

Transcript of Proceedings
December 11, 2023

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

DEPARTMENT 54

HON. MAURICE A. LEITER, JUDGE

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MARIA GATCHALIAN,)
) Case No. 21STCV15300
 Plaintiff,)
)
 vs.)
)
 KAISER FOUNDATION HOSPITALS, ET)
 AL.,)
)
 Defendants.)
 _____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, DECEMBER 11, 2023

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(Appearances Continued Next Page)

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OFFICIAL REPORTER PRO TEMPORE

1 APPEARANCES OF COUNSEL: (Continued)

2

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M A S T E R I N D E X
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C H R O N O L O G I C A L I N D E X O F W I T N E S S E S

SANWARI, MURTAZA (CALLED BY DEFENDANTS)

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E X H I B I T S

JOINT EXHIBIT		MARKED FOR I.D.	RECEIVED IN EVD._
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Transcript of Proceedings
December 11, 2023

1 CASE NAME: GATCHALIAN VS. KAISER FOUNDATION
2 CASE NUMBER: 21STCV15300
3 LOS ANGELES, CALIFORNIA DECEMBER 11, 2023
4 DEPARTMENT 54 HON. MAURICE A. LEITER
5 REPORTER: DEBORAH MORIN, CSR NO. 11558
6 APPEARANCES: (AS HERETOFORE MENTIONED.)
7 TIME: 9:42 A.M.

8

9 (Outside the presence of the jury.)

10

11 THE COURT: We are on the record in our trial.
12 Counsel are present. We're outside the presence of the
13 jury.

14 We have an issue. Juror No. 1, Christopher
15 Ross, called this morning. His wife tested positive for
16 COVID. He is still testing negative but wasn't sure about
17 what to do. I told him I would excuse him because I'm
18 concerned about the other jurors being nervous in a small
19 jury room where they're now deliberating that he
20 potentially has COVID and could potentially spread it, and
21 I don't want that distraction.

22 So I'm going to excuse Juror No. 1. We're going
23 to substitute in one of our alternates. And as I told you
24 at the beginning of the case, if we need to substitute any
25 alternate, I'm going to do it randomly.

26 So let me take out my alternate juror selection
27 machine. I've got three slips of paper. They have
28 numbers 1, 2, and 3 on it. Number 1 will be Juror No. 13,

1 Ms. Robles. Number 2 will be Juror No. 14, Ms. Beckworth.
2 And Juror No. 3 will be Mr. Ron, Juror No. 15. So I will
3 now select one of them.

4 Juror No. 2, Ms. Beckworth.

5 So when the whole jury is here, we'll bring them
6 all in.

7 And Ray, I assume our alternates are coming in
8 as well?

9 COURTROOM ATTENDANT: Yes.

10 THE COURT: And we're still missing somebody.

11 So when everybody is here, I'll bring them in.
12 I will let them know. And I need the jury instruction to
13 read at this point which basically instructs them to have
14 to start all over which should not be too big a deal
15 because I think they only were out for an hour or so on
16 Friday.

17 So give me a minute. I think it's 5014. So
18 assuming nobody has any objection, I will read 5014.
19 Okay? Any questions, any thoughts? Comments?
20 Criticisms.

21 MR. DeRUBERTIS: Nothing, Your Honor. Thank
22 you.

23 THE COURT: All right. As soon as our whole
24 jury is here we'll take care of that whole business and
25 get them back to work.

26

27 (Recess taken.)

28

1 (The jury entered the courtroom.)

2

3 THE COURT: Have a seat, everybody. We are here
4 with our jury. Good morning, everybody. I brought you in
5 to the courtroom this morning because Juror No. 1 is
6 unable to continue with us, and so I've excused juror
7 No. 1.

8 Remember I said that if at any point I had to
9 excuse a juror, one of our alternates would be substituted
10 in for that juror, and I randomly of the three alternates
11 selected Ms. Beckworth. So I'm going to ask Ms. Beckworth
12 actually to move over to seat No. 1. You are now Juror
13 No. 1.

14 So what does this mean for your deliberations?
15 I want to read an instruction to you, which I'm going to
16 read now. Let's stay on the record.

17 One of your fellow jurors has been excused and
18 an alternate juror has been selected to join the jury. Do
19 not consider this substitution for any purpose. The
20 alternate juror must participate fully in the
21 deliberations that lead to any verdict.

22 The parties have the right to a verdict reached
23 only after full participation of the jurors whose votes
24 determine that verdict. This right will only be assured
25 if you begin your deliberations again from the beginning.
26 Therefore, you must set aside and disregard all past
27 deliberations and begin your deliberations all over again.
28 Each of you must disregard the earlier deliberations and

1 decide this case as if those earlier deliberations had not
2 taken place.

3 Now please return to the jury room and start
4 your deliberations from the beginning.

5 All right. Thanks, everybody.

6

7 (Whereupon, the jury commenced
8 deliberations at 10:04 A.M.)

9

10 (Outside the presence of the jury.)

11

12 THE COURT: Good morning again. We are outside
13 the presence of the jury. We received a note a few
14 minutes ago. It says, "Guidance for calculating past and
15 future damages for mental suffering, et cetera." Signed
16 by Juror No. 4, Kari Koepfel, who I assume is the
17 foreperson.

18 My inclination is simply to respond by saying,
19 "Please refer to the jury instructions."

20 Plaintiff?

21 MR. DeRUBERTIS: Yes, Your Honor. And can we
22 point the specific instructions?

23 THE COURT: No. Just want to refer them back to
24 the jury instructions and let them do their work without
25 doing anything to suggest or guiding them on what they
26 should do. Defendant?

27 MS. BROWN: No objection to that, Your Honor.

28 THE COURT: All right. So my response will be

1 simply please refer to the jury instructions.

2 Okay. That is it. It is December 11, 2023. It
3 is 11:17 all right. Thank you.

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Transcript of Proceedings
December 11, 2023

1 CASE NAME: GATCHALIAN VS. KAISER FOUNDATION
2 CASE NUMBER: 21STCV15300
3 LOS ANGELES, CALIFORNIA DECEMBER 11, 2023
4 DEPARTMENT 54 HON. MAURICE A. LEITER
5 REPORTER: DEBORAH MORIN, CSR NO. 11558
6 APPEARANCES: (AS HERETOFORE MENTIONED.)
7 TIME: 1:33 P.M.

8

9 (Jury deliberations resumed at 1:33 P.M.)

10

11 (The jury entered the courtroom.)

12

13 THE COURT: We are here with our jury and
14 alternates. To our jury, who was your foreperson?

15 Juror No. 4, Ms. Koeppel, has the jury reached a
16 verdict?

17 JUROR NO. 4: We have.

18 THE COURT: Would you please hand the verdict to
19 Mr. Manzo.

20

21 (Brief pause.)

22

23 THE COURT: I'm now going to read the verdict.

24 We the jury in the above action, find the
25 following special verdict on the questions submitted to
26 us:

27 Question 1: The parties agree that defendant
28 Kaiser Foundation Hospitals was an employer of Maria

1 Gatchalian. The parties dispute whether defendant Kaiser
2 Foundation Health Plan, also known as KFHP, was also an
3 employer of Maria Gatchalian. Was defendant Kaiser
4 Foundation Health Plan, Inc., also an employer of Maria
5 Gatchalian?

6 The jury's answer is "Yes."

7 Question 2: Did Maria Gatchalian disclose
8 and/or did defendants believe that Maria Gatchalian
9 disclosed or might disclose information to a government
10 agency, to a person with authority over Maria Gatchalian,
11 and/or to an employee with authority to investigate,
12 discover, or correct legal violations or noncompliance
13 that related to: (A) quality of patient care; (B) patient
14 safety; (C) practicing nursing and/or medicine within the
15 standard of acceptable care and competence and/or (D)
16 understaffing or staffing ratio concerns?

17 The jury's answer is "Yes."

18 Question 3: Did Maria Gatchalian have
19 reasonable cause to believe that information disclosed a
20 violation of a state or federal law or violation of and/or
21 noncompliance with a local, state or federal rule of
22 regulation?

23 The jury's answer is "Yes."

24 Question 4: Did defendant discharge Maria
25 Gatchalian?

26 The jury's answer is "Yes."

27 Question 5: Was/were Maria Gatchalian's
28 disclosure of information and/or defendant's belief that

1 Maria Gatchalian did or might disclose information a
2 contributing factor in defendant's decision to discharge
3 Maria Gatchalian?

4 The jury's answer is "Yes."

5 Question 6: Was Defendant's conduct a
6 substantial factor in causing Maria Gatchalian's harm?

7 The jury's answer is "Yes."

8 Question 7: Did Defendant prove by clear and
9 convincing evidence that Defendant would have discharged
10 Maria Gatchalian anyway at that time for legitimate,
11 independent reasons?

12 The jury's answer is "No."

13 Question 8: What are Maria Gatchalian's
14 damages?

15 Past lost wages, earnings and/or benefits:
16 \$1,268,249.

17 Future lost wages, earnings and/or benefits:
18 \$1,231,716.

19 Past mental suffering, loss of enjoyment of
20 life, inconvenience, grief, anxiety, humiliation, and/or
21 emotional distress: \$1,500,000.

22 Future mental suffering, loss of enjoyment of
23 life, inconvenience, grief, anxiety, humiliation, and/or
24 emotional distress: \$7,500,000, for a total of
25 \$11,499,965.

26 Question 9, punitive damages. Did Maria
27 Gatchalian prove by clear and convincing evidence that an
28 officer, director or managing agent of Kaiser Foundation

1 Hospitals acted with malice, oppression, and/or fraud in
2 the conduct upon which you base your finding of liability
3 against Kaiser Foundation Hospitals?

4 The jury's answer is "Yes."

5 Question 10: Did Maria Gatchalian prove by
6 clear and convincing evidence that an officer, director,
7 or managing agent of Kaiser Foundation Health Plan, Inc.
8 acted with malice, oppression or fraud in the conduct upon
9 which you base your finding of liability against Kaiser
10 Foundation Health Plan?

11 The jury's answer is "Yes."

12 Juror No. 4, Ms. Koeppel, is that the jury's
13 verdict?

14 JUROR NO. 4: That is.

15 THE COURT: Would either side like to have the
16 jury polled? Plaintiff?

17 MR. DeRUBERTIS: Sure, Your Honor.

18 THE COURT: Plaintiff has asked that the jury be
19 polled.

20 As I indicated, that's why I asked you to keep
21 track of your individual votes so that we can ensure there
22 are at least nine jurors on each question.

23 I'm going to go through the verdict form again,
24 and after each question I'm going to ask you if that was
25 your verdict. If it was, please raise your hand and keep
26 them up so that I can get a good count of everybody.

27 Question 1: The parties agree that Defendant
28 KFH was an employer of Maria Gatchalian. The parties

1 dispute whether defendant KFHP was also an employer. Was
2 Defendant KFHP also an employer?

3 The jury's answer was "Yes."

4 If "Yes" was your answer, please raise your
5 hand.

6 I see 12 hands. So that would be 12-nothing.

7 Question 2: Did Maria Gatchalian disclose
8 and/or did Defendants believe that Maria Gatchalian
9 disclosed or might disclose information to a government
10 agency, to a person with authority over Maria Gatchalian
11 and/or to an employee with authority to investigate,
12 discover, or correct legal violations or noncompliance
13 that related to quality of patient care, patient safety,
14 practicing nursing and/or medicine within the standard of
15 acceptable care and competence, and/or understaffing or
16 staffing ratio concerns?

17 The jury's answer was "Yes."

18 If "Yes" was your answer, please raise your
19 hand.

20 Again, 12-nothing.

21 Question 3: Did Maria Gatchalian have
22 reasonable cause to believe that the information disclosed
23 a violation of state or federal law or violation of and/or
24 noncompliance with a local, state or federal rule or
25 regulation?

26 The jury's answer was "Yes."

27 If "Yes" was your answer, please raise your
28 hand.

1 Again, that's 12-nothing.

2 Question 4: Did Defendants discharge Maria
3 Gatchalian?

4 The jury's answer was "Yes."

5 If "Yes" was your answer, please raise your
6 hand.

7 Again, I see 12 hands. 12-nothing.

8 Question 5: Was/were Maria Gatchalian's
9 disclosure of information and/or Defendants' belief that
10 Maria Gatchalian did or might disclose information a
11 contributing factor in Defendants' decision to discharge
12 Maria Gatchalian?

13 The jury's answer was "Yes."

14 If your answer was "Yes," please raise your
15 hand.

16 Again, 12-nothing.

17 Question 6: Was Defendants' conduct a
18 substantial factor in causing Maria Gatchalian's harm?

19 The jury's answer was "Yes."

20 If your answer was "yes," please raise your
21 hand.

22 12-nothing.

23 Question 7: Did Defendant prove by clear and
24 convincing evidence that Defendant would have discharged
25 Maria Gatchalian anyway at that time for legitimate,
26 independent reasons?

27 The jury's answer was "No."

28 If "no" was your answer to that question, please

1 raise your hand.

2 Again, 12-nothing.

3 Damages. Past lost wages, earnings and/or
4 benefits. The jury's verdict was \$1,268,249.

5 If that was your number, please -- or you agreed
6 to that number, please raise your hand.

7 12-nothing.

8 Future lost wages, earnings and/or benefits, the
9 jury's number was \$1,231,716.

10 If you agree with that number, please raise your
11 hand.

12 Again, 12-nothing.

13 Past mental suffering, loss of enjoyment of
14 life, inconvenience, grief, anxiety, humiliation and/or
15 emotional distress. The jury's number was \$1,500,000.

16 If you voted for that number, please raise your
17 hand.

18 Again, 12-nothing.

19 Future mental suffering, loss of enjoyment of
20 life, inconvenience, grief, anxiety, humiliation and/or
21 emotional distress. Jury's number was \$7,500,000.

22 If you voted for that number, please raise your
23 hand.

24 Again, I see 12-nothing. And that totals to
25 \$11,499,965.

26 Question 9: Did Maria Gatchalian prove by clear
27 and convincing evidence that an officer, director or a
28 managing agent of Kaiser Foundation Hospitals acted with

1 malice, oppression and/or fraud in the conduct upon which
2 you base your finding of liability against Foundation
3 Hospitals?

4 The jury's answer was "Yes."

5 If that was your answer, please raise your hand.
6 12-nothing.

7 And Question No. 10: Did Maria Gatchalian prove
8 by clear and convincing evidence that an officer, director
9 or managing agent of Kaiser Foundation Health Plan, Inc.
10 acted with malice, oppression and/or fraud in the conduct
11 upon which you base your finding of liability against
12 Kaiser Foundation Health Plan?

13 The jury's answer was "Yes."

14 If that was your answer, please raise your hand.
15 And again, I see 12-nothing. Thank you.

16 The clerk will record verdict. I'm going to
17 hand the original verdict form to my judicial assistant.

18 Counsel, do you waive further reading of the
19 verdict as reported?

20 MR. DeRUBERTIS: Yes, Your Honor.

21 MS. BROWN: Yes, Your Honor.

22 THE COURT: Ladies and gentlemen, we have a
23 little bit more work to do in connection with punitive
24 damages. It's not going to take nearly as long as the
25 first part of our trial.

26 I'm going to give you a short break now because
27 I do need to talk to the attorneys. So I'm going to ask
28 you to come back in 10 minutes. Let's say 2:20. And at

1 that time we'll have instructions for you on how we're
2 going to proceed. Again, this phase of the trial will be
3 much, much shorter, but we do have a little more work to
4 do.

5 If you could leave your notebooks and your
6 verdict forms on your chair, we'll collect the verdict
7 forms. We'll see you at 2:20.

8

9 (The jurors exited the courtroom.)

10 (The following proceedings were held
11 outside the presence of the jury.)

12

13 THE COURT: All right. Have a seat, everybody.
14 We're outside the presence of the jury. Let's talk about
15 what happens now.

16 Defendant, you have information to turn over to
17 THE plaintiff. I see that is being done right now.

18 So, plaintiff, how do we plan to proceed?

19 MR. DeRUBERTIS: May I have a few minutes to see
20 what's in here?

21 THE COURT: I'm going to give you the few
22 minutes, but do you have a sense now? Are you planning to
23 call a witness?

24 MR. DeRUBERTIS: If we can agree on the numbers,
25 then I don't plan to call a witness.

26 THE COURT: Okay. So I'll give you a few
27 minutes to do that. And then Defendant, do you want to
28 put --

1 MS. BROWN: Mr. Murtaza.

2 THE COURT: How long do you think that will
3 take?

4 MS. BROWN: 10, 15 minutes.

5 THE COURT: What I do not yet have yet is a
6 Phase II verdict form.

7 MR. DeRUBERTIS: We have it.

8 THE COURT: All right. And you'll give me 20
9 copies of it. I assume it's just one line.

10 MR. DeRUBERTIS: For each defendant.

11 THE COURT: For each defendant. And has
12 defendant reviewed it?

13 So if you could hand that up to my judicial
14 assistant. I'll give you a few minutes to decide on how
15 we're going to proceed. Let's reconvene about 2:15 before
16 the jury so that we can reach an agreement on how we're
17 going to proceed.

18 MR. DeRUBERTIS: Thank you.

19

20 (Recess taken.)

21

22 THE COURT: Okay. We're outside the presence of
23 the jury. Plaintiff, where do we stand?

24 MR. DeRUBERTIS: Actually, Your Honor, we were
25 presented with combined consolidated financials for the
26 two entities. I think we'll live with that. The parties
27 have agreed that we can introduce the end of year 2022
28 combined financials, and I think from our perspective, as

1 long as it gets introduced, it has all the data we need.
2 I would ask, Your Honor, that before argument I have ten
3 minutes to call my economist to do some calculations, but
4 we're good to go, I think.

5 THE COURT: So let me go one step at a time.
6 How are we getting the information before the jury? Is
7 this an exhibit that's going to be admitted?

8 MR. DeRUBERTIS: Yes, Your Honor. We've agreed
9 to admit, and then we'll call out certain numbers to them.

10 THE COURT: Defendant, you're agreeable to that?

11 MS. BROWN: Yes, Your Honor.

12 THE COURT: So let's mark that document as an
13 exhibit. And so plaintiff --

14 MR. DeRUBERTIS: 715 I think would be next. For
15 the record, it's KFH 2365 through 2420.

16 THE COURT: Okay. So the parties will agree to
17 admit Exhibit 715. Then plaintiff will have no witnesses;
18 correct?

19 MR. DeRUBERTIS: Correct, Your Honor.

20 THE COURT: Okay. Defendant, do you have the
21 one witness?

22 MS. BROWN: Yes, Your Honor.

23 THE COURT: Okay. And then I will read the
24 second phase punitive damages instruction which I take it
25 has been agreed to by both parties?

26 MR. DeRUBERTIS: Yes, Your Honor.

27 THE COURT: Okay. And then plaintiff wants a
28 bit of a break before argument, and how long will your

1 closing argument be?

2 MR. DeRUBERTIS: 20. 15, 20.

3 THE COURT: Combined?

4 MR. DeRUBERTIS: Let me say 20 minutes.

5 THE COURT: 20 minutes combined. We'll do the
6 same closing argument. Plaintiff, defendant, plaintiff.
7 Plaintiff will be 20 minutes combined. Defendant?

8 MS. BROWN: I think I'll be 10 minutes.

9 THE COURT: 10 minutes. Okay. Sounds like we
10 have a plan. So we should get this back to the jury this
11 afternoon.

12 All right. So as soon as the jury is ready,
13 let's get it started.

14 MR. DeRUBERTIS: Your Honor, may I just ask for
15 somewhat of an offer of proof on what the testimony would
16 be. There was comment about the nonprofit nature, and I
17 just wanted to get some sense of what they're proposing to
18 testify to.

19 THE COURT: Defendant?

20 MS. BROWN: Yes. So we want to present
21 testimony that those are nonprofit entities and where the
22 money goes once it comes in. In other words, that there
23 are no profits distributed to shareholders, that it all
24 goes back into the operating costs.

25 MR. DeRUBERTIS: If it's limited to that, we
26 don't have a problem with that.

27 THE COURT: Okay. Let's bring in the jury.

28

1 (The jury entered the courtroom at
2 2:22 P.M.)

3

4 THE COURT: We are back with our jury and
5 alternates. Welcome back. We're going to move on now to
6 Phase II of our trial. What will happen in Phase II is
7 this is the proceeding for the jury to determine the
8 amount of the punitive damages award, if any.

9 We're going to have a short presentation of
10 evidence. I'll have, I believe, just one jury instruction
11 to read to you, and then we'll have some brief argument,
12 and then the jury will deliberate on punitive damages.

13 The parties have stipulated to admit
14 Exhibit 715, which I'm going to admit at this time.

15

16 (Exhibit 715 received into evidence.)

17

18 THE COURT: Plaintiff, do you have any witnesses
19 to present?

20 MR. DeRUBERTIS: No witnesses, Your Honor.

21 THE COURT: Defendant, do you have any witnesses
22 to present?

23 MS. BROWN: Yes. Defendant calls Mr. Murtaza
24 Sanwari.

25 THE COURT: Come on forward, please. The
26 witness is resuming the stand and is still under oath.

27 Defendant, you may proceed.

28 MS. BROWN: Thank you.

1 MURTAZA SANWARI,
2 called by the Defendants, having been previously duly
3 sworn, resumed the witness stand and testified further as
4 follows:

5
6 DIRECT EXAMINATION

7 BY MS. BROWN:

8 Q Mr. Sanwari, could you please just remind the
9 jury of your current job title.

10 A I'm the senior vice president area manager for
11 the Woodland Hills/West Ventura market.

12 Q Are you familiar with the two entities in this
13 case, the Kaiser Foundation Hospitals and Kaiser
14 Foundation Health Plan?

15 A Yes.

16 Q Does Kaiser Foundation Hospitals have any
17 shareholders?

18 A No, it does not.

19 Q Does Kaiser Foundation Health Plan have any
20 shareholders?

21 A No, it does not.

22 Q Does either entity distribute any profits to
23 anyone?

24 A No. It does not.

25 Q With respect to either entity, can you talk us
26 through what is their profit or nonprofit status, please?

27 A So both organizations are not for profit. They
28 earn money, although the monies that the organization

1 earns goes right back into the organization. We do not
2 have shareholders. So we don't distribute stocks to
3 anyone. The monies that are earned through the income or
4 the operating dollars that we gain all go right back into
5 the company in building the hospitals, the medical office
6 buildings and/or providing care to patients. Nothing is
7 distributed to anybody else.

8 Q Are there any other uses that you have for the
9 funds that come into the organization?

10 A Not necessarily. Most of it goes back. The
11 dollars are also going into pensions, retirement, both for
12 employees and physicians. So all of that is funded
13 through those and/or any investment incomes that we earn
14 by investing the dollars to be able to fund retirement and
15 pension, and then we also give a significant amount, just
16 under 2 to 3 percent. So it's about \$6 billion into
17 community benefits. So we give grants to nonprofit
18 organizations in the community for housing, food, all of
19 those other type of social well-being services.

20 Q Do you receive any funds from Medicare or
21 Medi-Cal?

22 A Yes, we do.

23 Q And do you make a profit on those funds?

24 A Medi-Cal we lose money. So we do not make any
25 money on Medi-Cal. We lose a significant amount of money.
26 It's part of our charitable portion of the organization.
27 For Medicare, we currently are actually losing money on
28 Medicare. We don't earn any money on Medicare. It's a

1 losing business for us.

2 Q In addition to providing medical services and
3 hospital services, do you provide any other kinds of
4 services?

5 A We have a full continuum. So it's hospital.
6 It's the clinicians. So the physician clinics. So when
7 you go see your physician, home care. So any care that's
8 delivered in the home. Services that we render to
9 patients that are in skilled nursing facilities, any of
10 those rehab facilities, psychiatric facilities. So it's
11 the full continuum of services that we actually care for.
12 That's where all the monies go.

13 Q I'd like to display Page 4 of exhibit number --
14 well, it's Page 4 of the combined financials. So
15 Exhibit No. 715.

16 At the top of the page just for context, these
17 are the combined financial statements for the years 2022
18 and 2021 for Kaiser Foundation Health Plan and Kaiser
19 Foundation Hospitals. At the top there it talks about the
20 revenues. And it says members dues, Medicare, copays and
21 deductibles and others. Could you tell the jury what are
22 the operating reviews?

23 A For 2022, 95.4 billion.

24 Q And then those are the revenues that come from
25 these three categories?

26 A That's right. Member dues are commercial
27 insurance. So anyone that's employer sponsored and/or
28 individuals. So when you sign up with Covered California.

1 Medicare is all the 65-plus and/or those
2 patients that are under the age of 65 that may qualify for
3 Medicare like end-stage renal disease and things like
4 that. And then co-pays, deductible and other is really
5 the member co-payments and/or deductibles they may have as
6 part of their insurance product that they actually elected
7 for.

8 Q Okay. And then let's move on to the expenses
9 category. Could you tell the jury what these different
10 kinds of expenses are?

11 A Yeah. So medical services is all the dollars
12 paid to our physicians and the medical group. Now, keep
13 in mind this is not just Southern California. This is
14 national. So these are across the entire organization,
15 not just Southern California.

16 The hospital services are all hospital services
17 rendered. So staff there in the hospital, taking care of
18 patients that are hospitalized. Outpatient service,
19 outpatient pharmacy and optical. So all the prescription
20 medications, both on the clinic side as well as the
21 optical. So that's anything vision related.

22 Other benefits and costs are just other benefits
23 and costs. There's a number of different things that go
24 into that. I don't have any of the specifics that fall
25 into that category unfortunately, and so the total medical
26 and hospital services ends up being about \$92.3 billion,
27 and then there's administration. So that gets into I.T.,
28 all of the administrators.

1 I mean, a number of different nonclinical
2 related services that go into that category. Member
3 services, et cetera, et cetera. That goes into actually
4 administration of the overall program, and so total
5 operating expenses is 96.7 billion if I rounded it up,
6 which gives us an operating income or loss in this case of
7 \$1.2 billion.

8 Q So in 2022, the combined organization operated
9 at a loss; is that right?

10 A That's right.

11 Q In 2021 there was not a loss?

12 A \$611 million.

13 Q And to the extent that there is income, what
14 happens to that income?

15 A The income goes right back into the company. So
16 that's what we use to fund the building of our hospitals
17 and clinics and any investments -- or I'm sorry. Yeah.
18 Investments in technology. So electronic medical records,
19 all of the technology that comes with it.

20 Q And you mentioned that this is combined. In
21 other words, not just California. Is there any difference
22 in how the entities operate in California in terms of loss
23 or income versus outside of California?

24 A So California makes up about 75 percent of the
25 entire company. 25 percent is outside of California. So
26 Hawaii, Georgia, Washington, Colorado, Oregon, and the mid
27 Atlantic state -- D.C., Virginia, Maryland area. That's
28 about 25 percent. We only own hospitals in California.

1 One in Hawaii, two in Washington and two in Oregon. All
2 the other areas we contract for hospital services. So
3 those dollars go into that. Most of those markets outside
4 of California don't make any money. So we subsidize those
5 markets as part of our California operations.

6 Q And the organization, does it have any assets
7 such as buildings, land, things like that?

8 A Yes, we do.

9 Q Okay. So let's take a look. This is Page 3 of
10 the combined financials. So here it talks about assets --
11 land, building, equipment, software. Do you see that?

12 A Yes.

13 Q So what kind of assets are those?

14 A So those are the land that we actually own. So,
15 for example, if we talk about Woodland Hills Medical
16 Center, that land is owned by the organization. The
17 buildings on that are owned by the organization. We pay
18 depreciation on it. We do maintenance on it. We continue
19 to maintain. For example, Woodland Hills is 36 years old.
20 It was built in 1989 -- 1986. Opened in 1989. And we
21 continue to maintain it just like any other house.

22 So constant repairs. Capital equipment. The
23 equipment that goes into the hospitals. So MRI machines,
24 et cetera, that falls into that equipment, software, all
25 the electronic records, radiology records. All of the
26 technology that goes to actually manage the care for the
27 patients through information systems. Any kind of safety
28 systems that are inside the hospital, et cetera.

1 Q And then there is a category for noncurrent
2 investments. Do you have an understanding what that is?

3 A So my superficial understanding of that is
4 really those are investments that cannot be cashed out
5 within a year's time. It takes more than a year to be
6 able to do anything. That's not liquid dollars. Those
7 are monies that are kind of locked in for over a year's
8 period of time.

9 MS. BROWN: Okay. No further questions at this
10 time.

11 THE COURT: Plaintiff?

12 MR. DeRUBERTIS: Yes.

13

14 CROSS-EXAMINATION

15 BY MR. DeRUBERTIS:

16 Q Good afternoon.

17 A Good afternoon.

18 Q I've gone through the consolidated financial
19 statements, and I don't see anything on executive
20 compensation in here. Do you?

21 A No. That would be just part of one of the line
22 items that's there.

23 Q So all the money stays within the entity?

24 A Correct.

25 Q That includes paying whatever is needed,
26 including executive comp; correct?

27 A All administrators.

28 Q Are you familiar with the levels of executive

1 compensation?

2 A I don't know all the levels.

3 Q Do you know any of them?

4 A I know some of them. I know mine. I don't have
5 privy to anything above me.

6 Q Okay. All right. Let's look at some numbers.
7 And if I may borrow that ELMO. Try to figure out how to
8 do this as well.

9 Let's look at Page 3, which is Bates No. 2369,
10 and I want to make sure I'm following in here. So net
11 worth, meaning the total value. You understand net worth
12 is assets minus liabilities; right?

13 A Correct.

14 Q So actual total value of these two corporations
15 combined is 58,921,000,000; correct?

16 A Correct.

17 Q 58,921,000,000. Even though there was a loss of
18 operating loss this year, the net worth actually went up
19 from 52,780,000,000 to 58,920,000,000; is that correct?

20 A Correct.

21 Q So even though there was a loss in one year, the
22 company -- the combined companies of KFH and KFHI
23 increased value of over \$6 billion; correct?

24 A Correct.

25 Q Now, the annual revenue, meaning the amount of
26 money that came in the door in 2022 is
27 95,408,000,000; correct? 95,408,000,000; correct?

28 A Yes.

1 Q That's simply the amount of money that came in
2 the door that year?

3 A Yes.

4 Q Now, one other thing. One of the things the
5 company's auditors look at in the company talks about the
6 last two pages, pages 53 and 54, is litigation. Do you
7 see that?

8 A I see it.

9 Q All right. And in the opinion of management,
10 based upon current facts and circumstances and except as
11 stated below with respect to particular matters, the
12 resolution of these matters is not expected to have a
13 material adverse effect on the combined financial position
14 or combined results of operations of health plans and
15 hospitals.

16 Did I read that correctly?

17 A What it says there, yes.

18 Q Okay. And you're aware of the next page it
19 talks about other litigation that's not our case; right?

20 A Correct. So just to be clear, I don't know a
21 lot of this information. I don't deal with the actuaries,
22 accountants. We don't normally see these dollars locally
23 at all.

24 Q Okay.

25 A They don't impact locally.

26 Q But you would agree that the company's audited
27 financials say that other than the litigation talked about
28 on the next page, management's belief is the resolution of

1 current litigation is not expected to have a material
2 adverse effect on the combined financial position or
3 combined -- I'm sorry -- or combined results of operations
4 of health plans and hospitals?

5 A That's what that says.

6 MR. DeRUBERTIS: Nothing further, Your Honor.

7 THE COURT: Defendant?

8 MS. BROWN: Very briefly.

9

10 REDIRECT EXAMINATION

11 BY MS. BROWN:

12 Q Just to follow up on counsel's questions about
13 the money that came in the door. So in 2022, the money
14 that came in the door is 95,408,000,000; correct?

15 A Correct.

16 Q And the money that went out, in other words, the
17 cost of providing the services is 96 billion; correct?

18 A Correct.

19 MS. BROWN: Thank you. Nothing further.

20 THE COURT: Plaintiff?

21 MR. DeRUBERTIS: No thank you, Your Honor.

22 THE COURT: You may step down. Thank you.

23 Defendant, any further witnesses?

24 MS. BROWN: No further witnesses.

25 THE COURT: Plaintiff, any further witnesses?

26 MR. DeRUBERTIS: No, Your Honor.

27 THE COURT: Okay. So that completes the
28 testimony on Phase II. I'm going to read you one

1 instruction of the law, and then I'm going to give you a
2 short break, and then we'll go right into brief closing
3 argument on punitive damages.

4 Here's the jury instruction. You must now
5 decide the amount, if any, that you should award Maria
6 Gatchalian in punitive damages. The purposes of punitive
7 damages are to punish a wrongdoer for the conduct that
8 harmed the plaintiff and to discourage similar conduct in
9 the future. There is no fixed formula for determining the
10 amount of punitive damages, and you are not required to
11 award any punitive damages. If you decide to award
12 punitive damages, you should consider all of the following
13 factors in determining the amount:

14 How reprehensible was Kaiser Foundation
15 Hospitals and Kaiser Foundation Health Plan, Inc.'s
16 conduct?

17 In deciding how reprehensible Kaiser Foundation
18 Hospitals and Kaiser Foundation Health Plan, Inc.'s
19 conduct was you may consider, among other factors, whether
20 the conduct caused physical harm; whether Kaiser
21 Foundation Hospitals and Kaiser Foundation Health Plan,
22 Inc., disregarded the health or safety of others; whether
23 Maria Gatchalian was financially weak or vulnerable and
24 Kaiser Foundation Hospitals and Kaiser Foundation Health
25 Plan, Inc. knew Maria Gatchalian was financially weak or
26 vulnerable and took advantage of her; whether Kaiser
27 Foundation Hospitals and Kaiser Foundation Health Plan,
28 Inc.'s conduct involved a pattern or practice or whether

1 Kaiser Foundation Hospitals and Kaiser Foundation Health
2 Plan, Inc., acted with trickery or deceit.

3 Is there a reasonable relationship between the
4 amount of punitive damages and Maria Gatchalian's harm or
5 between the amount of punitive damages and potential harm
6 to Maria Gatchalian that Kaiser Foundation Hospitals and
7 Kaiser Foundation Health Plan, Inc., knew was likely to
8 occur because of their conduct.

9 In view of Kaiser Foundation Hospitals and
10 Kaiser Foundation Health Plan, Inc.'s financial condition,
11 what amount is necessary to punish them and discourage
12 future wrongful conduct.

13 You may not increase the punitive award above an
14 amount that is otherwise appropriate merely because Kaiser
15 Foundation Hospitals and Kaiser Foundation Health Plan,
16 Inc., have substantial financial resources. Any award you
17 impose may not exceed Kaiser Foundation Hospitals and
18 Kaiser Foundation Health Plan, Inc.'s ability to pay.

19 Punitive damages may not be used to punish
20 Kaiser Foundation Hospitals and Kaiser Foundation Health
21 Plan, Inc. for the impact of their alleged misconduct on
22 persons other than Maria Gatchalian.

23 That completes the instruction that I wanted to
24 read to you. Again, I want to give you a short break
25 before we move into closing argument. So please be ready
26 to go at, let's say, 2:50. 2:50 we'll go right into
27 argument, and then it will be time for the jury to
28 deliberate.

1 (Recess taken.)

2 (The jury entered the courtroom at
3 2:50 P.M.)

4

5 THE COURT: Have a seat, everybody. We are back
6 with our jury. We're now going to move to closing
7 arguments in our case to the plaintiff.

8 MR. DeRUBERTIS: Just two seconds, Your Honor.

9 I apologize. I'd like to be able to show you
10 stuff. What's more important is the work you've done so
11 far, and I want to thank you.

12 Ms. Gatchalian has symptoms right now, and we've
13 asked her to stay home so no one gets infected. So I
14 wanted to apologize that she's not here and tell you
15 that's why.

16 On behalf of Ms. Gatchalian, on behalf of all of
17 us, thank you. The work you've done so far, you get this
18 is an important case, and I think you've done fairly,
19 reasonably and compassionately to change her life, and her
20 life will be a much, much better place because of the work
21 you've done, and we thank you for that.

22 What we're here to do today though, and what
23 your job now becomes, this next part of your job is
24 totally different. You know, you were instructed that in
25 that part of the trial, all you could do is compensate.
26 You could not punish. And there's a reason that the two
27 parts of the trial are different, because the purpose is
28 different.

1 So I want to talk about punishment a little bit.
2 I want to talk about the law, and I want to review the
3 numbers so that you can decide. You can decide what
4 should be done here.

5 You know, just really quickly -- let me try to
6 use this thing. Let's see. There we go. You know,
7 principles of responsibility I wanted to begin with just
8 for a minute because the question that I think this trial
9 showed is this who Kaiser -- is this the Kaiser we really
10 saw?

11 These are three of their ten principles of
12 responsibilities, and is this the Kaiser that we saw in
13 this case? And I think your verdict tells us no.

14 But what's important to me, and I think what's
15 important about when a company has principles like this
16 is, it tells you they know the right thing to do; right?

17 This isn't just they don't know any better.
18 This is they know what to preach, but their actions don't
19 match. And when a company knows the right thing and
20 chooses to do the opposite, that's when the job of a jury
21 like you is so important because it's not that they didn't
22 know. It's that they choose not to care about doing the
23 right thing, focusing on patient care and protecting those
24 that speak up if you have any questions or concerns.

25 I mean, when you really think about it, three of
26 their I think 10 principles of responsibilities they don't
27 practice every single day from the evidence we saw in this
28 case.

1 Now, instead what they practice is just that.
2 It's lip service, and then you saw what really happens in
3 their coverup culture.

4 So what I really believe, members of the jury,
5 Kaiser has lost its way. They've lost their way. They
6 know what's right, and they know how to do the right
7 thing. But in that -- in the business that health care
8 has sometimes become, the business has gone too far. And
9 you know, you heard this evidence of the understaffing.
10 It's like you would think -- it's like you would think
11 that they are totally understaffed because they don't have
12 money. They have \$58 billion sitting there. \$58 billion
13 of value just sitting there. Think about that. There's
14 no excuse. There's no excuse.

15 I love Martin Luther King's famous quote: "The
16 arc of the moral universe is long, but it bends towards
17 justice."

18 This has been a long fight. You heard four and
19 a half years ago Ms. Gatchalian was terminated. This has
20 been a long fight, but the arc of your verdict, what I
21 hope is that the arc of your verdict can forever be a part
22 of Kaiser's company history so that they always remember
23 that jury of 12 in that courtroom in December of 2023 in
24 Los Angeles, California that told them you can't do this
25 to your care providers; that told Kaiser that quality of
26 care and patient safety matters the most. The arc of your
27 verdict will remind them that the quality of care and
28 patient safety matters most and that at the end of the day

1 you have to put patients over profits and protect those
2 who speak up.

3 Now, I want to talk a little bit about this
4 concept because you saw not just Maria. You saw Marcie.
5 You saw other care providers, and a punitive damage
6 verdict that gets the attention of the absolute higher
7 ups, the folks that didn't come into this courtroom, the
8 top of this corporation, a punitive damage verdict
9 speaking in the language that they understand that gets
10 the attention of the top of these corporations will
11 protect other Kaiser's care providers. A verdict that is
12 loud enough and big enough will make it so next time
13 around somebody thinks twice about should we retaliate,
14 should we not, should we protect the care providers.

15 So I want to talk a little bit about the two
16 purposes you heard from Judge Leiter. The two purposes
17 are to punish the wrongdoer for the conduct that harmed
18 Maria or to discourage similar conduct in the future.
19 That's what's so amazing about the power of punitive
20 damages, members of the jury, is that you actually are
21 intentionally speaking beyond the walls of this courtroom,
22 beyond what happened to Maria, to discourage similar
23 conduct from this employer and others.

24 You've got the instruction. There's only three
25 things you're allowed to consider. How reprehensible was
26 their conduct? What amount of punishment is necessary
27 given their financial resources and ability to pay, and is
28 there a reasonable relationship between compensation and

1 punishment?

2 You're not supposed to consider anything other
3 than these. You're not supposed to consider what happens
4 to the money. Does it get adjusted or reduced or changed
5 by the court afterwards? You're just supposed to consider
6 right now only what these instructions are.

7 So let me really briefly go through the
8 reprehensibility factors and just very simply, did the
9 conduct cause physical harm? Yes. You heard from both
10 doctors, both psychological experts that said major
11 depression is physical. It affects your brain. It
12 changes your brain. It's a physical harm.

13 Whether they disregarded health or safety of
14 others. Well, we saw that. They disregarded the health
15 and safety of patients. Maria was standing up for the
16 health or safety of patients and they disregarded that.
17 The worst thing you can do in health care.

18 Was Maria financially vulnerable or weak and did
19 they know that? Of course she was. She was entirely
20 dependent. Not only her, not only her husband but her
21 extended family was dependent on the income she got from
22 Kaiser.

23 Whether their conduct involved a pattern or
24 practice. Absolutely. Maria was the victim of a much
25 bigger problem of pattern and practice, an ongoing chronic
26 understaffing putting not enough resources and then
27 shutting down the complaints.

28 And think about this. The pattern and practice,

1 it began with Ms. McPherson telling Ms. Astasio no UORs.
2 Maria shouldn't have done a UOR. And then that continued
3 with Kersey, and it continued with Stanley. It's part of
4 a pattern or practice. It wasn't a one off. It wasn't a
5 one-time event.

6 Did it involve trickery or deceit? How about
7 the claim that she was fired over that? Trickery or
8 deceit. So every single one of the factors of
9 reprehensibility is present.

10 So then the next thing you look at is the
11 financial condition. What amount in light of their
12 financial condition is necessary?

13 You know, this gets to the concept of
14 punishment. Punishment must be felt to be effective. A
15 245 to \$480 speeding ticket to a lot of people will
16 discourage them from speeding. To the Elon Musks and the
17 Jeff Bezos of the world it's nothing. Why does that
18 matter? Because the punishment must not only fit the
19 conduct, it must also look at who's being punished because
20 we don't deter, we don't discourage if we don't make it
21 hurt.

22 You know, it reminds me when I talk to the jury
23 about punishment, when I was a kid, I was a bad kid at
24 times --

25 THE COURT: Let's focus on this case, Counsel.
26 Okay. Besides I'm sure you want to save some time.

27 MR. DeRUBERTIS: Okay.

28 Punishing a kid by putting them in the coat room

1 where the toys are is not very effective, doesn't hurt.
2 Punishment needs to hurt. We don't want you to bankrupt
3 them. We're not asking you to bankrupt them. We don't
4 want you to give a number that will cripple their
5 operations, but it's got to be painful. They've got to
6 feel it so that next time they think let's not do it.

7 Now, I don't have these on the slides, but I
8 want to illustrate what some of these numbers might mean.
9 You've heard their net worth, 58.92 billion. Annual
10 revenue, 95 billion and change.

11 What that means, members of the jury, every
12 single day, seven days a week, including the weekends,
13 \$261,391,780 comes in. Think about that. Over
14 \$261 million comes in the door every single day seven days
15 a week including the weekends.

16 \$150 million, .002 percent of one day's revenue.
17 \$150 million is not even 1 percent of one day's revenue.
18 Not even that.

19 \$150 million, .001 percent I think of net worth.
20 \$150 million is not even 1 percent of net worth. Not even
21 1 percent of the value. You have to decide the number as
22 to both defendants. Again, it's got to be big enough to
23 get their attention.

24 1 percent. Let me make sure I get this right.
25 We were on the phone with the math people. 1 percent of
26 their net worth is 589,210,000. So half a percent of net
27 worth as to each defendant is like \$290 million.

28 This decision is up to you. You've got to give

1 a different amount for each. All we ask is that you look
2 at the law, you look at the facts, and you say to
3 yourselves, I'm going to issue a verdict that they will
4 never forget so that they will change.

5 Again, half a percent per defendant is
6 \$290 million each. I'll get a few more minutes. I thank
7 you. I really look forward to talking to you afterwards.
8 And most important, from the bottom of our hearts, thank
9 you for your compassion for Maria.

10 THE COURT: Defendant.

11 MS. BROWN: Thank you.

12 I too cannot plug in, so I'm going to have to do
13 it with my computer.

14 Thank you for your time. Of course we are
15 disappointed in the verdict, but we respect your opinion
16 and we respect the time and the opinion you will render on
17 the punitive damages questions and the amounts from our
18 perspective, those amounts should be zero. And I'd like
19 to talk to you a little bit about why that is.

20 As the court read the instruction, one of the
21 parts of the instructions for punitive damages is that you
22 are not required to award any punitive damages. In other
23 words, just because plaintiff asks for punitive damages,
24 that is not something you are required to award.

25 To the extent that you've already punished
26 Kaiser with your other verdict, we request that you not
27 punish it twice. On Friday we heard a lot about how
28 reprehensible Kaiser's conduct was and how we should be

1 punished.

2 So to the extent that your \$11-1/2 million
3 verdict has already taken that into account, I especially
4 request that you not provide additional punishment that
5 essentially double punishes the companies.

6 The jury instructions goes on to talk about
7 those three elements that we just heard and focused on.
8 How reprehensible was the conduct? Is there a reasonable
9 relationship between the harm and the award, and the
10 impact on the financial net worth.

11 How reprehensible is the conduct? In other
12 words, how reprehensible was Kaiser's decision to
13 terminate a nurse who put her feet up on a baby's crib?
14 Is that reprehensible conduct that requires the imposition
15 of \$290 million verdict or \$580 million verdict? That is
16 the question that's just been presented to you. Was that
17 that reprehensible that it requires that kind of an award
18 in punitive damages?

19 Is it -- and what happens in terms of
20 deterrents? What happens next time should an award like
21 that be entered? Will the hospital hesitate, be it
22 Kaiser's hospital or any other hospital, will they
23 hesitate to punish a care provider for being careless for
24 not doing what is expected of him or her? Will they be
25 deterred from taking care of patients by -- because they
26 will know or they will be afraid that they will be hit
27 with half a billion dollars verdict on the back end if
28 they choose to litigate it to verdict.

1 The second question is, is there a reasonable
2 relationship between the amount of punitive damages and
3 the harm or between the amount of punitive damages and the
4 potential harm? Is there a reasonable relationship?

5 I submit to you that \$589 million bears no
6 reasonable relationship to anything. It does not bear any
7 reasonable relationship to the past losses, which is
8 1.2 million, future wage losses that you awarded of
9 1.2 million, mental health or suffering of 1.5 million or
10 7.5 million.

11 589 punitive damages award bears no reasonable
12 relationship to any of those numbers and no reasonable
13 relationship to any of the harm that Ms. Gatchalian or
14 either of the experts testified to. There is no testimony
15 and there was no evidence that there was any actual
16 physical harm. There was speculation and discussion of
17 studies that talk about physical harm, but Dr. Reading sat
18 on the stand and said absolutely not, I am not saying that
19 Ms. Gatchalian was in fact harmed.

20 And then the last element, the last element of
21 the jury instruction is what amount is necessary to punish
22 them to discourage future wrongful conduct. Again, what
23 amount will discourage hospitals from taking care of
24 patients? What amount will do that?

25 And very important, you may not increase the
26 punitive award above an amount that is otherwise
27 appropriate merely because Kaiser Foundation Hospitals and
28 Kaiser Foundation Health Plan have substantial financial

1 resources. You may not do that just because these
2 organizations have assets. You may not simply award an
3 outsized verdict for punitive damages because -- for that
4 reason alone. That is not the reason to award half a
5 billion, 300 million or any number of millions.

6 These are nonprofit organizations. Yes, they
7 have assets. But every penny that is being awarded in
8 this courtroom is going to come out of patient care. No
9 matter how you cut it, no matter how you slice it, all of
10 the income that these companies receive goes back into
11 operating revenues building up hospitals, provision of
12 care, subsidizing community efforts, subsidizing other
13 states. That is what every penny awarded in this
14 courtroom means, and the more money that is being awarded
15 in punitive damages, the more money will come out of the
16 organization's operating revenue.

17 Kaiser Foundation Hospitals, Kaiser Foundation
18 Health Plan did what they thought was right when they
19 terminated Ms. Gatchalian's employment. As you heard
20 previously, that decision may not appear wise, but that
21 decision does not require punishment, and what we're
22 talking about here today is millions of dollars to punish
23 the entities for what they thought was right.

24 I respectfully request that you decline to award
25 punitive damages, and I do appreciate your time in
26 deciding that question. Thank you.

27 THE COURT: Plaintiff.

28 MR. DeRUBERTIS: Thank you.

1 They still don't get it. They still don't get
2 it. There's not an apology. There's not a "We're sorry
3 what we did to her." They're really kind of telling you
4 their choice was right, you guys were wrong. That's what
5 I just heard. If you heard that too, that's all the more
6 reason to speak in a louder voice because your voice so
7 far hasn't gotten through to them.

8 You know, they can call in witnesses. They
9 could have called the executive. They could have said,
10 "Here's what we're going to do." They didn't. They just
11 want to play on we're a nonprofit with \$60 billion sitting
12 in our coffers basically.

13 We want them to think what happens next time.
14 Absolutely. Yes, we hope they will think next time. How
15 many times did Maria beg somebody to care? How many times
16 did Maria say they are retaliating against me for these
17 UORs? Did anyone care? No. They did the catch and
18 kills. They silenced her. They got rid of her.

19 Your verdict, if there's ever a case where a big
20 number to get their attention is needed, it's this one
21 because they still don't get it. They just told you zero.
22 Not a slap on a wrist, not even a big amount that they
23 would feel. Zero is what they asked for. I trust you to
24 do your jobs. And I thank you. Look forward to talking
25 to you all after the verdict if you're willing. Thank
26 you.

27 THE COURT: That completes the closing argument.
28 At this time I'm going to ask Mr. Manzo to bring the jury

1 in to deliberate.

2 (Recess taken at 3:12 P.M.)

3

4 THE COURT: We are back with our jury and
5 alternates.

6 Ms. Koepfel, has the jury reached a verdict on
7 Phase II?

8 JUROR NO. 4: We have.

9 THE COURT: Could you hand the verdict form to
10 Mr. Manzo, please.

11

12 (Brief pause.)

13

14 THE COURT: All right. I'm going to read the
15 verdict from Phase II.

16 Question 1: We assess punitive damages against
17 defendants in the following amount:

18 Kaiser Foundation Hospitals: \$15 million.

19 Kaiser Foundation Health Plan, Inc.:

20 \$15 million.

21 Ms. Koepfel, is that the jury's verdict?

22 JUROR NO. 4: It is.

23 THE COURT: Would either side like the jury
24 polled?

25 MR. DeRUBERTIS: Up to the defense, Your Honor.
26 No need on our end.

27 MS. BROWN: Yes, Your Honor.

28 THE COURT: All right. I'm going to poll the

1 jury again. When I reread the verdict, raise your hand if
2 this was your verdict.

3 We assess punitive damages against defendant in
4 the following amount:

5 For Kaiser Foundation Hospitals, the amount was
6 \$15 million. If you voted for that number, please raise
7 your hand.

8 And I'm seeing -- I'm seeing ten. Ten hands
9 raised. Keep your hands raised for just a second.

10 The two who did not raise their hands are Juror
11 No. 2 and Juror No. 11.

12 As to Kaiser Foundation Health Plan, Inc., the
13 jury's amount also was \$15 million. If that was your
14 verdict, please raise your hand.

15 Again, I'm seeing 10 to 2 with Juror 2 and Juror
16 11 not raising their hand.

17 I'm going to hand the original verdict to my
18 judicial assistant and have her record the verdict.

19 Counsel, do you waive further reading of the
20 verdict?

21 MR. DeRUBERTIS: Yes, Your Honor.

22 MS. BROWN: Yes, Your Honor.

23 THE COURT: Very well. All right, ladies and
24 gentlemen, this completes your jury service. Before I let
25 you go, a couple of things.

26 Remember on your first day of jury service,
27 which was what, about six months ago. One of the first
28 things that I said to all of you was thank you because I

1 know you all have other places you need to be, other
2 things you need to do, and you all came and sacrificed
3 your time and your work schedules and your lives to sit on
4 this jury and serve your community. So I really want to
5 thank you. I really appreciate it on behalf of everybody
6 here.

7 Do you remember how many times I told you don't
8 talk about the case, don't form any opinions, don't do any
9 research. You are now free from all of those
10 restrictions. You can do whatever research you want. You
11 can form as many opinions as you would like, and you're
12 also free to talk about the case with anybody and tell
13 them about the case and tell them about your jury
14 experience, but you don't have to.

15 As you heard counsel mention, sometimes the
16 lawyers like to talk to the jurors after the trial is over
17 to get feedback from you. If you'd like to talk to the
18 lawyers, just hang out in the hall for a minute. They'll
19 be out in about one minute after you, but if you don't
20 want to talk to the lawyers, that's perfectly fine.

21 I doubt this will happen, but I always tell
22 juries if anybody ever contacts you about the case and
23 asks you a question that you don't feel should be asked or
24 contacts you in a way you don't want to be contacted,
25 certainly give a call to the courtroom and let us know. I
26 don't think that's going to happen, but I always give that
27 warning to jurors.

28 But in any event, with that I'm going to let you

1 go. I really appreciate all your time and your effort,
2 and I hope everybody has a wonderful holiday season.
3 Thank you, everybody.

4

5 (The jurors exited the courtroom.)

6 (The following proceedings were held
7 outside the presence of the jury.)

8

9 THE COURT: We are outside the presence of the
10 jury. Plaintiff is the prevailing party. I'm going to
11 ask plaintiff to prepare a proposed judgment and file it
12 within ten days. I'm also going to ask plaintiff to take
13 custody of the trial exhibits, maintain them until the
14 time for appeal has passed, if an appeal has filed, until
15 the conclusion of the appeal.

16 MR. DeRUBERTIS: Yes, Your Honor.

17 THE COURT: With that I will let you go.
18 Thanks, everybody.

19

20 (Whereupon, the proceedings adjourned at
21 4:03 P.M.)

22

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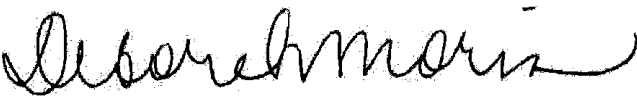
Transcript of Proceedings
December 11, 2023

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 54 HON. MAURICE A. LEITER, JUDGE
4
5 MARIA GATCHALIAN,)
6 Plaintiff,) Case No. 21STCV15300
7 vs.) REPORTER'S
8 KAISER FOUNDATION HOSPITALS, ET) CERTIFICATE
9 AL.,)
10 Defendants.)
_____)

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I, DEBORAH MORIN, CSR NO. 11558, OFFICIAL
REPORTER PRO TEMPORE OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
CERTIFY THAT THE FOREGOING PAGES, 3001 to 3051, COMPRISE A
FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS AND
TESTIMONY TAKEN IN THE ABOVE-ENTITLED CAUSE ON DECEMBER 11,
2023.

DATED THIS 11th DAY OF DECEMBER, 2023.



_____, CSR NO. 11558
DEBORAH MORIN, OFFICIAL REPORTER

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