

Page 1

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

CAJUN CONTI LLC, CAJUN
CUISINE 1 LLC, and CAJUN CASE NO. 2020-02558
CUISINE LLC d/b/a OCEANA
GRILL DIVISION M-13
VERSUS
CERTAIN UNDERWRITERS AT
LLOYD'S, LONDON

TRANSCRIPT OF THE VIDEOCONFERENCE DEPOSITION OF:
TIFFANY THOMAN,
INDIVIDUALLY AND AS A DESIGNATED REPRESENTATIVE OF
CAJUN CONTI LLC, CAJUN CUISINE 1 LLC, AND CAJUN
CUISINE LLC d/b/a OCEANA GRILL, LOCATED AT THE LAW
OFFICES OF GAUTHIER MURPHY & HOUGHTALING LLC,
3500 NORTH HULLEN STREET, METAIRIE, LOUISIANA,
70002, TAKEN ON BEHALF OF DEFENDANT, REPORTED IN
THE ABOVE ENTITLED AND NUMBERED CAUSE BY YOLANDA J.
PENA, CERTIFIED COURT REPORTER FOR THE STATE OF
LOUISIANA.

REPORTED AT:
18487 BELLE GROVE ROAD
PRAIRIEVILLE, LOUISIANA 70769
COMMENCING AT 10:13 A.M., ON NOVEMBER 4, 2020.

Page 2

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36 ALSO PRESENT:
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Page 3

1 I N D E X
2
3 PAGE
4 STIPULATION.....4
5 EXAMINATION BY:
6 MR. MILLER.....6
7 CERTIFICATE.....71
8 WITNESS CERTIFICATE.....72
9
10 LIST OF EXHIBITS
11 Exhibit No. 1.....42
12 (Re-Notice of Deposition of
13 Tiffany Thoman)
14 Exhibit No. 2.....42
15 (Plaintiff's Second Supplemental
16 and Amended Petition for
17 Declaratory Judgment)
18 Exhibit No. 3.....56
19 (CDC's "Guidance for Cleaning
20 and Disinfecting")
21 Exhibit No. 4.....58
22 (Plaintiff's Responses to
23 Defendant)
24 Exhibit No. 5.....61
25 (Plaintiff's Supplemental
 Responses to Defendant)
26 Exhibit No. 6.....61
 (001-130, Invoices, receipts,
 checks, pamphlets)

Page 4

1 S T I P U L A T I O N
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3
4 IT IS STIPULATED AND AGREED by and among
5 the parties that this deposition is hereby being
6 taken for discovery purposes and for any and all
7 purposes authorized under the Louisiana Code of
8 Civil Procedure.
9 All formalities, excluding the reading
10 and signing of the transcript by the witness, are
11 hereby waived.
12 Except as provided in Article 1455,
13 objections are considered reserved until trial or
14 other use of the deposition.
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Page 5

1 THE REPORTER: Good morning. My name
2 is Yolanda Pena. I am a nationally
3 certified court reporter with Baton Rouge
4 Court Reporters.
5 At this time, I will ask counsel to
6 identify yourselves and whom you represent
7 and agree on the record that there is no
8 objection to this court reporter
9 administering a binding oath to the witness
10 via remote videoconference.
11 We'll start with the noticing
12 attorney.
13 MR. MILLER: Allen Miller on behalf of
14 Underwriters, and there's no objection to
15 the Zoom medium that we're using.
16 MR. ALVENDIA: Good morning. Rico
17 Alvendia on behalf of plaintiffs, together
18 with Jennifer Perez and Jennifer Kuechmann.
19 THE REPORTER: Ms. Thoman, I'll swear
20 you in now. Raise your right hand, please.
21 * * *
22 TIFFANY THOMAN,
23 10129 Stephen Drive, River Ridge, Louisiana 70123,
24 having been first duly sworn, was examined and
25 testified as follows:

Page 6

1 EXAMINATION
2 BY MR. MILLER:
3 Q. Good morning, Ms. Thoman.
4 A. Good morning.
5 Q. Is that the correct pronunciation of your
6 name? Thoman?
7 A. Yeah, that works. Thoman.
8 Q. Thoman, okay. I just want to make sure I
9 get it right.
10 My name is Allen Miller. I represent
11 Underwriters in this matter. You have been
12 presented as a witness in two capacities: one, your
13 personal capacity, and then also as a representative
14 for the plaintiffs that we'll affectionally call
15 Oceana Grill. Is that okay with you?
16 A. Yes.
17 Q. Okay. Have you ever given a deposition
18 before?
19 A. I have not.
20 Q. All right. Well, I'm sure you've had some
21 prep sessions with your lawyers, but I'll just give
22 you some of the ground rules that will hopefully
23 make this smoother for us and for the court
24 reporter.
25 I am going to ask you a series of

Page 7

1 questions. I'm going to give you an opportunity to
2 answer those questions. I ask that you give verbal
3 responses. Oftentimes in conversation, we'll say
4 "uh-huh" and "uh-uh," but she needs to take down
5 every word, so I just ask that your responses be
6 verbal, "yes," "no," or if there's an explanation,
7 the explanation. Is that fair?
8 A. Yes.
9 Q. Often, I think that my questions are
10 artfully phrased and they're not, and that's okay.
11 If you don't understand something that I ask you,
12 feel free to ask me to rephrase it. I'll do my best
13 to do so. However, if you answer my questions, I'm
14 going to assume that you understood my questions.
15 Is that fair?
16 A. Yes.
17 Q. Are you on any type of prescription
18 medication or anything that would affect your
19 faculties this morning?
20 A. No.
21 Q. And so is there any reason why you couldn't
22 answer all of my questions truthfully today?
23 A. No.
24 Q. This isn't a marathon. If you need to take
25 a break for any reason -- I often have to take

Page 8

1 restroom breaks -- just let me know, and we'll take
2 a break. If, however, a question is on the table,
3 I'm just going to ask that we get an answer to the
4 question prior to us taking a break. Is that okay?
5 A. Yes.
6 Q. Why don't you go ahead and state your full
7 name and address for the record.
8 A. Tiffany Thoman; 10129 Stephen Drive,
9 River Ridge, Louisiana 70123.
10 Q. I'm going to get a little background
11 information about you, Ms. Thoman. So could you
12 give me your highest level of education?
13 A. Bachelor's degree.
14 Q. And from where?
15 A. University of New Orleans.
16 Q. And what subject matter did you obtain your
17 bachelor's degree in?
18 A. A bachelor's of science in marketing.
19 Q. And when was that?
20 A. 2000- -- I don't really recall. Maybe 2006
21 or '7.
22 Q. Was it before or after Hurricane Katrina?
23 A. Oh, I was finishing up around -- at
24 Hurricane Katrina.
25 Q. Okay. So --

Page 9

1 A. When was that? 2000- --
2 **Q. -- -5.**
3 A. Yeah. I had just finished my online
4 classes then, so...
5 **Q. Okay. What did you do after receiving your**
6 **bachelor's degree?**
7 A. I was working at Oceana.
8 **Q. And so I assume you were working at Oceana**
9 **while you were obtaining your bachelor's degree?**
10 A. Immediately after.
11 **Q. Okay. So you obtained your bachelor's**
12 **degree in or around 2006, and then you went to work**
13 **for Oceana?**
14 A. Yes. I started working at Oceana in 2009.
15 **Q. Okay. What did you do between 2005 -- or**
16 **2006 and 2009?**
17 A. I was a manager at Sprint.
18 **Q. When did you start working at Sprint?**
19 A. Previously, it was Nextel. I started three
20 years prior to Katrina.
21 **Q. So --**
22 A. And it was Nextel, and it merged with
23 Sprint. That's when I became a Sprint employee.
24 **Q. All right. So you worked there in 2002.**
25 **What was your initial job title at Sprint?**

Page 10

1 A. I started --
2 **Q. (Indiscernible.)**
3 A. -- as a wireless consultant.
4 **Q. Okay. And how long did you do that?**
5 A. I was -- I think four or five years, until
6 I went into management.
7 **Q. And you went into management in what year?**
8 **2005? '6?**
9 A. I can't really recall.
10 **Q. You worked at Nextel/Sprint until you went**
11 **to Oceana in 2009?**
12 A. Correct.
13 **Q. While you were a manager at Sprint, what**
14 **exactly were your job duties?**
15 A. I was responsible for all the employees on
16 the floor, responsible for the technicians,
17 inventory, cash systems, customer service.
18 **Q. You left Sprint in 2009 to join Oceana?**
19 A. Yeah. Well, I left Sprint in 2009 to look
20 for a new career with marketing.
21 **Q. Would you say that the focus of your**
22 **expertise is more of a -- in the area of marketing?**
23 A. Yes, initially.
24 **Q. What was your initial job title when you**
25 **began working with Oceana?**

Page 11

1 A. Marketing.
2 **Q. And what did that include?**
3 A. Promoting to hotels in the French Quarter
4 area, coming up with advertising, working with
5 different advertising agencies and radio and TV for
6 publications.
7 **Q. And how long were you in that marketing**
8 **role at Oceana?**
9 A. For a couple of years. I kind of
10 transitioned to just taking on more duties, so the
11 role never officially ended at a certain point and
12 started a new role.
13 **Q. What additional duties did you take on?**
14 A. I started doing the office work, daily
15 invoices and putting together the paperwork bundles
16 and going through the vendor list.
17 **Q. Paperwork bundles, what is that?**
18 A. Just the nightly paperwork and putting in
19 numbers from the sales from the prior day, making
20 sure everything added up, that there were no
21 discrepancies.
22 **Q. More of an accounting function?**
23 A. Yeah.
24 **Q. Other than your daily invoices, the**
25 **accounting function you just described with your**

Page 12

1 **paperwork bundles and going through vendor lists,**
2 **any other roles you play at Oceana?**
3 A. From there, I started doing more, like,
4 hiring employees and onboarding.
5 **Q. More of an HR function?**
6 A. Yeah.
7 **Q. Anything else?**
8 A. No. Now I'm the office manager.
9 **Q. And when did you officially obtain the**
10 **title office manager?**
11 A. I'd say it has been five years.
12 **Q. Okay.**
13 A. Five or six.
14 **Q. And how do you distinguish the roles you**
15 **just described with the office manager?**
16 A. Now we have other people in the office who
17 handle my prior roles, so I oversee them.
18 **Q. Other than managing individuals that**
19 **perform the functions you did prior to becoming**
20 **office manager, are there any additional duties that**
21 **the office manager has that you did not have before?**
22 A. No, nothing -- I oversee the whole office,
23 so if anybody has any issues on anything random, I
24 jump in and try to assist them.
25 **Q. Okay. Other than your former education at**

Page 13

1 **UNO, do you have any other certifications or**
2 **technical licenses?**
3 A. No.
4 **Q. Do you have any experience in infectious**
5 **disease or public health?**
6 A. No.
7 **Q. I'm going to pull up on the screen the**
8 **deposition notice that was provided to -- the 1442**
9 **notice and the areas of inquiry. If we were in**
10 **person, I'd just hand them to you, but welcome to**
11 **the new normal.**
12 MS. DODD: Allen, can you see the
13 notice on the screen?
14 MR. MILLER: I cannot. Is it --
15 MS. DODD: All right. Give me a
16 minute.
17 MR. MILLER: Okay.
18 Ms. Thoman, can you see the notice on
19 the screen?
20 THE WITNESS: I cannot.
21 MS. DODD: It says I'm screen sharing.
22 Can y'all see it now?
23 MR. ALVENDIA: We can see it now,
24 Ginger.
25 MS. DODD: Thank you. I think I

Page 14

1 figured it out.
2 MR. MILLER: Okay.
3 BY MR. MILLER:
4 **Q. Before we get to the notice, let me ask you**
5 **this. What, if anything, did you do to prepare for**
6 **today's deposition?**
7 A. We met with our attorneys, and we reviewed
8 all the information for the suit.
9 **Q. Outside of the presence of your attorneys,**
10 **did you and Mr. Bader discuss the lawsuit?**
11 A. I have not.
12 **Q. Have you discussed the lawsuit with anyone**
13 **other than your attorneys?**
14 A. No.
15 **Q. Have you personally ever been involved in a**
16 **lawsuit prior to this one?**
17 A. No.
18 **Q. You've never testified before a court or**
19 **trial at any time?**
20 A. No.
21 **Q. All right. So this is, in part, a 1442**
22 **deposition, which means you will speak on some**
23 **issues on behalf of Oceana. Do you understand that?**
24 A. Yes.
25 **Q. Okay. The notice that is on the screen are**

Page 15

1 **areas of inquiry that we have questions about, and**
2 **so what I'm going to do is go through each one and**
3 **ask you if you are the person that can speak to**
4 **those issues. Okay?**
5 **The first one involves all allegations or**
6 **evidence of property damage to the insured premises**
7 **due to COVID-19 or the contents therein or the air**
8 **contained therein.**
9 **Are you the person --**
10 MR. ALVENDIA: Allen, before you go
11 through each one of these, let me say this.
12 I think that Tiffany is prepared to touch
13 on the majority of these topics, but again,
14 you heard she's the office manager. She
15 does have some crossover in these topics,
16 so I don't want to say that she's not
17 capable of testifying about all of these.
18 However, once again, she's more
19 appropriate to testify about the office
20 management duties and tasks she identified
21 earlier.
22 So I just want to preface that with
23 that. Obviously, Mr. Bader is going to,
24 for example, with Question No. 1, have much
25 more information on that because he is the

Page 16

1 overall manager/supervisor of the
2 operations at that location.
3 So having said that, please feel free
4 to go through it. I'm just trying to help
5 you with some of the --
6 MR. MILLER: I think I'd like to hear
7 from the witness what she believes she can
8 testify about.
9 MR. ALVENDIA: Okay.
10 MR. MILLER: All right. Thanks.
11 BY MR. MILLER:
12 **Q. So, Ms. Thoman, No. 1 involves all**
13 **allegations or evidence of property damage to the**
14 **insured premises due to COVID-19 and contents**
15 **contained therein or the air contained therein.**
16 **Are you the person that can speak to those**
17 **issues, or one of the people?**
18 A. Possibly. I guess it depends on what was
19 being asked of that -- you know, in detail.
20 **Q. Okay. I'll ask the detailed questions.**
21 **Are you the person that can speak to**
22 **allegations of individuals in the insured premises**
23 **that contracted COVID-19?**
24 A. I could answer a little more of that, yes.
25 **Q. Can you speak to actions taken by Oceana in**

Page 17

1 response to property damage to the premises, the
2 contents contained therein, and the air contained
3 therein, upon notification of individuals in the
4 premises contracting COVID-19?
5 A. Yes. I can do my best to.
6 Q. Are you the person that can talk about
7 evidence of the various orders issued either by the
8 City of New Orleans or the State of Louisiana in
9 response to COVID?
10 A. Yes, somewhat.
11 Q. Can you speak to actions taken by Oceana in
12 response to the various orders issued by the City of
13 New Orleans and the State of Louisiana?
14 A. Yes. I can try my best.
15 Q. Can you speak to alleged property damage
16 within one mile of Oceana's premises?
17 A. Yes.
18 Q. Okay.
19 A. To the best of my knowledge.
20 Q. Well, let me tell you this. So the rules
21 of engagement in a 1442 -- and I'm sure you're
22 lawyers explained this to you -- is that you're not
23 only here in your personal capacity, about your
24 knowledge.
25 And the reason I'm going through each one

Page 18

1 is because Oceana has an obligation to identify an
2 individual that, even if they don't have personal
3 knowledge, they go and get the knowledge. And if
4 you're not the person that went to get the
5 knowledge, that's okay. I'm perfectly fine with
6 that. We'll speak to someone else who does. But
7 that's why I'm going through this list.
8 So if you were designated by the company to
9 obtain the knowledge related to one of these issues,
10 you can tell me, but I'm really not asking for the
11 best of your knowledge unless you tell me, that's
12 not my area. Is that fair?
13 A. Yes.
14 MR. ALVENDIA: Yeah, Allen, it's fair,
15 but let me say this again -- and once
16 again, you heard it directly from the
17 witness.
18 A lot of this is going to depend on
19 your specific questions. I mean, these are
20 pretty general topics, you know. So let's
21 keep going through your list, but I think a
22 lot of it is going to depend on your
23 specific questions.
24 BY MR. MILLER:
25 Q. So No. 7 is, are you capable -- or the

Page 19

1 designee to talk about allegations or evidence of
2 individuals within one mile of insured premises with
3 COVID?
4 A. Yes.
5 Q. Okay. No. 8, allegations or evidence with
6 respect to the assertion that access to the insured
7 premises with prohibited by action of civil
8 authority.
9 A. Yes.
10 Q. Okay. No. 9, allegations or evidence with
11 respect to whether access was prohibited to the area
12 immediately surrounding Oceana restaurant.
13 A. Yes, somewhat.
14 Q. Allegations or evidence with respect to why
15 various orders from the City of New Orleans or the
16 State of Louisiana were issued.
17 A. Somewhat, yes.
18 Q. Allegations or evidence that the various
19 orders of the City or the State of Louisiana were
20 issued in response to dangerous physical conditions
21 resulting from property damage?
22 A. Yes, I will know some of that.
23 Q. Okay. I'm almost done.
24 No. 12, allegations or evidence with
25 respect to the insured's effort to follow the CDC

Page 20

1 guidelines.
2 A. Yes, I will know some of that.
3 Q. Allegations or evidence with respect to the
4 insured's allegations of repairs to the property.
5 A. Yes.
6 Q. Allegations or evidence with respect to the
7 insured's suspension of operations due to the
8 presence of COVID in the property.
9 A. I would be able to answer some of that.
10 Q. And allegations or evidence to support the
11 insured's claims under the policy.
12 A. I'm not sure I'm aware of that.
13 Q. Okay. You are -- thank you.
14 You are aware that the Oceana Grill has
15 filed a lawsuit against Underwriters, correct?
16 A. I am.
17 Q. Tell me what your understanding of the
18 claims are.
19 A. I'm just aware that we filed one for
20 business interruption, for loss of income.
21 Q. Are there -- do you have any other
22 understanding of what the claims in the lawsuit
23 involve?
24 A. That it's for suspension of business.
25 Q. Okay. Have you seen the actual lawsuit

Page 21

1 **that was filed in the case?**
2 A. I don't believe I have.
3 **Q. Okay. I want to go and talk about your**
4 **work at Oceana. You were working at the restaurant**
5 **in March 16th of 2020, correct?**
6 A. Correct.
7 **Q. Tell me about your work schedule.**
8 A. I typically work a 9:00-to-5:00.
9 **Q. Okay. Did you work -- and would that be**
10 **five days a week?**
11 A. Yes. Monday through Friday, sometimes
12 weekends if needed.
13 **Q. In the month of March of 2020, did you**
14 **maintain that schedule?**
15 A. I did.
16 **Q. Okay. And where is your office physically**
17 **located?**
18 A. It's on the third floor of Oceana Grill.
19 **Q. And that's 739 Conti Street?**
20 A. Correct.
21 **Q. Did you maintain your 9:00-to-5:00 schedule**
22 **during the month of April of 2020?**
23 A. I did.
24 **Q. Did you maintain your 9:00-to-5:00 schedule**
25 **in May of 2020?**

Page 22

1 A. I did.
2 **Q. As well as June of 2020?**
3 A. Correct.
4 **Q. July of 2020?**
5 A. Correct.
6 **Q. Your "9:00 to 5:00, Monday through Friday**
7 **and sometimes Saturday" schedule has not changed**
8 **throughout the calendar year of 2020; is that right?**
9 A. That is correct.
10 **Q. You were personally never furloughed,**
11 **right?**
12 A. That is correct.
13 **Q. Was your pay ever reduced during the**
14 **calendar year 2020?**
15 A. It was not.
16 **Q. Do you know if Oceana Grill received a**
17 **Paycheck Protection Program loan?**
18 A. Yes, we did.
19 **Q. Do you know how much that loan was for?**
20 A. I'm not sure of exact total. I know it was
21 the monthly payroll times 2.5.
22 **Q. Do you know if Oceana has applied for**
23 **forgiveness of that loan?**
24 A. They have not.
25 **Q. Do you know if Oceana plans to apply for**

Page 23

1 **forgiveness for the loan?**
2 A. I believe, as long everything was met for
3 it to be applied, yes.
4 **Q. Who with Oceana Grill was responsible for**
5 **ensuring compliance with the program's terms?**
6 A. I would say I would somewhat be in it, and
7 Moe as well. I oversaw the payroll part.
8 **Q. Do you recall what your monthly payroll was**
9 **beginning in, let's say, February of 2020?**
10 A. Maybe around 300,000. I don't recall off
11 the top of my head. I'd have to look, and I could
12 provide you that total.
13 **Q. Okay. And this will cross over into some**
14 **of the areas we just saw in the notice. But can you**
15 **tell me whether or not the property located at**
16 **739 Conti has been damaged as a result of COVID?**
17 A. From my understanding, it has.
18 **Q. When you say from your understanding, what**
19 **does that mean?**
20 A. Well, from my understanding, the virus
21 being around and the virus in the air and on the
22 furniture, doorknobs, is damaging to the property.
23 **Q. And where did you obtain that**
24 **understanding?**
25 A. Various websites, CDC. I think the mayor

Page 24

1 may have actually mentioned it as well.
2 **Q. Other than the CDC and the mayor, you said**
3 **various websites. What websites did you obtain this**
4 **information?**
5 A. I'd have to look at my web history to tell
6 you exactly.
7 **Q. Can you describe to me what your**
8 **understanding is of a physical loss to the property?**
9 A. A physical loss?
10 MR. ALVENDIA: Allen, I'm going to
11 object to the form of the question; asks
12 for legal opinion.
13 Ms. Tiffany, if you understand the
14 question, you can answer it.
15 THE WITNESS: Okay.
16 MR. ALVENDIA: Do you need him to ask
17 it again?
18 Allen, can you ask that question
19 again? I think my objection may have
20 thrown her off.
21 MR. MILLER: Sure.
22 BY MR. MILLER:
23 **Q. I asked you a minute ago what your**
24 **understanding of what damage to the property, and**
25 **you gave me a description.**

1 A. Okay.
2 **Q. My next question is, what from your**
3 **perspective -- or to describe your understanding of**
4 **what a physical loss to the property is.**
5 A. Physical loss would be temporary use or
6 temporary -- like, restrictions of the area,
7 deprived use in certain areas.
8 **Q. Anything else?**
9 A. No. Just loss of area in the building.
10 **Q. All right. So let's go back to damage to**
11 **the property. Has Oceana Grill done anything to**
12 **repair the damage that you described?**
13 A. Yeah. I mean, we've tried to -- we've
14 cleaned the areas. We've tried to eliminate some of
15 the damage. But, of course, it's continuing, so it
16 can't really be removed.
17 **Q. Anything else?**
18 A. No.
19 **Q. All right. You said you would clean the**
20 **areas. What would you clean the areas with?**
21 A. We'd clean the areas -- I know we have a
22 commercial disinfectant. We've also used
23 in-house -- as far as like bleach, soap, water.
24 **Q. Do y'all have a maintenance plan at Oceana?**
25 A. We do not.

1 **Q. Okay. There's no written maintenance plan**
2 **for the building?**
3 A. There is not, not that I'm aware of.
4 **Q. Prior to, let's say, March of 20 --**
5 **March 16th of 2020, did you-all clean the building?**
6 A. Absolutely.
7 **Q. How so?**
8 A. We cleaned it same way, with the sanitizers
9 that we purchase from our vendors.
10 **Q. So since March of -- March 16, 2020, have**
11 **you replaced dining tables because they were**
12 **damaged?**
13 A. We have not.
14 **Q. Have you replaced any dining chairs because**
15 **they were damaged by COVID-19?**
16 A. We have not.
17 **Q. Have you replaced any flatware or**
18 **silverware because they were damaged by COVID-19?**
19 A. We have not.
20 **Q. What about any of the fixtures in the**
21 **restaurant? Have you replaced any of the fixtures**
22 **because they were damaged by COVID-19?**
23 A. We haven't replaced anything because
24 anything that we replace would still be -- the new
25 stuff would be damaged as well.

1 **Q. Okay. Has Oceana Grill closed since March**
2 **of 2020? The building.**
3 A. We restricted access, and we did have to do
4 reduced hours.
5 **Q. At any time since March 16, 2020, were you**
6 **precluded from going into 739 Conti Street?**
7 A. Me personally?
8 **Q. Yes.**
9 A. I was not.
10 **Q. Was Mr. Bader ever precluded from going**
11 **into 739 Conti Street?**
12 A. Not that I'm aware of, no.
13 **Q. Was any employee of Oceana Grill ever**
14 **precluded in 2020 from actually going into Oceana**
15 **Grill?**
16 A. No employees that I'm aware of.
17 **Q. Okay. The cleaning that Oceana did prior**
18 **to March 16, 2020, is it similar to the cleaning**
19 **that you're currently doing?**
20 A. No. We actually doubled down on the
21 cleaning, and it's constant.
22 **Q. Are you using the same chemicals that you**
23 **were using prior to March 16, 2020?**
24 A. I'm not fully aware of that.
25 **Q. Is there a particular person that is the**

1 **maintenance person for Oceana Grill?**
2 A. No.
3 **Q. Cleaning that's being performed, is it**
4 **being performed by servers and other restaurant**
5 **employees?**
6 A. Correct. It's all in-house.
7 **Q. The cleaning that we're talking about, is**
8 **it involving wiping down surfaces in the restaurant?**
9 A. Surfaces, doorknobs, staircases, walls,
10 tables, anything that the virus could adhere to.
11 **Q. Other than the cleaning that you've just**
12 **described -- wiping down all surfaces, walls,**
13 **doorknobs, tables -- is Oceana Grill doing anything**
14 **else to remediate the property?**
15 A. We've changed the air filters more
16 frequently. We require that everybody that comes in
17 wears masks and gloves. We have sanitizer around
18 the building to make sure that everybody is
19 constantly either -- using a hand sanitizer if they
20 can't quickly get to the bathroom to wash their
21 hands.
22 We're having the guests sit six feet apart.
23 Tables are spread out to allow social distancing.
24 We have signs encouraging all of our employees, also
25 guests that walk in that -- you know, be mindful and

1 that we're trying to keep everything safe, to wear
2 your mask.

3 We've used all disposable things, so when
4 guest come in, they no longer receive an actual
5 menu. We focus on using a QR reader so that we
6 don't have to pass out prints to people.

7 **Q. Anything else?**

8 A. Not that I can think of at the moment.

9 **Q. The steps that Oceana Grill are taking, are
10 those steps you're taking because you're following
11 the guidance -- the CDC guidelines?**

12 A. Yes, that's part of the reason. And also
13 to keep our guests and our employees and ourselves
14 safe.

15 **Q. Do you believe that those efforts are
16 resulting in keeping your guests and employees safe?**

17 A. To the best that we can.

18 **Q. On March -- prior to March 16, 2020, did
19 Oceana Grill do takeout?**

20 A. We did.

21 **Q. Did you do delivery service prior to
22 March 16, 2020?**

23 A. We did.

24 **Q. When the orders by both the City and the
25 governor occurred in or about March 16, 2020, Oceana**

1 **the property?**

2 A. Yeah. I mean, we get emails from the City
3 from various health sites giving us recommendations.
4 It's not just the CDC. I mean, it's what the
5 City -- NOLA.com sends out things.

6 **Q. Other than what you've described to me --
7 changing the air filters, wearing masks and gloves,
8 sanitizer, ensure that you stay six feet apart, make
9 sure your tables are spread out inside of the
10 restaurant, signs about wearing masks, using
11 disposable condiments, and using bar code for your
12 menus -- is there anything else that Oceana Grill is
13 doing to alleviate the damage to the property?**

14 A. Not that -- not that I can think of.

15 **Q. So the other sources of information that --
16 or other sources where you're receiving information,
17 that information would be somehow encompassed in the
18 list you gave me?**

19 A. That is correct.

20 **Q. I'm going to -- has Oceana Grill ever done
21 any type of testing of the surfaces in the building?**

22 A. Not that I'm aware of. I can't answer
23 that.

24 **Q. Have you personally done any testing of any
25 of the surfaces in the building?**

1 **Grill continued to do takeout service, right?**

2 A. Correct.

3 **Q. And it continued to do delivery service?**

4 A. Correct.

5 **Q. In preparing the meals for the takeout,
6 those meals were prepared by employees at 739 Conti
7 Street?**

8 A. Yes.

9 **Q. And in preparing meals for the delivery
10 service, those meals were also prepared at 739 Conti
11 by Oceana Grill employees?**

12 A. Correct.

13 **Q. So from all times from March 16, 2020,
14 through the present, your employees who prepared the
15 meals were allowed to come inside the building to
16 perform that function, correct?**

17 A. Yes.

18 **Q. I want to go back a second to, you know,
19 the effort that you-all are performing to ensure
20 that yourselves and employees and guests are safe.
21 You listed a number of things that mirror things
22 that are done -- that are recommended by the CDC
23 guidelines.**

24 **Is there any other source where you are
25 obtaining information to determine how to remediate**

1 A. I have not.

2 **Q. Do you have any personal knowledge of
3 COVID-19 actually being in any property within one
4 mile of Oceana Grill?**

5 A. What do you -- can -- do you mean, like,
6 individual with it or...

7 **Q. No. Physical property. So one of the
8 allegations in the complaint is that you are aware
9 that COVID-19 is physically in a building within one
10 mile of your restaurant. And I'm asking you --**

11 A. Yes.

12 **Q. -- do you know of COVID-19 being in a
13 building within one mile of your restaurant?**

14 A. Yes. I know of COVID-19 being everywhere.
15 So, I mean, it's in the air. It's in plenty of
16 buildings. The mayor has stated that COVID-19 was
17 everywhere in the city. That's exactly why we were
18 shut down.

19 **Q. Okay. What building are you aware of --
20 and I'm asking you personally first. What building
21 are you aware of that COVID-19 is present in?**

22 A. I know personally COVID is in the building
23 I'm in right now. It's in every building. Any --

24 **Q. How do you know that?**

25 A. This is my knowledge. So my knowledge is

1 there is no building -- if the building has people
2 coming in and there's contact, then it's spreading.

3 **Q. And how do you know that personally?**

4 A. Personally? From what I've read, from the
5 CDC, from the mayor, from everything, is that
6 COVID-19 is a super-spreading virus that is
7 continuously being spread. So if there's any
8 contact, if there's anybody who's been inside, that
9 there's a possibility that COVID has been in there
10 and it still may be continuing.

11 **Q. And I don't want to the cross words with
12 you. You said that you've learned from the mayor
13 that, if anybody has been in a building, there is a
14 possibility that COVID-19 is present, and I
15 understand that. Unfortunately, in this lawsuit,
16 you-all have alleged that COVID-19 is, in fact, in a
17 building within one mile of Oceana.**

18 **And my question now, both in your personal
19 capacity and as a representative, what building?**

20 MR. ALVENDIA: Hold on. I'm going to
21 object to the form of the question, Allen.
22 That's mischaracterizing the nature of our
23 lawsuit. Our allegations is that it's more
24 likely than not, more probably than not,
25 COVID is in the building and in other

1 buildings. You're asking it a little
2 differently, so I'm going to object to the
3 form. If we're going to start reading the
4 lawsuit, talking legalities, let's be
5 accurate.

6 MR. MILLER: Okay.

7 BY MR. MILLER:

8 **Q. So let me ask you, personally, do you,
9 Ms. Thoman, have any personal knowledge of COVID-19
10 being in any specific building one mile away from
11 Oceana Grill?**

12 MR. ALVENDIA: Objection. She's
13 already been asked, and she's already
14 answered this question.

15 You can answer it again, Ms. Tiffany.

16 THE WITNESS: Repeat the question,
17 please.

18 MR. MILLER: Would you read it back,
19 please?

20 (Last question read back by reporter.)

21 A. Yes.

22 BY MR. MILLER:

23 **Q. And how did --**

24 A. If I give a personal, I know of an employee
25 who had it.

1 MR. ALVENDIA: Hold on. And again,
2 I'm going to object to the form; asked and
3 answered already.

4 You asked her if she knew about it.
5 You asked her how she based her knowledge
6 on it. She's already answered. She's said
7 she believes it's been in the area. We
8 only have to prove more likely than not,
9 Allen. You know that. And she explained
10 where she has that knowledge from: the
11 mayor, the website. She said this already.

12 If you want to keep asking the same
13 question over and over, that's fine. But
14 objection. It has been asked and answered.

15 MR. MILLER: Okay.

16 BY MR. MILLER:

17 **Q. And I'll just clean this up.**

18 **Consistent with what your counsel just said
19 on record, you said yes, that you are aware although
20 you didn't identify a building. And the reason that
21 you -- and so my next question is, how did you
22 become aware? And I think you said from the CDC,
23 the mayor.**

24 **Are there any other sources?**

25 MR. ALVENDIA: Objection to form.

1 She's already giving you other sources.

2 But, Ms. Tiffany, please give him the
3 other sources again.

4 A. Various people. I mean, this is to my
5 knowledge, and this is what I'm aware of. And I've
6 said it, that the virus -- if there's people in the
7 French Quarter, if there's people within a mile
8 radius of us, then the virus is very likely in the
9 area, in a building, or somewhere.

10 If that person -- there's a Walgreens. If
11 a person that has the virus walks into Walgreens,
12 the Walgreens around the corner, the virus is there.
13 There is no way that -- within one mile, that
14 there's no building -- and this is my knowledge --
15 that there is not a building that has had the virus
16 in it.

17 BY MR. MILLER:

18 **Q. And that is based upon the mayor and the
19 CDC, the things you said earlier?**

20 A. Yes.

21 **Q. It's not based upon because you,
22 Ms. Thoman, know of a building that has been tested
23 that has COVID in it, correct?**

24 A. I am not aware of a building being tested.

25 **Q. Okay. During the time that Oceana Grill**

1 was performing delivery and takeout, beginning
2 March 16, 2020, were vendors still allowed in the
3 building?

4 A. Yes.

5 **Q. Okay. And you still received your Sysco**
6 **shipments and other functions that helped the**
7 **restaurant operate?**

8 A. Correct.

9 **Q. Now, earlier you said that -- well, have**
10 **there been any individuals that tested positive for**
11 **COVID-19 that were in the building?**

12 A. Yes.

13 **Q. Okay. When that happened, what was Oceana**
14 **Grill's response?**

15 A. The -- there are a couple of times -- for
16 instance, someone in the office had it, and when
17 they tested positive, they were sent home to
18 quarantine. We took the same measures as --
19 constantly cleaning. We cleaned up and disinfected
20 the whole office, opened the windows to allow air to
21 circulate. We closed it off so that other people
22 couldn't access that area.

23 **Q. Anything else?**

24 A. That's what we did in each case.

25 **Q. How many cases were there? Do you recall?**

1 A. I believe there were -- one other, a
2 maintenance man. I think there was a maintenance
3 man, which he was cleaning behind in the bar area so
4 that -- we did the same precautions on that -- in
5 that area at the bar.

6 **Q. So you closed off the bar area and cleaned**
7 **it?**

8 A. Yes, correct.

9 **Q. When you closed the office when the**
10 **individual that worked in the office tested**
11 **positive, how long was the office closed?**

12 A. We closed the office for a week.

13 **Q. Was it, the office, on the third floor**
14 **where you work?**

15 A. Correct.

16 **Q. Did you -- you continued to work, though,**
17 **during that week, correct?**

18 A. I did. I have a side office where I have
19 different access to.

20 **Q. Do you recall the month that the**
21 **maintenance officer -- or maintenance worker was**
22 **working behind the bar and tested positive?**

23 A. I don't. It was in the middle, so maybe
24 June or July, possibly.

25 **Q. How long was that area closed off?**

1 A. We kept the area closed for 72 hours, I
2 believe. I believe so.

3 **Q. Why 72 hours?**

4 A. That's my belief. I think it happened --
5 it could have been on the weekend. But I know that
6 we just restricted that area, and we allowed --
7 like, we used other areas.

8 **Q. Did the closing down or restricting of that**
9 **area affect any of the operations that were going on**
10 **at that moment?**

11 A. I'm not aware of it. I mean, we
12 restricted -- we had to close off that area, so it
13 just stopped the operations in that particular area,
14 for sure.

15 **Q. But the restaurant didn't close, right?**

16 A. The restaurant did not close.

17 **Q. The fact that the maintenance man tested**
18 **positive in the bar area, that didn't change the**
19 **level of occupancy that you would allow at the**
20 **restaurant at that time, did it?**

21 A. No. At that time, we were already
22 restricted.

23 **Q. And you were restricted because of the**
24 **orders from the mayor and the governor?**

25 A. Yes. And for social distancing purposes as

1 well.

2 **Q. Did the testing -- did an individual**
3 **testing positive ever affect the capacity in which**
4 **Oceana Grill opened its restaurant?**

5 A. No, not that I'm aware of.

6 **Q. The only thing that affected the capacity**
7 **in which you operate were the orders from the mayor**
8 **and the governor, correct?**

9 A. No.

10 **Q. What else affected the capacity --**

11 A. The virus.

12 **Q. How so?**

13 A. Because we had to -- for safety of our
14 guests, for safety of our employees, we had to --
15 areas had to be restricted and closed off, and we
16 had to maintain social distancing, which restricted
17 use in certain areas.

18 **Q. What capacity is the restaurant operating**
19 **in currently?**

20 A. Per guidelines, for city guidelines, we're
21 at 75 percent. We're not quite there based -- like,
22 because of social distancing and keeping tables
23 apart, we are not quite at 75 percent.

24 **Q. Where are you?**

25 A. We're a little over 50.

Page 41

1 **Q. In June, when we -- when the mayor went to**
2 **Phase 1 and we were limited to 25 percent capacity**
3 **throughout the city, at what capacity was Oceana**
4 **Grill in June?**
5 A. We opened with the 25 percent capacity.
6 **Q. Okay. When did -- when was the decision**
7 **made to go to 50 percent capacity?**
8 A. We moved to 50 percent capacity -- that was
9 June -- mid-June.
10 **Q. And did you move to 50 percent capacity at**
11 **the same time that the mayor allowed other**
12 **restaurants in the city to go to 50 percent**
13 **capacity?**
14 A. Yeah, it was around the same time.
15 MR. ALVENDIA: Allen, we've been going
16 about an hour. We need to take a little
17 restroom break. Okay?
18 MR. MILLER: Sounds good.
19 (Recess taken.)
20 MR. MILLER: Back on the record.
21 BY MR. MILLER:
22 **Q. Ms. Thoman, I asked you about your**
23 **awareness of any testing of buildings within one**
24 **mile of Oceana Grill, and I think you said you were**
25 **not. Other than individuals being tested, persons,**

Page 42

1 **are you aware of testing of anything within one mile**
2 **of Oceana Grill?**
3 A. Not that I'm aware of. I'm not aware. I
4 can't answer that question.
5 **Q. Okay. I'm going to show you --**
6 MR. MILLER: Can we mark as Exhibit 1
7 the 1442 deposition notice that we
8 previously went through?
9 THE REPORTER: Yes, sir.
10 (Exhibit No. 1 was identified.)
11 MR. MILLER: I'm going to show you
12 on the screen now what we'll mark as
13 Exhibit 2, which is plaintiff's second
14 supplemental and amending petition for
15 declaratory judgment.
16 (Exhibit No. 2 was identified.)
17 BY MR. MILLER:
18 **Q. And I believe you testified earlier that**
19 **you have never seen the actual lawsuit, correct?**
20 A. Correct.
21 **Q. All right.**
22 MR. MILLER: Got to love Zoom. There
23 you go. Let's go to paragraph 40 of the
24 petition.
25 And don't start screaming at me, Rico,

Page 43

1 until you actually hear my question.
2 BY MR. MILLER:
3 **Q. Paragraph 40 of the petition reads:**
4 "COVID-19 is known to have been in or on
5 properties within a one-mile radius from the insured
6 premises in the French Quarter, contaminating the
7 immediate areas surrounded insured premises."
8 I asked you some questions about that
9 before. Would your answer previously to those
10 questions which centered around this topic be the
11 same?
12 A. Yes. To my knowledge, more than likely
13 that is correct.
14 **Q. Okay. And your knowledge is based upon**
15 **what you said previously, correct?**
16 A. That is correct.
17 **Q. Nothing else?**
18 A. Nothing else.
19 **Q. Okay. Paragraph 41 of the petition reads:**
20 "COVID-19 has caused a property loss or
21 damage covered under the policy within a one-mile
22 radius of insured premises resulting in a
23 prohibition of access to the insured premises by a
24 civil authority order, which triggered coverage
25 under the policy."

Page 44

1 **Do you see that?**
2 A. Yes.
3 **Q. At no time were you or other employees or**
4 **Mr. Bader prohibited from entering 739 Conti Street,**
5 **correct?**
6 A. We were not. But customers were prohibited
7 from entering the building.
8 **Q. And that was based upon those restrictions,**
9 **correct?**
10 A. Yes.
11 MR. ALVENDIA: Allen, I'm going to go
12 ahead and lodge my objection now as you
13 start reading from this legal document.
14 And I appreciate the questions you've had
15 so far, I have not had an objection to
16 but -- so I'm not interrupting you as you
17 go through this, my ongoing objection will
18 be that you're asking a legal opinion from
19 a lay witness about a legal document
20 prepared by their lawyer.
21 So having said that, please continue.
22 MR. MILLER: Yeah, and I don't think
23 I'm asking for legal opinions, and she is
24 being presented as a corporate
25 representative for the corporation that

1 filed this petition. But I accept your
2 objection.
3 BY MR. MILLER:
4 **Q. All right. Paragraph 42 reads:**
5 **"Plaintiff discovered the contamination of**
6 **their business's immediate area through the orders**
7 **and directives provided by its city government**
8 **officials and the Center of Disease Control publicly**
9 **available at their respective official website."**
10 **Do you see that?**
11 A. Yes.
12 **Q. Other than the orders from the mayor and**
13 **governor and the CDC websites, is there any other**
14 **personal knowledge of physical evidence of COVID**
15 **being present at 739 Conti Street?**
16 A. Yes.
17 **Q. What are those?**
18 A. Well, we have the previous people who
19 tested positive.
20 **Q. Okay.**
21 A. Which were throughout the -- which were in
22 the building. Moe had actually -- Moe had actually
23 had COVID as well.
24 **Q. Following the individuals testing positive**
25 **in the building and Oceana Grill's remediation**

1 **efforts, was COVID -- do you contend that COVID was**
2 **still in the building?**
3 A. Yes.
4 **Q. And that is based upon what?**
5 MR. ALVENDIA: Objection. This
6 question has been asked and answered
7 several times now with multiple sources,
8 that she keeps telling you that she had the
9 understanding that COVID is in the
10 premises.
11 If you understand the question,
12 Ms. Thoman, you can answer again.
13 A. From my knowledge, from the mayor, and the
14 city officials, and CDC said -- the CDC has said
15 that the virus is super-spreading, it's in the air,
16 and it's everywhere.
17 BY MR. MILLER:
18 **Q. All right. So let me back up just a little**
19 **bit because I'm not talking generally, because I**
20 **think, generally, we were talking about the virus.**
21 **I'm talking about -- you mentioned specific**
22 **instances where individuals tested positive earlier,**
23 **correct? The maintenance person behind the bar and**
24 **the individual in the office. And then you also**
25 **described --**

1 MR. ALVENDIA: Allen, this is not an
2 objection. There are multiple people who
3 tested positive.
4 MR. MILLER: (Indiscernible.)
5 MR. ALVENDIA: Wait, let me finish. I
6 promise you you're not going to have a
7 problem with this.
8 There are multiple people that tested,
9 and you asked her if there was anybody in
10 the office who tested positive earlier.
11 There are more than a couple of people. If
12 you want to ask her about the others,
13 that's fine. I just want to the put this
14 on the record.
15 She cannot identify those people for
16 HIPPA concerns unless we enter some type of
17 protective order or submit this information
18 under seal.
19 MR. MILLER: I got you.
20 MR. ALVENDIA: But please proceed.
21 Thank you.
22 BY MR. MILLER:
23 **Q. And I'm not asking who tested positive.**
24 **I'm not asking how many people at Oceana Grill**
25 **tested positive. I just want to talk about two**

1 **instances, the two that we talked about earlier.**
2 **There's an individual in the office that**
3 **tested positive, and you closed the office for a**
4 **week, correct?**
5 A. Correct.
6 **Q. There was an individual, a maintenance**
7 **person, that tested positive in the bar area, and**
8 **you restricted that area for 72 hours -- you believe**
9 **72 hours?**
10 A. Correct.
11 **Q. Okay. Let's talk about the office. In the**
12 **office itself, after you close it off for a week and**
13 **did your remediation, is it your contention that**
14 **COVID was still present?**
15 A. Yes.
16 **Q. In the bar, you close it off for 72 hours**
17 **and did your remediation. Is it your contention**
18 **that COVID was still present in the bar?**
19 A. Yes.
20 **Q. And that is based upon the CDC and the**
21 **mayor and all the other things you said earlier?**
22 A. Correct.
23 **Q. Not based upon -- there was no testing of**
24 **surfaces in the bar area, was there?**
25 A. No, not to my knowledge.

Page 49

1 **Q. There was no testing of the surfaces in the**
2 **office, was there?**
3 A. Not to my knowledge, no.
4 **Q. Okay. Paragraph 44 states that "Access to**
5 **the plaintiff's business, a traditional sit-down**
6 **restaurant, was prohibited to the public, limiting**
7 **operations to only takeout and delivery services**
8 **between March 16, 2020, until May 16, 2020."**
9 **Do those dates look accurate to you?**
10 A. Yes.
11 **Q. But I think you testified earlier that at**
12 **no time did you cease takeout services. Correct?**
13 MR. ALVENDIA: Objection; asked and
14 answered.
15 You can answer the question.
16 A. We -- no. Repeat that question again. I'm
17 sorry.
18 BY MR. MILLER:
19 **Q. At no time did Oceana ever stop doing**
20 **takeout?**
21 A. No.
22 **Q. You always did takeout, even after**
23 **March 16, 2020?**
24 MR. ALVENDIA: Objection; asked and
25 answered.

Page 50

1 You can answer the question again.
2 A. Yes, we were allowed to.
3 BY MR. MILLER:
4 **Q. Okay. If you -- on March 16, 2020, if you**
5 **would have been allowed to maintain 25 percent**
6 **capacity, would you have?**
7 MR. ALVENDIA: Objection; asked and
8 answered.
9 You can answer the question again.
10 A. I don't think I would have been the one to
11 make the decision. I'm sure, more than likely, we
12 would have shut it down and restrict service just
13 for health of our employees and ourselves.
14 BY MR. MILLER:
15 **Q. Who would have made that -- been in charge**
16 **of making that decision?**
17 A. Moe Bader and the management team.
18 **Q. So given the circumstances in March, you**
19 **said you probably would have -- you know what, I'll**
20 **save that question for someone else since you said**
21 **you wouldn't be the one to make that decision.**
22 A. Okay.
23 **Q. When -- so following March 16, 2020 -- or**
24 **let me rephrase that.**
25 When you-all went back to your 25 percent

Page 51

1 **capacity, the cleaning that Oceana Grill did, was it**
2 **different or was it just more frequent?**
3 A. It was more frequent and a little more
4 extensive to all the different areas that they
5 cleaned.
6 **Q. Paragraph 60 --**
7 MR. MILLER: Ginger, are you there?
8 Okay.
9 BY MR. MILLER:
10 **Q. Paragraph 60 says "COVID-19 has rendered**
11 **the property unsafe and unusable for ordinary**
12 **use...." Do you see that? The very first --**
13 A. Yes.
14 **Q. -- portion of that sentence?**
15 **Do you consider the property to be unsafe?**
16 MR. ALVENDIA: Objection to form of
17 the question; asks for a legal conclusion,
18 once again referring to a legal document
19 prepared by attorneys.
20 To the extent you understand the
21 question, Ms. Tiffany, please answer.
22 A. Yes, that would render it unsafe.
23 BY MR. MILLER:
24 **Q. Tell me why you believe the property is**
25 **unsafe.**

Page 52

1 A. Because of the virus that's in it.
2 **Q. Any other reason?**
3 A. No.
4 **Q. Okay. And it goes on to say that it is**
5 **"unusable for ordinary use." Do you see that?**
6 A. Yes.
7 **Q. Do you believe it's unusable for ordinary**
8 **use?**
9 A. Yes.
10 **Q. Tell me why.**
11 A. Ordinary use, we'd have a full restaurant.
12 We're currently restricted access, and it's not able
13 to be used for its ordinary purpose.
14 **Q. So the only reason that it is unusable for**
15 **ordinary use is because of the restriction?**
16 MR. ALVENDIA: Objection. That's a
17 mischaracterization of her answer.
18 MR. MILLER: I'm asking --
19 MR. ALVENDIA: If you --
20 (indiscernible) the question, you can
21 answer it.
22 A. No, not just because of the restriction,
23 because of the virus as well, because it is unsafe.
24 BY MR. MILLER:
25 **Q. Okay. Any other reason why the property is**

1 **unusable for ordinary use?**
2 A. No.
3 **Q. The warning signs that Oceana Grill used,**
4 **can you describe those for me?**
5 A. We had signs for our guests. This is when
6 we were allowed access -- our guests were allowed
7 access into the building. We had signs up letting
8 them know about putting a mask on for everybody's
9 safety. On the tables, we had signs that said, do
10 not sit here. That way, we can keep tables
11 separated and apart. We also had signs for hand
12 sanitizer and, in the bathrooms, to wash your hands.
13 Everything that -- signs just to show that
14 we're, you know, stopping the spread of the virus.
15 Then we had ones for employees as well as.
16 **Q. And what did those say?**
17 A. Employees were basically the same thing.
18 Washing hands, wearing a mask. But we discuss with
19 them a little bit more about how to stop the spread
20 of the virus and what to do in case they were
21 feeling sick and how to, you know, possibly prevent
22 them from getting the virus and bringing it into the
23 building.
24 **Q. Did any of the signs indicate that the**
25 **property was unsafe?**

1 A. Well, it said wear a mask. I don't think
2 you'd really wear a mask if you felt safe.
3 **Q. Did any of the signs say the property is**
4 **unusable?**
5 A. Yeah. On the tables, it said, you can't
6 sit here. So they knew the full property wasn't
7 accessible and available.
8 **Q. So the "unusable," meaning this area is**
9 **restricted?**
10 A. Correct.
11 **Q. During the times when you-all restricted**
12 **certain portions of the restaurant, did -- other**
13 **than the 25, 50, 75 percentage, did you change which**
14 **tables you use at any time, like which areas you**
15 **restricted compared to others?**
16 A. Can --
17 MR. ALVENDIA: Allen, I -- and I
18 see by the look on her face, could you be
19 more specific with your question?
20 MR. MILLER: I can.
21 BY MR. MILLER:
22 **Q. When Oceana Grill was allowed to go to**
23 **25 percent capacity, you-all had certain areas of**
24 **the restaurant that were restricted, correct?**
25 A. Correct.

1 **Q. During that period, did you change what**
2 **areas you restricted, ever?**
3 A. During that -- yes, we did. We changed the
4 tables based on social distancing and keeping people
5 spread apart as far as possible to eliminate them
6 spreading the virus if they possibly had it.
7 **Q. During the 25 percent restriction posed by**
8 **the city and/or the governor, did you use different**
9 **portions of the restaurant during that same period?**
10 **Like maybe you used -- and I'm going to give an**
11 **example because I know the question is kind of**
12 **convoluted.**
13 **If you use Ballroom A on Monday and**
14 **restricted Ballroom B, did you ever restrict**
15 **Ballroom A and use Ballroom B during that same**
16 **25-percent restriction period?**
17 A. No.
18 **Q. So --**
19 A. Not from -- not from what I gather from --
20 like, what I take from your question. We restricted
21 tables and particular areas, and we maintained that.
22 **Q. You maintained those particular areas being**
23 **restricted throughout the entirety of the period?**
24 A. Correct.
25 **Q. Okay. I know those were some bad**

1 **questions. I apologize.**
2 **I'll show you what we'll mark --**
3 MR. MILLER: So let's mark the
4 petition as Exhibit 2.
5 I'll show you what we'll mark as
6 Exhibit 3, which is the "Guidance for
7 Cleaning and Disinfecting" from the CDC.
8 (Exhibit No. 3 was identified.)
9 BY MR. MILLER:
10 **Q. Okay. Can you see that?**
11 A. Yes.
12 **Q. Have you ever seen this document before?**
13 A. I believe I have.
14 MR. MILLER: Okay. Can you scroll
15 down to the last paragraph?
16 BY MR. MILLER:
17 **Q. The first sentence says "The virus that**
18 **causes COVID-19 can be killed if you use the right**
19 **products." Do you see that?**
20 A. Yes.
21 **Q. Is that -- in your capacity as a 1442**
22 **representative for Oceana Grill, are you aware of**
23 **that?**
24 A. I am aware of that.
25 **Q. Okay. And is it Oceana Grill's contention**

Page 57

1 that it followed the CDC guidelines?
2 A. Yes.
3 **Q. All right. And that would be the**
4 **guidelines that are -- we could walk through this**
5 **entire document, but I don't necessarily think it's**
6 **necessary if, you know, we could accept that this**
7 **was produced by Oceana Grill to us as the CDC**
8 **guidelines that it followed.**
9 A. Correct. I don't know if I -- so that is
10 correct as far as it's killed using the right
11 products. We used the right products that were
12 needed, but it's also an airborne and constant,
13 continuous spread. So yes, we can submit this --
14 this is accurate.
15 **Q. And when you say it's airborne and spread,**
16 **is it the airborne nature that causes the property**
17 **to be unsafe?**
18 A. It's the virus being in the building.
19 **Q. Okay. In the air in the building or --**
20 A. In the air, on the surfaces, anywhere that
21 the virus is.
22 **Q. And if it's on the surfaces, you will agree**
23 **that the CDC says it can be killed if you use the**
24 **right products, right?**
25 A. It can be killed, and then the next person

Page 58

1 that walks to the table, it can return. Or an air
2 droplet can fall on the table, and it's -- the virus
3 is there again.
4 **Q. And in those instances, Oceana Grill would**
5 **disinfect the property, correct, the table?**
6 A. Well, that's why it's a continuing
7 cleaning, to try to eliminate the virus.
8 **Q. Did you have any involvement in the**
9 **compilation of Oceana Grill's discovery responses?**
10 A. Yes.
11 MR. MILLER: Okay. Pull up Exhibit 4.
12 (Exhibit No. 4 was identified.)
13 BY MR. MILLER:
14 **Q. Have you seen this document before?**
15 A. Yes, I do believe I've seen this one.
16 **Q. Okay. Without me scrolling through every**
17 **single page and asking you every single answer, when**
18 **you read this document, did it appear to be**
19 **accurate, to the best of your knowledge?**
20 A. Yes.
21 **Q. Let's turn to Interrogatory No. 2.**
22 **Interrogatory No. 2, again, talks about knowledge of**
23 **COVID being in and on properties within one mile,**
24 **and again, it references paragraph 40 of the**
25 **petition, which we've talked about already, and I'm**

Page 59

1 not going to retread those waters.
2 **But subpart 2 says "Identify all witnesses**
3 **to support your statements...." And in the response**
4 **to subpart 2, Oceana Grill identifies Mayor Latoya**
5 **Cantrell. Do you see that?**
6 A. Uh-huh.
7 **Q. And No. 2 asks to identify witnesses that**
8 **support the statement of the petition as well as**
9 **your response to part 1 above, i.e., that there's**
10 **COVID in the area.**
11 **Is there anyone else other than Mayor**
12 **Cantrell that should be identified in No. 2?**
13 A. Probably the -- maybe the CDC, but let
14 me --
15 MR. MILLER: Why don't you go back up
16 to the --
17 THE WITNESS: Yeah. Thank you.
18 MR. MILLER: Can you go back up to the
19 question? Yeah.
20 A. If I'm not mistaken, during this time, it
21 was only Mayor Cantrell because they were
22 referencing when she said that the virus was on
23 furniture, it was all in the area. I believe it was
24 in an proclamation. I'm not a hundred percent sure,
25 but I would say that she would be the only person

Page 60

1 referenced in that answer.
2 MR. MILLER: Okay. Let's go to
3 Interrogatory No. 5.
4 BY MR. MILLER:
5 **Q. This again references paragraph 60 of the**
6 **petition. I'm not going to go over that**
7 **information. But in the second subpart, it reads:**
8 **"You allege that 'COVID-19 has rendered property**
9 **unsafe and unusable for ordinary use.'" And then**
10 **No. 2, we ask "Please state the particular dates**
11 **that the insured premises was rendered 'unsafe and**
12 **unusable for ordinary use.'" And now we want to**
13 **know the dates.**
14 **And then response -- the response is it has**
15 **been rendered unsafe and unusable "since the**
16 **commencement of the civil authority orders and**
17 **COVID-19 contamination in New Orleans."**
18 **Is that accurate?**
19 A. Yes, that is correct. That is accurate.
20 MR. MILLER: Ginger, let's pull up the
21 supplemental responses. We'll mark that
22 as -- this, plaintiff's responses to
23 defendant's first set of the
24 interrogatories, requests for production of
25 documents, requests for admission, as

Page 61

1 Exhibit 4.
2 And we'll mark plaintiff's
3 supplemental response as Exhibit 5.
4 (Exhibit No. 5 was identified.)
5 BY MR. MILLER:
6 **Q. Did you have any involvement in the**
7 **creation of these supplemental responses?**
8 A. Yes.
9 **Q. And so you've seen this document before?**
10 A. I have.
11 **Q. And is everything contained within it**
12 **accurate, from the best of your knowledge?**
13 A. Yes.
14 MR. MILLER: Can we go off the record
15 for a second?
16 (Off-record discussion.)
17 MR. MILLER: Ginger, if you could,
18 pull up the last -- Exhibit 6.
19 (Exhibit No. 6 was identified.)
20 MR. MILLER: Counsel, these are the
21 documents that were produced in discovery
22 to us. I took the liberty of numbering
23 them so that it would be easier for us to
24 reference. They are numbered Exhibit 6, 1
25 through page 130.

Page 62

1 BY MR. MILLER:
2 **Q. First, let me ask you, Ms. Thoman, were you**
3 **involved in the collection of documents to produce**
4 **in response to discovery?**
5 A. Yes.
6 **Q. This first document is an Amazon detail,**
7 **and we have several pages of those. Were you**
8 **responsible for pulling those together?**
9 A. I did, yes, with the help of someone in the
10 office.
11 **Q. Okay.**
12 MR. MILLER: Ginger, can you scroll --
13 A. It was between Moe and I as well.
14 BY MR. MILLER:
15 **Q. These Amazon receipts are related to air**
16 **filters, correct?**
17 A. That's what it appears, yes.
18 **Q. And they go from page 1 through page 17.**
19 MR. MILLER: Ginger, would you just
20 scroll through to page 17?
21 BY MR. MILLER:
22 **Q. Are these the extra air filters that you**
23 **discussed earlier in your testimony?**
24 A. That is correct.
25 **Q. And why was the decision made to purchase**

Page 63

1 **these air filters?**
2 A. Based on the guidelines that we saw and --
3 it was recommended to change air filters to
4 continually have new air flowing through them, so we
5 made the decision to purchase and change the air
6 filters.
7 **Q. On pages 18 through -- well, 18 and 19.**
8 **What is this?**
9 A. It looks -- you just scrolled away, but I
10 think I saw that it was face masks.
11 **Q. Right. So these are invoices for**
12 **additional face masks that you-all bought for your**
13 **employees?**
14 A. That is correct.
15 **Q. What is on Exhibit 20 -- or page 20? I'm**
16 **sorry.**
17 A. Those are the QR stickers to put on the
18 table for menu readers.
19 **Q. Got it. Did you-all have disposable menus**
20 **at any time?**
21 A. We did purchase disposable menus for people
22 who didn't have phones to pull up the reader, or
23 some, you know, older people, or people who would
24 rather look at a menu rather than their phone. They
25 were disposable, given and then tossed, thrown away

Page 64

1 immediately.
2 **Q. And the QR stickers and disposable menus**
3 **were all from DocuMart.**
4 A. That is correct.
5 **Q. Now, throughout, and beginning on page 38,**
6 **we have a number of receipts from Sysco. Most of**
7 **these contain items of food, things you-all were**
8 **purchasing to run your restaurant.**
9 **Why were three Sysco receipts submitted?**
10 A. More than likely, Sysco, we ordered
11 janitorial products from as well. So I'd have to
12 scroll through each one to give you a complete and
13 accurate answer.
14 **Q. I understand. And I think -- turn to**
15 **page 48. By way of example -- I'm sorry, 46.**
16 **I'm sorry, 46.**
17 **The top third of that page, it says**
18 **"chemical/janitorial."**
19 A. Yes.
20 **Q. Which, as you can see, it includes toilet**
21 **paper, but presumably, it includes some type of**
22 **cleaner as well?**
23 A. Yes.
24 **Q. All right. So Oceana Grill was not**
25 **submitting these invoices to evidence the food that**

Page 65

1 **it was purchasing from Sysco, but only the**
2 **janitorial products?**
3 A. That is correct.
4 MR. MILLER: Can you scroll to
5 page 80?
6 BY MR. MILLER:
7 **Q. Page 80 through 125 are copies of checks.**
8 **Did you participate in compiling these checks?**
9 A. Yes.
10 **Q. And are these checks related to the**
11 **invoices that we just went through, whether it's**
12 **from Sysco or DocuMart?**
13 A. Yes.
14 MR. MILLER: Turn to page 126.
15 BY MR. MILLER:
16 **Q. Is this -- this was produced to us. Is**
17 **this the daily checklist that you-all gave to your**
18 **managers?**
19 A. I've seen that one. Yes, I'm familiar with
20 it. Moe would have been the one to discuss that
21 with the managers, so...
22 **Q. I'll save those questions for him.**
23 **Now, those are all of the invoices and**
24 **checks we received from Oceana Grill. You're not --**
25 **so, again, I'm asking in your capacity as a 1442**

Page 66

1 **rep. You're not seeking any additional costs, are**
2 **you?**
3 A. I can't answer that.
4 MR. ALVENDIA: Objection. Could you
5 repeat that question, Allen, please?
6 MR. MILLER: Yeah, I'll repeat it.
7 BY MR. MILLER:
8 **Q. Is Oceana Grill seeking to recover any**
9 **repair costs to the property?**
10 MR. ALVENDIA: Are you talking
11 about -- when you're talking about repair
12 costs, as she defined it earlier, Allen?
13 I'm just trying to clarify this. As far as
14 cleaning supplies and whatnot?
15 MR. MILLER: Let me rephrase it.
16 BY MR. MILLER:
17 **Q. The documents that we just went through, is**
18 **that the universe of documented costs that Oceana**
19 **Grill spent to remediate the property?**
20 MR. ALVENDIA: Do you understand the
21 question?
22 THE WITNESS: If he's just referencing
23 the invoices?
24 MR. ALVENDIA: What he's asking --
25 Allen, if I can help.

Page 67

1 I believe he's asking, is that all you
2 spent on cleaning supplies, things of that
3 nature, to remediate the property? Or is
4 there stuff outside of those receipts?
5 THE WITNESS: Yeah. I think it's safe
6 to say I'm sure there's other invoices that
7 were just not able to be compiled at the
8 time. I'd have to go through and reference
9 everything to give you an accurate answer.
10 BY MR. MILLER:
11 **Q. Okay.**
12 A. And I also think that those invoices
13 stopped -- I don't know which day we provided them
14 up to.
15 **Q. Okay.**
16 A. And I'm sure some more have incurred over
17 the time.
18 MR. ALVENDIA: And, Allen, listen, I
19 kind of let a couple of those questions go,
20 and I think she's answered them fully
21 already. But just to be clear, this is a
22 dec action on coverage. I want to be
23 careful we're not getting into damages,
24 such as extra expenses and so forth, due to
25 this loss. But that's fine. The questions

Page 68

1 you've asked, she's answered. I just don't
2 want to dig too far into damages right
3 here.
4 MR. MILLER: Let me kind of, I guess,
5 rephrase it for the topic that I'm getting
6 at.
7 BY MR. MILLER:
8 **Q. If there are other invoices that you just**
9 **described, would they would they be the same type of**
10 **invoices that we just went through?**
11 A. Yes, very similar.
12 **Q. There is no other universe of types of**
13 **invoices that you-all would have utilized to**
14 **remediate the property?**
15 A. What do you mean by universal invoices?
16 **Q. You don't have any invoices from any**
17 **carpenters that would have done work at the property**
18 **related to COVID?**
19 A. No, not to my knowledge.
20 **Q. Okay. You don't have any invoices from**
21 **plumbers that you would have paid related to**
22 **COVID-19?**
23 A. No. I don't really think we called a
24 plumber for the virus.
25 **Q. So although there may be more invoices**

1 **because these stopped short of -- I don't have an**
 2 **invoice for this week, right, so you may have an**
 3 **invoice for this week, but it would be a similar**
 4 **type of invoice as the ones we went through in**
 5 **Exhibit 6?**
 6 A. Yes.
 7 **Q. All right. Now, in March of 2020, March**
 8 **16th specifically, when you-all closed, did you-all**
 9 **hire any type of consultant to help you navigate how**
 10 **to deal with the virus?**
 11 A. I'm not aware of one, no.
 12 MR. MILLER: Give me a couple of
 13 seconds. Let me look at my notes, and then
 14 I think we might be finished.
 15 THE WITNESS: Okay.
 16 BY MR. MILLER:
 17 **Q. Ms. Thoman, in your capacity as a 1442 rep,**
 18 **were you involved in the decision to file the**
 19 **lawsuit?**
 20 A. I was not. I was not.
 21 MR. ALVENDIA: I was about to object,
 22 Allen, but she went ahead and answered, so
 23 there it is.
 24 MR. MILLER: Why are you objecting?
 25 MR. ALVENDIA: Because I like

1 REPORTER'S CERTIFICATE
 2 I, YOLANDA J. PENA, Certified Court Reporter in
 3 and for the State of Louisiana, Registered
 4 Professional Reporter, and as the officer before
 5 whom this testimony was taken, do hereby certify
 6 that TIFFANY THOMAN, after having been duly sworn
 7 by me upon authority of R.S. 37:2554, did testify
 8 as set forth in the foregoing 70 pages.
 9 I further certify that said testimony was
 10 reported by me in the Stenotype reporting method,
 11 was prepared and transcribed by me or under my
 12 direction and supervision, and is a true and
 13 correct transcript to the best of my ability and
 14 understanding.
 15 I further certify that the transcript has been
 16 prepared in compliance with transcript format
 17 guidelines required by statute or by rules of the
 18 board and that I have been informed about the
 19 complete arrangement, financial or otherwise, with
 20 the person or entity making arrangements for
 21 deposition services.
 22 I further certify that I have acted in
 23 compliance with the prohibition on contractual
 24 relationships, as defined by Louisiana Code of
 25 Civil Procedure Article 1434, and in rules and
 advisory opinions of the board.
 I further certify that I am not an attorney or
 counsel for any of the parties, that I am neither
 related to nor employed by any attorney or counsel
 connected with this action, and that I have no
 financial interest in the outcome of this matter.
 This certificate is valid only for this
 transcript, accompanied by my original signature
 and original raised seal on this page.
 Baton Rouge, Louisiana, this 5th day of
 November, 2020.

 YOLANDA J. PENA, CCR, RPR
 CCR NO. 2017002, RPR NO. 907346

1 objecting to your questions.
 2 MR. MILLER: I think I'm done with my
 3 questioning.
 4 MR. ALVENDIA: Thank you, Allen. We
 5 have no questions.
 6 Madam Court Reporter, we would like a
 7 copy of the deposition, along with all the
 8 exhibits, as soon as possible.
 9 (This proceeding was concluded at 12:20 p.m. on
 10 November 4, 2020.)
 11
 12
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 25

1 CAJUN CONTI LLC, ET AL CASE NO. 2020-02558
 2 DIVISION M-13
 3 VERSUS
 4 CERTAIN UNDERWRITERS AT
 5 LLOYD'S, LONDON
 6 WITNESS CERTIFICATE
 7 I, TIFFANY THOMAN, have read or have had the
 8 foregoing testimony given on NOVEMBER 4, 2020, read
 9 to me and hereby certify that it is a true and
 10 correct transcription of my testimony with the
 11 exception of the following corrections or changes,
 12 if any:
 13 Page Line Correction
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

 TIFFANY THOMAN
 REPORTER: Yolanda J. Pena, CCR, RPR
 ROUTING: Allen C. Miller, Esq., Roderick "Rico"
 Alvendia, Esq.

Tiffany Thoman
November 4, 2020

Page 73

1 Baton Rouge Court Reporters
2 12016 Justice Avenue
3 Baton Rouge, LA 70816
4 November 5, 2020

5 TIFFANY THOMAN
6 10129 Stephen Drive
7 River Ridge, Louisiana 70123

8 Re: CAJUN CONTI LLC, ET AL
9 VERSUS
10 CERTAIN UNDERWRITERS AT LLOYDS,
11 LONDON

12 CASE NO. 2020-02558

13 Deposition of TIFFANY THOMAN
14 taken on NOVEMBER 4, 2020

15 Dear Ms. Thomas:

16 Please find enclosed your deposition. Please read
17 and make any changes on the enclosed Witness
18 Certificate. The certificate must be signed and
19 returned to my office at the address listed above
20 within thirty days of receipt of the deposition.

21 If you have any questions, please do not hesitate
22 to call me at (225) 292-8686.

23 Sincerely yours,

24 Yolanda J. Pena, CCR, RPR
25

19 (Page 73)

Baton Rouge Court Reporters, LLC
225-292-8686

A		
<p>A.M 1:25 ability 71:7 able 20:9 52:12 67:7 Absolutely 26:6 accept 45:1 57:6 access 19:6,11 27:3 37:22 38:19 43:23 49:4 52:12 53:6,7 accessible 54:7 accompanied 71:17 accounting 11:22,25 accurate 34:5 49:9 57:14 58:19 60:18,19 61:12 64:13 67:9 acted 71:12 action 19:7 67:22 71:16 actions 16:25 17:11 actual 20:25 29:4 42:19 added 11:20 additional 11:13 12:20 63:12 66:1 address 8:7 73:17 adhere 28:10 administering 5:9 admission 60:25 advertising 11:4,5 advisory 71:14 affect 7:18 39:9 40:3 affectionally 6:14 agencies 11:5 ago 24:23 agree 5:7 57:22 AGREED 4:3 ahead 8:6 44:12 69:22 air 15:7 16:15 17:2 23:21 28:15 31:7 32:15 37:20 46:15 57:19 57:20 58:1 62:15,22 63:1,3,4,5 airborne 57:12,15,16 AL 72:1 73:8 allegations 15:5 16:13,22 19:1,5 19:10,14,18,24 20:3,4,6,10 32:8 33:23 allege 60:8 alleged 17:15 33:16 Allen 2:19 5:13 6:10 13:12 15:10 18:14 24:10,18 33:21 35:9</p>	<p>41:15 44:11 47:1 54:17 66:5,12 66:25 67:18 69:22 70:4 72:24 alleviate 31:13 allow 28:23 37:20 39:19 allowed 30:15 37:2 39:6 41:11 50:2,5 53:6,6 54:22 Alvendia 2:4,4 5:16,17 13:23 15:10 16:9 18:14 24:10,16 33:20 34:12 35:1,25 41:15 44:11 46:5 47:1,5,20 49:13,24 50:7 51:16 52:16,19 54:17 66:4 66:10,20,24 67:18 69:21,25 70:4 72:25 Amazon 62:6,15 Amended 3:14 amending 42:14 AND- 2:8,13 and/or 55:8 answer 7:2,13,22 8:3 16:24 20:9 24:14 31:22 34:15 42:4 43:9 46:12 49:15 50:1,9 51:21 52:17 52:21 58:17 60:1 64:13 66:3 67:9 answered 34:14 35:3,6,14 46:6 49:14,25 50:8 67:20 68:1 69:22 anybody 12:23 33:8,13 47:9 apart 28:22 31:8 40:23 53:11 55:5 apologize 56:1 appear 58:18 appears 62:17 applied 22:22 23:3 apply 22:25 appreciate 44:14 appropriate 15:19 April 21:22 area 10:22 11:4 18:12 19:11 25:6 25:9 35:7 36:9 37:22 38:3,5,6 38:25 39:1,6,9,12,13,18 45:6 48:7,8,24 54:8 59:10,23 areas 13:9 15:1 23:14 25:7,14,20 25:20,21 39:7 40:15,17 43:7 51:4 54:14,23 55:2,21,22 arrangement 71:10 arrangements 71:11</p>	<p>artfully 7:10 Article 4:11 71:13 asked 16:19 24:23 34:13 35:2,4,5 35:14 41:22 43:8 46:6 47:9 49:13,24 50:7 68:1 asking 18:10 32:10,20 34:1 35:12 44:18,23 47:23,24 52:18 58:17 65:25 66:24 67:1 asks 24:11 51:17 59:7 assertion 19:6 assist 12:24 assume 7:14 9:8 attorney 5:12 71:14,15 attorneys 14:7,9,13 51:19 authority 19:8 43:24 60:16 71:4 authorized 4:6 available 45:9 54:7 Avenue 73:1 aware 20:12,14,19 26:3 27:12,16 27:24 31:22 32:8,19,21 35:19 35:22 36:5,24 39:11 40:5 42:1 42:3,3 56:22,24 69:11 awareness 41:23</p>
B		
<p>B 55:14,15 bachelor's 8:13,17,18 9:6,9,11 back 25:10 30:18 34:18,20 41:20 46:18 50:25 59:15,18 background 8:10 bad 55:25 Bader 2:25 14:10 15:23 27:10 44:4 50:17 Ballroom 55:13,14,15,15 bar 31:11 38:3,5,6,22 39:18 46:23 48:7,16,18,24 based 35:5 36:18,21 40:21 43:14 44:8 46:4 48:20,23 55:4 63:2 basically 53:17 bathroom 28:20 bathrooms 53:12 Baton 2:21 5:3 71:19 73:1,2 becoming 12:19 began 10:25 beginning 23:9 37:1 64:5</p>		

<p>behalf 1:17 5:13,17 14:23 belief 39:4 believe 21:2 23:2 29:15 38:1 39:2 39:2 42:18 48:8 51:24 52:7 56:13 58:15 59:23 67:1 believes 16:7 35:7 BELLE 1:23 best 7:12 17:5,14,19 18:11 29:17 58:19 61:12 71:7 binding 5:9 bit 46:19 53:19 bleach 25:23 board 71:10,14 bought 63:12 break 7:25 8:2,4 41:17 breaks 8:1 bringing 53:22 building 25:9 26:2,5 27:2 28:18 30:15 31:21,25 32:9,13,19,20 32:22,23 33:1,1,13,17,19,25 34:10 35:20 36:9,14,15,22,24 37:3,11 44:7 45:22,25 46:2 53:7,23 57:18,19 buildings 32:16 34:1 41:23 bundles 11:15,17 12:1 business 20:20,24 49:5 business's 45:6</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C 2:1,19 72:24 CAJUN 1:3,3,4,13,13,13 72:1 73:8 calendar 22:8,14 call 6:14 73:19 called 68:23 Cantrell 59:5,12,21 capable 15:17 18:25 capacities 6:12 capacity 6:13 17:23 33:19 40:3,6 40:10,18 41:2,3,5,7,8,10,13 50:6 51:1 54:23 56:21 65:25 69:17 career 10:20 careful 67:23 carpenters 68:17</p>	<p>case 1:4 21:1 37:24 53:20 72:1 73:11 cases 37:25 cash 10:17 CAUSE 1:18 caused 43:20 causes 56:18 57:16 CCR 71:24,24 72:24 73:23 CDC 19:25 23:25 24:2 29:11 30:22 31:4 33:5 35:22 36:19 45:13 46:14,14 48:20 56:7 57:1 57:7,23 59:13 CDC's 3:16 cease 49:12 Center 45:8 centered 43:10 certain 1:7 11:11 25:7 40:17 54:12,23 72:3 73:10 certificate 3:6,7 71:1,17 72:6 73:16,16 certifications 13:1 certified 1:19 5:3 71:2 certify 71:3,5,8,12,14 72:9 chairs 26:14 change 39:18 54:13 55:1 63:3,5 changed 22:7 28:15 55:3 changes 72:11 73:16 changing 31:7 charge 50:15 checklist 65:17 checks 3:22 65:7,8,10,24 chemical/janitorial 64:18 chemicals 27:22 circulate 37:21 circumstances 50:18 city 17:8,12 19:15,19 29:24 31:2 31:5 32:17 40:20 41:3,12 45:7 46:14 55:8 civil 1:1 4:7 19:7 43:24 60:16 71:13 claims 20:11,18,22 clarify 66:13 classes 9:4 clean 25:19,20,21 26:5 35:17 cleaned 25:14 26:8 37:19 38:6</p>	<p>51:5 cleaner 64:22 cleaning 3:16 27:17,18,21 28:3,7 28:11 37:19 38:3 51:1 56:7 58:7 66:14 67:2 clear 67:21 close 39:12,15,16 48:12,16 closed 27:1 37:21 38:6,9,11,12 38:25 39:1 40:15 48:3 69:8 closing 39:8 code 4:6 31:11 71:13 collection 62:3 come 29:4 30:15 comes 28:16 coming 11:4 33:2 commencement 60:16 COMMENCING 1:25 commercial 25:22 company 18:8 compared 54:15 compilation 58:9 compiled 67:7 compiling 65:8 complaint 32:8 complete 64:12 71:10 compliance 23:5 71:9,12 concerns 47:16 concluded 70:9 conclusion 51:17 condiments 31:11 conditions 19:20 connected 71:16 consider 51:15 considered 4:12 Consistent 35:18 constant 27:21 57:12 constantly 28:19 37:19 consultant 10:3 69:9 contact 33:2,8 contain 64:7 contained 15:8 16:15,15 17:2,2 61:11 contaminating 43:6 contamination 45:5 60:17 contend 46:1</p>
---	--	---

<p>contention 48:13,17 56:25 contents 15:7 16:14 17:2 Conti 1:3,13 21:19 23:16 27:6,11 30:6,10 44:4 45:15 72:1 73:8 continually 63:4 continue 44:21 continued 30:1,3 38:16 continuing 25:15 33:10 58:6 continuous 57:13 continuously 33:7 contracted 16:23 contracting 17:4 contractual 71:12 Control 45:8 CONVENTION 2:20 conversation 7:3 convoluted 55:12 copies 65:7 copy 70:7 corner 36:12 corporate 44:24 corporation 44:25 correct 6:5 10:12 20:15 21:5,6 21:20 22:3,5,9,12 28:6 30:2,4 30:12,16 31:19 36:23 37:8 38:8 38:15,17 40:8 42:19,20 43:13 43:15,16 44:5,9 46:23 48:4,5 48:10,22 49:12 54:10,24,25 55:24 57:9,10 58:5 60:19 62:16 62:24 63:14 64:4 65:3 71:7 72:10 Correction 72:13 corrections 72:11 costs 66:1,9,12,18 counsel 5:5 35:18 61:20 71:15,15 couple 11:9 37:15 47:11 67:19 69:12 course 25:15 court 1:1,19 5:3,4,8 6:23 14:18 70:6 71:2 73:1 coverage 43:24 67:22 covered 43:21 COVID 17:9 19:3 20:8 23:16 32:22 33:9,25 36:23 45:14,23 46:1,1,9 48:14,18 58:23 59:10</p>	<p>68:18 COVID-19 15:7 16:14,23 17:4 26:15,18,22 32:3,9,12,14,16,21 33:6,14,16 34:9 37:11 43:4,20 51:10 56:18 60:8,17 68:22 creation 61:7 cross 23:13 33:11 crossover 15:15 CUISINE 1:4,4,13,14 currently 27:19 40:19 52:12 customer 10:17 customers 44:6</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 3:1 d/b/a 1:4,14 daily 11:14,24 65:17 damage 15:6 16:13 17:1,15 19:21 24:24 25:10,12,15 31:13 43:21 damaged 23:16 26:12,15,18,22 26:25 damages 67:23 68:2 damaging 23:22 dangerous 19:20 DANIEL 2:14 dates 49:9 60:10,13 DAVILLIER 2:14,14 day 11:19 67:13 71:19 days 21:10 73:17 ddavillier@davillierlawgroup ... 2:16 deal 69:10 Dear 73:14 dec 67:22 decision 41:6 50:11,16,21 62:25 63:5 69:18 declaratory 3:14 42:15 Defendant 1:17 2:18 3:18,20 defendant's 60:23 defined 66:12 71:13 degree 8:13,17 9:6,9,12 delivery 29:21 30:3,9 37:1 49:7 DEMARTEST 2:4 depend 18:18,22</p>	<p>depends 16:18 deposition 1:10 3:11 4:4,13 6:17 13:8 14:6,22 42:7 70:7 71:11 73:12,15,17 deprived 25:7 describe 24:7 25:3 53:4 described 11:25 12:15 25:12 28:12 31:6 46:25 68:9 description 24:25 designated 1:12 18:8 designee 19:1 detail 16:19 62:6 detailed 16:20 determine 30:25 different 11:5 38:19 51:2,4 55:8 differently 34:2 dig 68:2 dining 26:11,14 direction 71:7 directives 45:7 directly 18:16 discovered 45:5 discovery 4:5 58:9 61:21 62:4 discrepancies 11:21 discuss 14:10 53:18 65:20 discussed 14:12 62:23 discussion 61:16 disease 13:5 45:8 disinfect 58:5 disinfectant 25:22 disinfected 37:19 Disinfecting 3:16 56:7 disposable 29:3 31:11 63:19,21 63:25 64:2 distancing 28:23 39:25 40:16,22 55:4 distinguish 12:14 DISTRICT 1:1 DIVISION 1:5 72:2 DocuMart 64:3 65:12 document 44:13,19 51:18 56:12 57:5 58:14,18 61:9 62:6 documented 66:18 documents 60:25 61:21 62:3 66:17</p>
--	--	---

<p>DODD 2:20 13:12,15,21,25 doing 11:14 12:3 27:19 28:13 31:13 49:19 doorknobs 23:22 28:9,13 doubled 27:20 Drive 5:23 8:8 73:5 droplet 58:2 due 15:7 16:14 20:7 67:24 duly 5:24 71:4 DUNBAR 2:19 duties 10:14 11:10,13 12:20 15:20</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 2:1,1,14 3:1 earlier 15:21 36:19 37:9 42:18 46:22 47:10 48:1,21 49:11 62:23 66:12 easier 61:23 education 8:12 12:25 effort 19:25 30:19 efforts 29:15 46:1 either 17:7 28:19 eliminate 25:14 55:5 58:7 emails 31:2 employed 71:15 employee 9:23 27:13 34:24 employees 10:15 12:4 27:16 28:5 28:24 29:13,16 30:6,11,14,20 40:14 44:3 50:13 53:15,17 63:13 enclosed 73:15,16 encompassed 31:17 encouraging 28:24 ended 11:11 engagement 17:21 ensure 30:19 31:8 ensuring 23:5 enter 47:16 entering 44:4,7 entire 57:5 entirety 55:23 ENTITLED 1:18 entity 71:11 Esq 2:4,5,10,14,19,20 72:24,25</p>	<p>ET 72:1 73:8 everybody 28:16,18 everybody's 53:8 evidence 15:6 16:13 17:7 19:1,5 19:10,14,18,24 20:3,6,10 45:14 64:25 exact 22:20 exactly 10:14 24:6 32:17 EXAMINATION 3:4 6:1 examined 5:24 example 15:24 55:11 64:15 exception 72:11 excluding 4:8 Exhibit 3:11,13,15,17,19,21 42:6 42:10,13,16 56:4,6,8 58:11,12 61:1,3,4,18,19,24 63:15 69:5 exhibits 3:9 70:8 expenses 67:24 experience 13:4 expertise 10:22 explained 17:22 35:9 explanation 7:6,7 extensive 51:4 extent 51:20 extra 62:22 67:24</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face 54:18 63:10,12 fact 33:16 39:17 faculties 7:19 fair 7:7,15 18:12,14 fall 58:2 familiar 65:19 far 25:23 44:15 55:5 57:10 66:13 68:2 February 23:9 feel 7:12 16:3 feeling 53:21 feet 28:22 31:8 felt 54:2 figured 14:1 file 69:18 filed 20:15,19 21:1 45:1 filters 28:15 31:7 62:16,22 63:1,3 63:6</p>	<p>financial 71:10,16 find 73:15 fine 18:5 35:13 47:13 67:25 finish 47:5 finished 9:3 69:14 finishing 8:23 first 5:24 15:5 32:20 51:12 56:17 60:23 62:2,6 five 10:5 12:11,13 21:10 fixtures 26:20,21 flatware 26:17 floor 10:16 21:18 38:13 flowing 63:4 focus 10:21 29:5 follow 19:25 followed 57:1,8 following 29:10 45:24 50:23 72:11 follows 5:25 food 64:7,25 foregoing 71:5 72:8 forgiveness 22:23 23:1 form 24:11 33:21 34:3 35:2,25 51:16 formalities 4:8 format 71:9 former 12:25 forth 67:24 71:5 four 10:5 free 7:12 16:3 French 11:3 36:7 43:6 frequent 51:2,3 frequently 28:16 Friday 21:11 22:6 full 8:6 52:11 54:6 fully 27:24 67:20 function 11:22,25 12:5 30:16 functions 12:19 37:6 furloughed 22:10 furniture 23:22 59:23 further 71:5,8,12,14</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gather 55:19 GAUTHIER 1:15 2:9</p>
---	---	---

<p>general 18:20 generally 46:19,20 getting 53:22 67:23 68:5 Ginger 13:24 51:7 60:20 61:17 62:12,19 ginger.dodd@phelps.com 2:22 give 6:21 7:1,2 8:12 13:15 34:24 36:2 55:10 64:12 67:9 69:12 given 6:17 50:18 63:25 72:8 giving 31:3 36:1 gloves 28:17 31:7 go 8:6 15:2,10 16:4 18:3 21:3 25:10 30:18 41:7,12 42:23,23 44:11,17 54:22 59:15,18 60:2,6 61:14 62:18 67:8,19 goes 52:4 going 6:25 7:1,14 8:3,10 11:16 12:1 13:7 15:2,23 17:25 18:7 18:18,21,22 24:10 27:6,10,14 31:20 33:20 34:2,3 35:2 39:9 41:15 42:5,11 44:11 47:6 55:10 59:1 60:6 good 5:1,16 6:3,4 41:18 government 45:7 governor 29:25 39:24 40:8 45:13 55:8 GRAVIER 2:15 Grill 1:5,14 6:15 20:14 21:18 22:16 23:4 25:11 27:1,13,15 28:1,13 29:9,19 30:1,11 31:12 31:20 32:4 34:11 36:25 40:4 41:4,24 42:2 47:24 51:1 53:3 54:22 56:22 57:7 58:4 59:4 64:24 65:24 66:8,19 Grill's 37:14 45:25 56:25 58:9 ground 6:22 GROUP 2:14 GROVE 1:23 guess 16:18 68:4 guest 29:4 guests 28:22,25 29:13,16 30:20 40:14 53:5,6 guidance 3:16 29:11 56:6 guidelines 20:1 29:11 30:23 40:20,20 57:1,4,8 63:2 71:9</p>	<hr/> <p>H</p> <hr/> <p>hand 5:20 13:10 28:19 53:11 handle 12:17 hands 28:21 53:12,18 happened 37:13 39:4 head 23:11 health 13:5 31:3 50:13 hear 16:6 43:1 heard 15:14 18:16 help 16:4 62:9 66:25 69:9 helped 37:6 hesitate 73:18 highest 8:12 HIPPA 47:16 hire 69:9 hiring 12:4 history 24:5 Hold 33:20 35:1 home 37:17 hopefully 6:22 hotels 11:3 HOUGHTALING 1:15 2:9 hour 41:16 hours 27:4 39:1,3 48:8,9,16 HR 12:5 HULLEN 1:16 2:10 hundred 59:24 Hurricane 8:22,24</p> <hr/> <p>I</p> <hr/> <p>i.e 59:9 identified 15:20 42:10,16 56:8 58:12 59:12 61:4,19 identifies 59:4 identify 5:6 18:1 35:20 47:15 59:2,7 immediate 43:7 45:6 immediately 9:10 19:12 64:1 in-house 25:23 28:6 include 11:2 includes 64:20,21 income 20:20 incurred 67:16 indicate 53:24 indiscernible 10:2 47:4 52:20</p>	<p>individual 18:2 32:6 38:10 40:2 46:24 48:2,6 INDIVIDUALLY 1:12 individuals 12:18 16:22 17:3 19:2 37:10 41:25 45:24 46:22 infectious 13:4 information 8:11 14:8 15:25 24:4 30:25 31:15,16,17 47:17 60:7 informed 71:10 initial 9:25 10:24 initially 10:23 inquiry 13:9 15:1 inside 30:15 31:9 33:8 instance 37:16 instances 46:22 48:1 58:4 insured 15:6 16:14,22 19:2,6 43:5,7,22,23 60:11 insured's 19:25 20:4,7,11 interest 71:16 interrogatories 60:24 Interrogatory 58:21,22 60:3 interrupting 44:16 interruption 20:20 inventory 10:17 invoice 69:2,3,4 invoices 3:22 11:15,24 63:11 64:25 65:11,23 66:23 67:6,12 68:8,10,13,15,16,20,25 involve 20:23 involved 14:15 62:3 69:18 involvement 58:8 61:6 involves 15:5 16:12 involving 28:8 issued 17:7,12 19:16,20 issues 12:23 14:23 15:4 16:17 18:9 items 64:7</p> <hr/> <p>J</p> <hr/> <p>J 1:18 71:2,24 72:24 73:23 janitorial 64:11 65:2 Jennifer 2:5,10 5:18,18 jennifer@gmhatlaw.com 2:12 jenniferk@akdlalaw.com 2:7</p>
--	---	---

<p>job 9:25 10:14,24 join 10:18 judgment 3:14 42:15 July 22:4 38:24 jump 12:24 June 22:2 38:24 41:1,4,9 Justice 73:1</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Katrina 8:22,24 9:20 keep 18:21 29:1,13 35:12 53:10 keeping 29:16 40:22 55:4 keeps 46:8 KELLY 2:4 kept 39:1 killed 56:18 57:10,23,25 kind 11:9 55:11 67:19 68:4 knew 35:4 54:6 know 8:1 16:19 18:20 19:22 20:2 22:16,19,20,22,25 25:21 28:25 30:18 32:12,14,22,24 33:3 34:24 35:9 36:22 39:5 50:19 53:8,14,21 55:11,25 57:6,9 60:13 63:23 67:13 knowledge 17:19,24 18:3,3,5,9 18:11 32:2,25,25 34:9 35:5,10 36:5,14 43:12,14 45:14 46:13 48:25 49:3 58:19,22 61:12 68:19 known 43:4 Kuechmann 2:5 5:18</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L 2:5 4:1 LA 73:2 Latoya 59:4 LAW 1:14 2:14 lawsuit 14:10,12,16 20:15,22,25 33:15,23 34:4 42:19 69:19 lawyer 44:20 lawyers 6:21 17:22 lay 44:19 learned 33:12 left 10:18,19 legal 24:12 44:13,18,19,23 51:17</p>	<p>51:18 legalities 34:4 let's 18:20 23:9 25:10 26:4 34:4 42:23 48:11 56:3 58:21 60:2,20 letting 53:7 level 8:12 39:19 liberty 61:22 licenses 13:2 limited 41:2 limiting 49:6 Line 72:13 list 3:9 11:16 18:7,21 31:18 listed 30:21 73:17 listen 67:18 lists 12:1 little 8:10 16:24 34:1 40:25 41:16 46:18 51:3 53:19 LLC 1:3,4,4,13,13,14,15 2:4,9,14 72:1 73:8 LLOYD'S 1:7 72:4 73:10 LLP 2:19 loan 22:17,19,23 23:1 located 1:14 21:17 23:15 location 16:2 lodge 44:12 LONDON 1:7 72:4 73:10 long 10:4 11:7 23:2 38:11,25 longer 29:4 look 10:19 23:11 24:5 49:9 54:18 63:24 69:13 looks 63:9 loss 20:20 24:8,9 25:4,5,9 43:20 67:25 lot 18:18,22 Louisiana 1:2,16,20,24 2:6,11,15 2:21 4:6 5:23 8:9 17:8,13 19:16 19:19 71:2,13,19 73:6 love 42:22</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>M-13 1:5 72:2 Madam 70:6 maintain 21:14,21,24 40:16 50:5 maintained 55:21,22 maintenance 25:24 26:1 28:1</p>	<p>38:2,2,21,21 39:17 46:23 48:6 majority 15:13 making 11:19 50:16 71:11 man 38:2,3 39:17 management 10:6,7 15:20 50:17 manager 9:17 10:13 12:8,10,15 12:20,21 15:14 manager/supervisor 16:1 managers 65:18,21 managing 12:18 marathon 7:24 March 21:5,13 26:4,5,10,10 27:1 27:5,18,23 29:18,18,22,25 30:13 37:2 49:8,23 50:4,18,23 69:7,7 mark 42:6,12 56:2,3,5 60:21 61:2 marketing 8:18 10:20,22 11:1,7 mask 29:2 53:8,18 54:1,2 masks 28:17 31:7,10 63:10,12 matter 6:11 8:16 71:16 mayor 23:25 24:2 32:16 33:5,12 35:11,23 36:18 39:24 40:7 41:1 41:11 45:12 46:13 48:21 59:4 59:11,21 meals 30:5,6,9,10,15 mean 18:19 23:19 25:13 31:2,4 32:5,15 36:4 39:11 68:15 meaning 54:8 means 14:22 measures 37:18 medication 7:18 medium 5:15 mentioned 24:1 46:21 menu 29:5 63:18,24 menus 31:12 63:19,21 64:2 merged 9:22 met 14:7 23:2 METAIRIE 1:16 2:11 method 71:6 mid-June 41:9 middle 38:23 mile 17:16 19:2 32:4,10,13 33:17 34:10 36:7,13 41:24 42:1 58:23 Miller 2:19 3:5 5:13,13 6:2,10</p>
---	--	--

<p>13:14,17 14:2,3 16:6,10,11 18:24 24:21,22 34:6,7,18,22 35:15,16 36:17 41:18,20,21 42:6,11,17,22 43:2 44:22 45:3 46:17 47:4,19,22 49:18 50:3,14 51:7,9,23 52:18,24 54:20,21 56:3,9,14,16 58:11,13 59:15,18 60:2,4,20 61:5,14,17,20 62:1 62:12,14,19,21 65:4,6,14,15 66:6,7,15,16 67:10 68:4,7 69:12,16,24 70:2 72:24 millera@phelps.com 2:22 mindful 28:25 minute 13:16 24:23 mirror 30:21 mischaracterization 52:17 mischaracterizing 33:22 mistaken 59:20 Moe 2:25 23:7 45:22,22 50:17 62:13 65:20 moment 29:8 39:10 Monday 21:11 22:6 55:13 month 21:13,22 38:20 monthly 22:21 23:8 morning 5:1,16 6:3,4 7:19 move 41:10 moved 41:8 multiple 46:7 47:2,8 MURPHY 1:15 2:9</p>	<p>60:17 63:4 Nextel 9:19,22 Nextel/Sprint 10:10 nightly 11:18 NOLA.com 31:5 normal 13:11 NORTH 1:16 2:10 notes 69:13 notice 13:8,9,13,18 14:4,25 23:14 42:7 noticing 5:11 notification 17:3 November 1:25 70:10 71:19 72:8 73:3,13 number 30:21 64:6 numbered 1:18 61:24 numbering 61:22 numbers 11:19</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O 4:1 oath 5:9 object 24:11 33:21 34:2 35:2 69:21 objecting 69:24 70:1 objection 5:8,14 24:19 34:12 35:14,25 44:12,15,17 45:2 46:5 47:2 49:13,24 50:7 51:16 52:16 66:4 objections 4:12 obligation 18:1 obtain 8:16 12:9 18:9 23:23 24:3 obtained 9:11 obtaining 9:9 30:25 Obviously 15:23 occupancy 39:19 occurred 29:25 Oceana 1:4,14 6:15 9:7,8,13,14 10:11,18,25 11:8 12:2 14:23 16:25 17:11 18:1 19:12 20:14 21:4,18 22:16,22,25 23:4 25:11 25:24 27:1,13,14,17 28:1,13 29:9,19,25 30:11 31:12,20 32:4 33:17 34:11 36:25 37:13 40:4 41:3,24 42:2 45:25 47:24 49:19</p>	<p>51:1 53:3 54:22 56:22,25 57:7 58:4,9 59:4 64:24 65:24 66:8 66:18 Oceana's 17:16 Off-record 61:16 office 11:14 12:8,10,15,16,20,21 12:22 15:14,19 21:16 37:16,20 38:9,10,11,12,13,18 46:24 47:10 48:2,3,11,12 49:2 62:10 73:17 officer 38:21 71:3 OFFICES 1:15 official 45:9 officially 11:11 12:9 officials 45:8 46:14 Oftentimes 7:3 Oh 8:23 okay 6:8,15,17 7:10 8:4,25 9:5 9:11,15 10:4 12:12,25 13:17 14:2,25 15:4 16:9,20 17:18 18:5 19:5,10,23 20:13,25 21:3 21:9,16 23:13 24:15 25:1 26:1 27:1,17 32:19 34:6 35:15 36:25 37:5,13 41:6,17 42:5 43:14,19 45:20 48:11 49:4 50:4,22 51:8 52:4,25 55:25 56:10,14,25 57:19 58:11,16 60:2 62:11 67:11,15 68:20 69:15 older 63:23 onboarding 12:4 once 15:18 18:15 51:18 one-mile 43:5,21 ones 53:15 69:4 ongoing 44:17 online 9:3 opened 37:20 40:4 41:5 operate 37:7 40:7 operating 40:18 operations 16:2 20:7 39:9,13 49:7 opinion 24:12 44:18 opinions 44:23 71:14 opportunity 7:1 order 43:24 47:17 ordered 64:10</p>
<hr/> <p style="text-align: center;">N</p> <hr/> <p>N 2:1 3:1 4:1 name 5:1 6:6,10 8:7 nationally 5:2 nature 33:22 57:16 67:3 navigate 69:9 necessarily 57:5 necessary 57:6 need 7:24 24:16 41:16 needed 21:12 57:12 needs 7:4 neither 71:15 never 11:11 14:18 22:10 42:19 new 2:6,15 8:15 10:20 11:12 13:11 17:8,13 19:15 26:24</p>		

orders 17:7,12 19:15,19 29:24
39:24 40:7 45:6,12 60:16
ordinary 51:11 52:5,7,11,13,15
53:1 60:9,12
original 71:17,18
Orleans 1:1 2:6,15 8:15 17:8,13
19:15 60:17
outcome 71:16
outside 14:9 67:4
overall 16:1
oversaw 23:7
oversee 12:17,22

P

P 2:1,1 4:1
p.m 70:9
page 3:2 58:17 61:25 62:18,18,20
63:15 64:5,15,17 65:5,7,14
71:18 72:13
pages 62:7 63:7 71:5
paid 68:21
pamphlets 3:22
paper 64:21
paperwork 11:15,17,18 12:1
paragraph 42:23 43:3,19 45:4
49:4 51:6,10 56:15 58:24 60:5
PARISH 1:1
part 14:21 23:7 29:12 59:9
participate 65:8
particular 27:25 39:13 55:21,22
60:10
parties 4:4 71:15
pass 29:6
pay 22:13
Paycheck 22:17
payroll 22:21 23:7,8
Pena 1:19 5:2 71:2,24 72:24
73:23
people 12:16 16:17 29:6 33:1
36:4,6,7 37:21 45:18 47:2,8,11
47:15,24 55:4 63:21,23,23
percent 40:21,23 41:2,5,7,8,10
41:12 50:5,25 54:23 55:7 59:24
percentage 54:13
Perez 2:10 5:18

perfectly 18:5
perform 12:19 30:16
performed 28:3,4
performing 30:19 37:1
period 55:1,9,16,23
person 13:10 15:3,9 16:16,21
17:6 18:4 27:25 28:1 36:10,11
46:23 48:7 57:25 59:25 71:11
personal 6:13 17:23 18:2 32:2
33:18 34:9,24 45:14
personally 14:15 22:10 27:7
31:24 32:20,22 33:3,4 34:8
persons 41:25
perspective 25:3
petition 3:14 42:14,24 43:3,19
45:1 56:4 58:25 59:8 60:6
Phase 41:2
PHELPS 2:19
phone 63:24
phones 63:22
phrased 7:10
physical 19:20 24:8,9 25:4,5
32:7 45:14
physically 21:16 32:9
Plaintiff 45:5
plaintiff's 3:13,18,20 42:13 49:5
60:22 61:2
plaintiffs 2:3 5:17 6:14
plan 25:24 26:1
plans 22:25
play 12:2
please 5:20 16:3 34:17,19 36:2
44:21 47:20 51:21 60:10 66:5
73:15,15,18
plenty 32:15
plumber 68:24
plumbers 68:21
point 11:11
policy 20:11 43:21,25
portion 51:14
portions 54:12 55:9
posed 55:7
positive 37:10,17 38:11,22 39:18
40:3 45:19,24 46:22 47:3,10,23
47:25 48:3,7

possibility 33:9,14
possible 55:5 70:8
possibly 16:18 38:24 53:21 55:6
POYDRAS 2:5
PRAIRIEVILLE 1:24
precautions 38:4
precluded 27:6,10,14
preface 15:22
premises 15:6 16:14,22 17:1,4,16
19:2,7 43:6,7,22,23 46:10
60:11
prep 6:21
prepare 14:5
prepared 15:12 30:6,10,14 44:20
51:19 71:6,9
preparing 30:5,9
prescription 7:17
presence 14:9 20:8
present 2:24 30:14 32:21 33:14
45:15 48:14,18
presented 6:12 44:24
presumably 64:21
pretty 18:20
prevent 53:21
previous 45:18
previously 9:19 42:8 43:9,15
prints 29:6
prior 8:4 9:20 11:19 12:17,19
14:16 26:4 27:17,23 29:18,21
probably 33:24 50:19 59:13
problem 47:7
Procedure 4:7 71:13
proceed 47:20
proceeding 70:9
proclamation 59:24
produce 62:3
produced 57:7 61:21 65:16
production 60:24
products 56:19 57:11,11,24
64:11 65:2
Professional 71:3
Program 22:17
program's 23:5
prohibited 19:7,11 44:4,6 49:6
prohibition 43:23 71:12

<p>promise 47:6 Promoting 11:3 pronunciation 6:5 properties 43:5 58:23 property 15:6 16:13 17:1,15 19:21 20:4,8 23:15,22 24:8,24 25:4,11 28:14 31:1,13 32:3,7 43:20 51:11,15,24 52:25 53:25 54:3,6 57:16 58:5 60:8 66:9,19 67:3 68:14,17 Protection 22:17 protective 47:17 prove 35:8 provide 23:12 provided 4:11 13:8 45:7 67:13 public 13:5 49:6 publications 11:6 publicly 45:8 pull 13:7 58:11 60:20 61:18 63:22 pulling 62:8 purchase 26:9 62:25 63:5,21 purchasing 64:8 65:1 purpose 52:13 purposes 4:5,6 39:25 put 47:13 63:17 putting 11:15,18 53:8</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>QR 29:5 63:17 64:2 quarantine 37:18 Quarter 11:3 36:7 43:6 question 8:2,4 15:24 24:11,14,18 25:2 33:18,21 34:14,16,20 35:13,21 42:4 43:1 46:6,11 49:15,16 50:1,9,20 51:17,21 52:20 54:19 55:11,20 59:19 66:5,21 questioning 70:3 questions 7:1,2,9,13,14,22 15:1 16:20 18:19,23 43:8,10 44:14 56:1 65:22 67:19,25 70:1,5 73:18 quickly 28:20 quite 40:21,23</p>	<p>R</p> <hr/> <p>R 2:1 R.S 71:4 radio 11:5 radius 36:8 43:5,22 Raise 5:20 raised 71:18 random 12:23 Re-Notice 3:11 read 33:4 34:18,20 58:18 72:7,8 73:15 reader 29:5 63:22 readers 63:18 reading 4:8 34:3 44:13 reads 43:3,19 45:4 60:7 really 8:20 10:9 18:10 25:16 54:2 68:23 reason 7:21,25 17:25 29:12 35:20 52:2,14,25 recall 8:20 10:9 23:8,10 37:25 38:20 receipt 73:17 receipts 3:22 62:15 64:6,9 67:4 receive 29:4 received 22:16 37:5 65:24 receiving 9:5 31:16 Recess 41:19 recommendations 31:3 recommended 30:22 63:3 record 5:7 8:7 35:19 41:20 47:14 61:14 recover 66:8 reduced 22:13 27:4 reference 61:24 67:8 referenced 60:1 references 58:24 60:5 referencing 59:22 66:22 referring 51:18 Registered 71:2 related 18:9 62:15 65:10 68:18 68:21 71:15 relationships 71:13 remediate 28:14 30:25 66:19 67:3 68:14 remediation 45:25 48:13,17</p>	<p>remote 5:10 removed 25:16 render 51:22 rendered 51:10 60:8,11,15 rep 66:1 69:17 repair 25:12 66:9,11 repairs 20:4 repeat 34:16 49:16 66:5,6 rephrase 7:12 50:24 66:15 68:5 replace 26:24 replaced 26:11,14,17,21,23 reported 1:17,22 71:6 reporter 1:19 5:1,3,8,19 6:24 34:20 42:9 70:6 71:2,3 72:24 REPORTER'S 71:1 Reporters 5:4 73:1 reporting 71:6 represent 5:6 6:10 representative 1:12 6:13 33:19 44:25 56:22 requests 60:24,25 require 28:16 required 71:9 reserved 4:12 respect 19:6,11,14,25 20:3,6 respective 45:9 response 17:1,9,12 19:20 37:14 59:3,9 60:14,14 61:3 62:4 responses 3:18,20 7:3,5 58:9 60:21,22 61:7 responsible 10:15,16 23:4 62:8 restaurant 19:12 21:4 26:21 28:4 28:8 31:10 32:10,13 37:7 39:15 39:16,20 40:4,18 49:6 52:11 54:12,24 55:9 64:8 restaurants 41:12 restrict 50:12 55:14 restricted 27:3 39:6,12,22,23 40:15,16 48:8 52:12 54:9,11,15 54:24 55:2,14,20,23 restricting 39:8 restriction 52:15,22 55:7,16 restrictions 25:6 44:8 restroom 8:1 41:17 result 23:16</p>
--	---	---

resulting 19:21 29:16 43:22
retread 59:1
return 58:1
returned 73:17
reviewed 14:7
Rico 2:4 5:16 42:25 72:24
rico@akdlalaw.com 2:7
Ridge 5:23 8:9 73:6
right 5:20 6:9,20 9:24 13:15
14:21 16:10 22:8,11 25:10,19
30:1 32:23 39:15 42:21 45:4
46:18 56:18 57:3,10,11,24,24
63:11 64:24 68:2 69:2,7
River 5:23 8:9 73:6
ROAD 1:23
Roderick 2:4 72:24
role 11:8,11,12
roles 12:2,14,17
Rouge 2:21 5:3 71:19 73:1,2
ROUTING 72:24
RPR 71:24,24 72:24 73:23
rules 6:22 17:20 71:9,13
run 64:8

S

S 2:1 4:1
safe 29:1,14,16 30:20 54:2 67:5
safety 40:13,14 53:9
sales 11:19
sanitizer 28:17,19 31:8 53:12
sanitizers 26:8
Saturday 22:7
save 50:20 65:22
saw 23:14 63:2,10
says 13:21 51:10 56:17 57:23
59:2 64:17
schedule 21:7,14,21,24 22:7
science 8:18
screaming 42:25
screen 13:7,13,19,21 14:25 42:12
scroll 56:14 62:12,20 64:12 65:4
scrolled 63:9
scrolling 58:16
seal 47:18 71:18
second 3:13 30:18 42:13 60:7

61:15
seconds 69:13
see 13:12,18,22,23 44:1 45:10
51:12 52:5 54:18 56:10,19 59:5
64:20
seeking 66:1,8
seen 20:25 42:19 56:12 58:14,15
61:9 65:19
sends 31:5
sent 37:17
sentence 51:14 56:17
separated 53:11
series 6:25
servers 28:4
service 10:17 29:21 30:1,3,10
50:12
services 49:7,12 71:11
sessions 6:21
set 60:23 71:5
sharing 13:21
shipments 37:6
short 69:1
show 42:5,11 53:13 56:2,5
shut 32:18 50:12
sick 53:21
side 38:18
signature 71:17
signed 73:16
signing 4:9
signs 28:24 31:10 53:3,5,7,9,11
53:13,24 54:3
silverware 26:18
similar 27:18 68:11 69:3
Sincerely 73:20
single 58:17,17
sir 42:9
sit 28:22 53:10 54:6
sit-down 49:5
sites 31:3
six 12:13 28:22 31:8
smoother 6:23
soap 25:23
social 28:23 39:25 40:16,22 55:4
somewhat 17:10 19:13,17 23:6
soon 70:8

sorry 49:17 63:16 64:15,16
Sounds 41:18
source 30:24
sources 31:15,16 35:24 36:1,3
46:7
speak 14:22 15:3 16:16,21,25
17:11,15 18:6
specific 18:19,23 34:10 46:21
54:19
specifically 69:8
spent 66:19 67:2
spread 28:23 31:9 33:7 53:14,19
55:5 57:13,15
spreading 33:2 55:6
Sprint 9:17,18,23,23,25 10:13,18
10:19
staircases 28:9
start 5:11 9:18 34:3 42:25 44:13
started 9:14,19 10:1 11:12,14
12:3
state 1:2,19 8:6 17:8,13 19:16,19
60:10 71:2
stated 32:16
statement 59:8
statements 59:3
states 49:4
statute 71:9
stay 31:8
Stenotype 71:6
Stephen 5:23 8:8 73:5
steps 29:9,10
stickers 63:17 64:2
STIPULATED 4:3
STIPULATION 3:3
stop 49:19 53:19
stopped 39:13 67:13 69:1
stopping 53:14
Street 1:16 2:5,10,15,20 21:19
27:6,11 30:7 44:4 45:15
stuff 26:25 67:4
subject 8:16
submit 47:17 57:13
submitted 64:9
submitting 64:25
subpart 59:2,4 60:7

suit 14:8
SUITE 2:5,15,20
super-spreading 33:6 46:15
supervision 71:7
supplemental 3:13,20 42:14
60:21 61:3,7
supplies 66:14 67:2
support 20:10 59:3,8
sure 6:8,20 11:20 17:21 20:12
22:20 24:21 28:18 31:9 39:14
50:11 59:24 67:6,16
surfaces 28:8,9,12 31:21,25
48:24 49:1 57:20,22
surrounded 43:7
surrounding 19:12
suspension 20:7,24
swear 5:19
sworn 5:24 71:4
Sysco 37:5 64:6,9,10 65:1,12
systems 10:17

T

T 4:1,1
table 8:2 58:1,2,5 63:18
tables 26:11 28:10,13,23 31:9
40:22 53:9,10 54:5,14 55:4,21
take 7:4,24,25 8:1 11:13 41:16
55:20
taken 1:17 4:5 16:25 17:11 41:19
71:3 73:13
takeout 29:19 30:1,5 37:1 49:7
49:12,20,22
talk 17:6 19:1 21:3 47:25 48:11
talked 48:1 58:25
talking 28:7 34:4 46:19,20,21
66:10,11
talks 58:22
tasks 15:20
team 50:17
technical 13:2
technicians 10:16
tell 17:20 18:10,11 20:17 21:7
23:15 24:5 51:24 52:10
telling 46:8
temporary 25:5,6

terms 23:5
tested 36:22,24 37:10,17 38:10
38:22 39:17 41:25 45:19 46:22
47:3,8,10,23,25 48:3,7
testified 5:25 14:18 42:18 49:11
testify 15:19 16:8 71:4
testifying 15:17
testimony 62:23 71:3,5 72:8,10
testing 31:21,24 40:2,3 41:23
42:1 45:24 48:23 49:1
thank 13:25 20:13 47:21 59:17
70:4
Thanks 16:10
thing 40:6 53:17
things 29:3 30:21,21 31:5 36:19
48:21 64:7 67:2
think 7:9 10:5 13:25 15:12 16:6
18:21 23:25 24:19 29:8 31:14
35:22 38:2 39:4 41:24 44:22
46:20 49:11 50:10 54:1 57:5
63:10 64:14 67:5,12,20 68:23
69:14 70:2
third 21:18 38:13 64:17
thirty 73:17
Thoman 1:11 3:12 5:19,22 6:3,6
6:7,8 8:8,11 13:18 16:12 34:9
36:22 41:22 46:12 62:2 69:17
71:4 72:7,23 73:5,12
Thomas 73:14
three 9:19 64:9
thrown 24:20 63:25
Tiffany 1:11 3:12 5:22 8:8 15:12
24:13 34:15 36:2 51:21 71:4
72:7,23 73:5,12
time 5:5 14:19 27:5 36:25 39:20
39:21 41:11,14 44:3 49:12,19
54:14 59:20 63:20 67:8,17
times 22:21 30:13 37:15 46:7
54:11
title 9:25 10:24 12:10
today 7:22
today's 14:6
toilet 64:20
top 23:11 64:17
topic 43:10 68:5

topics 15:13,15 18:20
tossed 63:25
total 22:20 23:12
touch 15:12
traditional 49:5
transcribed 71:6
transcript 1:10 4:9 71:7,8,9,17
transcription 72:10
transitioned 11:10
trial 4:12 14:19
tried 25:13,14
triggered 43:24
true 71:7 72:9
truthfully 7:22
try 12:24 17:14 58:7
trying 16:4 29:1 66:13
turn 58:21 64:14 65:14
TV 11:5
two 6:12 47:25 48:1
type 7:17 31:21 47:16 64:21 68:9
69:4,9
types 68:12
typically 21:8

U

U 4:1
uh-huh 7:4 59:6
uh-uh 7:4
understand 7:11 14:23 24:13
33:15 46:11 51:20 64:14 66:20
understanding 20:17,22 23:17
23:18,20,24 24:8,24 25:3 46:9
71:8
understood 7:14
Underwriters 1:7 5:14 6:11
20:15 72:3 73:10
Unfortunately 33:15
universal 68:15
universe 66:18 68:12
University 8:15
UNO 13:1
unsafe 51:11,15,22,25 52:23
53:25 57:17 60:9,11,15
unusable 51:11 52:5,7,14 53:1
54:4,8 60:9,12,15

<p>use 4:13 25:5,7 40:17 51:12 52:5 52:8,11,15 53:1 54:14 55:8,13 55:15 56:18 57:23 use.' 60:9,12 utilized 68:13</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>valid 71:17 various 17:7,12 19:15,18 23:25 24:3 31:3 36:4 vendor 11:16 12:1 vendors 26:9 37:2 verbal 7:2,6 VERSUS 1:6 72:2 73:9 videoconference 1:10 5:10 VIRGINIA 2:20 virus 23:20,21 28:10 33:6 36:6,8 36:11,12,15 40:11 46:15,20 52:1,23 53:14,20,22 55:6 56:17 57:18,21 58:2,7 59:22 68:24 69:10</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>Wait 47:5 waived 4:10 Walgreens 36:10,11,12 walk 28:25 57:4 walks 36:11 58:1 walls 28:9,12 want 6:8 15:16,22 21:3 30:18 33:11 35:12 47:12,13,25 60:12 67:22 68:2 warning 53:3 wash 28:20 53:12 Washing 53:18 wasn't 54:6 water 25:23 waters 59:1 way 26:8 36:13 53:10 64:15 we'll 5:11 6:14 7:3 8:1 18:6 42:12 56:2,5 60:21 61:2 we're 5:15 28:7,22 29:1 34:3 40:20,21,25 52:12 53:14 67:23 we've 25:13,13,14,22 28:15 29:3 41:15 58:25</p>	<p>wear 29:1 54:1,2 wearing 31:7,10 53:18 wears 28:17 web 24:5 website 35:11 45:9 websites 23:25 24:3,3 45:13 week 21:10 38:12,17 48:4,12 69:2,3 weekend 39:5 weekends 21:12 welcome 13:10 went 9:12 10:6,7,10 18:4 41:1 42:8 50:25 65:11 66:17 68:10 69:4,22 whatnot 66:14 windows 37:20 wiping 28:8,12 wireless 10:3 witness 3:7 4:9 5:9 6:12 13:20 16:7 18:17 24:15 34:16 44:19 59:17 66:22 67:5 69:15 72:6 73:16 witnesses 59:2,7 word 7:5 words 33:11 work 9:12 11:14 21:4,7,8,9 38:14 38:16 68:17 worked 9:24 10:10 38:10 worker 38:21 working 9:7,8,14,18 10:25 11:4 21:4 38:22 works 6:7 wouldn't 50:21 written 26:1</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 3:1</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>Y 2:20 y'all 13:22 25:24 Yeah 6:7 9:3 10:19 11:23 12:6 18:14 25:13 31:2 41:14 44:22 54:5 59:17,19 66:6 67:5 year 10:7 22:8,14</p>	<p>years 9:20 10:5 11:9 12:11 Yolanda 1:18 5:2 71:2,24 72:24 73:23 you-all 26:5 30:19 33:16 50:25 54:11,23 63:12,19 64:7 65:17 68:13 69:8,8</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>Zoom 5:15 42:22</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>001-130 3:22</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 1:4,13 3:11 15:24 16:12 41:2 42:6,10 59:9 61:24 62:18 10:13 1:25 10129 5:23 8:8 73:5 1100 2:20 12 19:24 12:20 70:9 12016 73:1 125 65:7 126 65:14 130 61:25 1434 71:13 1442 13:8 14:21 17:21 42:7 56:21 65:25 69:17 1455 4:11 16 26:10 27:5,18,23 29:18,22,25 30:13 37:2 49:8,8,23 50:4,23 1625 2:5 16th 21:5 26:5 69:8 17 62:18,20 1702 2:15 18 63:7,7 18487 1:23 19 63:7</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 3:13 42:13,16 56:4 58:21,22 59:2,4,7,12 60:10 2.5 22:21 20 26:4 63:15,15 2000- 8:20 9:1 2002 9:24</p>
--	---	---

2005 9:15 10:8		
2006 8:20 9:12,16		
2009 9:14,16 10:11,18,19		
2017002 71:24		
2020 1:25 21:5,13,22,25 22:2,4,8 22:14 23:9 26:5,10 27:2,5,14 27:18,23 29:18,22,25 30:13 37:2 49:8,8,23 50:4,23 69:7 70:10 71:19 72:8 73:3,13		
2020-02558 1:4 72:1 73:11		
225 2:21 73:19		
25 41:2,5 50:5,25 54:13,23 55:7		
25-percent 55:16		
292-8686 73:19		
	<hr/>	<hr/>
	3	6
3 3:15 56:6,8		6 3:5,21 10:8 61:18,19,24 69:5
300,000 23:10		60 51:6,10 60:5
346-0285 2:21		61 3:19,21
3500 1:16 2:10		
37:2554 71:4		
38 64:5		
	<hr/>	<hr/>
	4	7
4 1:25 3:3,17 58:11,12 61:1 70:10 72:8 73:13		7 8:21 18:25
40 42:23 43:3 58:24		70 71:5
400 2:20		70002 1:17 2:11
41 43:19		70112 2:6,15
42 3:11,13 45:4		70123 5:23 8:9 73:6
44 49:4		70769 1:24
456-8624 2:11		70802 2:21
46 64:15,16		70816 73:2
48 64:15		71 3:6
482-5811 2:6		72 3:7 39:1,3 48:8,9,16
	<hr/>	739 21:19 23:16 27:6,11 30:6,10 44:4 45:15
	5	75 40:21,23 54:13
5 3:19 9:2 60:3 61:3,4 73:3		
5:00 22:6		
50 40:25 41:7,8,10,12 54:13		
504 2:6,11,16		
56 3:15		
58 3:17		
582-6998 2:16		
5th 71:19		
	<hr/>	<hr/>
	8	8
		8 19:5
		80 65:5,7
	<hr/>	<hr/>
	9	9
		9 19:10
		9:00 22:6
		9:00-to-5:00 21:8,21,24
		907346 71:24
		909 2:5
		935 2:15