
22 when I reviewed the documents. As I  
23 sit here today, I would not have an  
24 independent recollection.

25 BY MR. GRAFF:

1 E. J. EICHENHOLTZ

2 Q. The email that's Docket No. 1-4,  
3 was this the standard response to the  
4 employees who were denied religious  
5 exemptions?

6 MS. LINNANE: Objection.

7 You can answer.

8 A. Yes. This was the response that  
9 was generated by the database that  
10 managed the appeal panel's workflow  
11 after all review was complete and it  
12 was put in the database that the appeal  
13 was completely reviewed and ready for,  
14 you know -- and was finalized and such.

15 BY MR. GRAFF:

16 Q. Do you know how many appeals  
17 came in from the Department of  
18 Education?

19 MS. LINNANE: Objection.

20 You can answer.

21 A. My recollection is roughly, and  
22 this is an approximation, 550.

23 BY MR. GRAFF:

24 Q. Out of the 550, do you know how  
25 many were granted?

1 E. J. EICHENHOLTZ

2 MS. LINNANE: Objection.

3 You can answer.

4 A. No.

5 BY MR. GRAFF:

6 Q. What was the -- strike that.

7 On what basis were the appeals  
8 panel members given whether to grant or  
9 deny an exemption?

10 MS. LINNANE: Objection.

11 You can answer.

12 A. So the way reasonable  
13 accommodations work, you're not  
14 supposed to say, oh, this is a magic  
15 word. Yes or no. You're supposed to  
16 -- or magic phrase or a magic statement  
17 to say. You're supposed to look at  
18 what the individual employee is saying  
19 their beliefs are. You're supposed to  
20 determine whether those beliefs have,  
21 in this case, when we're dealing with  
22 the COVID-19 employee vaccine mandate,  
23 you're seeing whether those beliefs  
24 have a conflict with that vaccine  
25 mandate. And if it's raised by the

1 E. J. EICHENHOLTZ  
2 agency or evident in the record,  
3 whether or not affirmatively speaking,  
4 the employer has presented an undue  
5 burden in granting that accommodation.

6 And any of those questions or  
7 any combination of those questions  
8 could be dispositive on any given case.

9 Similarly, particularly with  
10 respect to whether there is a  
11 sincerely-held religious belief and  
12 whether it conflicts with the vaccine  
13 mandate, those were highly dependent on  
14 what the employee was saying about  
15 their belief system and how they  
16 practice their belief system. And so  
17 there was no, you know, oh, if this,  
18 then this, because you had to look at  
19 every person holistically. You had to  
20 see what they were saying. You had to  
21 understand why they were seeking the  
22 accommodation and then for each  
23 individual, if there was an undue  
24 hardship, issue, or concern at issue  
25 that, you know, the agency was raising

1 E. J. EICHENHOLTZ  
2 it as an issue, you had to look at the  
3 particular applicant's circumstances,  
4 as well as the overall circumstances of  
5 whether or not providing that  
6 accommodation would, you know, present  
7 an undue hardship - - - --

8 BY MR. GRAFF:

9 Q. Is that the same process that  
10 the New York City Department of  
11 Education should have applied in the  
12 initial decision to grant or deny an  
13 exemption?

14 MS. LINNANE: Objection.

15 You can answer.

16 A. I cannot say what they should or  
17 shouldn't have done, because, as I  
18 said, what they were doing was pursuant  
19 to an arbitration award, which is  
20 different than, you know, their policy.  
21 I know what the law requires, and I  
22 know what the Department of Education's  
23 DEO policy provides. And what I  
24 described is both what the law requires  
25 and what the DOE's EEO policy provides.

1 E. J. EICHENHOLTZ

2 BY MR. GRAFF:

3 Q. Was the New York City Department  
4 of Education's EEO policy changed as a  
5 result of the vaccine mandate?

6 MS. LINNANE: Objection.

7 You can answer.

8 A. Not that I'm aware of.

9 BY MR. GRAFF:

10 Q. One of the things you said that  
11 the appeals panel must look at is the  
12 applicant's circumstances. What is an  
13 applicant's circumstances?

14 A. So I believe I was saying that  
15 in the context of undue hardship,  
16 right? So not everyone working for the  
17 DOE is performing the same job  
18 functions. Not everyone from the DOE  
19 is in as much of a front-facing  
20 position. Not everyone from the DOE is  
21 in a mission critical position. So you  
22 have to understand what this person's  
23 doing, by and large. You don't need to  
24 know every specific detail, but you  
25 generally need to understand. So, you



1 E. J. EICHENHOLTZ  
2 know, whether they were a classroom  
3 teacher, whether they were a school  
4 administrator who did not work -- or I  
5 should say a district administrator  
6 that didn't work in a school. Whether  
7 they were paraprofessionals providing  
8 support where they were interacting  
9 frequently with children, or they were  
10 someone providing support who, you  
11 know, was generally isolated from  
12 children. All of those in the context  
13 of the DOE employee vaccine mandate  
14 were factors we would look at or we  
15 could look at if they were raised in  
16 the context of the appeal.

17 Q. What role did the New York City  
18 Human Rights Law standards have in  
19 determining whether to grant or deny a  
20 religious exemption to the appeal's  
21 panel determination?

22 MS. LINNANE: Objection.

23 You can answer.

24 A. We -- obviously, if -- if -- if  
25 the City Human Rights Law required an

1 E. J. EICHENHOLTZ  
2 appeal, we grant it. It was granted.  
3 If the agency -- if the employee did  
4 not provide an explanation that would  
5 satisfy the requirements, the City  
6 Human Rights Law, for a reasonable  
7 accommodation, and it was denied on  
8 that basis, it would be denied. And if  
9 there was undue hardship sufficient to  
10 meet the standard of City Human Rights  
11 Law, the -- same thing. Then -- then  
12 it would be -- it could be denied on  
13 undue hardship grounds if that's what  
14 the agency had chosen.

15 BY MR. GRAFF:

16 Q. Does the City Human Rights Law  
17 require an interactive process  
18 regarding religious exemptions or  
19 religious accommodations?

20 MS. LINNANE: Objection.  
21 You can answer.

22 A. They -- the City Commission on  
23 Human, Rights, which is the agency that  
24 interprets the City Human Rights Law,  
25 does not use the term "interactive

1 E. J. EICHENHOLTZ  
2 process." They use the term  
3 "cooperative dialogue" to describe what  
4 the human rights law provides. But it  
5 does require a cooperative dialogue.

6 BY MR. GRAFF:

7 Q. Do you know if cooperative  
8 dialogue was performed between the New  
9 York City Department of Education and  
10 people who sought religious  
11 accommodations for the vaccine mandate?

12 MS. LINNANE: Objection.

13 You can answer.

14 A. Certainly, by the time -- I'm  
15 speaking for the appeals I reviewed,  
16 yes.

17 BY MR. GRAFF:

18 Q. How was the -- how was the  
19 dialogue performed?

20 A. So, basically, what would happen  
21 is the Department of Education would  
22 advise employees of the necessity of an  
23 accommodation or the necessity  
24 requesting the accommodation if they  
25 believed they were entitled to one and

1 E. J. EICHENHOLTZ  
2 the process by which it would be done.  
3 The employees, in turn, would provide  
4 that request along -- and also that  
5 information, as I understand it,  
6 solicited supporting materials. The  
7 employee then -- would then provide  
8 those supporting materials in that  
9 request to the Department of Education.  
10 There was then some kind of review  
11 process. As I said, I cannot tell you  
12 the nuts and bolts of it with respect  
13 to the arbitration award.

14 But with respect to the cases  
15 that we received on the Citywide Panel,  
16 they usually involve the Department of  
17 Education asking the employee to give  
18 the panel particular information, if  
19 they hadn't already done so, in the  
20 arbitration process.

21 And then it also involved the  
22 Department of Education providing  
23 information about their reasons that  
24 they believe the denial was  
25 appropriate, if they chose to do so.

1 E. J. EICHENHOLTZ

2 So by the time it got to us,  
3 there were multiple layers of back and  
4 forth between the two parties. It was  
5 consistent with the requirements of the  
6 Human Rights Law.

7 Q. Cooperative dialogue, doesn't it  
8 mean more that you try and find a  
9 solution to an accommodation, if one  
10 could be granted, as opposed to  
11 determining whether or not it should be  
12 granted?

13 MS. LINNANE: Objection.

14 You can answer.

15 A. In certain context, that could  
16 be the case. That is not universally  
17 true. These reasonable accommodation  
18 requests were for a very specific  
19 thing, which was an exemption to a  
20 public health mandate. So that's what  
21 was being reviewed. And I -- you know,  
22 I think that, you know, as I understand  
23 it, and, you know, courts have since  
24 confirmed this, that the cooperative  
25 dialogue proceed, you know --

1 E. J. EICHENHOLTZ

2 appropriately proceeds in the manner  
3 that I described.

4 BY MR. GRAFF:

5 Q. What role did the New York State  
6 Human Rights Law standards have in the  
7 appeals panel determinations?

8 MS. LINNANE: Objection.

9 You can answer.

10 A. New York State Human Rights, did  
11 you ask?

12 BY MR. GRAFF:

13 Q. Yes.

14 A. So the New York State Human  
15 Rights Law, as I understand it, is  
16 either equal to or less or covers less  
17 than what the City Human Rights Law  
18 does. So it was essentially covered  
19 within the scope of the City Human  
20 Rights Law, right? That there's no --  
21 as far as I understand it, there's no  
22 directive of the State Human Rights Law  
23 that is broader or more expansive than  
24 the City Human Rights Law in this  
25 context. In this context. But -- and

1 E. J. EICHENHOLTZ

2 the same thing. The federal is the  
3 same thing. Title 7 in this case was  
4 actually far less expansive than the  
5 City Human Rights Law in terms of  
6 particularly undue hardship.

7 Q. Was there any training provided  
8 to the appeals panel members regarding  
9 examining these applications?

10 A. There were -- well, there were  
11 two things. One was all the appeals  
12 panel members were provided copies of  
13 the EEOC guidance regarding the  
14 COVID-19 pandemic, because it was a  
15 comprehensive set of guidance on what,  
16 obviously, at the time was a very new  
17 and emerging issue. So that was a way  
18 the panel members could, in the very  
19 tight timeframe we had in the context  
20 of a public health emergency, get up to  
21 speed on some of the specific COVID  
22 considerations.

23 All members of the panel were  
24 either EEO or legal professionals who  
25 had been extensively trained previously

1 E. J. EICHENHOLTZ  
2 in the City Human Rights Law, the  
3 City's policies and procedures. Some  
4 had far more training than others,  
5 depending on, particularly, the agency  
6 they came from and their role. But  
7 everyone had the baseline of training  
8 of understanding the RA process, of  
9 understanding the City's policy, which,  
10 again, is equal to or sometimes more  
11 expansive even than the City Human  
12 Rights Law. So they all brought that  
13 knowledge in, and we were focused more  
14 on making sure the panel understood  
15 COVID-specific considerations.

16 Q. Were you a member of the panel?

17 A. Yes.

18 Q. Did you grant any application?

19 MS. LINNANE: Objection.

20 You can answer.

21 A. Yes.

22 BY MR. GRAFF:

23 Q. Any -- I'm sorry. Go ahead.

24 A. I voted -- you know, every case,  
25 every application we saw had been



1 E. J. EICHENHOLTZ  
2 denied previously. And so,  
3 essentially, it was like an appellate  
4 judge voting to reverse, and I did that  
5 on many cases.

6 Q. Do you remember any New York  
7 City Department of Education employee  
8 cases?

9 A. Yes.

10 Q. Ultimately -- so did it have to  
11 take a majority of the panel or a  
12 unanimous of the panel to grant?

13 A. It was a majority. So two out  
14 of the three agencies would control in  
15 the event of a disagreement. And there  
16 were only three votes, so there was  
17 never a tie.

18 (Reporter requested clarification.)

19 Q. If a person was granted a  
20 religious exemption from the appeals  
21 panel, did that employee work in a  
22 classroom?

23 MS. LINNANE: Objection.

24 You can answer.

25 A. I do not know that. The

1 E. J. EICHENHOLTZ

2 Department of Education would know that  
3 all. Again, what we were reviewing on  
4 the Citywide Appeals Panel is whether  
5 or not they should get an exemption.  
6 What happened after that point was up  
7 to the Department of Education.

8 BY MR. GRAFF:

9 Q. So the appeals panel would grant  
10 the exemption and refer that back to  
11 the Department of Education, and then  
12 the implementation of that exemption  
13 was left to the Department of  
14 Education, correct?

15 A. Right.

16 MS. LINNANE: Objection.

17 A. In this context, we were -- the  
18 way to visualize it was we were the  
19 appellate body reversing the decision.  
20 And then the implementation would be  
21 for the agency or entity that made the  
22 decision.

23 BY MR. GRAFF:

24 Q. Are you aware of how many people  
25 received exemptions from the Department

1 E. J. EICHENHOLTZ  
2 of Education, generally?

3 MS. LINNANE: Objection.

4 You can answer.

5 A. No.

6 BY MR. GRAFF:

7 Q. Okay. Are you aware that only  
8 nine Catholics out of the 455 who  
9 applied were granted exemption?

10 MS. LINNANE: Objection.

11 You can answer.

12 A. As I said, I do not see how you  
13 could have a statistic of how many  
14 Catholics did or did not receive an  
15 accommodation. If that's such a  
16 statistic, I would not understand how  
17 it could be devised without serving all  
18 employees who provide an accommodation.

19 BY MR. GRAFF:

20 Q. Can you explain or are you aware  
21 of why only a 145 people out of 3,396  
22 people were granted religious  
23 exceptions?

24 A. I -- again, I don't know if  
25 those are the statistics. I do know

1 E. J. EICHENHOLTZ  
2 that we were in a public health  
3 emergency. I know from my review of  
4 DOE requests that the Department of  
5 Education was in a particularly  
6 challenging position that allowed for a  
7 compelling argument with regard to  
8 denial on the ground of undue hardship.

9 So I would imagine, as all of  
10 these laws allowed in a situation where  
11 a public agency and a public health  
12 emergency needed to, under the criteria  
13 laid out by a public health authority,  
14 safely provide certain services and  
15 needed those personnel to do those  
16 services, that there would be a great  
17 deal of denials on the ground of undue  
18 hardship. And that also matches what I  
19 recall from the, you know, dozens if  
20 not a hundred plus DOE appeals that I  
21 reviewed.

22 Q. Did you examine any requests --  
23 requests for religious exemption  
24 separate and apart from your role on  
25 the appeal panel?

1 E. J. EICHENHOLTZ

2 MS. LINNANE: Objection.

3 I'm going to caution the witness  
4 not to disclose any information  
5 that could be considered  
6 privileged pursuant to the  
7 doctrine of attorney-client  
8 privilege.

9 A. And I'm going to ask you to do a  
10 better job of letting me know the scope  
11 you're thinking of. I obviously  
12 reviewed many reasonable accommodation  
13 requests.

14 BY MR. GRAFF:

15 Q. I'm sorry. So you reviewed  
16 requests for religious exemptions as an  
17 appeals panel member, correct?

18 A. Correct.

19 Q. Separate and apart from that,  
20 did you review religious exemption  
21 requests regarding the vaccine mandate  
22 before the appeals panel was  
23 implemented?

24 MS. LINNANE: I'm going to  
25 direct the witness not answer any

1 E. J. EICHENHOLTZ  
2 questions with respect to his  
3 role as a managing attorney of  
4 the New York City Law Department  
5 or with his role with the New  
6 York City Law Department before  
7 the implementation of the  
8 Citywide Panel.

9 A. I would -- and I will say that  
10 the only time I was making  
11 determinations as to whether an appeal  
12 should be granted or denied was in  
13 my -- in respect to the COVID-19  
14 pandemic and those health orders -- was  
15 in my role as a member of the appeals  
16 panel. I may have provided legal  
17 advise, but, as you can imagine as a  
18 lawyer, you understand, again, without  
19 getting into substance of any of that  
20 advice, we don't advise the client what  
21 the decision should be. We advise the  
22 client as to legal context.

23 BY MR. GRAFF:

24 Q. I'll show you what's going to be  
25 marked Exhibit E as in elephant. Do

1 E. J. EICHENHOLTZ

2 you recognize this document?

3 A. Yes. This appears to be a DOE  
4 position statement submitted to the  
5 Citywide Appeals Panel.

6  
7 (Plaintiff's Exhibit E,  
8 New York City DOE Position  
9 Statement, was marked for  
10 identification.)

11  
12 Q. And it's labeled DEF  
13 0005532000555.

14 A. Okay.

15 Q. Do you know when this was  
16 created?

17 A. I -- I have no idea.

18 Q. And you said this document looks  
19 like one that would've been submitted  
20 to the appeals panel; is that correct?

21 A. Correct.

22 Q. Did you examine similar ones  
23 from the DOE regarding other employees?

24 MS. LINNANE: Objection.

25 You can answer.

1 E. J. EICHENHOLTZ

2 A. Yes, I did.

3 BY MR. GRAFF:

4 Q. Were they all similar except for  
5 the top four lines at the first page?

6 MS. LINNANE: Objection.

7 You can answer.

8 A. I don't recall.

9 BY MR. GRAFF:

10 Q. Do you know if the DOE put out a  
11 position statement for each employee  
12 individual, or was it a general  
13 statement regarding all employees?

14 MS. LINNANE: Objection.

15 You can answer.

16 A. You would need to ask them. But  
17 my understanding when I reviewed them  
18 was there was always at least some  
19 minimal, as you said, at the top. At  
20 the very least, there were specific --  
21 there were specific information  
22 provided to us about the role and the  
23 location and things like that, because  
24 that was, you know, that was important  
25 to our review.



1 E. J. EICHENHOLTZ

2 BY MR. GRAFF:

3 Q. I'm going to show you the second  
4 page. There are three bullets at the  
5 top. It's DEF000554. Do you see that  
6 on your screen?

7 A. Yes.

8 Q. And these talk about the undue  
9 hardship to the DOE if a religious  
10 exception were to be granted to the  
11 plaintiff. Do you see that?

12 A. Yes, I do.

13 Q. Is there -- it talks about other  
14 -- the first bullet says, "Other  
15 mitigation measures provide  
16 insufficient protection particularly  
17 when transmission rates were high."  
18 Are you aware of any mitigation  
19 measures that were examined by the DOE  
20 regarding exemptions?

21 MS. LINNANE: Objection.

22 You can answer.

23 A. My -- that wouldn't be for the  
24 DOE to do necessarily, other than to  
25 evaluate whether they could keep

1 E. J. EICHENHOLTZ

2 employees away from the vulnerable  
3 population at the time, which was the  
4 children in closed spaces.

5 My understanding of the mandate,  
6 and it was issued by the Board of  
7 Health and the City's Health  
8 Commission, was that based on the  
9 available data and information at the  
10 time, the mandate was issued because  
11 the -- based on the understanding that  
12 where we were in the pandemic when it  
13 happened and the availability of  
14 vaccines meant that the lesser  
15 mitigation measures would not be as  
16 effective as having a vaccinated  
17 workforce.

18 Those details, of course, are  
19 spelled out, I think, primarily in --  
20 I believe they were aware as clauses in  
21 the mandate. But that was my  
22 understanding. Those determinations  
23 had been made by the City's Department  
24 of Health and Board of Health.

25 BY MR. GRAFF:

1 E. J. EICHENHOLTZ

2 Q. The second paragraph, second  
3 bullet says that, "State law and  
4 applicable collective bargaining  
5 agreements including the operation of  
6 seniority systems generally limit DOE's  
7 ability to transfer staff between  
8 schools except in limited circumstances  
9 not applicable here."

10 Are you aware of whether the DOE  
11 sought to negotiate with the unions to  
12 create the flexibility to transfer  
13 staff?

14 MS. LINNANE: Objection.

15 You can answer.

16 A. No, I'm not. That would be a  
17 question you'd have to ask DOE.

18 BY MR. GRAFF:

19 Q. The third bullet says, "More  
20 than 3,300 DOE staff have requested  
21 religious exemptions far greater than  
22 the number of requests for medical  
23 exemptions." Was one of the undue  
24 hardships that there were too many  
25 people who sought requests?

1 E. J. EICHENHOLTZ

2 A. Yes, that there was a large  
3 number of requested exemptions. And in  
4 particular, at the time we were  
5 reviewing these particular requests,  
6 that there was, as I understood it,  
7 challenges in insuring that we had the  
8 teachers that were necessary in the  
9 City of New York and the DOE to allow  
10 for return for in-person instruction  
11 without running a foul of the public  
12 health mandate.

13 Q. But not all 3,300 DOE staff had  
14 bona fide religious objections; isn't  
15 that correct?

16 MS. LINNANE: Objection.

17 You can answer.

18 A. I wouldn't know without  
19 reviewing all 3,300.

20 BY MR. GRAFF:

21 Q. Do you know if any students were  
22 working -- were learning remotely  
23 during the 2021, 2022 school year?

24 MS. LINNANE: Objection.

25 You can answer.

1 E. J. EICHENHOLTZ

2 A. I cannot recall the specific  
3 timeline of when we went from -- by  
4 "we," I mean the Department of  
5 Education -- but when the Department of  
6 Education went from purely remote to  
7 hybrid to in-person. I do know that by  
8 the fall of 2021, which was when these  
9 appeals were coming to the appeals  
10 panel, the schools were open, and  
11 children were returning to school.

12 BY MR. GRAFF:

13 Q. The second paragraph in -- on  
14 page 2 of the document talks about  
15 allowing such employees to remain in  
16 school settings unvaccinated even with  
17 other safeguards like masking and  
18 testing would present an unacceptable  
19 risk to school children, staff, and  
20 others. Do you know if there was  
21 science behind that?

22 A. Yes.

23 Q. What was the science?

24 MS. LINNANE: Objection.

25 You can answer.

1 E. J. EICHENHOLTZ

2 A. There were federal, state, and  
3 local agencies that employed scores of  
4 public health experts that were looking  
5 at this information, looking at the  
6 data, and making this determination.  
7 The vaccine -- the DOE employee vaccine  
8 mandate was based on this precise thing  
9 that there was a particular  
10 vulnerability to the younger  
11 populations. There were particular  
12 concerns, especially in a place like  
13 the City of New York, that had seen an  
14 extreme spike in hospitalizations and  
15 death amongst unvaccinated populations,  
16 that there was a public health risk  
17 that vaccines would significantly  
18 mitigate. And my understanding --  
19 again, I'm not the Department of Health  
20 -- but my understanding through this  
21 process was that, in fact, the data  
22 bore that out, that when vaccines and  
23 mandates were implemented, that we saw  
24 -- even when there were -- there was  
25 circulation of COVID -- there were less

1 E. J. EICHENHOLTZ  
2 severe cases, far less severe cases,  
3 far less hospitalizations, and far less  
4 deaths. So we did not have the sort of  
5 public health crisis we had early in  
6 the pandemic, I believe, was April,  
7 May 2000 -- 2020.

8 BY MR. GRAFF:

9 Q. Are you aware of any other  
10 school district in New York State that  
11 had a vaccine mandate?

12 A. So I don't know whether or not  
13 they did. I will say that I believe  
14 there is a reason that if you ever look  
15 at the New York State Education Law,  
16 virtually every rule that applies to  
17 school districts seems to carve out or  
18 have a different set of rules for the  
19 city school district and the City of  
20 New York. And it is a unique district  
21 and a unique population. So I would  
22 not use any other school district as a  
23 comparative. Some may have, some may  
24 not have.

25 Q. The last paragraph on the second

1 E. J. EICHENHOLTZ  
2 page talks about, "Our experience in  
3 providing exemptions in accordance with  
4 the arbitration award has only  
5 confirmed that creating such  
6 alternative assignments poses an undue  
7 hardship."

8 Do you have any idea what the  
9 Department of Education's experience  
10 was at that time?

11 A. My understanding of this  
12 particular statement and paragraph was  
13 that through the arbitration award,  
14 there was an allowance for essentially  
15 offsite, you know -- essentially  
16 alternative assignments where  
17 pedagogical staff were allowed to work  
18 in offices while the public health  
19 order remained in place. And that, you  
20 know, both that, you know -- the  
21 productivity and the work that could be  
22 assigned to those individuals was low  
23 and that, you know, and that it  
24 essentially was not benefitting the  
25 Department of Education, and, in fact,



1 E. J. EICHENHOLTZ  
2 was, you know -- at this point, they  
3 were presenting with as it states here,  
4 a staffing concern, because they needed  
5 staff to be physically present in  
6 indoor spaces with children.

7 And that's why I think that's  
8 what they're saying. As I understand  
9 it, that, you know, given the number of  
10 people they moved outside of the  
11 schools, they were, you know -- there  
12 were issues staffing the schools.  
13 That's my understanding.

14 Q. Do you have any idea why the  
15 plaintiff was denied a religious  
16 exemption?

17 A. Yes.

18 Q. Why?

19 A. I think the reasons we received  
20 from the Department of Education were  
21 in the document you just showed me  
22 moments ago, the position statement.  
23 And the appeals panel unanimously  
24 affirmed on the ground that the  
25 Department of Education demonstrated

1 E. J. EICHENHOLTZ

2 undue hardship if the plaintiff were  
3 granted a reasonable accommodation.

4 Q. So the decision to deny her a  
5 reasonable accommodation based upon her  
6 religious beliefs had nothing to do  
7 with her religious beliefs?

8 A. Correct. I see no indication in  
9 her file that anyone made a finding at  
10 any point in this process that her  
11 religious beliefs themselves would not  
12 qualify her for an accommodation. The  
13 focus was on undue hardship in her  
14 case.

15 Q. If, at any point during the  
16 process, her religious beliefs were  
17 challenged, would that have been  
18 appropriate?

19 MS. LINNANE: Objection.

20 You can answer.

21 A. I'm not going to speculate on  
22 what, you know -- I've not read her  
23 paperwork in the depth and with the  
24 attention I would need to say yes,  
25 absent undue hardship, she would get an

1 E. J. EICHENHOLTZ  
2 accommodation or wouldn't in my view.  
3 Nor is my view at this stage worth  
4 anything other than anything.

5 BY MR. GRAFF:

6 Q. If during the appeal before the  
7 arbitration arbitrator, the SAMS  
8 arbitrator, there was no argument that  
9 an undue hardship would've occurred to  
10 grant her an exemption, would that have  
11 been an appropriate argument for the  
12 DOE to make regarding this plaintiff?

13 MS. LINNANE: Objection.

14 You can answer.

15 A. So if -- yeah, there was no --  
16 the DOE could raise undue hardship at  
17 any point. And I also understand, like  
18 I said, the SAMS arbitration, as you  
19 referred to them, were under a specific  
20 agreement that required certain things  
21 and didn't -- that sort of governed it  
22 in a different way. So when it was  
23 presented to us, it was presented,  
24 obviously, more like the legal --  
25 entirely, purely legal and policy-

1 E. J. EICHENHOLTZ  
2 based requests that you would see in  
3 the ordinary course of business at the  
4 DOE or in the state.

5 BY MR. GRAFF:

6 Q. Were you a part of the decision  
7 process to arbitrate the end of the  
8 impasse and negotiations between the  
9 UFT and the DOE?

10 MS. LINNANE: Objection.

11 A. No. No.

12 BY MR. GRAFF:

13 Q. From your experience, are you  
14 aware of any arbitrations between the  
15 UFT and the DOE relating to ending  
16 impasses and negotiation?

17 MS. LINNANE: Objection.

18 You can answer.

19 A. If there is an impasse,  
20 generally, as I understand it, under,  
21 you know, the state and local law and  
22 DOE governs primarily -- pedagogues are  
23 governed by state law -- is that if  
24 there is an impasse, there is attempted  
25 mediation. Failing mediation, there is

1 E. J. EICHENHOLTZ  
2 an arbitration proceeding, and the  
3 arbitrator will implement, you know --  
4 an award will be issued that will  
5 implement the agreement.

6 The reason for that, as I  
7 understand it, is that public  
8 employees, for very compelling policy  
9 reasons, are prohibited from engaging  
10 in job actions like strikes. And we  
11 want to keep them on the job. The  
12 legislature -- when I say "we" there,  
13 I'm talking about the state. And that  
14 because they don't have that option,  
15 the law requires, essentially, that if  
16 the two parties can't agree, that a  
17 neutral arbitrator resolves that  
18 dispute.

19 BY MR. GRAFF:

20 Q. I'm going to take a five-minute  
21 break. I have one exhibit that I just  
22 want to show. I have to pull it up,  
23 but I think I'm done otherwise. Give  
24 me five minutes. Right now, I have  
25 11:22. Can we come back at 11:30?

1 E. J. EICHENHOLTZ

2 Does that work for you guys?

3 MS. LINNANE: That's

4 perfect. Thank you.

5 (A recess was taken.)

6 BY MR. GRAFF:

7 Q. I just want to show you -- let  
8 me know when you see it on your screen.

9 A. Okay. I see it.

10 Q. Okay. I'm going to mark this  
11 Exhibit F.

12

13 (Plaintiff's Exhibit F,

14 COVID-19 Religious Exemption

15 Application Determination, was

16 marked for identification.)

17

18 Q. This is Document 1-4 in the --  
19 on the court docket. Are you aware  
20 that the New York City Department of  
21 Education made an initial determination  
22 regarding the plaintiff's request for  
23 religious exemption?

24 MS. LINNANE: Objection.

25 You can answer.

1 E. J. EICHENHOLTZ

2 A. As I said, I'm not aware of the  
3 precise mechanics of how the process  
4 worked under the arbitration award.

5 BY MR. GRAFF:

6 Q. And you're talking about the  
7 arbitration award issued by Marty  
8 Scheinman?

9 A. Yeah. There was an arbitration.  
10 I don't know who issued it offhand, but  
11 it was an arbitration award that  
12 resolved, I believe -- it was impact  
13 bargaining over the implementation of  
14 the COVID employee vaccine mandate for  
15 DOE employees.

16 Q. Okay. And then I'm going to  
17 show you what's marked Exhibit G.

18  
19 (Plaintiff's Exhibit G,  
20 Torrey Arbitration Award,  
21 was marked for identification.)

22  
23 A. Uh-hum.

24 Q. Have you ever seen a document  
25 like this before?

1 E. J. EICHENHOLTZ

2 A. Yes.

3 Q. Where have you seen this  
4 document?

5 MS. LINNANE: Objection.

6 That wasn't the question that you  
7 just asked.

8 A. So I saw this -- I've seen this  
9 just over time in various records that  
10 arose out of the DOE reasonable  
11 accommodation, both appeals. Some  
12 people provided this, although, you  
13 know, I want to make it clear it was  
14 not relevant to us. But just over the  
15 course of time when I understood, you  
16 know, various contexts when reviewing  
17 -- not reviewing, but, like, I  
18 understand this to be the form of the  
19 arbitration award the DOE labor  
20 arbitrator used. I've seen this form  
21 before.

22 BY MR. GRAFF:

23 Q. So this -- are you aware that  
24 this is the type of form that would be  
25 used by a Scheinman Arbitration



1 E. J. EICHENHOLTZ  
2 Mediation Service arbitrator in  
3 determining an appeal of a religious  
4 exemption for a DOE employee?

5 A. Yes. It's my understanding  
6 -- is that documents like this were  
7 issued by the arbitrators. Whether it  
8 was Scheinman or there were others, I  
9 couldn't tell you.

10 Q. Is it your understanding that  
11 the arbitrator would be examining an  
12 appeal of a denial of an exemption?

13 MS. LINNANE: Objection.

14 You can answer.

15 A. Yeah. As I've said previously,  
16 I do not recall or understand the  
17 particular mechanics of how this  
18 worked. My recollection was that there  
19 was a desire for a labor arbitration --  
20 a labor arbitrator to make the decision  
21 on reasonable accommodations.

22 BY MR. GRAFF:

23 Q. What is the basis of your  
24 understanding of that?

25 A. I -- as I sit here, I could not

1 E. J. EICHENHOLTZ  
2 tell you. At some point, I understood  
3 that's, you know, that's how this  
4 process worked. It is -- it was not  
5 typical for a reasonable accommodation  
6 to be decided by a labor arbitrator,  
7 and this award provided for that.

8 Q. Was it your understanding that  
9 the DOE was relying upon the  
10 arbitrators to grant or deny  
11 exemptions?

12 MS. LINNANE: Objection.

13 You can answer.

14 A. Again, I do not have knowledge  
15 of the particular mechanics of how it  
16 got to the arbitrator. Whether or not  
17 there was an opportunity pre-  
18 arbitration to grant it or how that  
19 worked, you would have to ask the DOE.

20 BY MR. GRAFF:

21 Q. And if the DOE said that all  
22 religious exemptions were denied  
23 initially by the DOE, would that --  
24 could that be true?

25 MS. LINNANE: Objection.

1 E. J. EICHENHOLTZ

2 A. I'd be speculating. It's why I  
3 say you should ask the DOE. I  
4 certainly would not know how that  
5 process worked.

6 MR. GRAFF: Okay. I have no  
7 other questions. I appreciate your  
8 time, Mr. Eichenholtz.

9 THE WITNESS: Thank you.

10 MS. LINNANE: So we're all  
11 set.

12

13 (Time noted: 11:36 a.m.)

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E. J. EICHENHOLTZ

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

1 E. J. EICHENHOLTZ

2 A C K N O W L E D G E M E N T

3 STATE OF NEW YORK)

4 :SS

5 COUNTY OF \_\_\_\_\_)

6 I, ERIC J. EICHENHOLTZ, hereby certify  
7 that I have read the transcript of my  
8 testimony taken under oath on  
9 April 4, 2025, that the transcript is a  
10 true, complete and correct record of  
11 what was asked, answered and said during  
12 my testimony under oath, and that the  
13 answers on the record as given by me are  
14 true and correct, except for the  
15 corrections or changes in form or  
16 substance, if any, noted in the attached  
17 Errata Sheet.

18 \_\_\_\_\_

19 ERIC J. EICHENHOLTZ

20

21 Signed and subscribed to

22 before me, this \_\_\_\_\_ day

23 of \_\_\_\_\_, \_\_\_\_\_.

24 \_\_\_\_\_

25 Notary Public

1 E. J. EICHENHOLTZ

2 I N D E X

3

4

5 EXAMINATION 6

6 BY MR. GRAFF

7

8

9 (Plaintiff's Exhibit A, 10

10 Notice of Deposition, was  
11 marked for identification.)

12

13 (Plaintiff's Exhibit B, 25

14 Declaration of Impasse, was  
15 marked for identification.)

16

17 (Plaintiff's Exhibit C, 38

18 Appeal to Appeals Panel, was  
19 marked for identification.)

20

21 (Plaintiff's Exhibit D, 45

22 Reasonable Accommodation Appeal  
23 Determination, was marked for  
24 identification.)

25

1 E. J. EICHENHOLTZ

2 (Plaintiff's Exhibit E, 66  
3 New York City DOE Position  
4 Statement, was marked for  
5 identification.)

6  
7 (Plaintiff's Exhibit F, 81  
8 COVID-19 Religious Exemption  
9 Application Determination, was  
10 marked for identification.)

11  
12 (Plaintiff's Exhibit G, 82  
13 Torrey Arbitration Award, was  
14 marked for identification.)

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C E R T I F I C A T E

I, CEITA LAZAR, a stenographic  
reporter and Notary Public within and  
for the State of New York, do hereby  
certify:

That the witness(es) whose testimony  
is hereinbefore set forth was duly sworn  
by me, and the foregoing transcript is a  
true record of the testimony given by  
such witness(es).

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I  
am in no way interested in the outcome  
of this matter.



---

CEITA LAZAR  
Dated: April 23, 2025



1 Errata Sheet

2

3 NAME OF CASE: x LORRAINE MASCIARELLI -against- NEW YORK CITY DEPARTMENT OF EDUCATION

4 DATE OF DEPOSITION: 04/04/2025

5 NAME OF WITNESS: ERIC J. EICHENHOLTZ

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

11 From \_\_\_\_\_ to \_\_\_\_\_

12 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

13 From \_\_\_\_\_ to \_\_\_\_\_

14 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

15 From \_\_\_\_\_ to \_\_\_\_\_

16 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

17 From \_\_\_\_\_ to \_\_\_\_\_

18 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

19 From \_\_\_\_\_ to \_\_\_\_\_

20 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

21 From \_\_\_\_\_ to \_\_\_\_\_

22 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

23 From \_\_\_\_\_ to \_\_\_\_\_

24

25

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<b>Exhibits</b>	<b>1-7</b> 38:11	58:3	<b>add</b> 21:23	<b>agree</b> 80:16
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