

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:14-cv-02887 JLK

ALEJANDRO MENOCA,
MARCOS BRAMBILA,
GRISEL XAHUENTITLA,
HUGO HERNANDEZ,
LOURDES ARGUETA,
JESUS GAYTAN,
OLGA ALEXAKLINA,
DAGOBERTO VIZGUERRA, and
DEMETRIO VALERGA
on their own behalf and on behalf of all others similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

**PLAINTIFFS' MOTION TO COMPEL RULE 30(b)(6) DEPOSITION AND
INSPECTION WITH VIDEO RECORDING**

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

FACTUAL AND PROCEDURAL HISTORY 2

I. Pre-Class-Certification Discovery and Discovery Pending the Tenth Circuit’s Ruling on GEO’s Rule 23(f) Appeal of Class Certification..... 2

II. GEO Refuses to Produce a Rule 30(b)(6) Witness In Merits Discovery. 6

III. GEO Refuses to Permit Video Recording of the Aurora Inspection..... 7

IV. D. COLO. L. Civ. R. 7.1(a) Statement. 9

ARGUMENT 10

I. GEO Must Designate a Witness or Witnesses in Response to Plaintiffs’ Third Amended Rule 30(b)(6) Notice. 10

A. Rule 30(b)(6) Does Not Limit Plaintiffs to One Deposition of GEO..... 10

B. GEO is Estopped from Withholding 30(b)(6) Testimony in Classwide Merits Discovery. 12

i. GEO’s Current Position is Inconsistent with its Prior Agreements. 13

ii. GEO Represented to the Court that the Prior Rule 30(b)(6) Depositions Were Limited to Class Certification and the Court Adopted this Position..... 14

iii. GEO’s Inconsistent Position Prejudices Plaintiffs. 15

C. Plaintiffs Should Be Reimbursed for Attorneys’ Fees and Costs Because GEO’s Position is Patently Inconsistent with its Prior Behavior. 18

II. The Importance of a Videotaped Site Inspection Outweighs the Burden to GEO. 19

A. Courts Balance the Burden of Complying with a Discovery Request Against the Benefit to the Requesting Party..... 19

B. A Videotaped Inspection is Key to Plaintiffs’ Ability to Prove their Claims. 20

C. GEO’s Privacy and Security Concerns Are Manageable. 21

CONCLUSION 23

TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>Am. Civil Liberties Union v. Dep't of Def.</i> , No. 04 Civ. 4151, 389 F. Supp. 2d 547 (S.D.N.Y. Sept. 29, 2005)	22
<i>Bestop, Inc. v. Tuffy Sec. Prods., Inc.</i> , No. 13 Civ. 10759, 2015 WL 5025892 (E.D. Mich. June 23, 2015).....	11
<i>Carmody v. Mikesell</i> , No. 16 Civ. 2603, 2017 WL 5191802 (D. Colo. Nov. 9, 2017)	19
<i>Centennial Archaeology, Inc. v. AECOM, Inc.</i> , 688 F.3d 673 (10th Cir. 2012)	18
<i>Cuin v. Adams Cty. Bd. of Cty. Comm'rs</i> , 2011 WL 3236088 (D. Colo. July 28, 2011)	14, 17
<i>Dang by & through Dang v. Eslinger</i> , No. 14 Civ. 37, 2015 WL 13655675 (M.D. Fla. Jan. 20, 2015).....	21, 22, 23
<i>E.E.O.C. v. BNSF Ry. Co.</i> , No. 12 Civ. 2634, 2014 WL 172141 (D. Kan. Jan. 15, 2014).....	19
<i>Foreclose Mgmt. Co. v. Asset Mgmt. Holdings, LLC</i> , No. 07 Civ. 2388, 2008 WL 3895474 (D. Kan. Aug. 21, 2008)	11
<i>Green Const. Co. v. Kan. Power & Light Co.</i> , No. 87 Civ. 2070, 1988 WL 360149 (D. Kan. Dec. 29, 1988).....	20
<i>Johnson v. Lindon City Corp.</i> , 405 F.3d 1065 (10th Cir. 2005)	12, 14
<i>Lewis v. Lewis</i> , 189 P.3d 1134 (Colo. 2008).....	15
<i>Lujan v. Exide Techs.</i> , No. 10 Civ. 4023, 2011 WL 1594952 (D. Kan. Apr. 27, 2011).....	19
<i>New Hampshire v. Maine</i> , 532 U.S. 742 (2001).....	12
<i>Nourse v. Cty. of Jefferson</i> , No. 17 Civ. 807, 2018 WL 6444226 (N.D.N.Y. Dec. 10, 2018).....	21, 22

Roadway Exp., Inc. v. Piper,
447 U.S. 752 (1980)..... 18

Russo v. Ballard Med. Prods.,
No. 05 Civ. 59, 2006 WL 2345868 (D. Utah Aug. 10, 2006) 17

S.M. v. Bloomfield Sch. Dist.,
No. 16 Civ. 823, 2017 WL 3159166 (D.N.M. Jun. 12, 2017)..... 15, 17

Starlight Int’l Inc. v. Herlihy,
No. 97 Civ. 2329, 186 F.R.D. 626 (D. Kan. Jun. 3, 1999) 10

Welzel v. Bernstein,
No. 03 Civ. 1887, 233 F.R.D. 185 (D.D.C. Dec. 30, 2005) 19

Wilson v. Wal-Mart Stores, Inc.,
No. 15 Civ. 1791, 2016 WL 526225 (D. Nev. Feb. 9, 2016) 19

STATUTES

18 U.S.C. § 1589 15, 21

RULES

Fed. R. Civ. P. 26(b)(2)(C)..... 11

Fed. R. Civ. P. 30.....*passim*

Fed. R. Civ. P. 34(a)(2) 19

Fed. R. Civ. P. 37..... 1, 18, 27

L.R. 7 27

L.R. 37.1 1

PRELIMINARY STATEMENT

Pursuant to Federal Rule of Civil Procedure 37 and D. Colo. Civ. L.R. 37.1, Plaintiffs, on behalf of the certified Plaintiff Class (collectively “Plaintiffs”), hereby respectfully move (i) to compel the GEO Group, Inc. (“GEO”) to designate a witness or witnesses pursuant to Federal Rule of Civil Procedure 30(b)(6); and (ii) to permit video recording of Plaintiffs’ requested inspection of the Aurora, Colorado detention facility (“Aurora”). GEO has taken the position that Plaintiffs are not entitled to 30(b)(6) testimony about the merits of this case because they took a previous 30(b)(6) deposition during a phase of discovery that the parties agreed, and the Court ordered, would be limited to class certification issues. It has therefore refused to designate a 30(b)(6) witness absent an order of this Court permitting the deposition. GEO also will not allow Plaintiffs to conduct a videotaped inspection of the Aurora facility, citing vague privacy and security concerns. Plaintiffs have expressed openness to possible measures to control any potential privacy and security risks, but GEO’s vague description of those risks has made that engagement impossible.

Plaintiffs also move for sanctions pursuant to Rule 37(a)(5). After taking the position both in negotiations with Plaintiffs and in scheduling orders submitted to this Court that it would designate a Rule 30(b)(6) witness during the merits discovery phase of the case, GEO has now changed course. GEO cannot use its multiple changes of counsel, which have already significantly delayed this litigation, as an excuse to reverse positions upon which the Plaintiffs and the Court previously relied, and to keep Plaintiffs from obtaining crucial discovery. Because GEO’s abrupt change in position is contrary

to this Court's prior scheduling orders, and departs from previous agreements with counsel, Plaintiffs request that the Court assess sanctions against GEO to compensate Plaintiffs for their fees and costs associated with bringing this Motion.

FACTUAL AND PROCEDURAL HISTORY

I. Pre-Class-Certification Discovery and Discovery Pending the Tenth Circuit's Ruling on GEO's Rule 23(f) Appeal of Class Certification.

Since the earliest phases of discovery in this case, the Court's case management plan has contemplated bifurcated class and merits discovery. Plaintiffs filed the Complaint on October 22, 2014. ECF No. 1 (Compl.). On September 10, 2015 (following resolution of GEO's Motion to Dismiss, *see* ECF No. 23 (Memorandum Opinion & Order dated July 6, 2015)), the parties submitted a joint status report to the Court proposing a schedule for discovery and briefing limited to class certification. ECF No. 36 (Joint Proposed Schedule). Pursuant to that report, the Court ordered that discovery related to class certification issues be completed by December 15, 2015. ECF No. 37 (Minute Order re Joint Proposed Schedule). On November 13, 2015, Plaintiffs submitted an unopposed motion to extend the class discovery and class certification motion deadline, ECF No. 41 (Unopposed Motion for Extension of Time), which the Court granted, ordering that discovery related to class certification issues be completed by January 26, 2016, and that Plaintiffs' motion for class certification be filed on or before February 26, 2016, ECF No. 42 (Minute Order re Unopposed Motion for Extension of Time).

On January 12, 2016, Plaintiffs served GEO with a Notice of Deposition under Fed. R. Civ. P. 30(b)(6) (“Original Notice”). Declaration of Alexander Hood in Support of Plaintiffs’ Motion to Compel (“Hood Decl.”) ¶ 4, Ex. A (Original Notice).¹ On February 10, 2016, Plaintiffs submitted another unopposed motion to extend the class discovery and class certification motion deadline for the limited purpose of taking a Rule 30(b)(6) deposition of GEO, which had been delayed because GEO had refused to attend without a protective order in place. ECF No. 46 (Second Unopposed Motion for Extension of Time). The Court granted Plaintiffs’ unopposed motion, ordering that Plaintiffs would have “up to and including March 31, 2016, for the taking of a 30(b)(6) deposition of the defendant” and that the class certification motion deadline would be extended to May 6, 2016 accordingly. ECF No. 47 (Minute Order re Second Unopposed Motion for Extension of Time).

GEO objected in January and March 2016 that Plaintiffs’ Original Notice touched on individual, rather than pattern and practice, testimony that GEO argued was not necessary to class certification (and therefore fell outside the scope of the operative scheduling order). *See* Hood Decl. ¶ 5, Ex. B (March 9, 2016 email from S. Felton). The parties conferred by telephone thereafter, and Plaintiffs’ counsel explained that the focus of the deposition(s) would be on GEO’s policies and practices for purposes of class certification, in keeping with the Court’s order. *Id.* ¶ 6. In response to GEO’s objections, Plaintiffs withdrew the Original Notice and served an Amended Notice on March 9,

¹ Unless otherwise noted, all exhibits are attached to the Declaration of Alexander Hood in Support of Plaintiffs’ Motion to Compel (“Hood Decl.”).

2016, which limited the topics to the existence of “policies and practices.” *Id.* ¶ 7, Ex. C (Amended Notice). Consistent with this agreement, the Amended Notice limited the topics to the existence of “policies and practices,” rather than the application of GEO’s policies. *Compare* Ex. A (Original Notice) *with* Ex. C (Amended Notice).

Pursuant to this exchange, on March 29, 2016, Plaintiffs deposed GEO’s Rule 30(b)(6) designees Dawn Ceja and Melody Furst. Hood Decl. ¶ 8. Ms. Furst, who was designated for portions of topic 3,² was unprepared to testify as to the total compensation paid to class members, Ex. D (Furst Tr.) at 15:22-29:18, and as to compensation paid to detainees subject to similar policies at other GEO facilities. *Id.* at 6:4-12.

On October 26, 2016, GEO’s original counsel, Vaughan & DeMuro, withdrew, ECF No. 54 (Order Granting Motion to Withdraw), and another set of counsel, Burns, Figa & Will, P.C., appeared, ECF No. 55 (Notice of Entry of Appearance), joining Norton Rose Fulbright, who had appeared on July 15, 2015. ECF No. 25 (Notice of Entry of Appearance).

The Court granted Plaintiffs’ motion for class certification on February 27, 2017, ECF No. 57 (Order Granting Motion to Certify Class), and the 10th Circuit granted GEO’s petition for an interlocutory appeal under Rule 23(f) on April 11, 2017, ECF No. 63 (Order re Petition for Permission to Appeal). GEO moved to stay discovery pending the appeal, which the Court granted in part, staying classwide merits discovery and allowing discovery to proceed on an individual basis as to the Named Plaintiffs. ECF

² Topic 3 was noticed as: “Policies and practices regarding the Voluntary Work Program (“VWP”) at GEO’s Aurora Detention Facility, over the three years prior to the filing of this litigation until now,” and included sub-topics 3(a) through 3(l).

No. 85 (Order Granting in Part and Denying in Part Motion to Stay). On December 15, 2017, Plaintiffs served a Rule 30(b)(6) notice on GEO as to individual merits discovery only (“Individual Merits Notice”). Ex. E (Individual Merits Notice). GEO objected to specific 30(b)(6) topics, but did not raise any objection to the Individual Merits Notice itself. Hood Decl. ¶ 10. Instead, the parties reached an agreement to reframe certain topics and began to try to schedule the deposition. *Id.* & Ex. F (Feb. 16, 2018 letter from E. Stork).

On February 9, 2018, the Tenth Circuit affirmed class certification. ECF No. 115 (Order Affirming Class Certification). In the interest of efficiency, Plaintiffs did not move forward with the 30(b)(6) deposition as to individual merits discovery. Hood Decl. ¶ 11. On February 13, 2018, Magistrate Judge Hegarty ordered the parties to schedule a Settlement Conference, ECF No. 117 (Minute Order re Scheduling Settlement Conference), which the parties scheduled for May 2, 2018, ECF No. 121 (Minute Order Setting Scheduling Conference). The Court extended the parties’ deadline to file a stipulated scheduling order for classwide merits discovery during the parties’ settlement negotiations, *see* ECF Nos. 132 (Minute Order Extending Deadline for Scheduling Order), 134 (same), and 135 (same), which were unsuccessful.

On August 22, 2018, the parties filed a stipulated scheduling and discovery order for classwide merits discovery. ECF No. 139 (Proposed Scheduling Order). In that scheduling order, Plaintiffs stated their intent to notice a 30(b)(6) deposition. *Id.* at 14. GEO did not object to that proposal; to the contrary, the stipulation stated: “The parties plan to work cooperatively to schedule a Rule 30(b)(6) deposition of GEO.” *Id.* at 19.

Two days later, on August 24, 2018, GEO changed counsel yet again, when Greenberg Traurig LLP entered an appearance. ECF No. 140 (Notice of Entry of Appearance). The parties subsequently filed an updated proposed scheduling order, where Plaintiffs again stated their intent to notice a 30(b)(6) deposition and the parties again stated that they would work cooperatively to schedule that deposition. ECF No. 146 (Amended Proposed Scheduling Order) at 14, 19. After the Court denied GEO's request to depose absent class members, the Court entered the parties' Amended Stipulated Scheduling and Discovery Order. ECF No. 149 (Scheduling Order). Norton Rose withdrew on December 17, 2018. ECF No. 161 (Order Granting Motion to Withdraw).

II. GEO Refuses to Produce a Rule 30(b)(6) Witness In Merits Discovery.

On November 2, 2018, in accordance with the stipulated scheduling and discovery order, Plaintiffs served an amended Rule 30(b)(6) Notice of Deposition for the purposes of merits discovery ("Class Merits Notice"). Ex. G (Class Merits Notice). GEO did not raise an objection to this notice from November 2018 through February 2019, during which time the parties discussed scheduling the noticed 30(b)(6) deposition. Hood Decl. ¶ 12, Ex. H (Jan. 9, 2019 email from N. Beer to Plaintiffs' counsel). During this same time period, the parties also met and conferred several times regarding GEO's plan to search for and produce class merits discovery. *Id.* ¶ 13 & Ex. I (Jan. 28, 2019 letter from N. Beer). GEO represented that it was "reassessing discovery generally in light of the current procedural posture of the case," and would, *inter alia*, re-run searches of its electronically stored information to supplement past productions and conduct future discovery. Ex. I at 2 (Jan. 28, 2019 letter from N. Beer).

Then, on March 12, 2019, a fifth law firm, Holland & Knight, made an appearance for GEO, ECF No. 164 (Notice of Entry of Appearance), and Greenberg Traurig withdrew as counsel, ECF No. 166 (Order Granting Motion to Withdraw. On March 29, 2019, Plaintiffs reached out to GEO's new counsel to request that the parties move forward with scheduling the 30(b)(6) deposition, with a tentative target date in June 2019. Hood Decl. ¶ 14 & Ex. J (Apr. 19, 2019 email from V. Brown). On April 26, 2019, after nearly six months of negotiating the scheduling of the 30(b)(6) deposition and well over a year after Plaintiffs served the first 30(b)(6) notice as to merits discovery, GEO informed Plaintiffs it had reversed course and would not designate a witness. Ex. K (April 26, 2019 letter from C. Short).

III. GEO Refuses to Permit Video Recording of the Aurora Inspection.

Plaintiffs served their Second Set of Requests for Inspection ("Second RFI") on GEO on November 2, 2018. Ex. O³ (Second RFI). The Second RFI requested an inspection of (1) all facilities used for administrative or disciplinary segregation; (2) all housing units occupied by any Plaintiff; (3) any areas where any Plaintiff performed work pursuant to the Housing Unit Sanitation Policy; (4) all areas where GEO stored

³ Plaintiffs served their First Set of Requests for Inspection ("First RFI") on GEO on July 31, 2015. Ex. L (Plaintiffs' First Set of Discovery Requests). GEO objected to the First RFI, among other reasons, on the basis that it was not relevant to class certification discovery. Ex. M (GEO's Responses and Objections to First Set of Discovery Requests). No inspection took place at that time. On December 15, 2017, Plaintiffs served a Second RFI on GEO that was limited to Plaintiffs' individual claims only. *See* ECF No. 149 (Scheduling Order) at 18. Again, no inspection took place, and the parties agreed that after Plaintiffs amended their request for inspection for the purposes of classwide merits discovery, the parties would work to schedule an inspection of Aurora by Plaintiffs' counsel. *Id.*

records and/or electronically-stored information. The RFI also requested that the inspection be videotaped.

Over the following months, the parties met and conferred over the scope of the RFI. On December 27, 2018, GEO sent Plaintiffs a letter summarizing its position that any inspection would have to be approved by and scheduled through ICE. Ex. P (Dec. 27, 2018 letter from N. Beer) at 1-2. Plaintiffs requested that GEO provide the contractual and/or legal basis for its position, and on January 28, 2019, GEO sent a letter to Plaintiffs stating that another letter with additional details on the ICE approval process was forthcoming. Ex. I (Jan. 28, 2019 letter from N. Beer) at 1.

Plaintiffs did not receive this letter, or formal responses and objections to the RFI, until April 26, 2019, nearly three months later and after a change in GEO's counsel. Ex. K (Apr. 26, 2019 letter from C. Short); Ex. Q (GEO's Responses and Objections to Second RFI). GEO's response did not identify any specific basis for requiring that an inspection be approved by and scheduled through ICE. Ex. K (Apr. 26, 2019 Letter from C. Short). Rather, it stated that GEO's contract with ICE generally restricted the improper disclosure of sensitive information, but stated that no information was being withheld on that basis. *Id.* at 1-2. GEO objected that the proposed inspection infringed upon the privacy rights and "other statutory, regulatory, and contractually protected rights of individuals who are not party to this litigation," and that due to "privacy and security concerns," photography and videotaping would not be allowed. *Id.* at 2.

IV. D. COLO. L. Civ. R. 7.1(a) Statement.

The parties met and conferred to attempt to resolve their disputes over the issues raised in this motion on several occasions, beginning on May 9, 2019. Declaration of Michael Scimone in Support of Plaintiffs' Motion to Compel ("Scimone Decl.") ¶ 4. With respect to the Class Merits Notice, GEO explained that its position was that Plaintiffs must seek leave of Court to permit additional Rule 30(b)(6) depositions. *Id.* ¶ 5. Plaintiffs stated their position that the Court had clearly bifurcated class and merits discovery. *Id.* ¶ 6. As to the inspection, GEO objected to the scope of the inspection request and stated its position that it would not permit the inspection to be either photographed or videotaped, citing security concerns. *Id.* ¶ 9. Plaintiffs provided case law supporting their position, and the parties agreed that they would continue to negotiate what areas of the GEO facility would be subject to inspection in an effort to narrow the areas in dispute. *Id.* ¶¶ 11-12.

On May 22, 2019, the parties met and conferred again and confirmed that they were at an impasse with respect to whether GEO would produce a witness for the Class Merits Notice. *Id.* ¶ 8. With respect to Plaintiffs' inspection notice, the parties exchanged proposals for areas of the facility to be included. GEO informed Plaintiffs that it could agree to most of the requested areas, and confirmed that the parties had largely reached agreement with respect to the areas for inspection. *Id.* ¶ 12. Plaintiffs expressed their willingness to blur the faces of any detainees who appeared in the inspection video and to work with GEO on means to address their safety and security concerns, and also reminded GEO of the protective order already in place restricting use

of materials designated “Confidential” or “Highly Confidential” and forbidding their disclosure to the public. *Id.* ¶ 13; *see also* ECF No. 157 (Amended Stipulated Protective Order Concerning Confidential Information). However, GEO maintained the position that no video could be recorded due to security concerns (without further elaboration). *Id.* ¶ 14.

ARGUMENT

I. GEO Must Designate a Witness or Witnesses in Response to Plaintiffs’ Third Amended Rule 30(b)(6) Notice.

A. Rule 30(b)(6) Does Not Limit Plaintiffs to One Deposition of GEO.

GEO’s refusal to produce a Rule 30(b)(6) witness during merits discovery lacks any basis in the Federal Rules. Under Rule 30(b)(6), when a party seeking to depose a corporation announces the subject matter of the proposed deposition, the corporation must designate someone familiar with that subject to testify. *See* Fed. R. Civ. P. 30(b)(6); *Starlight Int’l Inc. v. Herlihy*, No. 97 Civ. 2329, 186 F.R.D. 626, 638 (D. Kan. Jun. 3, 1999). The text of the Rule itself contemplates more than one corporate designee, stating that “[t]he named organization must then designate one *or more* officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify.” Fed. R. Civ. P. 30(b)(6) (emphasis added). Moreover, the drafters of the Federal Rules specifically declined to impose Rule 30(a)’s ten-deposition limit on Rule 30(b)(6) depositions, noting that “a deposition under Rule 30(b)(6) should, for the purposes of this limit, be treated as

a single deposition even though more than one person may be designated to testify.” Fed. R. Civ. P. 30 advisory committee’s note to 1993 amendment.

Leave of court is not required to take a second 30(b)(6) deposition where discovery has been bifurcated into different stages. *See, e.g., Bestop, Inc. v. Tuffy Sec. Prods., Inc.*, No. 13 Civ. 10759, 2015 WL 5025892, at *1 (E.D. Mich. June 23, 2015) (holding that where discovery is bifurcated, failure to depose a 30(b)(6) witness on issues pertaining to a later stage of discovery “certainly is not a waiver of a Rule 30(b)(6) deposition” on those issues), *report and recommendation adopted*, No. 13 Civ. 10759, 2015 WL 5025905 (E.D. Mich. Aug. 25, 2015).

Even in cases where leave has been required, courts generally grant such leave unless: “(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or (iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).” Fed. R. Civ. P. 26(b)(2)(C); *see also Foreclose Mgmt. Co. v. Asset Mgmt. Holdings, LLC*, No. 07 Civ. 2388, 2008 WL 3895474, at *7 (D. Kan. Aug. 21, 2008) (granting motion for leave to take a second 30(b)(6) deposition where the testimony sought “would not be unreasonably cumulative or duplicative and . . . the likely benefit of the testimony outweighs any burden or expense the deposition might impose”). As discussed further below, the topics on which Plaintiffs seek to depose GEO are distinct from previous topics and related to class merits discovery. Further, in this

case, the Court has already approved the parties' scheduling order, which contemplates an additional Rule 30(b)(6) deposition. ECF No. 149 (Scheduling Order) at 18.

B. GEO is Estopped from Withholding 30(b)(6) Testimony in Classwide Merits Discovery.

The Rule 30(b)(6) depositions of Ms. Ceja and Ms. Furst took place during a phase of discovery that the Court expressly limited to class certification. GEO successfully sought to circumscribe the scope of these depositions, and cannot now gain an unfair advantage by using that limitation to bar merits discovery outright. Principles of judicial estoppel provide that, “[w]here a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position, especially if it be to the prejudice of the party who has acquiesced in the position formerly taken by him.” *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (quoting *Davis v. Wakelee*, 156 U.S. 680, 689 (1895)).

Courts considering judicial estoppel apply three factors. *See Johnson v. Lindon City Corp.*, 405 F.3d 1065, 1069 (10th Cir. 2005). First, whether a party's position is “clearly inconsistent” with its earlier position. *Id.* (quoting *New Hampshire*, 532 U.S. at 750). Second, “whether the party has succeeded in persuading a court to accept that party's earlier position.” *Id.* Third, “whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.” *Id.* All three of these factors are met here.

i. GEO's Current Position is Inconsistent with its Prior Agreements.

The parties' intent to limit Plaintiffs' Amended Notice to class certification discovery is evident in the Amended Notice's text, in the parties' extensive negotiations as to discovery throughout the last three-plus years, and in the scheduling orders submitted to and adopted by this Court. The Amended Notice is limited to "policies and practices," because GEO objected to the deposition's original scope. Hood Decl. ¶ 7. In contrast, the Class Merits Notice covers GEO's "application" of its policies to Class Members, including "records and/or logs" of specific "tasks" performed under the Housing Unit Sanitation Policy ("HUSP"), the "nature of administrative or disciplinary segregation," as applied, including specific facilities used for segregation, and Class Members' "participation" in the Voluntary Work Program ("VWP"), including "[d]aily logs or records . . . relating to time Class Members worked" under the VWP, "[j]ob assignments, duties, or tasks" and corresponding "shifts" under the VWP. *Compare* Ex. A (Amended Notice) *with* Ex. G (Class Merits Notice). As explained further below, the Class Merits Notice also contains entirely new topics relevant to merits discovery and missing from the Amended Notice. Until recently, GEO had represented consistently to both Plaintiffs and the Court that different discovery is required now given the current "procedural posture of the case" (i.e., given that a class had been certified and the certification affirmed), Ex. I at 2 (Jan. 28, 2019 letter from N. Beer), and that Plaintiffs would be entitled to a Rule 30(b)(6) deposition on classwide merits discovery, *see* ECF No. 149 (Amended Stipulated Scheduling and Discovery Order) at 18.

ii. GEO Represented to the Court that the Prior Rule 30(b)(6) Depositions Were Limited to Class Certification and the Court Adopted this Position.

GEO's actions meet the second prong of the estoppel analysis because the Court has adopted GEO's representation throughout the litigation that Plaintiffs would be entitled to a Rule 30(b)(6) deposition on classwide merits issues. The Court relied on this position in issuing its scheduling orders. *See Johnson*, 405 F.3d at 1069; *Cuin v. Adams Cty. Bd. of Cty. Comm'rs*, 2011 WL 3236088, at *2 (D. Colo. July 28, 2011) (plaintiffs judicially estopped from seeking additional discovery as to federal claims, where court had granted stay of discovery based on parties' representation that if federal claims were dismissed the only remaining issue would be whether the court should exercise jurisdiction over state law claims). First, the Court allowed an initial stage of discovery focused only on class certification. *See* ECF No. 37 (Minute Order re Joint Proposed Schedule). Second, the Court granted Plaintiffs' unopposed motion to extend discovery to take a Rule 30(b)(6) deposition related to class certification. *See* ECF No. 47 (Minute Order re Second Unopposed Motion for Extension of Time). Third, the Court granted the parties' Amended Stipulated Scheduling and Discovery Order for classwide merits discovery on October 3, 2018, ECF No. 149 (Scheduling Order), which specifically stated that "Plaintiffs will revise and serve an amended Notice of Deposition pursuant to Fed. R. Civ. P. 30(b)(6) related to Plaintiffs' and the Class claims within thirty (30) days of the entry of this Order. The parties plan to work cooperatively to schedule a Rule 30(b)(6) deposition of GEO," *id.* at 18.

iii. GEO's Inconsistent Position Prejudices Plaintiffs.

GEO's change in position forecloses discovery at the heart of Plaintiffs' claims. Plaintiffs relied on GEO's representations that previous Rule 30(b)(6) depositions were for class certification discovery only, and therefore limited the Amended Notice and their questioning of GEO's witnesses accordingly. *Cf. S.M. v. Bloomfield Sch. Dist.*, No. 16 Civ. 823, 2017 WL 3159166, at *5 (D.N.M. Jun. 12, 2017) (judicial estoppel more difficult to establish where plaintiff had not alleged that she detrimentally relied on defendant's prior inconsistent position). Plaintiffs seek testimony about how GEO's policies under the HUSP were applied, which is relevant to Plaintiffs' calculations of damages based on the hours worked and tasks performed by Class Members. That testimony is also relevant to proving that GEO obtained Class Members' labor "by means of force, threats of force, physical restraint, or threats of physical restraint," or "serious harm, or threats of serious harm." 18 U.S.C. § 1589. Finally, discovery about how the VWP was applied is relevant to showing that GEO retained Class Members' labor under unjust circumstances. *See Lewis v. Lewis*, 189 P.3d 1134, 1145 (Colo. 2008) ("[T]o prevail on a claim for unjust enrichment, the plaintiff must show that she conferred a benefit on the defendant 'under circumstances that would make it unjust for defendant to retain the benefit without paying.'").

The Class Merits Notice also covers additional topics not listed in the Amended Notice that are relevant to GEO's defenses. The Class Merits Notice includes topics related to GEO's communications and agreements with ICE, ICE's policies and practices relating to the HUSP and VWP, and ICE's Performance Based National Detention

Standards (“PBNDS”). *See* Ex. G (Class Merits Notice). These topics are relevant to GEO’s merits defense that its policies and practices are contractually required by ICE/the PBNDS and do not violate the TVPA. *See* ECF No. 149 (Scheduling Order) at 4-5. The Class Merits Notice further includes topics related to the “origins and objectives” of the HUSP and VWP and the “costs and benefits” to GEO of using detainee labor under the HUSP and VWP. These topics are relevant to damages and restitution, and to whether GEO “knowingly” obtained Class Members’ services under the TVPA and whether GEO retained the benefit of Class Members’ labor under the VWP under circumstances that were unjust, which are merits issues appropriate to the current phase of discovery.

The Class Merits Notice also covers the method of determining the pay rate for VWP participants at Aurora *and* other GEO facilities, a topic about which GEO did not prepare their witness, Ms. Furst, to testify during class certification discovery. *See* Ex. D (Furst Tr.) at 6:4-12. The pay rate at other GEO facilities is relevant to whether GEO retained the benefit of Class Members’ labor under the VWP under circumstances that were unjust.

Moreover, GEO is currently in the process of producing documents responsive to Plaintiffs’ discovery requests related to the aforementioned merits issues. As noted above, GEO has conceded that prior searches were inadequate and that different discovery was required given the “procedural posture of the case” (i.e., given that a class had been certified and the certification affirmed). Ex. I at 2 (Jan. 28, 2019 letter from N. Beer). Plaintiffs should be permitted to depose GEO about these documents, which may shed further light on the claims and defenses described above.

GEO should not be allowed to derive the benefit of circumscribing previous 30(b)(6) witnesses' testimony without having to eventually designate witnesses to testify about the ultimate merits of the lawsuit. *See Cuin*, 2011 WL 3236088 , at *2 (absent estoppel, plaintiffs would receive unfair advantage because “had plaintiffs taken their current position from the outset, defendants might have preferred that discovery proceed . . . so that all the federal claims could be addressed at the same time” on motion to dismiss); *S.M.*, 2017 WL 3159166, at *5 (“Judicial estoppel is an equitable doctrine and it would not be equitable to allow a defendant to assert facts before one court to promote his self-interests . . . and then assert a completely contradictory set of facts to promote different self-interests”); *Russo v. Ballard Med. Prods.*, No. 05 Civ. 59, 2006 WL 2345868, at *8 (D. Utah Aug. 10, 2006) (where defendant urged court to hold that particular disclosure was covered by confidentiality agreement, and plaintiff amended complaint in reliance on that position and on holding of the court, defendant could not now change positions to seek a “second victory” at the expense of the court and plaintiff).

Because under Rule 30(b)(6), GEO must designate a witness in response to Plaintiffs' Class Merits Notice, because nothing in the Federal Rules or this Court's Local Rules bars Plaintiffs from conducting multiple Rule 30(b)(6) depositions, and because GEO's refusal to designate a Rule 30(b)(6) witness would allow it to benefit unfairly from a new position clearly inconsistent with what it previously represented to the Court and to Plaintiffs, the Court should order GEO to designate a Rule 30(b)(6) witness for classwide merits discovery.

C. Plaintiffs Should Be Reimbursed for Attorneys' Fees and Costs Because GEO's Position is Patently Inconsistent with its Prior Behavior.

As Plaintiffs have set forth above, this is now the third set of counsel with whom Plaintiffs have negotiated post-class certification discovery, and with each change, negotiations have been delayed and GEO's position has shifted. Now, despite having begun negotiations as to the scope of additional 30(b)(6) depositions over a year ago, and despite having represented to the Court that it would work cooperatively with Plaintiffs to schedule such depositions, GEO has changed its position once again, leaving Plaintiffs with no choice but to expend time and resources moving to compel. Accordingly, Plaintiffs request that the Court reimburse Plaintiffs for their fees and costs associated with bringing this Motion to Compel. Fed. R. Civ. P. 37(b)(2)(C) (the court "must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure" to obey a court order). "Rule 37 sanctions must be applied diligently both 'to penalize those whose conduct may be deemed to warrant such a sanction, [and] to deter those who might be tempted to such conduct in the absence of such a deterrent.'" *Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 763-64 (1980) (quoting *National Hockey League v. Metropolitan Hockey Club*, 427 U.S. 639, 643 (1976)); see also *Centennial Archaeology, Inc. v. AECOM, Inc.*, 688 F.3d 673, 682-83 (10th Cir. 2012). Such sanctions are appropriate here.

II. The Importance of a Videotaped Site Inspection Outweighs the Burden to GEO.

A. Courts Balance the Burden of Complying with a Discovery Request Against the Benefit to the Requesting Party.

GEO has no valid basis to oppose Plaintiffs' requested inspection. Pursuant to Rule 26, information is discoverable "regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." *Carmody v. Mikesell*, No. 16 Civ. 2603, 2017 WL 5191802, at *2 (D. Colo. Nov. 9, 2017). Site inspections are contemplated by Fed. R. Civ. P. 34(a)(2), which provides that a request "to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it" is within the scope of the discovery allowed under Rule 26. Inspections are typically allowed where "the specific location relates to the subject matter of the cause of action." *Welzel v. Bernstein*, No. 03 Civ. 1887, 233 F.R.D. 185, 186 (D.D.C. Dec. 30, 2005) (collecting cases and granting motion to compel inspection and allowing photographs or video).

Parties may videotape site inspections "if the benefit of the videotape to the inspecting party outweighs the burden on the inspected party." *Wilson v. Wal-Mart Stores, Inc.*, No. 15 Civ. 1791, 2016 WL 526225, at *2 (D. Nev. Feb. 9, 2016); *E.E.O.C. v. BNSF Ry. Co.*, No. 12 Civ. 2634, 2014 WL 172141, at *4 (D. Kan. Jan. 15, 2014) (permitting videotaped site inspection in ADA discrimination case); *Lujan v. Exide Techs.*, No. 10 Civ. 4023, 2011 WL 1594952, at *6 (D. Kan. Apr. 27, 2011) (permitting videotaped inspection of work site in injury case). "[T]he fact that an objecting party

may have to spend considerable time, effort and expense to respond, or that it may interfere with business operations, is not alone a good reason for barring discovery.” *Green Const. Co. v. Kan. Power & Light Co.*, No. 87 Civ. 2070, 1988 WL 360149, at *2 (D. Kan. Dec. 29, 1988). Rather, the court “must balance the burden on the producing party against the benefit of the discovering party for the information.” *Id.* (citing *Rich v. Martin Marietta Corp.*, 522 F.2d 333 (10th Cir. 1975)).

B. A Videotaped Inspection is Key to Plaintiffs’ Ability to Prove their Claims.

Here, an accurate visual representation of the Aurora facility’s layout will assist Plaintiffs in proving two merits issues in this case. First, Plaintiffs allege and will seek to prove at trial that the vast majority of the uncompensated work Class Members performed under the HUSP falls outside of the personal housekeeping work sanctioned by the PBNDS. *See* ECF No. 49 (Motion to Certify Class) at 4. The PBNDS only requires detainees to “maintain their immediate living areas in a neat and orderly manner by: 1. making their bunk beds daily; 2. stacking loose papers; 3. keeping the floor free of debris and dividers free of clutter; and 4. refraining from hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures or other furniture.” *Id.* at 4-5. Plaintiffs will show that detainees are required to “sweep and mop floors, clean windows and divider walls, clean and scrub sinks, toilets and showers, empty and wash trash receptacles, wipe down equipment surfaces, wipe down mattresses and pillows, and clean up dining areas and common rooms after meals,” and that this requirement violates the PBNDS. *Id.* at 5. The layout of and flow between detainee

living and recreation areas, including bunks, restrooms, showers, dining areas, and common rooms, as well as how detainees use these areas, will show that the HUSP includes cleaning responsibilities far in excess of the PBNDS.

Second, Plaintiffs allege and will seek to prove that GEO's use of solitary confinement and the threat of solitary confinement to compel cleaning under the HUSP violates the forced labor provisions of the TVPA. ECF No. 49 (Motion to Certify Class) at 6-7. A violation of the TVPA requires, *inter alia*, a showing that labor or services were obtained by means of force; physical restraint; serious harm; or threats of force, physical restraint, or serious harm. 18 USC § 1589(a). To prove this violation, Plaintiffs will present evidence about conditions of solitary confinement at Aurora, including the size and state of the cells where detainees were housed for punishment.

C. GEO's Privacy and Security Concerns Are Manageable.

GEO's position that videotaping the inspection creates insurmountable privacy and security concerns is unsupported and outweighed by the importance of such footage to Plaintiffs' case. *See, e.g., Nourse v. Cty. of Jefferson*, No. 17 Civ. 807, 2018 WL 6444226, at *1 (N.D.N.Y. Dec. 10, 2018) (granting motion to compel inspection and take photographs of jail because "any burden would not constitute an undue burden that outweighs the clear relevance of such a visit"). To address GEO's privacy concerns, Plaintiffs have offered to blur out the faces and other identifying details of any detainees who appear in any video. Courts have held that this alleviates privacy concerns in comparable cases. *See, e.g., Dang by & through Dang v. Eslinger*, No. 14 Civ. 37, 2015 WL 13655675, at *4 (M.D. Fla. Jan. 20, 2015) (calling the plaintiff's offer to conceal the

faces of inmates caught on camera during a videotaped jail inspection a “sensible resolution” of the jail’s privacy concerns); *Am. Civil Liberties Union v. Dep’t of Def.*, No. 04 Civ. 4151, 389 F. Supp. 2d 547, 571 (S.D.N.Y. Sept. 29, 2005) (holding that redacted photographs of Department of Defense detainees at Abu Ghraib prison do not represent a “cognizable invasion of personal privacy” (internal quotation marks omitted)). This is particularly true in light of the robust protective order in place in this case. *See* ECF No. 157 (Amended Stipulated Protective Order Concerning Confidential Information); *Dang*, 2015 WL 13655675, at *5 (“[C]onfidentiality is not a basis for withholding [discoverable] information . . . if it can be protected by a protective order . . . restricting access to [that] information.” (quoting *Covad Commc’ns Co. v. Revonet, Inc.*, 258 F.R.D. 5, 11 (D.D.C. 2009))); *see also Nourse*, 2018 WL 6444226, at *1 (“A protective order, for example, can limit access to any photographs to counsel and any retained experts.”).

Furthermore, as the Court in *Dang* observed, “[m]any jails and prisons have allowed members of the news media to enter their facilities to film and take photographs.” 2015 WL 13655675, at *4 (providing examples of maximum-security prisons that have allowed videotaping). Indeed, GEO immigration facilities have allowed outside visitors from the media. *See, e.g.*, Ex. R (Yahoo! News article titled, “Internal review of detainee death reveals medical neglect at a Denver immigration jail,” dated May 19, 2019, available at https://news.yahoo.com/internal-review-reveals-medical-neglect-at-a-denver-immigration-jail-172814367.html?soc_src=hl-viewer&soc_trk=tw, and showing photos inside GEO facilities taken during “media tour[s]” of the facilities). This is because “[a] visit by an outsider, even one armed with a camera, need not create

an unbearable or unmanageable security problem for a correctional institution.” *Dang*, No. 14 Civ. 37, 2015 WL 13655675, at *4.

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court (1) compel GEO to produce a witness or witnesses in response to Plaintiffs’ Class Merits Notice dated November 2, 2018 on a date mutually agreed to by the parties following production of relevant documents; (2) permit inspection of Aurora with video recording; and (3) order GEO to pay the Class’s costs and fees associated with bringing this motion.

Dated this 30th day of May, 2019.

Respectfully submitted,

OUTTEN & GOLDEN LLP

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May, 2019, a true and correct copy of the foregoing **MOTION TO COMPEL** was electronically filed with the Clerk of the Court using the CM/ECF electronic filing system, which will send notification to all counsel of record.

s/ Michael J. Scimone _____

Michael J. Scimone

Certification of Counsel

Pursuant to Fed. R. Civ. P. 37(a)(1), D. Colo. Civ. L.R. 7.1.A, and this Court's Admonition, I hereby certify on behalf of Class Counsel that counsel have in good faith conferred with counsel for GEO in an effort to obtain the requested discovery without court intervention. Class Counsel exchanged several emails and conducted substantive telephone conferrals on or about May 9, 2019 and May 22, 2019 in an effort to resolve the parties' dispute, but to no avail.

s/ Michael J. Scimone

Michael J. Scimone

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

ALEJANDRO MENOCA,
MARCOS BRAMBILA,
GRISEL XAHUENTITLA,
HUGO HERNANDEZ,
LOURDES ARGUETA,
JESUS GAYTAN,
OLGA ALEXAKLINA,
DAGOBERTO VIZGUERRA, and
DEMETRIO VALERGA
on their own behalf and on behalf of all others
similarly situated,

Plaintiffs,

Civil No. 1:14-cv-02887-JLK

v.

THE GEO GROUP, INC.,

Defendant.

**DECLARATION OF MICHAEL SCIMONE IN SUPPORT OF PLAINTIFFS'
MOTION TO COMPEL**

I, Michael Scimone, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an attorney at Outten & Golden LLP, which, together with Towards Justice, the Law Office of R. Andrew Free, Milstein Law Office, The Kelman Buescher Firm, P.C., and Meyer Law Office, P.C., are Plaintiffs' and Class Counsel in this action.

I am an attorney in good standing admitted to practice before this Court.

2. I have been one of the lawyers primarily responsible for the prosecution of Plaintiffs' and the Class's claims in this case.

3. I make the statements in this Declaration based on my personal knowledge and would so testify if called as a witness at trial.

D. Colo. L. Civ. R. 7.1(a) Statement

4. The parties met and conferred to attempt to resolve their disputes over the issues raised in this motion on several occasions, beginning on May 9, 2019.

30(b)(6) Deposition

5. GEO took the position throughout the meet-and-confer process that Plaintiffs were required to seek leave of Court to take a Rule 30(b)(6) deposition, because Plaintiffs previously took a deposition during class certification discovery.

6. Plaintiffs' position was that the Court had clearly bifurcated class and merits discovery, and that the earlier deposition was without prejudice to Plaintiffs' right to take a subsequent deposition on the merits of the case. In addition, Plaintiffs provided GEO's counsel with correspondence from prior GEO counsel objecting to the scope of the earlier class certification deposition on the ground that the noticed topics went beyond the scope of class certification issues.

7. Notwithstanding these exchanges, GEO continued to maintain its position that because there had been no explicit agreement between counsel that the depositions were limited in scope, GEO was not required to designate a 30(b)(6) witness absent a court order requiring it to do so. In a May 17, 2019 letter to Plaintiffs' Counsel, GEO did not rebut Plaintiffs' representation that the prior deposition had been limited in scope, but wrote that, "Plaintiffs did not preserve this issue anywhere in in the Amended Notice of 30(b)(6) deposition served on March 9, 2016, or on the record of the depositions of the

corporate designees already deposed.”

8. On May 22, 2019, the parties met and conferred again and confirmed that they were at an impasse with respect to whether GEO would produce a 30(b)(6) witness.

Site Inspection

9. During the parties’ meet-and-confer efforts, GEO objected to the scope of the inspection request. While it did not object to a site inspection *per se*, GEO objected to the inspection being either photographed or videotaped, citing security concerns.

10. In correspondence dated April 26, 2019, GEO cited portions of its contract with ICE that prohibited disclosure of “sensitive information,” defined by the contract in pertinent part as “any information which could affect the national interest, law enforcement activities, the conduct of federal programs, or the privacy to which individuals are entitled under Title 5, U.S. Code, Section 552a.” GEO’s letter did not elaborate on what “sensitive information” would be disclosed by a site inspection, or why recording that disclosure would be different from an unrecorded disclosure.

11. During the May 9, 2019 conference call, the parties agreed that they would continue to negotiate what areas of the GEO facility would be subject to inspection in an effort to narrow the areas in dispute.

12. In a subsequent exchange of correspondence, the parties exchanged proposals for areas of the facility to be included, and Plaintiffs provided case law supporting their position that the inspection should be videotaped. On a May 22, 2019 call, GEO informed Plaintiffs that it could agree to most of the requested areas, and confirmed that the parties had largely reached agreement with respect to the areas for

inspection pending final confirmation.

13. During the May 22, 2019 call, Plaintiffs offered to blur the faces of any detainees who appeared in the inspection video and to work with GEO on means to address their safety and security concerns. Plaintiffs also reminded GEO of the protective order already in place restricting use of materials designated “Confidential” or “Highly Confidential” and forbidding their disclosure to the public.

14. However, GEO maintained the position that no video could be recorded due to security concerns, notwithstanding any measures to offset those concerns. GEO did not provide any further detail about its specific security concerns in a way that would enable Plaintiffs to offer ways to address them.

Dated: New York, NY
May 30, 2019

Respectfully submitted,

By: /s/Michael Scimone
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Class Counsel

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

ALEJANDRO MENOCA,
MARCOS BRAMBILA,
GRISEL XAHUENTITLA,
HUGO HERNANDEZ,
LOURDES ARGUETA,
JESUS GAYTAN,
OLGA ALEXAKLINA,
DAGOBERTO VIZGUERRA, and
DEMETRIO VALERGA
on their own behalf and on behalf of all others
similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

Civil No. 1:14-cv-02887-JLK

**DECLARATION OF ALEXANDER HOOD IN SUPPORT OF PLAINTIFFS'
MOTION TO COMPEL**

I, Alexander Hood, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an attorney at Towards Justice, which, together with Outten & Golden LLP, the Law Office of R. Andrew Free, Milstein Law Office, The Kelman Buescher Firm, P.C., and Meyer Law Office, P.C., are Plaintiffs' and Class Counsel in this action. I am an attorney in good standing admitted to practice in the State of Colorado and before this Court.

2. I have been one of the lawyers primarily responsible for the prosecution of Plaintiffs' and the Class's claims in this case.

3. I make the statements in this Declaration based on my personal knowledge and would so testify if called as a witness at trial.

Rule 30(b)(6) Depositions

4. On January 12, 2016, Plaintiffs served on GEO a Notice of Deposition under Fed. R. Civ. P. 30(b)(6) (“Original Notice”).

5. GEO objected in January and March 2016 that Plaintiffs’ Original Notice touched on individual, rather than pattern and practice, testimony that GEO argued was not necessary to class certification (and therefore fell outside the scope of the operative scheduling order).

6. The parties conferred by telephone thereafter, and Plaintiffs’ counsel explained that the focus of the deposition(s) would be on GEO’s policies and practices for purposes of class certification, in keeping with the Court’s order.

7. In response to GEO’s objections, Plaintiffs withdrew the Original Notice and served an Amended Notice on March 9, 2016, which limited the topics to the existence of “policies and practices.”

8. Pursuant to this exchange, on March 29, 2016, Plaintiffs deposed GEO’s Rule 30(b)(6) designees Dawn Ceja and Melody Furst.

9. On December 15, 2017, Plaintiffs served a Rule 30(b)(6) notice on GEO as to individual merits discovery only (“Individual Merits Notice”).

10. GEO objected to specific 30(b)(6) topics in the Individual Merits Notice, but did not raise any objection to the Individual Merits Notice itself. Instead, the parties reached an agreement to reframe certain topics and began to try to schedule the

deposition.

11. On February 9, 2018, the Tenth Circuit affirmed class certification. In the interest of efficiency, Plaintiffs did not move forward with the 30(b)(6) deposition as to individual merits discovery.

12. On November 2, 2018, in accordance with the stipulated scheduling and discovery order, Plaintiffs served an amended Rule 30(b)(6) Notice of Deposition for the purposes of merits discovery (“Class Merits Notice”). GEO did not raise an objection to this notice from November 2018 through February 2019, during which time the parties discussed scheduling the noticed 30(b)(6) deposition.

13. During this same time period, the parties also met and conferred several times regarding GEO’s plan to search for and produce class merits discovery.

14. Then, on March 12, 2019, Holland & Knight made an appearance for GEO, and Greenberg Traurig withdrew as counsel. Holland & Knight was the fifth law firm to make an appearance in this action on behalf of GEO. On March 29, 2019, Plaintiffs reached out to GEO’s new counsel to request that the parties move forward with scheduling the 30(b)(6) deposition, with a tentative target date in June 2019.

15. On April 26, 2019, after nearly six months of negotiating the scheduling of the 30(b)(6) deposition and well over a year after Plaintiffs served the first 30(b)(6) notice as to merits discovery, GEO informed Plaintiffs it had reversed course and would refuse to designate a witness.

Requests for Inspection

16. Plaintiffs' First Set of Requests for Inspection was served on GEO on July 31, 2015.

17. GEO objected to the First Set of Requests for Inspection, among other reasons, on the basis that they were not relevant to class certification discovery. No inspection took place at that time.

18. On December 15, 2017, Plaintiffs served a Second Set of Requests for Inspection on GEO that was limited to Plaintiffs' individual claims only. Again, no inspection took place, and the parties agreed that after Plaintiffs amended their request for inspection for the purposes of classwide merits discovery, the parties would work to schedule an inspection of Aurora by Plaintiffs' counsel.

19. Plaintiffs served their amended Second Set of Requests for Inspection ("Second RFI") on GEO on November 2, 2018.

20. Over the following months, the parties met and conferred over the scope of the Second RFI.

21. On December 27, 2018, GEO sent Plaintiffs a letter summarizing its position that any inspection would have to be approved by and scheduled through ICE.

22. Plaintiffs requested that GEO provide the contractual and/or legal basis for its position, and on January 28, 2019, GEO sent a letter to Plaintiffs stating that another letter with additional details on the ICE approval process was forthcoming.

23. Plaintiffs did not receive this letter, or formal responses and objections to the RFI, until April 26, 2019, nearly three months later and after a change in GEO's

counsel.

24. The letter did not identify any specific basis for requiring that any inspection be approved by and scheduled through ICE. Rather, it stated that GEO's contract with ICE generally restricted the improper disclosure of sensitive information, but clarified that no information was being withheld on that basis.

25. GEO objected that the proposed inspection infringed upon the privacy rights and "other statutory, regulatory, and contractually protected rights of individuals who are not party to this litigation," and that due to "privacy and security concerns," photography and videotaping would not be allowed.

Exhibits

26. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiffs' Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated January 12, 2016.

27. Attached hereto as **Exhibit B** is a true and correct copy of the March 9, 2016 email from Shelby Felton regarding GEO's objections and the parties' negotiations as to the scope of the Original Notice.

28. Attached hereto as **Exhibit C** is a true and correct copy of Plaintiffs' Amended Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated March 9, 2016 ("Amended Notice").

29. Attached hereto as **Exhibit D** is a true and correct copy of the transcript of the Rule 30(b)(6) deposition of Melody Furst.

30. Attached hereto as **Exhibit E** is a true and correct copy of Plaintiffs' Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated December 15, 2017 ("Individual

Merits Notice”).

31. Attached hereto as **Exhibit F** is a true and correct copy of the February 16, 2018 letter from Elizabeth Stork to GEO’s counsel.

32. Attached hereto as **Exhibit G** is a true and correct copy of Plaintiffs’ Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated November 2, 2018 (“Class Merits Notice”).

33. Attached hereto as **Exhibit H** is a true and correct copy of the January 9, 2019 email from Naomi Beer to Plaintiffs’ counsel.

34. Attached hereto as **Exhibit I** is a true and correct copy of the January 28, 2019 letter from Naomi Beer to Plaintiffs’ counsel.

35. Attached hereto as **Exhibit J** is a true and correct copy of the April 19, 2019 email from Valerie Brown to Plaintiffs’ counsel.

36. Attached hereto as **Exhibit K** is a true and correct copy of the April 26, 2019 letter from Carolyn Short to Plaintiffs’ counsel.

37. Attached hereto as **Exhibit L** is a true and correct copy of Plaintiffs’ First Set of Discovery Requests, dated July 31, 2015.

38. Attached hereto as **Exhibit M** is a true and correct copy of GEO’s Responses and Objections to First Set of Discovery Requests dated September 23, 2015.

39. Attached hereto as **Exhibit N** is a true and correct copy of Plaintiffs’ Second Set of Requests for Inspection, dated December 15, 2017, and limited to Plaintiffs’ individual claims only.

40. Attached hereto as **Exhibit O** is a true and correct copy of Plaintiffs’

amended Second Set of Requests for Inspection, dated November 2, 2018 (“Second RFI”).

41. Attached hereto as **Exhibit P** is a true and correct copy of the December 27, 2018 letter from Naomi Beer to Plaintiffs’ counsel.

42. Attached hereto as **Exhibit Q** is a true and correct copy of GEO’s Responses and Objections to Plaintiffs’ Second RFI, dated April 26, 2019.

43. Attached hereto as **Exhibit R** is a true and correct copy of a Yahoo! News article titled, “Internal review of detainee death reveals medical neglect at a Denver immigration jail,” dated May 19, 2019, available at https://news.yahoo.com/internal-review-reveals-medical-neglect-at-a-denver-immigration-jail-172814367.html?soc_src=hl-viewer&soc_trk=tw, and showing photos inside GEO facilities taken during “media tour[s]” of the facilities.

Dated: Denver, Colorado
May 30, 2019

Respectfully submitted,

By: /s/Alexander Hood
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Class Counsel

Menocal, et al. v. The Geo Group,

1:14-cv-02887-JLK

Index of Exhibits to Declaration of Alexander Hood in Support of Plaintiffs' Motion to Compel

Exhibit	Description
A	Plaintiffs' Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated January 12, 2016.
B	March 9, 2016 email from Shelby Felton regarding GEO's objections and the parties' negotiations as to the scope of the Original Notice.
C	Plaintiffs' Amended Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated March 9, 2016.
D	Transcript of the Rule 30(b)(6) deposition of Melody Furst, dated March 29, 2016.
E	Plaintiffs' Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated December 15, 2017.
F	February 16, 2018 letter from Elizabeth Stork to GEO's counsel.
G	Plaintiffs' Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated November 2, 2018.
H	January 9, 2019 email from Naomi Beer to Plaintiffs' counsel.
I	January 28, 2019 letter from Naomi Beer to Plaintiffs' counsel.
J	April 19, 2019 email from Valerie Brown to Plaintiffs' counsel.
K	April 26, 2019 letter from Carolyn Short to Plaintiffs' counsel.
L	Plaintiffs' First Set of Discovery Requests, dated July 31, 2015.
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N	Plaintiffs' Second Set of Requests for Inspection, dated December 15, 2017, and limited to Plaintiffs' individual claims only.
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R	Yahoo! News article titled, "Internal review of detainee death reveals medical neglect at a Denver immigration jail," dated May 19, 2019, available at https://news.yahoo.com/internal-review-reveals-medical-neglect-at-a-denver-immigration-jail-172814367.html?soc_src=hl-viewer&soc_trk=tw , and showing photos inside GEO facilities taken during "media tour[s]" of the facilities.

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

NOTICE OF FRCP 30(b)(6) DEPOSITION OF DEFENDANT THE GEO GROUP INC.

TO: Defendant THE GEO GROUP, INC. (hereinafter "Geo").

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6), counsel for Plaintiff will take the deposition of Defendant on 1/26/2016 at 10:00 a.m. at 600 Grant Street, Suite 450 Denver, CO 80203 on the topics detailed below. Geo shall identify the persons who will speak on its behalf on each topic below at least seven days before the deposition(s). This deposition will be taken before a certified court reporter, will be recorded by stenographic means, may be adjourned from day to day until completed, and may occur over several days if more than one person is necessary to provide the information requested.

As used in this Notice, the term "Defendant" means, without limitation, the responding party.

As used in this Notice, the term "You" means the corporate defendant answering these requests, and any person acting on that corporation's behalf.

When you are asked to "identify" a particular employee or person, you are to provide that

person's full name, current or last job title, and current physical work address if still employed by you; if the person is not still employed by you, provide the last known address, phone numbers, e-mail address or other available contact information.

You are advised that you must designate one or more officers, directors, managing agents, or other persons who will testify on your behalf regarding the topics listed here.

TOPICS

1. Policies and practices, over the ten years prior to the filing of this litigation until now, regarding the use of solitary confinement by Geo's Aurora Detention Facility, including but not limited to:
 - a. When and whether solitary confinement is appropriate and the treatment of detainees immediately before, during, and after Geo has committed them to solitary confinement.
 - b. Instances in which solitary confinement has been used at Geo's Aurora Detention Facility.
 - c. Documentation of the use of solitary confinement at Geo's Aurora Detention Facility.
 - d. Policies and practices regarding the training and oversight of Geo employees on matters related to solitary confinement, including discipline of employees relating to their use or threatened use of solitary confinement on detainees.
 - e. Communications with Geo employees regarding the use of solitary confinement, including communications in the course of trainings and communications during the course of employment.
 - f. Communications with detainees regarding the use of solitary confinement, including communications regarding when and whether solitary confinement is appropriate and communications regarding the treatment of detainees immediately before, during, and after Geo has committed them to solitary confinement.
2. Policies and practices, over the ten years prior to the filing of this litigation until now, regarding the Geo Aurora Detention Facility's "Housing Unit Sanitation Policy" and any

other policies regarding detainees' responsibilities to clean Geo property, including but not limited to:

- a. The nature of these policies, the nature and extent of work detainees must perform under these policies, supervision of detainees' work related to these policies, and the consequences for detainees of failing to perform this work and of completing the work successfully.
 - b. The number of detainees who have performed work under these policies or who have been disciplined or threatened with discipline for not performing work under these policies.
 - c. Policies and practices regarding the training and oversight of Geo employees on the "Housing Unit Sanitation Policy" and any other policies regarding detainees' responsibilities to clean Geo property, including discipline of employees relating to their implementation of these policies.
 - d. Communications with Geo employees regarding the "Housing Unit Sanitation Policy" and any other policies regarding detainees' responsibilities to clean Geo property, including communications in the course of trainings and communications during the course of employment.
 - e. Communications with detainees regarding the "Housing Unit Sanitation Policy" and any other policies regarding detainees' responsibilities to clean Geo property.
 - f. Employees, contractors, or others performing work in the Aurora Detention Facility and other Geo facilities that is the same or similar as work performed under the "Housing Unit Sanitation Policy", the scope of their work, and the value of their services.
3. Policies and practices regarding the Voluntary Work Program ("VWP") at Geo's Aurora Detention Facility, over the three years prior to the filing of this litigation until now, including but not limited to:
- a. Selection, pay, work assignments, supervision, and discipline of VWP participants.
 - b. The number of participants in the VWP.
 - c. The quantity, scope, and type of work performed by VWP participants.
 - d. The value of the work performed by VWP participants.

- e. Total compensation paid to VWP participants at the Aurora Detention Facility and paid to VWP participants at other Geo facilities.
- f. Detainee's use of funds obtained through participation in the VWP.
- g. Policies and practices relating to products sold by Geo or Geo contractors to detainees, including but not limited to sanitary products, and phone cards or other means detainees use to communicate with people outside of the facility.
- h. Employees, contractors, or others performing work in the Aurora Detention Facility and other Geo facilities that is the same or similar as work performed under the VWP, the scope of their work, and the value of their services.
- i. Policies and practices regarding the training and oversight of Geo employees on the VWP, including discipline of employees relating to their implementation of the VWP.
- j. Communications with Geo employees regarding the VWP, including communications during the course of trainings and communications during employment.
- k. Communications with detainees regarding the VWP or regarding the value to them of working during their detention.

DATED: 1/12/16

s/Alexander Hood
Alexander Hood
Towards Justice
1535 High St., Suite 300
Denver, CO 80218
Tel.: 720-239-2606
Fax: 303-957-2289
Email: alex@towardsjustice.org

Certificate of Service

On 1/12/2016, I served the forgoing electronically on the following individuals pursuant to FRCP 5:

Attorneys for Defendant

Shelby Felton
Charles Deacon
Mark Emery
David DeMuro

s/Alexander Hood
Alexander Hood
Attorney for the Plaintiff

Exhibit B

**Menocal - 30(b)(6)**

16 messages

Shelby Felton <sfelton@vaughandemuro.com>

Wed, Mar 9, 2016 at 2:11 PM

To: Alex Hood <alex@towardsjustice.org>

Cc: Hans Meyer <hans@themeyerlawoffice.com>, David DeMuro <ddemuro@vaughandemuro.com>, Andrew Free <andrew@immigrantcivilrights.com>, "Emery, Mark" <mark.emery@nortonrosefulbright.com>, Charles Deacon <cdeacon@fulbright.com>, Andrew Turner <aturner@laborlawdenver.com>, Brandt Milstein <brandt@milsteinlawoffice.com>

Gentlemen:

As you know, GEO provided the 30(b)(6) deposition notices to DHS/ICE in order to obtain approval to proceed with the deposition. Attached to this email is the response that GEO received. GEO will produce witnesses to testify, as set forth below, but such testimony will be limited by the attached letter from ICE. If you intend on asking questions outside of policies and procedures and general practices, please tell me and I will file a motion for protective order.

Defendant still objects to several of the topics in the second amended 30(b)(6) notice. First, Defendant objects to the listed topics because they seek discovery beyond class certification issues, but Defendant will agree to going forward with the deposition despite that.

As we already discussed, Defendant objects to any sub-topics that seek information outside of the Aurora facility as the Aurora facility is the only facility at issue in Plaintiffs' complaint. If you want to pursue a 30(b)(6) deposition regarding facilities other than Aurora, please let me know and I will file a motion for protective order on that issue.

Topic 1 is substantially similar to Interrogatories 5 and 6 and Defendant objects to Topic 1 for the same reasons. Defendant continues the objections provided by email on January 12, 2016. Additionally, the Aurora facility does not have "solitary confinement." The Aurora facility does have administrative and disciplinary segregation. However, this topic, as stated, is overbroad because Plaintiffs' claim is limited to the use of administrative segregation in the context of refusing to participate in ICE's sanitation policy and there is no claim related to the use of administrative segregation in any other context. There is also no claim related to the treatment of detainees before, during and after any alleged segregation. Information about the use of administrative segregation outside its application to the sanitation policies is not relevant to any claim or defense in the case and is not proportional to the needs of the case as required by Fed.R.Civ.P. 26(b)(1). If you intend on asking questions regarding the use of administrative segregation outside its application to the sanitation policy, please tell me and I will file a motion for protective order.

As to the use of the word "practices" in relation to Topic 1, as we discussed by phone, we object to testimony regarding the use of segregation in relation to specific detainees. Not only is this overbroad and unduly burdensome due to the number of detainees that have been housed in the facility in the last ten years, such testimony would also be a privacy violation. If you intend on asking such questions, please tell me and I will file a motion for protective order.

Defendant also objects to Topic 1(c) to the extent it seeks information regarding specific employees, for the reasons already stated. If you intend on asking questions about specific employees, please tell me and I will file a motion for protective order.

Defendant objects to Topic 1(d) and 1(c) as overbroad because these sections seek communications for a ten year period of time.

Subject to these limitations, Defendant will designate Dawn Ceja, assistant warden of operations, to testify regarding Topic 1.

Topic 2 is substantially similar to Interrogatories 2, 5, 6, and 7. Defendant objects to Topic 2 based on the objections stated in answer to Interrogatories 2, 5, 6, and 7. Defendant continues the objections provided by email on January 12, 2016. Defendant objects to Topic 2(d) and 2(e) as overbroad because these sections seek communications for a ten year period of time. Defendant also objects because, as stated above, Topic 2(f) seeks information regarding other GEO facilities. Subject to the objections and with the exception of information regarding other facilities, Defendant designates Dawn Ceja for Topic 2.

In relation to Topic 2, if you are going to ask questions regarding specific detainees, specific employees, or other facilities, please tell me and I will file a motion for protective order.

Topic 3 is substantially similar to Interrogatories 1, 3, 6, and Requests for Production 1, 2, and 3. Defendant continues the objections provided by email on January 12, 2016. In relation to Topic 3, if you are going to ask questions regarding specific detainees, specific employees, or other facilities, please tell me and I will file a motion for protective order. Subject to the objections and with the exception of information regarding other facilities, Defendant designates Dawn Ceja and Melody Furst, assistant business manager at the Aurora facility, for Topic 3.

Ms. Ceja is designated to testify regarding the policies and practices generally regarding the selection, work assignments, supervision, and discipline of VWP participants. Ms. Ceja is designated to testify about the contract and policies relating to detainee pay, but not the day-to-day process of such payments. Ms. Ceja is also designated as to the quantity, scope, and type of work performed in the VWP. To the extent such information exists, Ms. Ceja is designated to testify regarding Topic 3(h). Ms. Ceja is also designated as to Topics 3(l) (with the exception of information regarding specific employees), 3(j), and 3(k).

Ms. Furst is designated to testify, based on the reimbursement documents provided on February 26, 2016, regarding: the pay and number of participants in the VWP; the existence and location of any documents containing this information or containing information relevant to determining that number; and total compensation paid to VWP participants at Aurora.

Topics 3(d) and 3(l) are duplicative. To the extent responsive information exists, Defendant will designate both Ms. Ceja and Ms. Furst for this topic.

Ms. Ceja and Ms. Furst can both testify generally about Topics 3(f) and 3(g). Due to the number of detainees in the facility over the three year period of time sought in this topic, Ms. Ceja and Ms. Furst will not be able to testify about specific detainees. Furthermore, specific information regarding each of the named defendants was provided on February 26, 2016.

Ms. Ceja and Ms. Furst are available on March 29. If necessary, Ms. Furst is also available on March 30.

Shelby A. Felton, Esq.

Vaughan & DeMuro

(303) 837-9200 (office)

(303) 345-8023 (cell)

720 S. Colorado Blvd.

North Tower Penthouse

Denver, CO 80246

CONFIDENTIALITY NOTICE: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited.

Exhibit C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

**AMENDED NOTICE OF FRCP 30(b)(6) DEPOSITION OF DEFENDANT THE GEO
GROUP INC.**

TO: Defendant THE GEO GROUP, INC. (hereinafter "Geo").

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6), counsel for Plaintiff will take the deposition of Defendant on 3/29/2016 at 9:30 a.m. at 600 Grant Street, Suite 450 Denver, CO 80203 on the topics detailed below. Geo shall identify the persons who will speak on its behalf on each topic below at least seven days before the deposition(s). This deposition will be taken before a certified court reporter, will be recorded by stenographic means, may be adjourned from day to day until completed, and may occur over several days if more than one person is necessary to provide the information requested.

As used in this Notice, the term "Defendant" means, without limitation, the responding party.

As used in this Notice, the term "You" means the corporate defendant answering these requests, and any person acting on that corporation's behalf.

When you are asked to "identify" a particular employee or person, you are to provide that

person's full name, current or last job title, and current physical work address if still employed by you; if the person is not still employed by you, provide the last known address, phone numbers, e-mail address or other available contact information.

You are advised that you must designate one or more officers, directors, managing agents, or other persons who will testify on your behalf regarding the topics listed here.

TOPICS

1. Policies and practices, over the ten years prior to the filing of this litigation until now, regarding the use of solitary confinement by Geo's Aurora Detention Facility, including but not limited to:
 - a. Policies and practices regarding when and whether solitary confinement is appropriate and the treatment of detainees immediately before, during, and after Geo has committed them to solitary confinement.
 - b. The existence and location of documentation of the use of solitary confinement at Geo's Aurora Detention Facility.
 - c. Policies and practices regarding the training and oversight of Geo employees on matters related to solitary confinement, including discipline of employees relating to their use or threatened use of solitary confinement on detainees.
 - d. Communications with Geo employees regarding policies and practices for the use of solitary confinement, including communications in the course of trainings and communications during the course of employment.
 - e. Communications with detainees regarding policies and practices for the use of solitary confinement, including communications regarding when and whether solitary confinement is appropriate and communications regarding the treatment of detainees immediately before, during, and after Geo has committed them to solitary confinement.
2. Policies and practices, over the ten years prior to the filing of this litigation until now, regarding the Geo Aurora Detention Facility's "Housing Unit Sanitation Policy" and any other policies regarding detainees' responsibilities to clean Geo property, including but not limited to:

- a. The nature of these policies, the nature and extent of work detainees must perform under these policies, supervision of detainees' work related to these policies, and the consequences for detainees of failing to perform this work and of completing the work successfully.
 - b. The number of detainees who have performed work under these policies or who have been disciplined or threatened with discipline for not performing work under these policies and the existence and location of any documents containing this information.
 - c. Policies and practices regarding the training and oversight of Geo employees on the "Housing Unit Sanitation Policy" and any other policies regarding detainees' responsibilities to clean Geo property, including discipline of employees relating to their implementation of these policies.
 - d. Communications with Geo employees regarding the "Housing Unit Sanitation Policy" policies and practices, and any other policies regarding detainees' responsibilities to clean Geo property, including communications in the course of trainings and communications during the course of employment.
 - e. Communications with detainees regarding the "Housing Unit Sanitation Policy" policies and practices, and any other policies regarding detainees' responsibilities to clean Geo property.
 - f. The existence and location of documents regarding employees, contractors, or others performing work in the Aurora Detention Facility and other Geo facilities that is the same or similar as work performed under the "Housing Unit Sanitation Policy", the scope of their work, and the value of their services.
3. Policies and practices regarding the Voluntary Work Program ("VWP") at Geo's Aurora Detention Facility, over the three years prior to the filing of this litigation until now, including but not limited to:
- a. Policies and practices regarding the selection, pay, work assignments, supervision, and discipline of VWP participants.
 - b. The number of participants in the VWP and the existence and location of any documents containing this information or containing information relevant to determining that number.
 - c. The quantity, scope, and type of work performed in the VWP.

- d. The value of the work performed by VWP participants and the existence of location of documents containing information relevant to that value.
- e. Total compensation paid to VWP participants at the Aurora Detention Facility and paid to VWP participants at other Geo facilities.
- f. Detainees' use of funds obtained through participation in the VWP while in detention.
- g. Policies and practices relating to products sold by Geo or Geo contractors to detainees, including but not limited to sanitary products, and phone cards or other means detainees use to communicate with people outside of the facility.
- h. The existence and location of documents regarding employees, contractors, or others performing work in the Aurora Detention Facility and other Geo facilities that is the same or similar as work performed under the VWP, the scope of their work, and the value of their services.
- i. Policies and practices regarding the training and oversight of Geo employees on the VWP, including discipline of employees relating to their implementation of the VWP.
- j. Communications with Geo employees regarding VWP policies and practices, including communications during the course of trainings and communications during employment.
- k. Communications with detainees regarding VWP policies and practices.
- l. The existence and location of documents regarding the value to GEO of detainee work under the VWP.

DATED: 3/9/16

s/Alexander Hood
Alexander Hood
Towards Justice
1535 High St., Suite 300
Denver, CO 80218
Tel.: 720-239-2606
Fax: 303-957-2289
Email: alex@towardsjustice.org

Certificate of Service

On 3/9/2016, I served the forgoing electronically on the following individuals pursuant to FRCP 5:

Attorneys for Defendant

Shelby Felton
Charles Deacon
Mark Emery
David DeMuro

s/Alexander Hood
Alexander Hood
Attorney for the Plaintiff

Exhibit D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:14-cv-02887-JLK

RULE 30(b)(6) DEPOSITION OF:
MELODY JEAN FURST - Volume I
March 29, 2016
The GEO Group, Inc.

ALEJANDRO MENOCA, et al.,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

PURSUANT TO NOTICE, the Rule 30(b)(6) deposition of MELODY JEAN FURST, THE GEO GROUP, INC., was taken on behalf of the Plaintiffs at 600 Grant Street, Suite 450, Denver, Colorado 80203, on March 29, 2016, at 3:08 p.m., before Darcy Curtis, Registered Professional Reporter and Notary Public within Colorado.

A P P E A R A N C E S

For the Plaintiffs:

ANDREW FREE, ESQ.
Law Office of R. Andrew Free
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Nashville, Tennessee 37208

ALEXANDER HOOD, ESQ.
Towards Justice
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Denver, Colorado 80218

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Buescher, Kelman, Perera & Turner, P.C.
600 Grant Street
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Denver, Colorado 80203

For the Defendant:

SHELBY A. FELTON, ESQ.
Vaughan & DeMuro
720 South Colorado Boulevard
Penthouse, North Tower
Denver, Colorado 80246

I N D E X

EXAMINATION OF MELODY JEAN FURST: PAGE
 March 29, 2016 - Volume I

By Mr. Free 4

DEPOSITION EXHIBITS: INITIAL REFERENCE

Exhibit 10 The GEO Group, Inc., Batch Summary, 5/14/14 25

Exhibit 11 E-mail to Hood from Felton, 3/9/16, Subject: Menocal - 30(b)(6), with various e-mails attached 25

Exhibit 12 E-mail to Gentlemen from Felton, 1/12/16, with e-mail attached 28

Exhibit 13 Detainee Grievance Form, Case No. 14-163, with attachment 39

Exhibit 14 Detainee Grievance Form, Case No. 14-189, with attachment 40

DEPOSITION EXHIBITS: (Previously Marked)

Exhibit 1 Amended Notice of FRCP 30(b)(6) Deposition of Defendant The GEO Group, Inc. 10

Exhibit 2 Defendant's Initial 26(a)(1) Disclosures, with attachments 34

Exhibit 9 (CONFIDENTIAL) Letter to Sanchez from Choate, 12/10/12, with attachments 40

1 WHEREUPON, the following proceedings
2 were taken pursuant to the Federal Rules of Civil
3 Procedure.

4 * * * * *

5 MELODY JEAN FURST,
6 having been first duly sworn to state the whole truth,
7 testified as follows:

8 (At this time Mr. Hood was not present.)

9 THE COURT REPORTER: This is Darcy
10 Curtis, the court reporter. It is March 29, 2016, at
11 3:07 p.m. We are on the record. I am with Hunter +
12 Geist, 1900 Grant Street, Suite 1025, Denver, Colorado
13 80203. Present in the room are counsel and the
14 deponent. Parties, please, state your appearances.

15 MR. FREE: Andrew Free for the
16 plaintiffs.

17 MR. TURNER: Andrew Turner for the
18 plaintiffs.

19 MS. FELTON: Shelby Felton for the
20 defendant.

21 EXAMINATION

22 BY MR. FREE:

23 Q. Good afternoon, Ms. Furst.

24 A. Hi.

25 Q. Can you state your full name for the

1 record, please.

2 A. Melody Jean Furst.

3 Q. What is your occupation?

4 A. I am assistant business manager for The
5 GEO Group.

6 Q. Do you understand that you are here today
7 to testify on behalf of The GEO Group about certain
8 subjects?

9 A. Yes.

10 Q. Are you prepared to do so?

11 A. Yes.

12 (At this time Mr. Hood entered the room.)

13 Q. If you would please open your binder to
14 Tab 1. We're going to go to page 3. It's my
15 understanding that you have been designated by The GEO
16 Group to provide testimony today regarding 3 b, the
17 number of participants in the voluntary work program
18 and documents pertaining to that number. Is that your
19 understanding?

20 A. Correct. Yes.

21 Q. Are you prepared to testify on that
22 subject today?

23 A. Yes.

24 Q. It's also my understanding that you are
25 prepared to provide testimony on 3 c?

1 A. Yes.

2 Q. And 3 d?

3 A. Yes.

4 Q. 3 e?

5 MS. FELTON: With the exception of other
6 GEO facilities.

7 MR. FREE: Noted.

8 Q. (BY MR. FREE) But with that exception,
9 which has been lodged through an objection by counsel,
10 you are prepared to provide testimony on topic 3 e
11 today?

12 A. Yes.

13 Q. And 3 f?

14 A. Yes.

15 Q. 3 g?

16 A. Yes.

17 Q. Anything else that you understand you're
18 going to be testifying about today?

19 A. This is -- I mean, this is what I've been
20 brought in for.

21 Q. That's what I thought. Have you ever
22 given a deposition before?

23 A. Years and years and years and years ago.

24 Q. Well, since it's been a while, I'm going
25 to take a second and just walk you through the rules

1 of the road here and what we need to do in order to be
2 efficient and effective with our time and also to make
3 sure that your testimony is clear going forward.

4 Okay.

5 So as I said, I represent the plaintiffs
6 in this case. I'm going to be asking you some
7 questions. You are here to testify on behalf of GEO.
8 You're going to be providing some responses. It's not
9 an endurance contest. I know it's late in the
10 afternoon. If you get tired or you need a restroom
11 break or you need something to drink, please feel free
12 to just tell me. Okay. With one exception, if there
13 is a pending question that has not yet been answered,
14 I would appreciate it if you could provide an answer
15 before we take a break.

16 A. Okay.

17 Q. During those breaks, I would ask that you
18 not consult with your counsel about anything other
19 than whether you're going to assert a privilege not to
20 provide a response. Okay. But anything about your
21 testimony we would ask that you not discuss with your
22 counsel, because you're under oath and it's just like
23 testifying in open court. Okay?

24 A. Okay.

25 Q. If you don't understand a question that I

1 ask, which happens from time to time, I'm going to
2 trust that you will let me know before answering. Is
3 that fair?

4 A. Yes.

5 Q. Okay. If you need me to rephrase a
6 question or if anything is unclear to you, feel free
7 to speak up. I am happy to take another go at it.
8 Fair?

9 A. Fair.

10 Q. Otherwise, if you do answer the question,
11 I'm going to assume and future readers of your
12 deposition are going to assume that you understood the
13 question that I was asking. Do you understand that?

14 A. Yes.

15 Q. Similarly, if you are confused in any way
16 about terminology or any other part of a document that
17 we're looking at, take all of the time you need to
18 review that document and just let me know when you're
19 ready. I will try to guide you toward what we're
20 going to talk about so that you don't spend your time
21 reading a bunch of paper that is not going to be
22 relevant for my question. Okay?

23 A. Okay.

24 Q. But I do want you to feel free to ask for
25 time to look at what we're going to look at. If you

1 get confused, if you get tired, let me know. If you
2 don't understand a question, let me know. And then
3 finally, let's make sure that we don't talk over each
4 other. It's very important that I finish my question
5 and I allow you to finish your answer so that we have
6 a clear understanding of what was said here today.

7 Does that make sense?

8 A. Yes.

9 Q. And to that end, if you're going to
10 provide an answer, please provide an answer out loud
11 and try and use yes or no as opposed to uh-huh or
12 huh-uh, because it looks about the same when you type
13 it. Fair?

14 A. Fair.

15 Q. Do you have any question about any of
16 those instructions?

17 A. No.

18 Q. Great. So you testified long ago. Were
19 you testifying as a GEO employee?

20 A. No.

21 Q. Without telling me anything that you
22 discussed with your attorney, what, if anything, did
23 you do to prepare for today's deposition?

24 A. I just read over the questions or the
25 statements here in the paperwork.

1 Q. You're pointing there to the documents in
2 front of you --

3 A. Page 3 and 4.

4 Q. That was a good example, a good teaching
5 moment. You're pointing there to the documents in
6 front of you which has been previously marked in
7 Ms. Ceja's deposition as Exhibit 1.

8 MR. FREE: We're just going to keep that
9 numbering going --

10 MS. FELTON: Yes, we are.

11 MR. FREE: -- using a common exhibit.

12 MS. FELTON: Yes.

13 Q. (BY MR. FREE) So you're pointing to
14 pages 3 and 4 of Exhibit 1. Okay. So aside from
15 reading over that, did you look at any other
16 documents?

17 A. No.

18 Q. Okay. How long have you been the
19 assistant business manager at the Aurora facility?

20 A. Since May of 2003.

21 Q. Okay. A long time?

22 A. Correct.

23 Q. Who is the business manager?

24 A. Barbara Krumpelmann.

25 Q. Do you want to spell that?

1 A. K-r-u-m-p-e-l-m-a-n-n.

2 Q. Is that who you report to?

3 A. Yes.

4 Q. And where in the chain of command do you
5 two fall? Who does Barbara report to?

6 A. To the warden.

7 Q. What do your duties entail?

8 A. Accounts payable, detainee accounts, I
9 oversee the detainee account clerk, billing, contracts
10 as far as implementing the contract that we have.

11 Q. Anything else?

12 A. No.

13 Q. What is your background professionally?

14 A. I have a construction background. I've
15 done accounting for over 30 years and so that's pretty
16 much everything that I've ever done, has been
17 accounting.

18 Q. Do you have any certifications?

19 A. No, sir.

20 Q. Are you a CPA?

21 A. No, sir.

22 Q. Do you have any specialized training in
23 accounting?

24 A. No, sir.

25 Q. Do you have any degree in accounting?

1 A. No, sir.

2 Q. What is your educational background?

3 A. High school, some college, and work
4 experience.

5 Q. Okay. How many detainees work in the
6 voluntary work program per year?

7 A. I can't respond to per year. It's 80 --
8 we can have up to 80 per day.

9 Q. Why can't you respond to per year?

10 A. Because the turnover is rapid.

11 Q. Is GEO aware of every person who
12 participates in the voluntary work program?

13 A. Yes.

14 Q. Does GEO have the name of each person?

15 A. Yes.

16 Q. Is that in a computer system?

17 A. Yes.

18 Q. Why are you unable to look in that
19 computer system and tell me how many names there are?

20 A. Because it varies.

21 Q. What about for the period of three years
22 prior to the filing of this litigation and now? Do
23 you have any estimate of how many detainees have
24 worked in the voluntary work program?

25 A. No, I don't.

1 Q. You said it's up to 80 people per day?

2 A. Correct.

3 Q. And because of turnover, you're not able
4 to determine the number in total; is that your
5 testimony?

6 A. Yes.

7 Q. Would you say in the three years prior to
8 the filing of this litigation, which happened almost
9 two years ago now, up until now, it's at least several
10 hundred people who have participated in the voluntary
11 work program?

12 A. I would say yes.

13 Q. Would you say that that number exceeds
14 1,000, more or less?

15 A. No.

16 Q. Okay. So you think it's somewhere
17 between several hundred people and 1,000 who have
18 participated in the voluntary work program between
19 three years before the plaintiffs filed their
20 complaint and the present; is that right?

21 A. I would say yes.

22 Q. Okay. That number is knowable, though,
23 correct?

24 A. I can probably pull it up via our
25 software program.

1 Q. What software program is that?

2 A. We have -- it's Keefe Commissary, which
3 is our banking software.

4 Q. And, for instance, could you search for
5 the names of people who participated in the program
6 within a certain period?

7 A. Yes.

8 Q. And then you could maybe put those names
9 in a spreadsheet?

10 A. Yes.

11 Q. And then you could look at the rows on
12 the spreadsheet and figure out how many names there
13 are?

14 A. Correct.

15 Q. But despite being asked to testify today
16 about the number of participants in the voluntary work
17 program, you haven't done that?

18 MS. FELTON: Object to form. I'm the one
19 that designated her. We don't have to create any
20 documents. We don't have to take documents from a
21 software program, put them into a spreadsheet, and
22 count them. There is no document that we can hand to
23 you that has the name of every participant. We gave
24 you the documents that do exist, but you have not
25 included in your deposition notebook, that lists all

1 of the names of all of the people that have
2 participated in the voluntary work program. I think I
3 designated that back to October of 2012.

4 MR. FREE: What is your objection?

5 MS. FELTON: You're telling her that she
6 did not come prepared for the deposition and she did
7 come prepared for the deposition.

8 MR. FREE: I'm just asking her. So what
9 is the legal objection?

10 MS. FELTON: Form.

11 MR. FREE: I would appreciate it,
12 Counsel, if you not engage in further speaking
13 objections.

14 Q. (BY MR. FREE) Were you asked to
15 investigate the number of people who had participated
16 in the voluntary work program in preparing for this
17 deposition?

18 A. No.

19 Q. That's not information that you had in
20 your personal knowledge, correct?

21 A. Correct.

22 Q. Okay. How much has GEO paid, dating back
23 to October of 2012, to detainees participating in the
24 voluntary work program?

25 A. I would have no idea off the top of my

1 head.

2 Q. Well, this shouldn't be coming off the
3 top of your head, because you've been designated to
4 testify, again, at Exhibit 1 about the total
5 compensation paid to voluntary work program
6 participants at the Aurora Detention Facility. I
7 understand your counsel has objected to amounts paid
8 to other facilities. You came here and you told me
9 you were prepared to testify about that and you just
10 told me you have no idea off the top of your head.
11 What steps did you take to become knowledgeable on
12 behalf of The GEO Group about the total compensation
13 paid to voluntary work program participants?

14 MS. FELTON: I'm going to object, because
15 I specifically designated her in my e-mail to you that
16 she would need to testify based on the reimbursement
17 documents provided to you on February 26 regarding the
18 pay that was paid to them.

19 MR. FREE: Does she have those documents?

20 MS. FELTON: I gave them to you on
21 February 26. It was not designated as a subpoena
22 duces tecum.

23 MR. FREE: But she's not here with those
24 documents.

25 MS. FELTON: She doesn't have to be.

1 There was no designation or request for a production
2 of documents in the 30(b)(6) notice.

3 MR. FREE: What's your legal objection?

4 MS. FELTON: You're stating improperly
5 what she was designated to testify for.

6 MR. FREE: Was she designated to testify
7 under 3 e, total compensation paid to VWP participants
8 at the Aurora Detention Facility?

9 MS. FELTON: Yes. And I told you in
10 order to do that, she would need the voluntary work
11 program reimbursement documents that I gave to you.

12 MR. FREE: Why doesn't she have them?

13 MS. FELTON: Because it's not a
14 production request in the 30(b)(6), and I've already
15 given you the documents. You already have them, and
16 they're already Bates labeled.

17 MR. FREE: That's fine. Why has she
18 never seen them before?

19 MS. FELTON: She has seen them before.
20 She's the one that gave them to me.

21 MR. FREE: You're now testifying for her.
22 That's fine.

23 MS. FELTON: You're talking to me.

24 MR. FREE: That's because you're engaging
25 in another speaking objection. I asked you not to do

1 that. I'm asking you -- she told me she has no
2 idea -- off the top of her head she has no idea how
3 much the compensation was paid. Okay. We came here
4 without a subpoena duces tecum expecting oral
5 testimony on the total compensation paid from GEO.

6 Now, if it is your position as the
7 company that we are able to glean that from the
8 documents you provided, fine. But if it is your
9 position she needs to rely upon those documents, then
10 it's your position to make sure she has those
11 documents ready to go. It's your duty to make sure
12 those documents are ready to go.

13 MS. FELTON: I did. I gave them to you
14 on February 26 and I told you that in my e-mail to
15 you. So you could have responded to my e-mail and
16 said bring the documents with you. I told you in my
17 e-mail she would need the documents.

18 MR. FREE: So you knew she would need the
19 documents.

20 MS. FELTON: And I told you that, so you
21 could have responded and told me to bring them with
22 me.

23 MR. FREE: Okay. So what's going to
24 happen if we print the documents? She's going to go
25 through and do the math herself; is that what's going

1 to happen?

2 MS. FELTON: Yes.

3 MR. FREE: Right here, we're going to do
4 that during the deposition. Does she need a
5 calculator?

6 MS. FELTON: Sure.

7 MR. FREE: So that I understand, your
8 February 26 e-mail has informed the plaintiffs that
9 from the documents you provided we will be able to
10 glean the total amount paid?

11 MS. FELTON: Both to the participants
12 themselves and reimbursements received from ICE.

13 MR. FREE: Okay. And do you think we
14 would be able to stipulate about that amount just by
15 going through and adding up the math?

16 MS. FELTON: Yes.

17 MR. FREE: All right.

18 MS. FELTON: Which is also what I said in
19 my supplemental discovery responses. If you would
20 like to go through an example with her, you have it in
21 Tab 11.

22 MR. FREE: I don't know why, in the three
23 months since we've started the process of noticing up
24 these depositions, The GEO Group has not been able to
25 just come up with a number, notwithstanding the fact

1 there are documents and that's my concern. I would
2 like to avoid a situation which we look at the same
3 documents and you say it's one number and I say it's
4 another number. I think we can get that resolved, I
5 really do, if you do. But I was hoping what we could
6 do is have a person who is knowledgeable on behalf of
7 the company to come here and say the number. It's
8 okay. We can work through it.

9 So the plaintiffs are going to object to
10 the record based on the failure of GEO to provide a
11 person who is knowledgeable on the noticed topic of
12 the total compensation to be paid. We understand your
13 position, that you wanted us to bring the records you
14 supplied to us so that your witness could look at
15 those records and come up with the number during the
16 deposition. Do you feel like that's a fair
17 representation of where we just got?

18 MS. FELTON: Yes. That if you had --
19 that she could take what is in Tab 11 -- and I've
20 given you every month -- that she could take from
21 every month and verify that she created all of those
22 documents and that each one of those packets tells you
23 the number of people paid and how much they were paid.

24 MR. FREE: Great. Let's go off the
25 record for just a moment, please, so I can confer with

1 cocounsel.

2 (Recess taken, 3:29 p.m. to 3:40 p.m.)

3 Q. (BY MR. FREE) Ms. Furst, at the
4 suggestion of your counsel, what we're going to do is
5 mark as an electronic exhibit the documents that your
6 counsel has provided to the plaintiffs beginning with
7 GEO_MEN 00001514 and continuing to GEO_MEN 00004559.
8 What we're going to ask you to do, so we can identify
9 the number of participants in the voluntary work
10 program at the Aurora facility pursuant to your
11 counsel's instruction and Section 3 b of the 30(b)(6)
12 deposition notice previously marked as Exhibit 1, is
13 we're going to ask you to start at page 1514 that's
14 going to be projected up here on the screen and tell
15 us what this document is, who created it, what its
16 purpose is, and then I'll ask you some questions.
17 Okay. So let's begin. What is this document? And
18 can you see?

19 A. Yes.

20 Q. Okay. Does it help if I turn the light
21 off?

22 A. No. It's fine.

23 Q. All right.

24 A. That is a batch for detainee pay for --
25 what is it -- 1/13 of '14.

1 Q. For when now?

2 A. Those are the people that worked on,
3 whatever date that is, 1/13 -- or 5/13.

4 MR. FREE: Can we project this a little
5 closer to the witness, please, so she can see. I'm
6 going to move out of the way so she can see, and I'll
7 speak up for the court reporter.

8 Q. (BY MR. FREE) So right now we are
9 looking at Bates No. 1514. Look at the bottom
10 right-hand side of the screen. If you look on the
11 second page, 1515, it reflects 70 people --

12 MR. FREE: Can you go back to it again?
13 Thanks.

14 Q. (BY MR. FREE) All right. So beginning
15 at 1514 -- are you able to see that projected on the
16 wall, Ms. Furst?

17 A. Yes.

18 Q. -- going down to 1515, can you see the
19 number of people who received deposits on May 14,
20 2014?

21 A. It looks like 70.

22 Q. Okay. Does that indicate to you that 70
23 unique individuals received deposits for the voluntary
24 work program on that day?

25 A. It would. There's a possibility that

1 there may be somebody from the day before that payroll
2 may not have been turned in in a timely manner.

3 Q. But based on this, there were 70 people
4 in the voluntary work program on that day?

5 A. Yes.

6 Q. Now, looking at Bates No. 1516, we
7 have -- and 1517 --

8 MR. FREE: Scroll down, please.

9 Q. (BY MR. FREE) -- it reflects 56 people
10 received deposits on May 14, 2014, in this batch; is
11 that right?

12 A. Correct.

13 Q. So these batches were run at the same
14 time, or were they run at different times?

15 A. They're run daily.

16 Q. So 1514 to 1515 says May 14, 2014, at
17 10:28. And then 1515 to 15 -- excuse me. 1516 to
18 1517 says May 15 of 2014 at 11:51. Do you see that?
19 You can follow along on your counsel's computer.

20 A. They're run daily.

21 Q. Okay. So compare these two lists and see
22 if there is anyone on the previous list who is not on
23 the -- anyone on Wednesday's list who is not on
24 Thursday's list. We're going to note for the record
25 that you're going to look off of your counsel's

1 computer so that she can scroll up and down for you.

2 MS. FELTON: Well, yes, and we can't see.

3 We can't see it.

4 MR. FREE: Ms. Furst, what we're going to

5 do is we're going to take that question off the table.

6 We're going to ask that you take a moment and review

7 1517 through 4559 and count the number of people who

8 participated in the voluntary work program according

9 to this document, please. We'll go off the record

10 while she's doing that. At what time?

11 THE COURT REPORTER: 3:49.

12 (Recess taken, 3:49 p.m. to 4:10 p.m.)

13 MS. FELTON: We will stipulate that the

14 documents speak for themselves and state how many

15 participants there were in the voluntary work program.

16 We will not stipulate to a number just because

17 there's -- we can't even estimate. We don't know if

18 200 is a good number. We don't know if a hundred,

19 300, a thousand, and I'm just not comfortable

20 stipulating to any specific number. And we think that

21 we've given -- we think we've met our 30(b)(6)

22 obligation, because we've provided the documents in

23 our supplemental discovery responses, and so you have

24 the same information that we have. And the manner in

25 which to come to that answer is as equally in your

1 hands as it is in mine, and I don't think we have the
2 obligation to do the calculation for you. So we can
3 agree to disagree and just take it up with the court
4 on a motion to compel. But we're not going to -- you
5 asked us to count for each day for the last three
6 years how many participants there were, and we don't
7 think that that's a proper 30(b)(6) question. But,
8 again, we can agree to disagree and bring it up on a
9 motion to compel.

10 MR. FREE: Okay. Thank you, Counsel.
11 We're going to enter as Exhibit 10 -- excuse me --
12 Exhibit 11, because 10 was the electronic exhibit. Go
13 print that out. We'll do just the first page.

14 (Deposition Exhibit 11 was marked.)

15 MS. FELTON: So 10, we're going to just
16 put the --

17 MR. FREE: The first page.

18 MS. FELTON: That will be 10 and this
19 will be 11. Now, the tabs --

20 MR. FREE: They're not going to be
21 sequential.

22 MS. FELTON: I didn't know if the tabs
23 had some meaning.

24 MR. FREE: No, they don't. They're just
25 separators.

1 MS. FELTON: Because when you're telling
2 me to put this in a tab, I didn't know if --

3 MR. FREE: No, they're just separators.
4 We'll go by the exhibits.

5 MS. FELTON: All right.

6 MR. FREE: The plaintiffs are going to
7 enter as Exhibit 11 the March 9, 2016, e-mail from
8 counsel for GEO which says, "Ms. Furst" -- this is on
9 page 2. "Ms. Furst is designated to testify, based on
10 the reimbursement documents provided on February 26,
11 2014, regarding: The pay and number of participants
12 in the voluntary work program, VWP; the existence and
13 location of any documents containing this information
14 or containing information relevant to determining that
15 number; and total compensation paid to VWP
16 participants at Aurora." There is no objection to
17 these topics in this e-mail that I can find. And the
18 e-mail that you referenced from February 26, I
19 believe, is simply an e-mail from you providing us
20 discovery responses that were supplemental to your
21 disclosures or discovery responses from September of
22 2015. This is 10.

23 (Deposition Exhibit 10 was marked.)

24 MR. FREE: It's the plaintiffs' position
25 that GEO's failure to prepare its 30(b)(6) witness has

1 prevented the plaintiffs from obtaining necessary
2 admissions that will be used in their motion for class
3 certification, which was the purpose of this
4 deposition. The deposition notice could not be
5 clearer that one of the topics for deposition would be
6 the number of participants in the voluntary work
7 program and the total amount paid. No objection was
8 made to these.

9 MS. FELTON: Actually, there were lots of
10 objections.

11 MR. FREE: To these subjects, to these
12 particular subjects.

13 MS. FELTON: If you go back to my
14 original.

15 MR. FREE: Of what date? Because you
16 told me there was a February 26 e-mail. There's no
17 26th e-mail regarding objections. There's just the
18 production. We've put the March 9 e-mail in. That's
19 the most recent designation. In that designation, you
20 say you can go back to the January e-mail in which you
21 raised a bunch of objections. For good measure . . .

22 MS. FELTON: So there's the March 9
23 e-mail that contained objections.

24 MR. FREE: To these particular subjects?

25 MS. FELTON: To every subsection that I

1 had an objection to.

2 MR. FREE: Did you move for a protective
3 order?

4 MS. FELTON: No.

5 MR. FREE: Because you referenced it,
6 we'll enter the January 9 e-mail.

7 MS. FELTON: March.

8 MR. FREE: No. We've already entered the
9 January 9 e-mail -- the March 9 e-mail. Excuse me. I
10 meant the January 12 e-mail that you sent with the
11 objections to the previous notice, we'll enter that as
12 Exhibit 12.

13 (Deposition Exhibit 12 was marked.)

14 MR. FREE: That is actually already there
15 at Tab 6. It's at page 2. That's your January 12
16 e-mail.

17 MS. FELTON: This is exhibit what?

18 MR. FREE: 12.

19 MS. FELTON: What happened to March 9?

20 MR. FREE: It's Exhibit 11 and it's at
21 Tab No. -- put that at Tab 6. Thank you.

22 MS. FELTON: Oh, okay.

23 MR. FREE: You see, it's already in
24 there.

25 MS. FELTON: Okay. I thought you were

1 entering -- so you're not entering -- I thought you
2 were entering the . . .

3 MR. FREE: The March 9 e-mail was 11; the
4 January 12 e-mail that you referenced a moment ago is
5 12.

6 MS. FELTON: But not the one where I
7 specifically . . .

8 MR. FREE: If there's additional
9 correspondence that you think is necessary to this,
10 then we can attach it to our motions papers.

11 MS. FELTON: Yes.

12 MR. FREE: We're going to continue with
13 this deposition.

14 MS. FELTON: Yes. It doesn't matter. It
15 doesn't have to be listed as an exhibit here. I can
16 just attach it to the motions practice.

17 MR. FREE: Great.

18 MS. FELTON: That's fine.

19 **Q. (BY MR. FREE) All right. Ms. Furst,**
20 **thank you very much for bearing with us.**

21 A. Not a problem.

22 **Q. You still have your deposition notebook**
23 **in front of you; is that right?**

24 A. Correct.

25 **Q. Great. Is there any reason that you are**

1 not going to be able to testify regarding the rest of
2 the subjects that we've noticed? Putting aside the
3 total pay and the total number of detainees, is there
4 anything else you're not going to be able to testify
5 about today that you've been designated for?

6 A. I don't believe so.

7 Q. Okay. So you're prepared on behalf of
8 GEO to provide the rest of that testimony; is that
9 right?

10 A. Yes.

11 Q. Okay. So 3 c is the quantity, scope, and
12 type of work performed in the voluntary work program.

13 MS. FELTON: Can we go off the record one
14 second?

15 MR. FREE: Sure.

16 (Discussion off the record.)

17 MR. FREE: We are back on the record at
18 4:22. After a brief off-the-record discussion, we
19 have determined that Ms. Furst has been designated to
20 testify regarding topics 3 b, the number of
21 participants in the Visa Waiver Program -- excuse
22 me -- the voluntary work program; c, the quantity,
23 scope, and type of work performed in the VWP; d, the
24 value of the work; f, detainees use of funds obtained
25 through participation; g, policies and practices

1 relating to products sold by GEO or contractors to the
2 detainees, and everything else included in that. Do
3 we agree on that?

4 MS. FELTON: Yes. But let me clarify one
5 clarification. In terms of the value of the work
6 performed, now, you asked Ms. Ceja based on the wage
7 determination. Now, that was not a document that I
8 would have anticipated. I don't know that Ms. Furst
9 is familiar with the wage determination.

10 THE DEPONENT: No.

11 MS. FELTON: Okay. So if that's the way
12 you're valuing the work, then she can't speak to the
13 wage determination.

14 MR. FREE: Okay. Let's start with that
15 then.

16 Q. (BY MR. FREE) So this is topic 3 d, the
17 value of the work performed by the VWP participants
18 and the existence and location of documents containing
19 information relevant to that value. You're prepared
20 to testify about that today subject to what your
21 counsel just said?

22 MS. FELTON: She's not understanding,
23 because there are no documents and there is no
24 valuation. So that's why she's -- answer to the best
25 that you can.

1 A. I can't respond to it.

2 Q. (BY MR. FREE) Okay. Why not?

3 A. Because I don't understand exactly what
4 it is that you're wanting.

5 Q. Okay. Which part is confusing you with
6 regard to the value of the work?

7 A. Value of the work, I can't respond,
8 because I don't know what they consider -- you know,
9 what you consider to be value of the work. It's -- I
10 don't know.

11 Q. All right. If you had to go out and
12 contract on the free market for the labor that
13 voluntary work program detainees perform, do you have
14 any idea how much that would cost?

15 A. No, sir, I do not.

16 Q. You don't know how much GEO pays those
17 detainees under the dollar-a-day program; is that
18 right?

19 MS. FELTON: Object to form.

20 Q. (BY MR. FREE) You don't know how much
21 they pay them per year; you don't know how much GEO
22 has shelled out during this period from October 2012
23 to the present pursuant to the voluntary work program?
24 I think that's what you told me earlier. You don't
25 know the total amount, right?

1 A. I do not.

2 Q. So not only do we not have a benchmark of
3 what you're paying the detainees for the work they're
4 doing, we also don't know -- we don't know what that
5 labor would cost if you had to go and purchase it off
6 the free market; is that right?

7 A. Correct.

8 Q. These detainees, they don't have a
9 contract with the government to perform this work; is
10 that right?

11 A. Correct.

12 Q. They don't have a contract with GEO to
13 perform this work?

14 A. No.

15 Q. They're not subject to the Service
16 Contract Act and the wage determinations within that
17 that's attached to the GEO contract, right?

18 A. I would say no.

19 Q. So in other words, what your counsel was
20 talking about earlier is the wage determination that's
21 attached to the GEO contract that makes sure that GEO
22 employees are being paid the wages under the Service
23 Contract Act; GEO doesn't apply that to the detainees
24 because they don't have a contract to do work with
25 GEO, right?

1 A. Correct.

2 Q. Now, is it your understanding on behalf
3 of The GEO Group that the voluntary work program is
4 applied equally to every single participant and
5 there's no variation participant by participant with
6 regard to how much they're paid?

7 A. It's a set dollar amount.

8 Q. That dollar amount is set according to
9 documents that GEO has received from the government
10 and then provided to the detainees; is that right?

11 A. It's part of our contract.

12 Q. Now, if you would, please, turn to Tab 7.
13 And if you would look at -- this has previously been
14 marked as Exhibit 2 to the Ceja deposition and we'll
15 just continue using it. If you would look at page 2,
16 it says, "GEO_MEN." When you say it's part of our
17 contract, do you see item No. 0004?

18 A. Yes.

19 Q. It says, "Stipend for detainee work
20 program"?

21 A. Yes.

22 Q. And this is what you're talking about?

23 A. Yes.

24 Q. It reads, "Reimbursement for this line
25 item will be at actual cost of \$1.00 per day per

1 **detainee"?**

2 A. Yes.

3 **Q. Who is being reimbursed?**

4 A. We are reimbursed by ICE. We pay, they
5 reimburse.

6 **Q. Okay. You pay the detainees, ICE
7 reimburses you?**

8 A. Correct.

9 **Q. Do you happen to know what's underneath
10 this redaction to the right of this, this quantity?**

11 A. \$1.

12 **Q. Okay. And so it says, "The contractor
13 shall not exceed the quantity shown without prior
14 approval by the contracting officer." Do you see
15 that?**

16 A. Yes.

17 **Q. And underneath that there's some
18 redaction. Do you know what that says underneath
19 there?**

20 A. No.

21 **Q. We don't either. This is the
22 reimbursement that ICE pays GEO, correct?**

23 A. Yes.

24 **Q. Okay. If you would turn to page 15, do
25 you see No. 10 there, "The DHS/ICE PBNDS**

1 (Performance-Based National Detention Standards)"?

2 A. Yes, sir.

3 Q. Go back one page. Do you agree on behalf
4 of GEO that the Performance-Based National Detention
5 Standards are listed as a constraint comprising the
6 statutory, regulatory, policy and operational
7 considerations that will affect the contractor?

8 A. I have no idea what you just said.

9 Q. I'm simply reading the contract and
10 asking you, as a representative of GEO, are you bound
11 by, among other things, the PBNDS listed at No. 10
12 pursuant to this contract?

13 A. Yes.

14 Q. Okay. If you'll turn your attention to
15 No. 46 within Tab 7, Exhibit 2, this has previously
16 been identified as the Performance-Based National
17 Detention Standard on the voluntary work program.
18 Have you ever seen that before?

19 A. No, sir, I have not.

20 Q. Okay. So if you turn to the next page --
21 actually, page 49 and you look at K at the bottom
22 left, it says, "Compensation." Do you see that?

23 A. Yes.

24 Q. At the top continuing in paragraph K, it
25 says, "The compensation is at least \$1.00 per day."

1 Is that right?

2 A. Yes.

3 Q. This is part of the Performance-Based
4 National Detention Standards by which GEO is bound
5 under the contract, right?

6 A. Yes.

7 Q. If you would then move on to page 53, do
8 you see at the top right-hand corner a part of a
9 document that says, "Detainee Work Program
10 (Voluntary)"?

11 A. Yes.

12 Q. As far as you know, is this the policy
13 that is applied uniformly at the Aurora facility?

14 A. Yes, sir.

15 Q. Okay. Please turn to page 60. Have you
16 ever seen this document?

17 A. No, sir, I have not.

18 Q. Does it look like a job description for a
19 dormitory sanitation worker?

20 A. Yes, sir.

21 Q. And does that include -- or is the
22 dormitory sanitation worker among one of the jobs that
23 a detainee could perform under the voluntary work
24 program?

25 A. Yes, sir.

1 Q. And uniformly you would compensate that
2 person \$1 per day for performing this work, correct?

3 A. Yes, sir.

4 Q. Okay. And similarly, if we go to page
5 70, you would uniformly pay the laundry sanitation
6 worker \$1 a day?

7 A. Yes, sir.

8 Q. And similarly, if we go to page 80, you
9 would uniformly pay the facility cleanup worker a
10 dollar a day?

11 A. Yes, sir.

12 Q. If we go to page 105, you would uniformly
13 pay the library sanitation worker a dollar a day; is
14 that right?

15 A. Yes, sir.

16 Q. Similarly at 120, the medical sanitation
17 worker, that person gets a dollar a day too, don't
18 they?

19 A. Yes, sir.

20 Q. Every person who works for the voluntary
21 work program gets a dollar a day, correct?

22 A. Yes.

23 Q. And it is the case, isn't it, that it is
24 GEO's policy that they cannot receive more; is that
25 right?

1 A. Yes.

2 Q. Have you ever responded to a complaint or
3 grievance from a detainee who was participating in the
4 voluntary work program about the amount that they're
5 being paid?

6 A. I don't believe I have.

7 Q. Okay. I would like to turn your
8 attention for a moment to Tab 12. We will mark the
9 three pages at Tab 12 as Exhibit 13 using a continuous
10 number system.

11 (Deposition Exhibit 13 was marked.)

12 Q. Take a look at those three pages. Excuse
13 me. It's only two pages. Sorry. The handwritten
14 statement of the grievance is a bit illegible, but I
15 would like you to read the second page, please.

16 A. "In response to your grievance dated
17 7/23, the finding is: The pricing is approved by ICE.
18 GEO does not set the pricing. ICE tells us what the
19 daily pay is for trustees. I hope this addresses your
20 concerns."

21 Q. Who is that from?

22 A. That is from me.

23 Q. And is that your signature?

24 A. Yes, sir.

25 Q. If you could turn to Tab 13, we will

1 enter these two pages as 14.

2 (Deposition Exhibit 14 was marked.)

3 Q. This will be Exhibit 14 to your
4 deposition. On the second page, do you see a response
5 from you saying, "ICE tells us what the daily pay is
6 for trustees"? Is that right?

7 A. Yes, sir.

8 Q. "GEO does not set the pricing. The
9 pricing is approved by ICE." Is that right?

10 A. Correct.

11 Q. If you could, let's look at Tab 11. This
12 has previously been marked as Exhibit 9 to Ms. Ceja's
13 deposition. Do you recognize the document at Tab 11?

14 A. Yes, sir.

15 Q. What is it?

16 A. It's a monthly billing for the month of
17 November.

18 Q. And this indicates that 1,680 hours of
19 work were performed in the voluntary work program
20 during November 2012, right?

21 MS. FELTON: Object to form.

22 Q. (BY MR. FREE) You can answer the
23 question.

24 A. It's 1680 people.

25 Q. People.

1 A. Not hours.

2 Q. Not hours. That would be --

3 A. That would be a lot.

4 Q. -- somewhere close to a dollar an hour,
5 which is still too low, but we're talking a dollar a
6 day. So this is 1680 shifts?

7 A. Yes.

8 Q. In the month of November 2012, right?

9 A. \$1680 were paid to workers.

10 Q. For eight-hour shifts --

11 MS. FELTON: Object to form.

12 Q. (BY MR. FREE) -- is that right?

13 A. No.

14 Q. No.

15 A. It could be three hours.

16 Q. Okay. I think we've already testified
17 that you can -- you've already told me that if we flip
18 over to page 1612, you can tell how many detainees
19 worked each day using a document like this; is that
20 right?

21 A. Correct.

22 Q. For November 1, that's 60 unique
23 participants; is that right?

24 A. Yes, sir.

25 Q. And based on that, GEO produced the

1 document at 1613, the batch summary of payroll for all
2 60 participants, right?

3 A. Yes, sir.

4 Q. There are 60 lines because there were 60
5 participants, right?

6 A. Yes, sir.

7 Q. No participant is allowed to work more
8 than one shift per day; is that right?

9 A. Yes, sir.

10 Q. This is the consolidated payroll for
11 kitchen, laundry, A pod, B pod, evening kitchen,
12 D pod; is that right?

13 A. Yes, sir.

14 Q. This is created in every payment to a
15 detainee under the voluntary work program, this batch
16 summary, correct?

17 A. Yes, sir.

18 Q. It is using this document or these
19 records that you then seek reimbursement from ICE,
20 correct?

21 A. Yes.

22 Q. The voluntary work program pay is paid
23 almost immediately, correct?

24 A. Yes.

25 Q. Detainees don't wait two weeks for a

1 **paycheck?**

2 A. Absolutely not.

3 **Q. GEO is paying those detainees?**

4 A. Yes.

5 **Q. On basically an immediate basis?**

6 A. Daily.

7 **Q. Daily. Okay. The dollar-a-day rate is**
8 **set forward in GEO policy as well, correct?**

9 A. I believe so.

10 MR. FREE: Let's go off the record.

11 (Recess taken, 4:41 p.m. to 4:43 p.m.)

12 MR. FREE: Let's go back on the record.

13 **Q. (BY MR. FREE) If you could, please, turn**
14 **to Tab 9. I would like you to look at the page marked**
15 **as 1400. Do you recognize this document?**

16 A. Yes, sir.

17 **Q. What is it?**

18 A. It's our policy and procedure.

19 **Q. On what?**

20 A. The work program.

21 **Q. By "the work program," you mean the**
22 **detainee voluntary work program?**

23 A. Yes, sir.

24 **Q. This is uniformly applied to all**
25 **detainees who participate?**

1 A. Yes, sir.

2 Q. At 1402, Section J, it says, "Detainees
3 shall receive a stipend of \$1.00 per day, to be paid
4 daily," correct?

5 A. Yes.

6 Q. Are you responsible for bidding contracts
7 or receiving bids for contracts of people who want to
8 do work for GEO at the Aurora facility?

9 A. No.

10 Q. Who is responsible for that?

11 A. Ms. Krumpelmann.

12 Q. Okay. How many janitors work at the
13 Aurora contract facility?

14 A. One.

15 Q. She only works in the executive office of
16 immigration review area and the ICE area; is that
17 correct?

18 A. EOIR, GEO, and ICE.

19 Q. So GEO's administrative offices?

20 A. Correct.

21 Q. Places where detainees are not allowed?

22 A. Detainees are allowed.

23 Q. So why does she do that work and not a
24 detainee voluntary worker?

25 A. She has detainees that if they want to

1 work, they work.

2 Q. Okay. If you had to pay someone to do
3 her job at the rest of the facility, you would have to
4 pay someone -- if nobody volunteered, in other words,
5 for the detainee voluntary work program, you would
6 have to pay more people, more Danielles, the janitor,
7 to clean the rest of the facility, right?

8 A. Yes, sir.

9 Q. And she makes about 12 or \$13 an hour,
10 right?

11 A. Yes.

12 Q. For that type of work, is it fair to say
13 that the value of the work that the volunteer work
14 program people are contributing is roughly the value
15 of her salary?

16 MS. FELTON: Object to form.

17 A. I would say no.

18 Q. (BY MR. FREE) Why?

19 A. Because they do not work a full eight-
20 hour day.

21 Q. Okay. Even if they work three hours,
22 they're still getting paid less than she gets paid in
23 an hour, right?

24 A. Correct.

25 Q. So hour to hour, why is it that their

1 value is not equal to her value in terms of the
2 services being rendered to GEO?

3 A. I can't respond to that. That's an
4 opinion.

5 Q. No. I'm asking GEO's position on this,
6 which is what you've been called here today to
7 provide. You're not able to do that. You're not able
8 to provide GEO's position on why -- on the value of
9 these services that these voluntary work program
10 detainees perform?

11 A. GEO's position is we're required by the
12 contract to pay them what ICE has stipulated.

13 Q. We understand. My question is what the
14 value of that labor is.

15 A. I can't respond to that.

16 Q. Okay. If you would, please, turn to Tab
17 7 and look at page 62. Do you see that?

18 A. Yes, sir.

19 Q. Is that a detainee voluntary work program
20 agreement?

21 A. I believe it is.

22 Q. Okay. This is the agreement that people
23 in the voluntary work program sign and agree to when
24 they're joining the program; is that right?

25 A. I would say so.

1 Q. This is uniformly employed by GEO for
2 people who are participating in the program; is that
3 right?

4 A. Yes.

5 Q. The names on the list in the batch
6 summary are taken from the daily logs, correct, that
7 the GEO detainees sign?

8 A. Yeah, the daily payroll sheets.

9 Q. And that is uniform within the voluntary
10 work program, correct?

11 A. Yes.

12 Q. What would happen if the voluntary work
13 program did not exist? If detainees did not volunteer
14 to work, how would GEO perform the functions --
15 specifically, what would it cost GEO to perform the
16 functions of these detainees?

17 A. I would say probably the wage
18 determination and officers.

19 Q. We would have to look at the type of
20 function they were performing on the wage
21 determination and look at the salary that you would
22 have to pay someone to come in and do that function;
23 is that right?

24 A. Correct.

25 Q. Okay. And practically speaking, in each

1 department where a voluntary work program detainee
2 works, your staffing plan currently is not such that
3 the facility could operate without the VWP; is that
4 right?

5 MS. FELTON: Object to form.

6 Q. (BY MR. FREE) You can answer. In fact,
7 you must answer.

8 A. Please repeat.

9 Q. Practically speaking, the staffing in
10 each department where a voluntary work program
11 detainee works is such that if it went away, if there
12 were no voluntary work program, that department
13 couldn't run; is that correct?

14 MS. FELTON: Object to form.

15 A. No.

16 Q. (BY MR. FREE) That's incorrect?

17 A. That is incorrect.

18 Q. Would you be able to run the kitchen if
19 there were no voluntary workers?

20 A. Yes.

21 Q. Would you be able to do janitorial if
22 there were no voluntary workers?

23 A. Yes.

24 Q. Would you be able to do the barbershop?

25 A. I don't know.

1 Q. Would you be able to do the library?

2 A. Yes.

3 Q. Medical?

4 A. Yes.

5 Q. Dorm cleanup?

6 A. Yes.

7 Q. Facility cleanup?

8 A. Yes.

9 Q. If there were no voluntary workers, who
10 would do those jobs?

11 A. Officers.

12 Q. At the same staffing level or with
13 additional officers being brought in to do them?

14 MS. FELTON: Object to form.

15 A. It would require additional.

16 Q. (BY MR. FREE) So you would have to pay
17 more people to do that work if there were no voluntary
18 work program, correct?

19 A. I believe so.

20 Q. You would have to pay them at wages set
21 by the wage determination attached to the contract,
22 correct?

23 A. Correct.

24 Q. Okay.

25 MR. FREE: We're losing Mr. Turner for

1 the record.

2 (At this time Mr. Turner left the room.)

3 MR. FREE: I think we're done. Let's go
4 off the record and be sure. Thank you very much for
5 your patience.

6 (Discussion off the record.)

7 MR. FREE: Back on the record.

8 Ms. Furst, I really appreciate you coming this
9 afternoon. We are going to suspend your deposition.
10 What that means is you're going to remain under oath.
11 It's going to be like we're taking a break. And we
12 are going to attempt to reach a resolution on the
13 issue of number of detainees who have worked and also
14 on the amount that's been paid through the voluntary
15 work program. And we may need to take that up with
16 the court. You may need to come back here and testify
17 at some point in the future. I don't know.

18 THE DEPONENT: Okay.

19 MR. FREE: For now you're going to remain
20 under oath. And I'm going to ask you about anything
21 that you were told while you were under oath on these
22 questions the next time we see each other, if we see
23 each other again. Okay?

24 THE DEPONENT: All right.

25 MR. FREE: Those are all of my questions.

1 MS. FELTON: I don't have anything.

2 WHEREUPON, the within proceedings were
3 adjourned at the approximate hour of 4:53 p.m. on the
4 29th day of March, 2016.

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I, MELODY JEAN FURST, do hereby certify that I have read the above and foregoing deposition and that the same is a true and accurate transcription of my testimony, except for attached amendments, if any.

Amendments attached () Yes () No

MELODY JEAN FURST

The signature above of MELODY JEAN FURST was subscribed and sworn to before me in the County of _____, State of Colorado, this _____ day of _____, 2016.

Notary Public
My commission expires

REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, Darcy Curtis, Registered Professional Reporter and Notary Public ID 20064016972, State of Colorado, do hereby certify that previous to the commencement of the examination, the said MELODY JEAN FURST was duly sworn by me to testify to the truth in relation to the matters in controversy between the parties hereto; that the said deposition was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form; that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature this 12th day of April, 2016.

My commission expires May 2, 2018.

 X Reading and Signing was requested.

 Reading and Signing was waived.

 Reading and Signing is not required.

<p style="text-align: center;">A</p> <p>able 13:3 18:7 19:9 19:14,24 22:15 30:1,4 46:7,7 48:18,21,24 49:1 Absolutely 43:2 account 11:9 accounting 11:15 11:17,23,25 accounts 11:8,8 accurate 52:3 Act 33:16,23 Action 1:2 actual 34:25 adding 19:15 additional 29:8 49:13,15 addresses 39:19 adjourned 51:3 administrative 44:19 admissions 27:2 affect 36:7 affixed 53:12 aforesaid 53:8 afternoon 4:23 7:10 50:9 ago 6:23 9:18 13:9 29:4 agree 25:3,8 31:3 36:3 46:23 agreement 46:20 46:22 al 1:7 Alejandro 1:7 52:25 ALEXANDER 2:5 allow 9:5 allowed 42:7 44:21 44:22 Amended 3:17 amendments 52:4 52:6 amount 19:10,14 27:7 32:25 34:7,8 39:4 50:14 amounts 16:7</p>	<p>Andrew 2:3,3,8 4:15,17 answer 7:14 8:10 9:5,10,10 24:25 31:24 40:22 48:6 48:7 answered 7:13 answering 8:2 anticipated 31:8 appearances 4:14 applied 34:4 37:13 43:24 apply 33:23 appreciate 7:14 15:11 50:8 approval 35:14 approved 39:17 40:9 approximate 51:3 April 53:13 area 44:16,16 aside 10:14 30:2 asked 14:15 15:14 17:25 25:5 31:6 53:9 asking 7:6 8:13 15:8 18:1 36:10 46:5 assert 7:19 assistant 5:4 10:19 assume 8:11,12 attach 29:10,16 attached 3:9,11 33:17,21 49:21 52:4,6 attachment 3:13,14 attachments 3:20 3:22 attempt 50:12 attention 36:14 39:8 attorney 9:22 Aurora 10:19 16:6 17:8 21:10 26:16 37:13 44:8,13 Avenue 2:4 avoid 20:2</p>	<p>aware 12:11</p> <p style="text-align: center;">B</p> <p>b 5:16 21:11 30:20 42:11 back 15:3,22 22:12 27:13,20 30:17 36:3 43:12 50:7 50:16 background 11:13 11:14 12:2 banking 14:3 Barbara 10:24 11:5 barbershop 48:24 based 16:16 20:10 23:3 26:9 31:6 41:25 basically 43:5 basis 43:5 batch 3:6 21:24 23:10 42:1,15 47:5 batches 23:13 Bates 17:16 22:9 23:6 bearing 29:20 beginning 21:6 22:14 behalf 1:13 5:7 7:7 16:12 20:6 30:7 34:2 36:3 believe 26:19 30:6 39:6 43:9 46:21 49:19 benchmark 33:2 best 31:24 bidding 44:6 bids 44:7 billing 11:9 40:16 binder 5:13 bit 39:14 bottom 22:9 36:21 Boulevard 2:14 bound 36:10 37:4 break 7:11,15 50:11 breaks 7:17</p>	<p>brief 30:18 bring 18:16,21 20:13 25:8 brought 6:20 49:13 Buescher 2:9 bunch 8:21 27:21 business 5:4 10:19 10:23</p> <p style="text-align: center;">C</p> <p>c 2:1 5:25 30:11,22 calculation 25:2 calculator 19:5 called 46:6 case 3:13,14 7:6 38:23 Ceja 31:6 34:14 Ceja's 10:7 40:12 certain 5:7 14:6 CERTIFICATE 53:1 certification 27:3 certifications 11:18 certify 52:1 53:5,10 chain 11:4 Choate 3:21 CITY 53:3 Civil 1:2 4:2 clarification 31:5 clarify 31:4 class 27:2 clean 45:7 cleanup 38:9 49:5,7 clear 7:3 9:6 clearer 27:5 clerk 11:9 close 41:4 closer 22:5 cocounsel 21:1 college 12:3 Colorado 1:1,14,15 2:7,10,14,15 4:12 52:13 53:2,5 come 15:6,7 19:25 20:7,15 24:25 47:22 50:16 comfortable 24:19 coming 16:2 50:8</p>	<p>command 11:4 commencement 53:5 Commissary 14:2 commission 52:19 53:14 common 10:11 company 18:7 20:7 compare 23:21 compel 25:4,9 compensate 38:1 compensation 16:5 16:12 17:7 18:3,5 20:12 26:15 36:22 36:25 complaint 13:20 39:2 comprising 36:5 computer 12:16,19 23:19 24:1 concern 20:1 concerns 39:20 confer 20:25 CONFIDENTIAL 3:21 confused 8:15 9:1 confusing 32:5 consider 32:8,9 considerations 36:7 consolidated 42:10 constraint 36:5 construction 11:14 consult 7:18 contained 27:23 containing 26:13 26:14 31:18 contest 7:9 continue 29:12 34:15 continuing 21:7 36:24 continuous 39:9 contract 11:10 32:12 33:9,12,16 33:17,21,23,24 34:11,17 36:9,12</p>
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<p>37:5 44:13 46:12 49:21 contracting 35:14 contractor 35:12 36:7 contractors 31:1 contracts 11:9 44:6 44:7 contributing 45:14 controversy 53:6 corner 37:8 correct 5:20 10:22 13:2,23 14:14 15:20,21 23:12 29:24 33:7,11 34:1 35:8,22 38:2 38:21 40:10 41:21 42:16,20,23 43:8 44:4,17,20 45:24 47:6,10,24 48:13 49:18,22,23 correspondence 29:9 cost 32:14 33:5 34:25 47:15 counsel 4:13 6:9 7:18,22 15:12 16:7 21:4,6 25:10 26:8 31:21 33:19 53:10 counsel's 21:11 23:19,25 count 14:22 24:7 25:5 County 52:12 53:3 court 1:1 4:9,10 7:23 22:7 24:11 25:3 50:16 CPA 11:20 create 14:19 created 20:21 21:15 42:14 currently 48:2 Curtis 1:14 4:10 53:4</p> <hr/> <p style="text-align: center;">D</p> <p>d 3:1 6:2 30:23</p>	<p>31:16 42:12 daily 23:15,20 39:19 40:5 43:6,7 44:4 47:6,8 Danielles 45:6 Darcy 1:14 4:9 53:4 date 22:3 27:15 dated 39:16 dating 15:22 day 12:8 13:1 22:24 23:1,4 25:5 34:25 36:25 38:2,6,10 38:13,17,21 41:6 41:19 42:8 44:3 45:20 51:4 52:13 53:13 dc 52:25 defendant 1:11 2:12 3:18 4:20 Defendant's 3:19 degree 11:25 DeMuro 2:13 Denver 1:14 2:7,10 2:15 4:12 53:3 department 48:1 48:10,12 deponent 4:14 31:10 50:18,24 deposition 1:4,13 3:5,16,18 6:22 8:12 9:23 10:7 14:25 15:6,7,17 19:4 20:16 21:12 25:14 26:23 27:4 27:4,5 28:13 29:13,22 34:14 39:11 40:2,4,13 50:9 52:2 53:7 depositions 19:24 deposits 22:19,23 23:10 description 37:18 designated 5:15 14:19 15:3 16:3 16:15,21 17:5,6 26:9 30:5,19</p>	<p>designation 17:1 27:19,19 despite 14:15 detainee 3:12,14 11:8,9 21:24 34:19 35:1 37:9 37:23 39:3 42:15 43:22 44:24 45:5 46:19 48:1,11 detainees 12:5,23 15:23 30:3,24 31:2 32:13,17 33:3,8,23 34:10 35:6 41:18 42:25 43:3,25 44:2,21 44:22,25 46:10 47:7,13,16 50:13 Detention 16:6 17:8 36:1,4,17 37:4 determination 31:7 31:9,13 33:20 47:18,21 49:21 determinations 33:16 determine 13:4 determined 30:19 determining 26:14 DHS/ICE 35:25 different 23:14 disagree 25:3,8 disclosures 3:20 26:21 discovery 19:19 24:23 26:20,21 discuss 7:21 discussed 9:22 discussion 30:16,18 50:6 DISTRICT 1:1,1 document 8:16,18 14:22 21:15,17 24:9 31:7 37:9,16 40:13 41:19 42:1 42:18 43:15 documents 5:18 10:1,5,16 14:20</p>	<p>14:20,24 16:17,19 16:24 17:2,11,15 18:8,9,11,12,16 18:17,19,24 19:9 20:1,3,22 21:5 24:14,22 26:10,13 31:18,23 34:9 doing 24:10 33:4 dollar 34:7,8 38:10 38:13,17,21 41:4 41:5 dollar-a-day 32:17 43:7 Dorm 49:5 dormitory 37:19 37:22 drink 7:11 duces 16:22 18:4 duly 4:6 53:6 duties 11:7 duty 18:11</p> <hr/> <p style="text-align: center;">E</p> <p>e 2:1,1 3:1 6:4,10 17:7 e-mail 3:8,10,11 16:15 18:14,15,17 19:8 26:7,17,18 26:19 27:16,17,18 27:20,23 28:6,9,9 28:10,16 29:3,4 e-mails 3:9 earlier 32:24 33:20 educational 12:2 effective 7:2 efficient 7:2 eight- 45:19 eight-hour 41:10 either 35:21 electronic 21:5 25:12 employed 47:1 53:10 employee 9:19 employees 33:22 endurance 7:9 engage 15:12 engaging 17:24</p>	<p>entail 11:7 enter 25:11 26:7 28:6,11 40:1 entered 5:12 28:8 entering 29:1,1,2 EOIR 44:18 equal 46:1 equally 24:25 34:4 ESQ 2:3,5,8,13 estimate 12:23 24:17 et 1:7 evening 42:11 exactly 32:3 examination 3:2 4:21 53:5 example 10:4 19:20 exceed 35:13 exceeds 13:13 exception 6:5,8 7:12 excuse 23:17 25:11 28:9 30:21 39:12 executive 44:15 exhibit 3:6,8,10,12 3:14,17,19,21 10:7,11,14 16:4 21:5,12 25:11,12 25:12,14 26:7,23 28:12,13,17,20 29:15 34:14 36:15 39:9,11 40:2,3,12 exhibits 3:5,16 26:4 exist 14:24 47:13 existence 26:12 31:18 expecting 18:4 experience 12:4 expires 52:19 53:14</p> <hr/> <p style="text-align: center;">F</p> <p>f 6:13 30:24 facilities 6:6 16:8 facility 10:19 16:6 17:8 21:10 37:13 38:9 44:8,13 45:3 45:7 48:3 49:7 fact 19:25 48:6</p>
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<p>failure 20:10 26:25 fair 8:3,8,9 9:13,14 20:16 45:12 fall 11:5 familiar 31:9 far 11:10 37:12 February 16:17,21 18:14 19:8 26:10 26:18 27:16 Federal 4:2 feel 7:11 8:6,24 20:16 Felton 2:13 3:8,11 4:19,19 6:5 10:10 10:12 14:18 15:5 15:10 16:14,20,25 17:4,9,13,19,23 18:13,20 19:2,6 19:11,16,18 20:18 24:2,13 25:15,18 25:22 26:1,5 27:9 27:13,22,25 28:4 28:7,17,19,22,25 29:6,11,14,18 30:13 31:4,11,22 32:19 40:21 41:11 45:16 48:5,14 49:14 51:1 figure 14:12 filed 13:19 filing 12:22 13:8 finally 9:3 find 26:17 finding 39:17 fine 17:17,22 18:8 21:22 29:18 finish 9:4,5 first 4:6 25:13,17 flip 41:17 follow 23:19 following 4:1 follows 4:7 foregoing 52:2 53:8 form 3:12,14 14:18 15:10 32:19 40:21 41:11 45:16 48:5 48:14 49:14 53:8</p>	<p>forward 7:3 43:8 FRCP 3:17 free 2:3,3 3:3 4:15 4:15,22 6:7,8 7:11 8:6,24 10:8,11,13 15:4,8,11,14 16:19,23 17:3,6 17:12,17,21,24 18:18,23 19:3,7 19:13,17,22 20:24 21:3 22:4,8,12,14 23:8,9 24:4 25:10 25:17,20,24 26:3 26:6,24 27:11,15 27:24 28:2,5,8,14 28:18,20,23 29:3 29:8,12,17,19 30:15,17 31:14,16 32:2,12,20 33:6 40:22 41:12 43:10 43:12,13 45:18 48:6,16 49:16,25 50:3,7,19,25 front 10:2,6 29:23 full 4:25 45:19 function 47:20,22 functions 47:14,16 funds 30:24 Furst 1:4,13 3:2 4:5,23 5:2 21:3 22:16 24:4 26:8,9 29:19 30:19 31:8 50:8 52:1,8,11 53:6 further 15:12 53:10 future 8:11 50:17</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>g 6:15 30:25 Geist 4:12 Gentlemen 3:10 GEO 1:5,10,13 3:6 3:18 5:5,7,15 6:6 7:7 9:19 12:11,14 15:22 16:12 18:5 19:24 20:10 26:8 30:8 31:1 32:16</p>	<p>32:21 33:12,17,21 33:21,23,25 34:3 34:9 35:22 36:4 36:10 37:4 39:18 40:8 41:25 43:3,8 44:8,18 46:2 47:1 47:7,14,15 GEO's 26:25 38:24 44:19 46:5,8,11 GEO_MEN 21:7,7 34:16 getting 45:22 given 6:22 17:15 20:20 24:21 53:9 glean 18:7 19:10 go 5:14 8:7 18:11 18:12,24 19:20 20:24 22:12 24:9 25:12 26:4 27:13 27:20 30:13 32:11 33:5 36:3 38:4,8 38:12 43:10,12 50:3 going 5:14 6:18,24 7:3,6,8,19 8:1,11 8:12,20,21,25 9:9 10:8,9 16:14 18:23,24,25 19:3 19:15 20:9 21:4,8 21:13,14 22:6,18 23:24,25 24:4,5,6 25:4,11,15,20 26:6 29:12 30:1,4 50:9,10,11,12,19 50:20 good 4:23 10:4,4 24:18 27:21 government 33:9 34:9 Grant 1:13 2:9 4:12 Great 9:18 20:24 29:17,25 grievance 3:12,14 39:3,14,16 Group 1:5,10,13 3:6,18 5:5,7,16</p>	<p>16:12 19:24 34:3 guide 8:19</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>H 2:8 hand 14:22 hands 25:1 handwritten 39:13 happen 18:24 19:1 35:9 47:12 happened 13:8 28:19 happens 8:1 happy 8:7 head 16:1,3,10 18:2 help 21:20 hereto 53:7 Hi 4:24 High 2:6 12:3 Hood 2:5 3:8 4:8 5:12 hope 39:19 hoping 20:5 hour 41:4 45:9,20 45:23,25,25 51:3 hours 40:18 41:1,2 41:15 45:21 huh-uh 9:12 hundred 13:10,17 24:18 Hunter 4:11</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>ICE 19:12 35:4,6 35:22 39:17,18 40:5,9 42:19 44:16,18 46:12 ID 53:4 idea 15:25 16:10 18:2,2 32:14 36:8 identified 36:16 identify 21:8 illegible 39:14 immediate 43:5 immediately 42:23 immigration 44:16 implementing 11:10</p>	<p>important 9:4 improperly 17:4 include 37:21 included 14:25 31:2 incorrect 48:16,17 indicate 22:22 indicates 40:18 individuals 22:23 information 15:19 24:24 26:13,14 31:19 informed 19:8 Initial 3:5,19 instance 14:4 instruction 21:11 instructions 9:16 interested 53:11 investigate 15:15 issue 50:13 item 34:17,25</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>J 44:2 janitor 45:6 janitorial 48:21 janitors 44:12 January 27:20 28:6 28:9,10,15 29:4 Jean 1:4,13 3:2 4:5 5:2 52:1,8,11 53:5 job 37:18 45:3 jobs 37:22 49:10 joining 46:24 Justice 2:6</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>K 36:21,24 K-r-u-m-p-e-l-m... 11:1 Keefe 14:2 keep 10:8 Kelman 2:9 kitchen 42:11,11 48:18 knew 18:18 know 7:9 8:2,18 9:1,2 19:22 24:17</p>
--	---	--	---	---

<p>24:18 25:22 26:2 31:8 32:8,8,10,16 32:20,21,25 33:4 33:4 35:9,18 37:12 48:25 50:17 knowable 13:22 knowledge 15:20 knowledgeable 16:11 20:6,11 Krumpelmann 10:24 44:11</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>labeled 17:16 labor 32:12 33:5 46:14 late 7:9 laundry 38:5 42:11 Law 2:3 left 36:22 50:2 legal 15:9 17:3 let's 9:3 20:24 21:17 31:14 40:11 43:10,12 50:3 Letter 3:21 level 49:12 library 38:13 49:1 light 21:20 line 34:24 lines 42:4 list 23:22,23,24 47:5 listed 29:15 36:5,11 lists 14:25 23:21 litigation 12:22 13:8 53:11 little 22:4 location 26:13 31:18 lodged 6:9 logs 47:6 long 9:18 10:18,21 look 8:25,25 10:15 12:18 14:11 20:2 20:14 22:9,10 23:25 34:13,15 36:21 37:18 39:12 40:11 43:14 46:17</p>	<p>47:19,21 looking 8:17 22:9 23:6 looks 9:12 22:21 losing 49:25 lot 41:3 lots 27:9 loud 9:10 low 41:5</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>machine 53:7 manager 5:4 10:19 10:23 manner 23:2 24:24 March 1:5,14 3:2 4:10 26:7 27:18 27:22 28:7,9,19 29:3 51:4 mark 21:5 39:8 marked 3:16 10:6 21:12 25:14 26:23 28:13 34:14 39:11 40:2,12 43:14 market 32:12 33:6 math 18:25 19:15 matter 29:14 matters 53:6 mean 6:19 43:21 meaning 25:23 means 50:10 meant 28:10 measure 27:21 medical 38:16 49:3 Melody 1:4,13 3:2 4:5 5:2 52:1,8,11 53:5 Menocal 1:7 3:8 52:25 met 24:21 mine 25:1 moment 10:5 20:25 24:6 29:4 39:8 month 20:20,21 40:16 41:8 monthly 40:16 months 19:23 motion 25:4,9 27:2</p>	<p>motions 29:10,16 move 22:6 28:2 37:7</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N 2:1 3:1 name 4:25 12:14 14:23 names 12:19 14:5,8 14:12 15:1 47:5 Nashville 2:4 National 36:1,4,16 37:4 necessary 27:1 29:9 need 7:1,10,11 8:5 8:17 16:16 17:10 18:17,18 19:4 50:15,16 needs 18:9 never 17:18 North 2:4,14 Notary 1:15 52:19 53:4 note 23:24 notebook 14:25 29:22 Noted 6:7 notice 1:12 3:17 17:2 21:12 27:4 28:11 noticed 20:11 30:2 noticing 19:23 notwithstanding 19:25 November 40:17 40:20 41:8,22 number 5:17,18 13:4,13,22 14:16 15:15 19:25 20:3 20:4,7,15,23 21:9 22:19 24:7,16,18 24:20 26:11,15 27:6 30:3,20 39:10 50:13 numbering 10:9</p> <hr/> <p style="text-align: center;">O</p> <hr/>	<p>oath 7:22 50:10,20 50:21 object 14:18 16:14 20:9 32:19 40:21 41:11 45:16 48:5 48:14 49:14 objected 16:7 objection 6:9 15:4 15:9 17:3,25 26:16 27:7 28:1 objections 15:13 27:10,17,21,23 28:11 obligation 24:22 25:2 obtained 30:24 obtaining 27:1 occupation 5:3 October 15:3,23 32:22 off-the-record 30:18 office 2:3 44:15 officer 35:14 officers 47:18 49:11,13 offices 44:19 Oh 28:22 okay 7:4,12,16,20 7:23,24 8:5,22,23 10:14,18,21 12:5 13:16,22 15:22 18:3,23 19:13 20:8 21:17,20 22:22 23:21 25:10 28:22,25 30:7,11 31:11,14 32:2,5 35:6,12,24 36:14 36:20 37:15 38:4 39:7 41:16 43:7 44:12 45:2,21 46:16,22 47:25 49:24 50:18,23 open 5:13 7:23 operate 48:3 operational 36:6 opinion 46:4</p>	<p>opposed 9:11 oral 18:4 order 7:1 17:10 28:3 original 27:14 outcome 53:11 oversee 11:9</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 2:1,1 P.C 2:9 p.m 1:14 4:11 21:2 21:2 24:12,12 43:11,11 51:3 packets 20:22 page 3:2 5:14 10:3 21:13 22:11 25:13 25:17 26:9 28:15 34:15 35:24 36:3 36:20,21 37:7,15 38:4,8,12 39:15 40:4 41:18 43:14 46:17 pages 10:14 39:9 39:12,13 40:1 paid 15:22 16:5,7 16:13,18 17:7 18:3,5 19:10 20:12,23,23 26:15 27:7 33:22 34:6 39:5 41:9 42:22 44:3 45:22,22 50:14 paper 8:21 papers 29:10 paperwork 9:25 paragraph 36:24 part 8:16 32:5 34:11,16 37:3,8 participant 14:23 34:4,5,5 42:7 participants 5:17 14:16 16:6,13 17:7 19:11 21:9 24:15 25:6 26:11 26:16 27:6 30:21 31:17 41:23 42:2 42:5</p>
--	---	---	--	---

<p>participate 43:25 participated 13:10 13:18 14:5 15:2 15:15 24:8 participates 12:12 participating 15:23 39:3 47:2 participation 30:25 particular 27:12,24 parties 4:14 53:7 53:10 patience 50:5 pay 16:18 21:24 26:11 30:3 32:21 35:4,6 38:5,9,13 39:19 40:5 42:22 45:2,4,6 46:12 47:22 49:16,20 payable 11:8 paycheck 43:1 paying 33:3 43:3 payment 42:14 payroll 23:1 42:1 42:10 47:8 pays 32:16 35:22 PBNDs 35:25 36:11 pending 7:13 Penthouse 2:14 people 13:1,10,17 14:5 15:1,15 20:23 22:2,11,19 23:3,9 24:7 40:24 40:25 44:7 45:6 45:14 46:22 47:2 49:17 Perera 2:9 perform 32:13 33:9 33:13 37:23 46:10 47:14,15 Performance-Ba... 36:1,4,16 37:3 performed 30:12 30:23 31:6,17 40:19 performing 38:2 47:20</p>	<p>period 12:21 14:6 32:22 person 12:11,14 20:6,11 38:2,17 38:20 personal 15:20 pertaining 5:18 place 53:7 Places 44:21 plaintiffs 1:8,13 2:2 4:16,18 7:5 13:19 19:8 20:9 21:6 26:6 27:1 plaintiffs' 26:24 plan 48:2 please 4:14 5:1,13 7:11 9:10 20:25 22:5 23:8 24:9 34:12 37:15 39:15 43:13 46:16 48:8 pod 42:11,11,12 point 50:17 pointing 10:1,5,13 policies 30:25 policy 36:6 37:12 38:24 43:8,18 position 18:6,9,10 20:13 26:24 46:5 46:8,11 possibility 22:25 practically 47:25 48:9 practice 29:16 practices 30:25 prepare 9:23 26:25 prepared 5:10,21 5:25 6:10 15:6,7 16:9 30:7 31:19 preparing 15:16 present 4:8,13 13:20 32:23 pretty 11:15 prevented 27:1 previous 23:22 28:11 53:5 previously 3:16 10:6 21:12 34:13</p>	<p>36:15 40:12 pricing 39:17,18 40:8,9 print 18:24 25:13 prior 12:22 13:7 35:13 privilege 7:19 probably 13:24 47:17 problem 29:21 procedure 4:3 43:18 proceedings 4:1 51:2 53:9 process 19:23 produced 41:25 production 17:1,14 27:18 products 31:1 Professional 1:15 53:4 professionally 11:13 program 5:17 12:6 12:12,24 13:11,18 13:25 14:1,5,17 14:21 15:2,16,24 16:5,13 17:11 21:10 22:24 23:4 24:8,15 26:12 27:7 30:12,21,22 32:13,17,23 34:3 34:20 36:17 37:9 37:24 38:21 39:4 40:19 42:15,22 43:20,21,22 45:5 45:14 46:9,19,23 46:24 47:2,10,13 48:1,10,12 49:18 50:15 project 22:4 projected 21:14 22:15 proper 25:7 protective 28:2 provide 5:16,25 6:10 7:14,20 9:10</p>	<p>9:10 20:10 30:8 46:7,8 provided 16:17 18:8 19:9 21:6 24:22 26:10 34:10 providing 7:8 26:19 Public 1:15 52:19 53:4 pull 13:24 purchase 33:5 purpose 21:16 27:3 pursuant 1:12 4:2 21:10 32:23 36:12 put 14:8,21 25:16 26:2 27:18 28:21 Putting 30:2</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quantity 30:11,22 35:10,13 question 7:13,25 8:6,10,13,22 9:2,4 9:15 24:5 25:7 40:23 46:13 questions 7:7 9:24 21:16 50:22,25 53:9</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 2:1,3 raised 27:21 rapid 12:10 rate 43:7 reach 50:12 read 9:24 39:15 52:2 readers 8:11 reading 8:21 10:15 36:9 53:16,17,18 reads 34:24 ready 8:19 18:11 18:12 really 20:5 50:8 reason 29:25 receive 38:24 44:3 received 19:12 22:19,23 23:10</p>	<p>34:9 receiving 44:7 Recess 21:2 24:12 43:11 recognize 40:13 43:15 record 4:11 5:1 20:10,25 23:24 24:9 30:13,16,17 43:10,12 50:1,4,6 50:7 records 20:13,15 42:19 redaction 35:10,18 reduced 53:8 REFERENCE 3:5 referenced 26:18 28:5 29:4 reflects 22:11 23:9 regard 32:6 34:6 regarding 5:16 16:17 26:11 27:17 30:1,20 Registered 1:15 53:4 regulatory 36:6 reimburse 35:5 reimbursed 35:3,4 reimbursement 16:16 17:11 26:10 34:24 35:22 42:19 reimbursements 19:12 reimburses 35:7 related 53:10 relating 31:1 relation 53:6 relevant 8:22 26:14 31:19 rely 18:9 remain 50:10,19 rendered 46:2 repeat 48:8 rephrase 8:5 report 11:2,5 reporter 1:15 4:9 4:10 22:7 24:11</p>
---	--	---	---	---

<p>53:4 REPORTER'S 53:1 represent 7:5 representation 20:17 representative 36:10 request 17:1,14 requested 53:16 require 49:15 required 46:11 53:18 resolution 50:12 resolved 20:4 respond 12:7,9 32:1,7 46:3,15 responded 18:15 18:21 39:2 response 7:20 39:16 40:4 responses 7:8 19:19 24:23 26:20 26:21 responsible 44:6,10 rest 30:1,8 45:3,7 restroom 7:10 review 8:18 24:6 44:16 right 13:20 19:3,17 21:23 22:8,14 23:11 26:5 29:19 29:23 30:9 32:11 32:18,25 33:6,10 33:17,25 34:10 35:10 37:1,5 38:14,25 40:6,9 40:20 41:8,12,20 41:23 42:2,5,8,12 45:7,10,23 46:24 47:3,23 48:4 50:24 right-hand 22:10 37:8 road 7:1 room 4:13 5:12 50:2</p>	<p>roughly 45:14 rows 14:11 Rule 1:4,12 rules 4:2 6:25 run 23:13,14,15,20 48:13,18</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 2:1 salary 45:15 47:21 Sanchez 3:21 sanitation 37:19,22 38:5,13,16 saying 40:5 says 23:16,18 26:8 34:16,19 35:12,18 36:22,25 37:9 44:2 school 12:3 scope 30:11,23 screen 21:14 22:10 scroll 23:8 24:1 search 14:4 second 6:25 22:11 30:14 39:15 40:4 Section 21:11 44:2 see 21:18 22:5,6,15 22:18 23:18,21 24:2,3 28:23 34:17 35:14,25 36:22 37:8 40:4 46:17 50:22,22 seek 42:19 seen 17:18,19 36:18 37:16 sense 9:7 sent 28:10 separators 25:25 26:3 September 26:21 sequential 25:21 Service 33:15,22 services 46:2,9 set 34:7,8 39:18 40:8 43:8 49:20 sheets 47:8 Shelby 2:13 4:19 shelled 32:22</p>	<p>shift 42:8 shifts 41:6,10 shorthand 53:7 shown 35:13 side 22:10 sign 46:23 47:7 signature 39:23 52:11 53:13 Signing 53:16,17 53:18 similarly 8:15 38:4 38:8,16 simply 26:19 36:9 single 34:4 sir 11:19,21,24 12:1 32:15 36:2 36:19 37:14,17,20 37:25 38:3,7,11 38:15,19 39:24 40:7,14 41:24 42:3,6,9,13,17 43:16,23 44:1 45:8 46:18 situation 20:2 software 13:25 14:1,3,21 sold 31:1 somebody 23:1 Sorry 39:13 South 2:14 speak 8:7 22:7 24:14 31:12 speaking 15:12 17:25 47:25 48:9 specialized 11:22 specific 24:20 specifically 16:15 29:7 47:15 spell 10:25 spend 8:20 spreadsheet 14:9 14:12,21 ss 53:2 staffing 48:2,9 49:12 Standard 36:17 Standards 36:1,5</p>	<p>37:4 start 21:13 31:14 started 19:23 state 4:6,14,25 24:14 52:13 53:2 53:4 statement 39:14 statements 9:25 STATES 1:1 stating 17:4 statutory 36:6 steps 16:11 stipend 34:19 44:3 stipulate 19:14 24:13,16 stipulated 46:12 stipulating 24:20 Street 1:14 2:6,9 4:12 subject 3:8 5:22 31:20 33:15 subjects 5:8 27:11 27:12,24 30:2 subpoena 16:21 18:4 subscribed 52:12 subsection 27:25 suggestion 21:4 Suite 1:14 2:7,10 4:12 summary 3:7 42:1 42:16 47:6 supplemental 19:19 24:23 26:20 supplied 20:14 sure 7:3 9:3 18:10 18:11 19:6 30:15 33:21 50:4 suspend 50:9 sworn 4:6 52:12 53:6 system 12:16,19 39:10</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tab 5:14 19:21 20:19 26:2 28:15 28:21,21 34:12</p>	<p>36:15 39:8,9,25 40:11,13 43:14 46:16 table 24:5 tabs 25:19,22 take 6:25 7:15 8:7 8:17 14:20 16:11 20:19,20 24:5,6 25:3 39:12 50:15 taken 1:13 4:2 21:2 24:12 43:11 47:6 53:7 talk 8:20 9:3 talking 17:23 33:20 34:22 41:5 teaching 10:4 tecum 16:22 18:4 tell 7:12 12:19 21:14 41:18 telling 9:21 15:5 26:1 tells 20:22 39:18 40:5 Tennessee 2:4 terminology 8:16 terms 31:5 46:1 testified 4:7 9:18 41:16 testify 5:7,21 7:7 14:15 16:4,9,16 17:5,6 26:9 30:1,4 30:20 31:20 50:16 53:6 testifying 6:18 7:23 9:19 17:21 testimony 5:16,25 6:10 7:3,21 13:5 18:5 30:8 52:4 53:9 thank 25:10 28:21 29:20 50:4 Thanks 22:13 things 36:11 think 13:16 15:2 19:13 20:4 24:20 24:21 25:1,7 29:9 32:24 41:16 50:3</p>
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<p>thought 6:21 28:25 29:1</p> <p>thousand 24:19</p> <p>three 12:21 13:7,19 19:22 25:5 39:9 39:12 41:15 45:21</p> <p>Thursday's 23:24</p> <p>time 4:8 5:12 7:2 8:1,1,17,20,25 10:21 23:14 24:10 50:2,22 53:7</p> <p>timely 23:2</p> <p>times 23:14</p> <p>tired 7:10 9:1</p> <p>today 5:6,16,22 6:11,18 9:6 14:15 30:5 31:20 46:6</p> <p>today's 9:23</p> <p>told 16:8,10 17:9 18:1,14,16,20,21 27:16 32:24 41:17 50:21</p> <p>top 15:25 16:3,10 18:2 36:24 37:8</p> <p>topic 6:10 20:11 31:16</p> <p>topics 26:17 27:5 30:20</p> <p>total 13:4 16:4,12 17:7 18:5 19:10 20:12 26:15 27:7 30:3,3 32:25</p> <p>Tower 2:14</p> <p>training 11:22</p> <p>transcript 53:8</p> <p>transcription 52:3</p> <p>true 52:3 53:8</p> <p>trust 8:2</p> <p>trustees 39:19 40:6</p> <p>truth 4:6 53:6</p> <p>try 8:19 9:11</p> <p>turn 21:20 34:12 35:24 36:14,20 37:15 39:7,25 43:13 46:16</p> <p>turned 23:2</p> <p>Turner 2:8,9 4:17</p>	<p>4:17 49:25 50:2</p> <p>turnover 12:10 13:3</p> <p>two 11:5 13:9 23:21 39:13 40:1 42:25</p> <p>type 9:12 30:12,23 45:12 47:19</p> <p>typewritten 53:8</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>uh-huh 9:11</p> <p>unable 12:18</p> <p>unclear 8:6</p> <p>underneath 35:9 35:17,18</p> <p>understand 5:6 6:17 7:25 8:13 9:2 16:7 19:7 20:12 32:3 46:13</p> <p>understanding 5:15,19,24 9:6 31:22 34:2</p> <p>understood 8:12</p> <p>uniform 47:9</p> <p>uniformly 37:13 38:1,5,9,12 43:24 47:1</p> <p>unique 22:23 41:22</p> <p>UNITED 1:1</p> <p>use 9:11 30:24</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>v 1:9</p> <p>valuation 31:24</p> <p>value 30:24 31:5,17 31:19 32:6,7,9 45:13,14 46:1,1,8 46:14</p> <p>valuing 31:12</p> <p>variation 34:5</p> <p>varies 12:20</p> <p>various 3:9</p> <p>Vaughan 2:13</p> <p>verify 20:21</p> <p>Visa 30:21</p> <p>Volume 1:4 3:2 52:25</p> <p>voluntary 5:17</p>	<p>12:6,12,24 13:10 13:18 14:16 15:2 15:16,24 16:5,13 17:10 21:9 22:23 23:4 24:8,15 26:12 27:6 30:12 30:22 32:13,23 34:3 36:17 37:10 37:23 38:20 39:4 40:19 42:15,22 43:22 44:24 45:5 46:9,19,23 47:9 47:12 48:1,10,12 48:19,22 49:9,17 50:14</p> <p>volunteer 45:13 47:13</p> <p>volunteered 45:4</p> <p>VWP 17:7 26:12,15 30:23 31:17 48:3</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wage 31:6,9,13 33:16,20 47:17,20 49:21</p> <p>wages 33:22 49:20</p> <p>wait 42:25</p> <p>waived 53:17</p> <p>Waiver 30:21</p> <p>walk 6:25</p> <p>wall 22:16</p> <p>want 8:24 10:25 44:7,25</p> <p>wanted 20:13</p> <p>wanting 32:4</p> <p>warden 11:6</p> <p>way 8:15 22:6 31:11</p> <p>we'll 24:9 25:13 26:4 28:6,11 34:14</p> <p>we're 5:14 8:17,19 8:25 10:8 19:3 21:4,8,13 23:24 24:4,5,6 25:4,11 25:15 29:12 41:5 46:11 49:25 50:3 50:11</p>	<p>we've 19:23 24:21 24:21,22 27:18 28:8 30:2 41:16</p> <p>Wednesday's 23:23</p> <p>weeks 42:25</p> <p>went 48:11</p> <p>WHEREOF 53:12</p> <p>witness 20:14 22:5 26:25 53:12</p> <p>words 33:19 45:4</p> <p>work 5:17 12:3,5,6 12:12,24 13:11,18 14:16 15:2,16,24 16:5,13 17:10 20:8 21:9 22:24 23:4 24:8,15 26:12 27:6 30:12 30:12,22,23,24 31:5,12,17 32:6,7 32:9,13,23 33:3,9 33:13,24 34:3,19 36:17 37:9,23 38:2,21 39:4 40:19,19 42:7,15 42:22 43:20,21,22 44:8,12,23 45:1,1 45:5,12,13,13,19 45:21 46:9,19,23 47:10,12,14 48:1 48:10,12 49:17,18 50:15</p> <p>worked 12:24 22:2 41:19 50:13</p> <p>worker 37:19,22 38:6,9,13,17 44:24</p> <p>workers 41:9 48:19 48:22 49:9</p> <p>works 38:20 44:15 48:2,11</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 3:1 53:16</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>Yeah 47:8</p> <p>year 12:6,7,9 32:21</p> <p>years 6:23,23,23,23</p>	<p>11:15 12:21 13:7 13:9,19 25:6</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>00001514 21:7</p> <p>00004559 21:7</p> <p>0004 34:17</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 3:17 5:14 10:7,14 16:4 21:12 35:11 38:2,6 41:22</p> <p>1,000 13:14,17</p> <p>1,680 40:18</p> <p>1.00 34:25 36:25 44:3</p> <p>1/12/16 3:11</p> <p>1/13 21:25 22:3</p> <p>1:14-cv-02887-J... 1:2</p> <p>10 3:6,17 25:11,12 25:15,18 26:22,23 35:25 36:11</p> <p>10:28 23:17</p> <p>1025 4:12</p> <p>105 38:12</p> <p>11 3:8 19:21 20:19 25:12,14,19 26:7 28:20 29:3 40:11 40:13</p> <p>11:51 23:18</p> <p>12 3:10 28:10,12,13 28:15,18 29:4,5 39:8,9 45:9</p> <p>12/10/12 3:21</p> <p>120 38:16</p> <p>1212 2:4</p> <p>12th 53:13</p> <p>13 3:12 39:9,11,25 45:9</p> <p>14 3:14 21:25 22:19 23:10,16 40:1,2,3</p> <p>14-163 3:13</p> <p>14-189 3:14</p> <p>1400 43:15</p> <p>1402 44:2</p>
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<p>15 23:17,18 35:24 1514 21:13 22:9,15 23:16 1515 22:11,18 23:16,17 1516 23:6,17 1517 23:7,18 24:7 1535 2:6 1612 41:18 1613 42:1 1680 40:24 41:6,9 1900 4:12</p> <hr/> <p style="text-align: center;">2</p> <p>2 3:19 26:9 28:15 34:14,15 36:15 53:14 200 24:18 2003 10:20 20064016972 53:4 2012 15:3,23 32:22 40:20 41:8 2014 22:20 23:10 23:16,18 26:11 2015 26:22 2016 1:5,14 3:2 4:10 26:7 51:4 52:14 53:13 2018 53:14 25 3:6,8 26 16:17,21 18:14 19:8 26:10,18 27:16 26(a)(1) 3:19 26th 27:17 28 3:10 29 1:5,14 3:2 4:10 29th 51:4</p> <hr/> <p style="text-align: center;">3</p> <p>3 5:14,16,25 6:2,4 6:10,13,15 10:3 10:14 17:7 21:11 30:11,20 31:16 3/29/16 52:25 3/9/16 3:8 3:07 4:11 3:08 1:14</p>	<p>3:29 21:2 3:40 21:2 3:49 24:11,12 30 11:15 30(b)(6) 1:4,12 3:9 3:17 17:2,14 21:11 24:21 25:7 26:25 300 2:7 24:19 34 3:19 37208 2:4 39 3:12</p> <hr/> <p style="text-align: center;">4</p> <p>4 3:3 10:3,14 4:10 24:12 4:22 30:18 4:41 43:11 4:43 43:11 4:53 51:3 40 3:14,21 450 1:14 2:10 4559 24:7 46 36:15 49 36:21</p> <hr/> <p style="text-align: center;">5</p> <p>5/13 22:3 5/14/14 3:7 53 37:7 56 23:9</p> <hr/> <p style="text-align: center;">6</p> <p>6 28:15,21 60 37:15 41:22 42:2 42:4,4 600 1:13 2:9 62 46:17</p> <hr/> <p style="text-align: center;">7</p> <p>7 34:12 36:15 46:17 7/23 39:17 70 22:11,21,22 23:3 38:5 720 2:14 7th 2:4</p> <hr/> <p style="text-align: center;">8</p>	<p>80 12:7,8 13:1 38:8 80203 1:14 2:10 4:13 80218 2:7 80246 2:15</p> <hr/> <p style="text-align: center;">9</p> <p>9 3:21 26:7 27:18 27:22 28:6,9,9,19 29:3 40:12 43:14</p>		
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Exhibit E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

NOTICE OF FRCP 30(b)(6) DEPOSITION OF DEFENDANT THE GEO GROUP INC.

TO: Defendant THE GEO GROUP, INC. (“GEO”).

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6), counsel for Plaintiff will take the deposition of Defendant on January 17, 2018 at 10:00 a.m., or an agreed-upon time thereafter, at 1535 High St., Denver CO, on the topics detailed below. GEO shall identify the persons who will speak on its behalf on each topic below at least seven days before the deposition(s). This deposition will be taken before a certified court reporter, will be recorded by stenographic and audiovisual means, may be adjourned from day to day until completed, and may occur over several days if more than one person is necessary to provide the information requested.

As used in this Notice, the term “Defendant” or “GEO” mean, without limitation, the responding party.

As used in this Notice, the term “You” means the corporate defendant answering these requests, and any person acting on that corporation’s behalf.

As used in this Notice, the term “ICE” means United States Immigration and Customs Enforcement. The term “relevant period” means the period from October 22, 2004 through the present for all topics related to the Housing Unit Sanitation Policy and October 22, 2012 through the present for all requests related to the VWP.

When You are asked to “identify” an employee or person, You are to provide that person’s full name, current or last job title, and current physical work address if still employed by You; if the person is not still employed by You, provide the last known address, phone numbers, e-mail address or other available contact information.

You are advised that You must designate one or more officers, directors, managing agents, or other persons who will testify on Your behalf regarding the topics listed here.

TOPICS

1. GEO’s application of the “Housing Unit Sanitation Policy” (“HUSP”) to Plaintiffs during the relevant period, including, but not limited to, the following
 - a. ICE’s policies and practices relating to the HUSP, including discipline or other consequences for a detainee’s failure to comply with the HUSP.
 - b. Your policies and practices relating to the HUSP, including discipline or other consequences for a detainee’s failure to comply with the HUSP.
 - c. Communications and agreements with ICE regarding the use of detainee labor to clean the facility.
 - d. Communications and agreements with ICE regarding the use of administrative or disciplinary segregation.
 - e. Policies related to the HUSP, including any changes to those policies.

- f. The Performance-Based National Detention Standards (PBNDS) and their relationship to the HUSP.
- g. Revisions or changes to the PBNDS.
- h. Plaintiffs' responsibilities under the HUSP, including the specific cleaning tasks required under the HUSP.
- i. The physical layout of the Aurora Detention Facility and the precise locations within the facility cleaned or otherwise maintained by detainees under the HUSP.
- j. Equipment used by Plaintiffs to perform tasks under the HUSP and any policies or practices regarding detainees' use of equipment to perform tasks under the HUSP.
- k. The frequency and duration of tasks performed under the HUSP, as well as any records or logs of such tasks.
- l. Communications with Plaintiffs or other detainees regarding the HUSP, including the consequences of not performing work required under the HUSP.
- m. Policies and practices regarding the training and oversight of GEO officers in relation to the HUSP.
- n. Any GEO employees that perform or supervise the cleaning tasks required by the HUSP.
- o. Any GEO employees that perform or supervise other cleaning tasks that are not required by the HUSP.
- p. The costs of using GEO employees to perform cleaning tasks, including the costs of using GEO employees to perform the cleaning tasks required by the HUSP, including any studies conducted that assess or describe such costs.
- q. GEO's budgets for cleaning and otherwise maintaining the Aurora facility.¹
- r. Any differences and/or similarities between the use of the HUSP at the Aurora Detention Facility and at other GEO immigrant detention facilities.

¹ This includes but is not limited to the budgets reflected in GEO_MEN_00011426, 14324, 11516, 12991, and 14230.

2. GEO's policies and practices relating to discipline for Plaintiffs' violation of GEO's rules or regulations during the relevant period, including, but not limited to, the following:

- a. The origins of the Segregation/Special Management Unit Officer policy.
- b. The implementation of the Segregation/Special Management Unit policy at the Aurora Detention Facility.
- c. Policies regarding administrative segregation and disciplinary segregation, including removing a detainee from segregation.
- d. Policies and practices related to discipline for violation of the HUSP, up to and including segregation and/or legal action.
- e. Training and oversight of GEO officers regarding procedures or guidelines related to administrative segregation and disciplinary segregation at the Aurora Detention Facility.
- f. The detainee violations for which administrative or disciplinary segregation is a potential consequence.
- g. Policies or practices relating to communications with detainees regarding administrative or disciplinary segregation.
- h. Policies or practices regarding communications with detainees regarding GEO's rules and the consequences for violating GEO's rules.
- i. Policies or practices for determining appropriate detainee discipline for a violation of GEO's rules.
- j. Detainee complaints regarding administrative or disciplinary segregation.
- k. The nature of administrative or disciplinary segregation, including the nature of the facilities used for segregation and policies and procedures applied to those in segregation.
- l. Communications with ICE regarding detainee violations of GEO's rules.
- m. Communications with ICE regarding the use of administrative or disciplinary segregation.

3. Plaintiffs' participation in the Voluntary Work Program (VWP) during the relevant period, including, but not limited to, the following:
 - a. Communications and agreements with ICE regarding the VWP.
 - b. ICE's policies and procedures regarding to the VWP.
 - c. GEO's policies and procedures regarding the VWP.
 - d. Staffing needs at the Aurora Detention Facility.
 - e. Current staffing at the Aurora Detention Facility, including janitorial, maintenance, laundry, and kitchen staff.
 - f. Similarities and differences between the VWP as implemented at the GEO detention facility and the VWP as implemented at other GEO immigrant detention facilities.
 - g. Maintenance requirements at the Aurora Detention Facility.
 - h. Daily logs or records, including any records reflecting time worked, maintained by GEO officers at the Aurora Detention Facility.
 - i. Communications with Plaintiffs regarding the VWP, and policies or practices regarding communications to detainees about the VWP.
 - j. Method of determining the pay rate for VWP participants at the Aurora facility and other GEO facilities.
 - k. GEO's budget for cleaning and otherwise maintaining the Aurora facility.
 - l. Policies and practices regarding supervision of VWP participants, including work hours and breaks.
 - m. Policies and practices for training VWP participants and any training provided to Plaintiffs related to their VWP participation.
 - n. Policies and practices regarding violations of the VWP, including but not limited to such violations as requiring detainees to work longer than eight hours in a day.

Dated: December 15, 2017

By: /s/ Juno Turner

Juno Turner

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Exhibit F



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February 16, 2018

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Re: *Menocal, et al. v. The GEO Group, Inc.*, No. 14-cv-02887 (JLK)

Dear Counsel:

We write to confirm the details of our meet and confer discussion on January 11, 2018 concerning Plaintiffs' Rule 30(b)(6) notice to GEO and GEO's Responses to Plaintiffs' Second Set of Requests for Production of Documents and to Plaintiffs' Second Set of Interrogatories. Please respond if you do not agree with any of the confirmations below.

In light of the Tenth Circuit's ruling affirming Judge Kane's certification of the TVPA and unjust enrichment classes, Plaintiffs reserve all rights to seek further testimony from GEO's Rule 30(b)(6) witness or witnesses during the class discovery period. We are also willing to meet and confer to discuss broadening the scope of the currently scheduled Rule 30(b)(6) deposition to include classwide topics, after appropriate discovery. We will continue to confer regarding the details of the Aurora facility inspection as well.

Rule 30(b)(6) Deposition

Plaintiffs and GEO agreed to some revisions to the Rule 30(b)(6) notice, which Plaintiffs will send to GEO separately. We note specifically with respect to topic 1(p) – "The costs of using GEO employees to perform cleaning tasks, including the costs of using GEO employees to perform the cleaning tasks required by the HUSP, including any studies conducted that assess or

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February 16, 2018

Page 2 of 4

describe such costs” – you stated that prior 30(b)(6) testimony by Ms. Ceja and Ms. Furst addresses this point. Thus, we agree to eliminate it from the list of topics, provided that GEO agrees not to subsequently introduce, at trial or through motion practice, additional evidence of the costs of using GEO employees to perform cleaning tasks .

Plaintiffs’ Second Set of Requests for Production of Documents

General Issues

We asked you to confirm how GEO searched for email correspondence and/or other custodial ESI responsive to Plaintiffs’ Requests. We noted, in particular, that David Venturella, Senior Vice President for Business Development at GEO and a fact witness soon to be deposed, appears to be a custodian of only one document produced by Defendant, GEO_MEN 00052826. Given Mr. Venturella’s apparent role in GEO’s business function and in compliance with PBNDS standards, *see* GEO_MEN 00052826, Mr. Venturella would likely be a custodian for many more documents relevant to Plaintiffs’ claims.

You stated that Mr. Venturella’s custodial file was not reviewed, and that only one document for which he happened to be a custodian was responsive to our requests. We requested the list of custodians whose files you reviewed, and the search terms you used to cull relevant documents from those files. You said that you would confer with your client and respond. We are still awaiting your response.

Request No. 17

We asked you to confirm how GEO searched for email correspondence and/or custodial ESI responsive to this Request. This overlaps with our request above. We are still awaiting your response.

We asked you to confirm that you have no records of the hours Plaintiffs worked, including in the form of assignment sheets listing detainees scheduled to clean pods on a given day. You stated that GEO did not preserve those assignment sheets and that there were no other records of hours worked by Plaintiffs under the Housing Unit Sanitation Policy.

Request Nos. 17, 18, 19, 20, and 21

We stated that GEO’s response was inadequate, as Plaintiffs’ requests encompassed – and GEO has not produced – video footage relating to (1) GEO’s enforcement of the Housing Unit Sanitation Policy, including video of disciplinary action related to the Housing Unit Sanitation Policy; (2) Plaintiffs’ performance of work, tasks, and/or duties under the VWP or Housing Unit Sanitation policy; (3) the custodial maintenance of housing units or “pods”; and (4) the implementation and enforcement of the VWP.

You stated that you would look into whether video evidence exists that is responsive to this request. We are awaiting your response.

February 16, 2018

Page 3 of 4

Request Nos. 28 and 29

We asked you to confirm whether there are any trainings, policies, or guidance on trafficking and/or forced labor at GEO's Aurora facility. You confirmed that there are no such trainings, policies or guidance.

Request Nos. 32 and 33

You confirmed that GEO is not withholding documents responsive to these Requests.

Plaintiffs' Second Set of Interrogatories

Interrogatory No. 11

We explained that GEO's response appears to be incomplete because at least one job description is missing for the VWP job that Plaintiff Gaytan performed. You said you would look into this and respond to us. We are awaiting your response.

We asked you to confirm whether GEO has any methods, other than examining VWP payroll information and reimbursement documents, of determining time worked by Plaintiffs. For example, does GEO track detainees' locations in the facility? Does GEO otherwise record detainees' work in the facility? You stated that GEO does not monitor movements of detainees at the Aurora facility in ways that relate to the VWP, though GEO does document movements into and out of certain units, such as the medical unit. Please confirm your response in writing to clarify what movements GEO does and does not monitor.

You stated that GEO has produced all payroll records related to VWP work for each Plaintiff for the entire relevant period. Plaintiffs requested that GEO provide such payroll records in an alternative format, if possible, such as an Excel spreadsheet or database, to enable easier calculation of days worked. You stated you would look into this and get back to us. We are still awaiting your response.

Interrogatory No. 12

You stated in your response that "GEO does not keep records of how many hours detainees clean their cells or clean up after meal service." We asked you to confirm whether GEO has retained sheets showing assignments to clean following meal service. *See, e.g.*, PL000059-61. You stated that you believed GEO has no retention policy with regard to those sheets, and no other method of recording assignments to clean at the Aurora facility. Please confirm this response in writing.

Interrogatory No. 15

You stated in your response that "[t]he rate of pay for the VWP is the amount set in GEO's government contract with the Department of Homeland Security, Office of Immigration and Custom Enforcement." You explained that any further description of how GEO determined the rate to be paid to Plaintiffs under the VWP at the Aurora facility is set forth in Dawn Ceja's Rule 30(b)(6) deposition testimony.

February 16, 2018

Page 4 of 4

Interrogatory No. 16

With respect to GEO's objection that this Interrogatory is unduly burdensome because it would require an assessment of overhead costs of administering detainee labor programs, Plaintiffs are willing to narrow the Interrogatory. Plaintiffs request that GEO describe the cost it would have to pay employees or contracted workers for the labor that detainees currently perform under the Housing Unit Sanitation Policy and the VWP.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Stork". The signature is fluid and cursive, with a large initial "E" and "S".

Elizabeth Stork

cc: Plaintiffs' counsel

Exhibit G

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

NOTICE OF F.R.C.P. 30(b)(6) DEPOSITION OF DEFENDANT THE GEO GROUP INC.

TO: Defendant THE GEO GROUP, INC. (“GEO”).

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6), counsel for Class Members will take the deposition of Defendant on January 22, 2019 at 10:00 a.m., or an agreed-upon time thereafter, at the offices of Towards Justice, 1410 High St., Denver CO, on the topics detailed below. GEO shall identify the persons who will speak on its behalf on each topic below at least seven days before the deposition(s). This deposition will be taken before a certified court reporter, will be recorded by stenographic and audiovisual means, may be adjourned from day to day until completed, and may occur over several days if more than one person is necessary to provide the information requested.

As used in this Notice, the term “Defendant” or “GEO” or “You,” mean, without limitation, the responding party and any person acting on the responding party’s behalf.

As used in this Notice, the term “ICE” means United States Immigration and Customs Enforcement. The term “relevant period” means the period from October 22, 2004 through the present for all topics related to the Housing Unit Sanitation Policy and October 22, 2012 through the present for all requests related to the VWP.

When You are asked to “identify” an employee or person, You are to provide that person’s full name, current or last job title, and current physical work address if still employed by You; if the person is not still employed by You, provide the last known address, phone numbers, e-mail address or other available contact information.

You are advised that You must designate one or more officers, directors, managing agents, or other persons who will testify on Your behalf regarding the topics listed here.

TOPICS

1. GEO’s application of the “Housing Unit Sanitation Policy” (“HUSP”) to Class Members during the relevant period, including, but not limited to, the following:
 - a. ICE policies and practices relating to the HUSP, including discipline or other consequences for a detainee’s failure to comply with the HUSP.
 - b. GEO policies and practices relating to the HUSP, including discipline or other consequences for a detainee’s failure to comply with the HUSP.
 - c. Communications and agreements with ICE regarding the use of detainee labor to clean the facility.
 - d. Communications and agreements with ICE regarding the use of administrative or disciplinary segregation.
 - e. Policies related to the HUSP, including any changes to those policies.
 - f. The Performance-Based National Detention Standards (PBNDS) and their relationship to the HUSP.
 - g. The ICE Detainee Handbook and its relationship to the HUSP.

- h. Revisions or changes to the PBNDS, the ICE Detainee Handbook, or GEO's Detainee Handbook.
 - i. Class Members' responsibilities under the HUSP, including the specific cleaning tasks required under the HUSP.
 - j. All locations within the facility cleaned or otherwise maintained by detainees under the HUSP.
 - k. Equipment used by Class Members to perform tasks under the HUSP and any policies and/or practices regarding detainees' use of equipment to perform tasks under the HUSP.
 - l. The frequency and duration of tasks performed by Class Members under the HUSP, as well as any records and/or logs of such tasks and the location of and retention policy for such records and/or logs.
 - m. Communications with Class Members regarding the HUSP, including the consequences of not performing work required under the HUSP. This includes GEO's general practices, policies, and procedures regarding communications with detainees concerning the HUSP, and consequences of not performing work required under the HUSP.
 - n. Policies and practices regarding the training and oversight of GEO employees and/or contractor officers in relation to the HUSP.
 - o. GEO employee and/or contractor positions that perform or supervise the cleaning tasks required by the HUSP.
 - p. GEO employee and/or contractor positions that perform or supervise other cleaning tasks that are not required by the HUSP.
 - q. The origins and objectives of the HUSP at the Aurora Detention Facility.
2. GEO's policies and practices relating to discipline for Class Members' violation of GEO's rules or regulations during the relevant period, including, but not limited to, the following:
- a. The origins of the Segregation/Special Management Unit Officer policy. *See, e.g.*, GEO_MEN 00037721.
 - b. The implementation of the Segregation/Special Management Unit policy.
 - c. Policies regarding administrative segregation and disciplinary segregation.

- d. Policies regarding protective custody.
 - e. Policies regarding the use of detainee labor in the Segregation/Special Management Unit.
 - f. Policies and practices related to discipline for violation of the HUSP, and the purpose behind such policies and practices.
 - g. Training and oversight of GEO officers regarding procedures or guidelines related to administrative segregation and disciplinary segregation and/or protective custody.
 - h. Those violations for which detainees may be subject to administrative or disciplinary segregation.
 - i. Policies and/or practices relating to communications with detainees regarding administrative or disciplinary segregation.
 - j. Policies and/or practices regarding communications with detainees regarding GEO's rules and the consequences for violating GEO's rules.
 - k. Policies and/or practices for determining appropriate detainee discipline for a violation of GEO's rules.
 - l. Class Members' written complaints regarding the use of administrative or disciplinary segregation as a possible consequence for not complying with the HUSP. This includes GEO's policies, practices and procedures regarding detainee complaints about the use of administrative or disciplinary segregation as a possible consequence for not complying with the HUSP.
 - m. The nature of administrative or disciplinary segregation, including the facilities used for segregation and policies and/or procedures applied to those in segregation.
 - n. GEO's practices regarding communications with ICE regarding detainee violations of GEO's and/or ICE's rules.
 - o. GEO's practices regarding communications with ICE regarding the use of administrative and/or disciplinary segregation.
3. Class Members' participation in the Voluntary Work Program (VWP) during the relevant period, including, but not limited to, the following:

- a. GEO's communications with, and general practices regarding communications with, ICE regarding the VWP.
 - b. GEO's agreements with ICE regarding the VWP.
 - c. ICE's policies and procedures regarding to the VWP, including the ICE Detainee Handbook and its relationship to the VWP.
 - d. GEO's policies and procedures regarding the VWP.
 - e. The origins and objectives of the use of the VWP.
 - f. Daily logs or records, including any records reflecting or relating to time Class Members worked, maintained by GEO at the Aurora Detention Facility or elsewhere, and the location of and retention policy for such logs or records.
 - g. Communications with Class Members regarding the VWP, and policies and/or practices regarding communications to detainees about the VWP.
 - h. Method of determining the pay rate for VWP participants at the Aurora facility and other GEO facilities.
 - i. Policies and practices regarding supervision of VWP participants, including work hours and breaks.
 - j. Job assignments, duties, or tasks assigned to Class Members under the VWP and the corresponding VWP shifts for such assignments, duties or tasks, including the start and end times for such shifts and the number of detainee workers per shift.
 - k. Policies and practices for training VWP participants and any training provided to Class Members related to their VWP participation.
 - l. Policies and practices regarding violations of the VWP by detainees or by supervisors, including but not limited to such violations as requiring detainees to work longer than eight hours in a day.
4. The costs and benefits to GEO of using detainee labor under the HUSP and VWP, including, but not limited to, the following:
- a. Maintenance requirements at the Aurora Detention Facility.

- b. GEO's budgets for cleaning and otherwise maintaining the Aurora facility.¹
- c. Staffing needs for any work performed by paid employees or contractors that overlaps with duties, tasks, or work performed by detainees pursuant to the HUSP.
- d. Staffing needs for any work that overlaps with duties, tasks, or work performed by detainees under the VWP.
- e. Current staffing at the Aurora Detention Facility, including janitorial, maintenance, laundry, and kitchen staff, and any other staff whose work overlaps with duties, tasks, or work performed by detainees under the VWP.
- f. The cost of using GEO employees and/or contractors to perform cleaning tasks, including the cost of using GEO employees and/or contractors to perform the cleaning tasks required by the HUSP, including any studies conducted that assess or describe such costs.
- g. The cost of using GEO employees and/or contractors to perform cleaning tasks, including the cost of using GEO employees and/or contractors to perform the cleaning tasks performed pursuant to the VWP, including any studies conducted that assess or describe such costs.
- h. The amount and basis for GEO's calculation of the "set off for the benefits that [the plaintiffs] received while in the Aurora Detention Facility" to which GEO claims it is entitled in paragraph 20 of its Answer.

Dated: November 2, 2018

By: /s/ Juno Turner
Juno Turner
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Elizabeth Stork
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¹ This includes, but it not limited, to the budgets reflected in GEO_MEN_00011426, 14324, 11516, 12991, and 14230.

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Class Counsel

Exhibit H

From: BeerN@gtlaw.com
To: [Stork, Elizabeth V.](mailto:Stork.Elizabeth.V)
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Subject: RE: Alejandro Menocal v. The GEO Group, Inc. - Case No. 2014CV02887 [IWOV-OGDMS.FID580332]
Date: Wednesday, January 9, 2019 7:34:26 PM

Thank you for the extension on the written discovery. I had a call with Juno and Rachel earlier today on other issues and we discussed possible times for a discovery phone call next week – would Tuesday, January 15 at 4 pm Eastern work for you?

As to the deposition and inspection, we agree that those are not feasible in January. And the government shutdown poses additional complications for discovery, including, in particular the inspection which must be coordinated through the government. That being said, we can discuss those issues further on our call, including the questions we posed in our December 27 letter about the inspection parameters.

Thanks,
Naomi

Naomi G. Beer
Co-Chair, Global Labor & Employment Practice

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From: Stork, Elizabeth V. [mailto:estork@outtengolden.com]
Sent: Friday, December 28, 2018 2:28 PM
To: Beer, Naomi (Shld-Den-LT-Labor-EmpLaw) <BeerN@gtlaw.com>
Cc: Schipma, Scott A. (Shld-DC-GvtCntr) <schipmas@gtlaw.com>; Palmer, David (Shld-Den-LT) <PalmerDG@gtlaw.com>; Ellison, Dawn (OfCnsl-DC-LT) <ellisond@gtlaw.com>; deismeier@bflaw.com; mley@bflaw.com; [Dempsey, Rachel <rdempsey@outtengolden.com>](mailto:rdempsey@outtengolden.com); [Koshkin, Adam L. <AKoshkin@outtengolden.com>](mailto:Koshkin.Adam.L); [Lopez, David <pdl@outtengolden.com>](mailto:Lopez.David); [Alex Hood <alex@towardsjustice.org>](mailto:Alex.Hood); [David Seligman <david@towardsjustice.org>](mailto:David.Seligman); [Andrew Schmidt <andy@towardsjustice.org>](mailto:Andrew.Schmidt); [Andrew Free <andrew@immigrantcivilrights.com>](mailto:Andrew.Free); [Brandt Milstein <brandt@milsteinlawoffice.com>](mailto:Brandt.Milstein); [Andrew Turner <aturner@laborlawdenver.com>](mailto:Andrew.Turner); [Hans Meyer <hans@themeyerlawoffice.com>](mailto:Hans.Meyer); [Miazad, Ossai <om@outtengolden.com>](mailto:Miazad.Ossai); [Eaton, Julie \(Secy-Den-LT\) <eatonj@gtlaw.com>](mailto:Eaton.Julie); [Turner, Juno <jturner@outtengolden.com>](mailto:Turner.Juno)
Subject: RE: Alejandro Menocal v. The GEO Group, Inc. - Case No. 2014CV02887 [IWOV-

OGDMS.FID580332]

Naomi,

Thank you for your letters. The timelines you suggest for responding to our December 14 letter and our most recent discovery requests are fine with us. Given these extensions and in light of our prior conversations, we would also like to discuss rescheduling the inspection and Rule 30(b)(6) deposition from January to February or March.

Since you plan to respond to our December 14 letter in the first part of January, could you tell us your availability for a meet and confer call during the week of January 14? We can then discuss your responses to our letter and our recent requests, as well as deposition and inspection dates and the logistics related to the inspection.

Best,
Liz



Elizabeth V. Stork | Associate
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From: eatonj@gtlaw.com <eatonj@gtlaw.com>
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Cc: schipmas@gtlaw.com; PalmerDG@gtlaw.com; ellisond@gtlaw.com; deismeier@bflaw.com; mley@bflaw.com; Dempsey, Rachel <rdempsey@outtengolden.com>; Koshkin, Adam L. <AKoshkin@outtengolden.com>; Lopez, David <pdl@outtengolden.com>; Alex Hood <alex@towardsjustice.org>; David Seligman <david@towardsjustice.org>; Andrew Schmidt <andy@towardsjustice.org>; Andrew Free <andrew@immigrantcivilrights.com>; Brandt Milstein <brandt@milsteinlawoffice.com>; Andrew Turner <aturner@laborlawdenver.com>; Hans Meyer <hans@themeyerlawoffice.com>; BeerN@gtlaw.com; Miazad, Ossai <OM@outtengolden.com>
Subject: Alejandro Menocal v. The GEO Group, Inc. - Case No. 2014CV02887

Please see the attached correspondence from Naomi Beer.

Thank you,
Julie

Julie Eaton

*Legal Assistant to Robert Kaufman, Naomi Beer,
John Crisham, Jeannette Brook, Jeffrey Lippa,
Amber Stephens and Jennifer Little*

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Exhibit I



Naomi G. Beer
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January 28, 2019

VIA EMAIL

Juno Turner
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estork@outtengolden.com

Re: Alejandro Menocal v. The GEO Group, Inc. - Case No. 2014-CV-02887

Dear Juno and Elizabeth,

I write to follow up on my letter of December 21, 2018, our meet and confer telephone call of January 15, 2019, and other recent correspondence regarding various discovery issues.

As a preliminary matter, and as discussed during our meet and confer call and also in the context of our discussions regarding the class list, the lengthy government shutdown has impacted discovery because personnel at the government who are necessary to the discovery process were furloughed, and those individuals who have not been furloughed were extremely difficult to reach due to the press of other matters during the shutdown. While the shutdown has now ended, there will be a backlog and delays while the government gets back to normal operations and deals with the myriad of matters that piled up during the past weeks. These issues most directly impact GEO's ability to produce certain information and/or data that must be obtained from the government (such as answers to the class list questions posed by Plaintiffs and the collection of other class-list-related data) and also those areas of discovery for which GEO must first obtain government approval, or which the government will insist on reviewing, prior to production. We do expect that the protective order negotiated by the parties and recently approved by the Court will help streamline the ICE approval process. Unfortunately, however, the protective order does not eliminate the need for GEO to seek approval prior to certain productions.

That being said, GEO is committed to doing what it can to move discovery forward in an orderly fashion. In that regard, as discussed on our call, GEO previously sent inquiries to its contacts at ICE in an effort to obtain responses to your questions regarding the class list and has continued to follow up (and will continue to follow up) on that issue and others. Unfortunately, even with the shutdown having ended, GEO cannot predict when it might receive a response. As to the requested site inspection, we will send you a separate letter with additional details regarding our understanding of the ICE approval process as it relates to the site inspection so that the parties can move that issue as far forward as possible.

January 28, 2019

Page 2

Plaintiffs' First and Second Set of Requests for Production of Documents

General Issues:

Your letter asked us to confirm how GEO searched for email correspondence and other custodial ESI. As we explained on our call, as new counsel on the case we have been evaluating what was done previously. We have also been reassessing discovery generally in light of current procedural posture of the case. It is our view that rather than using historical search terms as a starting point, the most efficient course going forward is to develop new search terms with which to supplement past productions and to conduct future discovery. We welcome your input regarding these new search terms and expect to be in a position this week to share our planned search terms and proposed approach, with a goal of having a call with our respective ESI teams the week of February 4. If anything changes with respect to this timeline, we will let you know.

Your letter next asked about certain files, listed in your letter by Bates Number, for which it appears that only slip sheets were produced without any associated documents. We have investigated those Bates Numbers and found that the native files associated with those documents consist of 27 PowerPoint files and one excel spreadsheet. We anticipate being able to produce those this week.

Your letter next asked us to confirm that GEO is not withholding documents created by ICE that are within GEO's custody or control. We can confirm that if documents in GEO's custody or control are otherwise responsive, GEO is not withholding such documents from production on the grounds that the documents may have been created by ICE. This general statement, however, is subject to the caveat that certain documents cannot be produced until GEO receives approval from ICE to produce them. Your letter identifies the National Detainee Handbook as a specific example of a document in this category that has been withheld. The 2016 National Detainee Handbook is available online at www.ice.gov. You confirmed that you were aware of that, but wanted GEO to produce earlier versions as well. We are preparing these documents for production. We also asked if there were other specific examples of documents in this category. You explained that you were able to identify this document because it was noted in the scheduling order, but you did not have other examples at this time.

Your letter also seeks production of unredacted copies of certain documents that had been produced with "PII" redactions. Given that a Protective Order with PII protections is now in place, we believe that future productions applying new search terms as discussed above, and made pursuant to the protective order, will address this request. That being said, if there is a particular document with PII redactions that you need sooner, please let us know by Bates Number and we can look into producing it sooner.

Request Nos. 1-3

Your letter raises concerns about GEO's prior production of VWP reimbursement documents because they only provide "Batch Summary" information. GEO has collected additional VWP reimbursement documents from Keefe Commissary Network, however, these documents need ICE approval before they can be produced. We are seeking that approval, but at this point we cannot say when we will hear back from ICE on that request. We believe that once

January 28, 2019

Page 3

this supplemental production is made, it will address your concerns with these Requests. If you have additional questions once you have reviewed this supplemental production let us know.

We also want to clarify what appears to be some confusion about the records previously produced. The documents that you cite in your letter at Bates Nos. GEO_MEN_00054503 and GEO_MEN-00042018 for the proposition that GEO maintains records of hours worked under the VWP do not reflect actual numbers of hours worked. Rather, these documents reflect a schedule in the form of a standard number of hours per shift based on job assignment – the actual hours worked by any person on any given day may be different than the schedule. We do not believe that GEO tracks actual hours worked, but we are confirming and will let you know if we learn differently.

Request Nos. 4 & 9

These Requests seek “policies, guidelines or authority” pursuant to which GEO conducted the VWP (Request No. 4) and the HUSP (Request No. 9). We did not discuss these Requests during our meet and confer, but your letter asserts that these Requests encompass many more documents than what GEO has produced. In addition to HUSP and VWP policies, you believe the following documents would be responsive as well:

- Any orientation, training or other documents (including ESI) intended for GEO employees, contractors or detainees that refer or relate to the HUSP or VWP; and
- GEO’s contract with ICE, as well as documents that relate to its contract with ICE.

GEO has produced orientation and training documents, including various manuals and similar documents (*see, e.g.*, Bates Nos. GEO_MEN 00001395–1513; 6510–12). Other training documents are also included within the set of PowerPoints discussed above. As to contracts, as noted in my December 21, 2018 letter, we are preparing to produce additional contract documents. Finally, to the extent that any further supplementation may be appropriate, we expect that it will be addressed through application of the new search terms discussed above.

Request Nos. 5–7 (and related Interrogatory Nos. 5 & 6)

We briefly discussed these Requests during the meet and confer. In your letter, you assert that these Requests encompass “all” documents referencing disciplinary or corrective action taken against class members, including charge packets, computerized records of disciplinary action, and notices sent to GEO staff or to ICE about disciplinary actions. We discussed the potentially sweeping scope of these Requests given the use of the word “all.” We appreciate your clarification that the documents you seek here are limited to the issues in the case—*i.e.*, disciplinary records related to the VWP and HUSP programs. We are conducting searches with that clarity in mind.

January 28, 2019
Page 4

It is also our understanding that disciplinary records are largely contained within the detainee files. We discussed detainee files briefly during our meet and confer, including whether Plaintiffs wanted all detainee files or if a sample might suffice and agreed to table the question of detainee files for now so that we can focus on other Discovery first.

Request No. 8

During the meet and confer, you clarified that this Request, at bottom, seeks a class list and also to identify which detainees were tasked to work on particular work details on any given day. We have already produced the majority of a class list and we are working to supplement it to the extent feasible. We are considering the request as it relates to work details, and will let you know to what extent such records are available.

Request No. 12

This Request sought documents “summarizing or constituting any contract [GEO] executed to purchase services, including cleaning services, to be delivered at the Aurora facility...” We agree that GEO’s objection to this Request as not related to class certification issues is no longer applicable given the Court’s order granting class certification. However, given the breadth of the Request – which as written arguably includes the purchase of services of any kind even if wholly irrelevant to the claims alleged – GEO’s other objections, including relevance, remain applicable. We would like to further meet and confer regarding the scope of this Request (including whether you are really seeking documents relating to contracts for services of any kind) which will help guide our investigation into what, if any, supplementation might be appropriate.

Request Nos. 17–21

These Requests seek various documents relating to the implementation and enforcement of the HUSP (Request No. 17) and the VWP (Request No. 19), “custodial maintenance of housing units or ‘pods’” (Request No. 18) and “Plaintiffs’ performance of work, tasks and/or duties pursuant to the HUSP (Request No. 20) and the VWP (Request No. 21). Although the word “video” appears nowhere in any of these Requests, you now insist that these Requests contemplate production of surveillance video footage. We disagree. Yet, even assuming the Requests could fairly be read to encompass such footage, it is our understanding that GEO does not have such footage from the class period. We are further investigating the video issue and if our understanding changes we will let you know.

As to your inquiry in this section regarding the VWP, please see the above discussion of Request Nos. 1-3.

Finally, you asked for “confirmation that GEO has produced all ESI responsive to this Request, including communications or memoranda to GEO officers regarding the implementation and enforcement of the HUSP and VWP and custodial maintenance of the Aurora Facility.” We can confirm that GEO has produced what it has located thus far. That being said, we expect that the new search terms discussed above will cover any additional supplementation that might be appropriate.

January 28, 2019
Page 5

Request Nos. 23 & 24

For these Requests, your letter asks us to “confirm that GEO has produced *all* documents that refer or relate to the purpose, results, or effects of the HUSP and VWP, and has not limited its response to documents relating to the named Plaintiffs, and/or the time period during which the named Plaintiffs were detained at Aurora.” Again, we can confirm that GEO has produced what it has located thus far. That being said, we expect that the new search terms discussed above will cover any additional supplementation that might be appropriate.

Request No. 30

For this Request, you ask us to “confirm that GEO has produced all documents, including videos, PowerPoint presentations, handouts, and notes from presentations, relating to any trainings for GEO’s employees regarding enforcement of Aurora rules, regulations, and/or policies including guidelines for use of force or use of punishment or discipline in enforcing such rules, regulations, and/or policies.” With respect to training documents, please see the discussion of Request Nos. 4 and 9 above.

Request Nos. 32 & 33

Your letter asserts that our relevance objections to these Requests are not correct. As GEO noted in response to Request No. 32 (which seeks documents reflecting the estimated costs of operating the Aurora facility without detainee work, tasks and/or duties), responsive documents do not exist. Regarding Request No. 33, your letter states that compensation paid to GEO employees is relevant because Plaintiffs’ calculation of restitution would include the cost to GEO of employee leave, fringe benefits, and other costs attendant to recruiting, screening, hiring and retention of workers. While we understand your explanation, your stated theory and measure of damages (which GEO reserves the right to challenge), it does not support the need for GEO to produce pay information for individual GEO employees and GEO stands on its prior objections. We further note that pursuant to the Service Contract Act of 1965, the wages and benefits of GEO’s non-exempt employees are set by Department of Labor Wage Determinations. The Department of Labor Wage Determinations are public records and incorporated into GEO’s contract.

Plaintiffs’ First and Second Sets of Interrogatories

Interrogatory Nos. 3 & 4

You assert that the names and contact information of employees who supervised detainees subject to the HUSP and the VWP are relevant to this case. In July 2017 and in response to these interrogatories, GEO produced an employee roster for the Aurora facility in Excel format. See GEO_MEN 00020548. The employee roster includes each employee’s name, address, job title, hire date, and termination date. We believe this satisfies these Interrogatories, but if you disagree, please let us know.

January 28, 2019
Page 6

Interrogatory No. 5

You assert GEO's response is incomplete and asks us to amend our response. We agree that the most recent Protective Order resolved GEO's objections related to the Privacy Act. We also agree that GEO's objection related to "class action issues" is no longer applicable. With respect to the remaining points raised, please see the discussion regarding Request Nos. 5-7 above.

Interrogatory No. 8

This Interrogatory asks GEO to identify GEO facilities other than the Aurora facility which implement policies identified in response to Interrogatory No. 7. Interrogatory No. 7 asked GEO to describe policies that resulted in disciplinary or corrective action being taken against detainees "for refusing to work pursuant to the [HUSP] *in the Aurora Facility*" (emphasis added). As a preliminary matter, given that Interrogatory No. 7 is, on its face, limited to the Aurora facility, it makes no sense that other facilities would implement an Aurora policy. That being said, even if Interrogatory No. 8 could fairly be read to seek information regarding facilities other than Aurora, we disagree that GEO's policies at other facilities are relevant to whether GEO's conduct at the Aurora facility was authorized or required by ICE or was unjust. The policies in effect at other facilities have no bearing on what ICE did or did not authorize at Aurora, nor do they have any bearing on anything GEO did or did not do at Aurora. That being said, GEO has produced various Aurora facility policies, all of which have been expressly approved by ICE. Geo is also, as discussed above, producing the ICE National Detainee Handbooks. In addition, based on our review, it appears that complete versions of ICE's Performance Based National Detention Standards ("PBNDS") may not have been produced. We are, therefore, preparing to produce the PBNDS documents as well. Once GEO completes this production we believe this Interrogatory will be fully answered.

Interrogatory No. 11

You assert that GEO's response to this Interrogatory is incomplete, stating that "Mr. Gaytan's VWP assignment is not reflected in the documents listed by GEO." Your assertion is misplaced. A detainee's VWP job assignment is included in his or her detainee file, and the various work assignments for Plaintiff Gaytan are included within his detainee file. See GEO_MEN 00021935-21973.

As to the hours worked, nothing is false about GEO's responses to this Interrogatory. To the contrary, as explained in connection with Request Nos. 1-3 above, the documents that you cite in your letter at Bates Nos. GEO_MEN_00054503 and GEO_MEN-00042018 for the proposition that GEO maintains records of hours worked under the VWP do not reflect actual number of hours worked. Rather, these documents reflect a schedule in the form of a standard number of hours per shift based on job assignment – the actual hours worked by any person on any given day may be different than the schedule. We do not believe that GEO tracks actual hours worked, but we are confirming and will let you know if we learn differently.

January 28, 2019

Page 7

Interrogatory No. 12

You assert that GEO's response is incomplete and asked us to produce all records of Plaintiffs' assignments to clean or explain why GEO failed to comply with its obligation to maintain such records in connection with this action. You also asked us to "confirm whether GEO has any other records – including but not limited to location monitoring records or video taken within the facility – that reflect the time worked by Plaintiffs."

It is our understanding that the assignment sheets you reference in your letter were discarded at the end of each day in the ordinary course of business. Given that the class period ends even before GEO was served with the Complaint, it is our understanding that these records no longer exist. That being said, we are further investigating this issue and if anything changes we will let you know.

As to location monitoring records, the Aurora facility does not monitor detainees' movements in ways that specifically relate to the VWP. As to video, please see the discussion regarding Request Nos. 17-21 above.

Interrogatory No. 15

You assert that GEO's response to this interrogatory is incomplete because GEO has produced evidence showing that the VWP rate is higher than \$1 per day at other GEO facilities. And you ask us to explain how GEO determined the rate to be paid to Plaintiffs under the VWP at the Aurora facility.

GEO's response that the rate to be paid Plaintiffs "for the VWP is the amount set in GEO's government contract with the Department of Homeland Security, Office of Immigration and Custom Enforcement" is complete. GEO's government contract for the Aurora facility provides that reimbursement for the VWP will be at the "actual cost" of \$1.00 per day per detainee.

Interrogatory No. 16

You assert that GEO's relevance objection to this Interrogatory is incorrect. Specifically, you assert:

[T]he cost of running the Aurora facility without detainee labor is part of the circumstances relevant to whether GEO was unjustly enriched by paying Plaintiffs' \$1 per day under the VWP. To the extent GEO continues to object to these requests based on Plaintiffs' stated method of calculating damages, Plaintiffs have stated that their calculation of restitution would include the cost to GEO of employee leave, fringe benefits, and other costs attendant to recruiting, screening, hiring and retention of workers, and Plaintiffs have further stated that their method is "subject to further refinements as the parties undertake additional fact and expert discovery." ECF No. 149 at 6-7.

January 28, 2019

Page 8

As noted in GEO's objection, this interrogatory has no bearing on the VWP Class's stated method of calculating damages. In the proposed Scheduling Order dated August 4, 2015 (Doc. No. 28), plaintiffs sought unjust enrichment damages for "the difference between the amount [plaintiffs] were paid for their work and the fair market value of their work." That has been plaintiffs' stated calculation of unjust enrichment damages ever since. Our position remains that, to answer Interrogatory No. 16, GEO would need to assess the overhead costs of administering its program, the duties of which are spread across dozens of GEO employees, and make significant assumptions that would render any calculation wholly speculative. We are happy to meet and confer in an attempt to find middle ground between our positions.

Thank you for your consideration. If you would like to discuss any of this further, please just let us know.

Very truly yours,



Naomi G. Beer

NGB/je

cc: Scott Schipma (via email schipmas@gtlaw.com)
David Palmer (via email palmerd@gtlaw.com)
Dawn Ellison (via email ellisond@gtlaw.com)
Dana Eismeier (via email deismeier@bflaw.com)
Mickey Ley (via email mley@bflaw.com)
Ossai Miazad (via email om@outtengolden.com)
Rachel Dempsey (via email rdempsey@outtengolden.com)
Adam Koshkin (via email akoshkin@outtengolden.com)
David Lopez (via email pdl@outtengolden.com)
Alexander Hood (via email alex@towardsjustice.org)
David Seligman (via email david@towardsjustice.org)
Andrew Schmidt (via email andy@towardsjustice.org)
R. Andrew Free (via email Andrew@ImmigrantCivilRights.com)
Brandt Milstein (via email brandt@milsteinlawoffice.com)
Andrew Turner (via email aturner@laborlawdenver.com)
Hans Meyer (via email hans@themeyerlawoffice.com)

Exhibit J

From: Valerie.Brown@hklaw.com
To: [Dempsey, Rachel](#); [Turner, Juno](#)
Cc: [GeoPlaintiffsCounsel](#); [Carolyn.Short@hklaw.com](#); [deismeier@bfwlaw.com](#); [mley@bfwlaw.com](#)
Subject: RE: Menocal - open discovery issues [IWOV-OGDMS.FID580332]
Date: Friday, April 19, 2019 5:13:21 PM

Rachel,

Thank you for your email. We are available on Tuesday at 4pm for the meet and confer.

We are happy to add the class list issue to the topics for discussion during the meet and confer. I have heard back from GEO and due to the age of the data pulled from the Keefe records, they do not have any records from the 2004-2006 time period from which they can cross-reference the detainee id numbers with A-numbers. We are happy to discuss any questions you may have about this and the other class list issues you identify below on our call on Tuesday afternoon.

There are number of open discovery items that we expect we will cover during the meet and confer. In advance of the meeting, below is an update on some of those items:

- Site Inspection: We are preparing formal objections to the site inspection, but expect to have a proposal to you about the specifics of the site inspection by the end of next week. The June timeframe for the inspection should be fine, and we think it would be best to further discuss on Tuesday some of the limitations we are currently aware of and discuss particular asks from Plaintiffs for the inspection so that we may determine whether there any safety or security concerns implicated by them;
- 30(b)(6) deposition notice: We are also preparing specific objections to the topics listed in your notice of 30(b)(6) deposition. The timing for the deposition in June should also be fine. We are still determining whether multiple individuals will be necessary, but if there is a particular timeframe in June that works best, please let us know so that we can block off the time of counsel and witnesses.
- Supplemental hit report: I sent an email to you earlier this week addressing this issue. I think there is more for us to discuss on this topic, which we can do on Tuesday or at a later date.
- Contract provisions: You've asked us to provide you with citations to the portions of its contracts with ICE that GEO believes may require it to consult with ICE prior to producing certain documentation. As an initial general response to this request, HSCEDM-11-D-00003 provides that any person who improperly discloses sensitive information is subject to criminal and civil penalties. Contract at § H-7. As noted in the contract's Explanation of Terms, sensitive information is "any information which could affect the national interest, law enforcement activities, the conduct of federal programs, or the privacy to which individuals are entitled under Title 5, U.S. Code, Section 552a. All detainee records are considered sensitive information." Contract at § H-6. The contract also incorporates the Privacy Act via FAR 52.224-2, which protects against the disclosure of certain identifiable information, as well as 48 CFR 3052.204-71, which includes that "work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer." Notwithstanding the foregoing, we are committed to engaging openly and continuously with Plaintiffs to address issues related to discovery in this case as they arise.

We expect to address the remaining open items with you on Tuesday at 4pm.

Have a nice weekend,

Valerie Brown | Holland & Knight

Senior Counsel

Holland & Knight LLP

2929 Arch Street, Suite 800 | Philadelphia, PA 19104

Phone 215.252.9569 | Fax 215.867.6070

valerie.brown@hklaw.com | www.hklaw.com

From: Dempsey, Rachel <rdempsey@outtengolden.com>
Sent: Wednesday, April 17, 2019 2:58 PM
To: Turner, Juno <jturner@outtengolden.com>; Brown, Valerie E (PHL - X49569) <Valerie.Brown@hklaw.com>; Short, Carolyn P (PHL - X49553) <Carolyn.Short@hklaw.com>
Cc: GeoPlaintiffsCounsel <GeoPlaintiffsCounsel@outtengolden.com>; Short, Carolyn P (PHL - X49553) <Carolyn.Short@hklaw.com>
Subject: RE: Menocal - open discovery issues [IWOV-OGDMS.FID580332]

[External email, exercise caution]

Dear Valerie,

Following up on this, are you available sometime between 3 and 5 ET on Tuesday 4/23? If that works, please let me know and I can send a calendar invitation with a dial-in.

Also, we would like to add a discussion of the class list data to the agenda. Specifically, we'd like to discuss a timeline for any additional data GEO is searching to supplement the class list for the 2004-2006 time period. We'd also like to circle back on the supplemental information available as to the addresses in the initial class list production of November 29, 2018. Specifically, for many of the class members there are multiple addresses but no information about which of those addresses is the most recent, which is necessary to determine where notice should go.

Best,
Rachel

From: Turner, Juno
Sent: Monday, April 15, 2019 8:51 AM
To: Valerie.Brown@hklaw.com; Carolyn.Short@hklaw.com
Cc: GeoPlaintiffsCounsel <GeoPlaintiffsCounsel@outtengolden.com>; Dempsey, Rachel <rdempsey@outtengolden.com>; Carolyn.Short@hklaw.com
Subject: RE: Menocal - open discovery issues [IWOV-OGDMS.FID580332]

Hi Valerie –

We are fine receiving a written response by the end of the week, and we can reschedule today's call for next week. We would like to include in our discussion GEO's response to our letter regarding Plaintiffs' third set of rogs and RFPs. We will get back to you about whether there is a time on Tuesday that works for our side.

I had planned to let you know this during our call, but I am leaving Outten & Golden later this week. As it happens, I am taking a position at Towards Justice, so we will continue to be working together on this matter. Please be sure to copy my O&G colleagues Mike Scimone, Liz Stork, Rachel Dempsey, and Adam Koshkin on correspondence going forward. All are included on the GeoPlaintiffsCounsel distribution group copied here.

Carolyn, sorry to hear about the family emergency - I hope everything turns out ok.

Thanks,
Juno

Juno Turner
646-825-4391

From: Valerie.Brown@hklaw.com <Valerie.Brown@hklaw.com>
Sent: Monday, April 15, 2019 10:36 AM
To: Carolyn.Short@hklaw.com
Cc: GeoPlaintiffsCounsel <GeoPlaintiffsCounsel@outtengolden.com>; Dempsey, Rachel

<rdempsey@outtengolden.com>; Carolyn.Short@hklaw.com
Subject: RE: Menocal - open discovery issues [IWOV-OGDMS.FID580332]

Juno,

Carolyn has had a family emergency and we are not able to have the meet and confer call today. Would it be acceptable for us to respond to the below issues to you in writing by the end of this week (including providing you with a specific response to your request about contract provisions, dates for 30(b)(6) depositions in June and a specific proposal regarding the site visit, among other items), and plan for a follow up meet and confer call for early next week (potentially on Tuesday at any time)? We appreciate your cooperation with this matter. We look forward to hearing back from you.

Thank you,

Valerie Brown | Holland & Knight

Senior Counsel
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2929 Arch Street, Suite 800 | Philadelphia, PA 19104
Phone 215.252.9569 | Fax 215.867.6070
valerie.brown@hklaw.com | www.hklaw.com

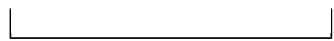
From: Dempsey, Rachel <rdempsey@outtengolden.com>
Sent: Tuesday, April 9, 2019 3:32 PM
To: Brown, Valerie E (PHL - X49569) <Valerie.Brown@hklaw.com>; Turner, Juno <jturner@outtengolden.com>; Short, Carolyn P (PHL - X49553) <Carolyn.Short@hklaw.com>
Cc: GeoPlaintiffsCounsel <GeoPlaintiffsCounsel@outtengolden.com>
Subject: RE: Menocal - open discovery issues [IWOV-OGDMS.FID580332]

[External email, exercise caution]

Dear Valerie,

We can do 2:30 ET. Please let us know if that works for you. If so, I will send around a calendar invite with a dial-in number.

Best,
Rachel


Rachel Williams Dempsey | Associate
One California Street, 12th Floor | San Francisco, CA 94111
T 415-638-8800 | F 646-509-2028
rdempsey@outtengolden.com | [Bio](#)



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From: Valerie.Brown@hklaw.com <Valerie.Brown@hklaw.com>
Sent: Tuesday, April 9, 2019 8:05 AM
To: Turner, Juno <jturner@outtengolden.com>; Carolyn.Short@hklaw.com
Cc: GeoPlaintiffsCounsel <GeoPlaintiffsCounsel@outtengolden.com>
Subject: RE: Menocal - open discovery issues [IWOV-OGDMS.FID580332]

Good morning Juno,

We are available on April 15. Does 2pm work for you?

Thank you,

Valerie Brown | Holland & Knight

Senior Counsel
Holland & Knight LLP
2929 Arch Street, Suite 800 | Philadelphia, PA 19104
Phone 215.252.9569 | Fax 215.867.6070
valerie.brown@hklaw.com | www.hklaw.com

From: Turner, Juno <jturner@outtengolden.com>
Sent: Tuesday, April 9, 2019 10:34 AM
To: Short, Carolyn P (PHL - X49553) <Carolyn.Short@hklaw.com>; Brown, Valerie E (PHL - X49569) <Valerie.Brown@hklaw.com>
Cc: GeoPlaintiffsCounsel <GeoPlaintiffsCounsel@outtengolden.com>
Subject: Menocal - open discovery issues [IWOV-OGDMS.FID580332]

[External email, exercise caution]

Dear Carolyn and Valerie,

To follow up on our productive call last week, we would like to schedule a meet and confer on the following open issues:

- GEO's responses to the RFPs and ROGs listed in my March 29 email;
- Scheduling an inspection of the Aurora facility, including GEO's (i) specific objections to our Request for Inspection as written, including any specific parts of the GEO/ICE contract that would require Plaintiffs to limit their inspection of the facility; and (ii) a specific proposal regarding GEO's suggested alternative of an inspection of a representative sample of the facility, as promised in GEO's January 28 letter;
- Scheduling 30(b)(6) depositions in June;
- GEO's withdrawal of the *Touhy* objections in its responses to Plaintiffs' first and second sets of discovery responses that were made with respect to class-wide discovery; and
- The status of GEO's ongoing searches and document productions, including Plaintiffs' request for a supplemental hit report.

Please let us know your availability on April 15, 16, or 17.

Also, during our meet and confer about the motion to compel last week, you indicated that you would provide us with citation to the portions of its contracts with ICE that GEO believes may require it to consult with ICE prior to producing certain documentation. Please provide that citation before the end of this week.

Thanks,
Juno



Juno Turner | Partner

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jturner@outtengolden.com | [Bio](#)



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Exhibit K

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Carolyn P. Short
+1 215-252-9553
Carolyn.Short@hklaw.com

April 26, 2019

Via E-mail

Rachel Dempsey
Elizabeth Stork
Outten & Golden
One Embarcadero Street, 38th Floor
San Francisco, CA 94111

Re: Menocal, et al. v. The GEO Group, Inc., No. 14-cv-02887 (JLK)

Dear Counsel:

I write on behalf of Defendant, The GEO Group, Inc. (“GEO” or “Defendant”) to respond to your letter of April 5, 2019, as well as other outstanding discovery discussed during our telephonic meet and confer on April 23, 2019.

As GEO has repeatedly informed Plaintiffs’ counsel, GEO is not withholding any documents based on *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). GEO is in compliance with its discovery obligations, with the terms of the Protective Order, with the Court’s Order related to *Touhy*, and with the recent Stipulation entered by the parties. As we’ve mentioned, there are other statutory provisions, like the Privacy Act, etc., and the contractual limitations referred to in our email to Plaintiffs’ counsel dated April 19, 2019, that have relevance to the discovery produced in this action; however, there are currently no documents being withheld from Plaintiffs as a result of these obligations. GEO will continue to meet and confer with Plaintiffs’ counsel to the extent concerns arise in the future on this issue.

With respect to the Protective Order, whether the Protective Order permits withholding documents is a hypothetical issue. GEO’s position is that the Protective Order is a mechanism to facilitate the production of sensitive documents. If there are statutory, regulatory, or contractual limitations outside of the Protective Order that require the withholding of documents at some time in the future, then we will address that with you directly, as we are required to do under the rules of discovery.

You have also requested that GEO refer you to the portions of the contract that places obligations on GEO with respect to producing documents and conducting site inspections in this litigation. As set forth in counsel’s email to Plaintiffs’ counsel dated April 19, 2019, per the terms of HSCEDM-

Rachel Dempsey
April 26, 2019
Page 2

11-D-00003 (hereinafter “the contract”), any person who improperly discloses sensitive information is subject to criminal and civil penalties. Contract at § H-7. As noted in the contract’s Explanation of Terms, sensitive information is “any information which could affect the national interest, law enforcement activities, the conduct of federal programs, or the privacy to which individuals are entitled under Title 5, U.S. Code, Section 552a. All detainee records are considered sensitive information.” Contract at §H-6. The contract also incorporates the Privacy Act via FAR 52.224-2, which protects against the disclosure of certain identifiable information, as well as 48 CFR 3052.204-71, which provides that “work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer.” Again, as GEO has made clear that it is not currently withholding any documents from Plaintiffs, this remains a hypothetical issue and GEO will continue to meet and confer with Plaintiffs to the extent an issue related to the withholding of documents arises in the future.

Plaintiffs’ Second Notice of FRCP 30(b)(6) Deposition of Defendant

Upon further review of this issue, it appears that this is the second notice of FRCP 30(b)(6) deposition and that Plaintiffs previously conducted FRCP 30(b)(6) depositions on or about March 29, 2016. It appears that the topics identified in the second notice FRCP 30(b)(6) deposition served on November 2, 2018 covers many of the same topics covered during the prior depositions. It does not appear that those depositions were limited to class certification. Defendant is not aware of any agreement by prior counsel consenting to additional FRCP 30(b)(6) beyond that to which Plaintiffs are entitled under the Federal Rules. If there is such an agreement, or if there is some other basis that Plaintiffs contend entitles them to take additional FRCP 30(b)(6) depositions beyond those already taken by Plaintiffs, please direct Defendant to those agreements or authority, and we can meet and confer on the topic.

Plaintiffs’ Request for Production:

GEO’s responses below are without waiver of any objections previously raised, or any other objections not raised herein.

Request Nos. 5 – 7:

As GEO recently indicated to Plaintiffs’ counsel as part of GEO’s efforts to finalize class list information, while optical character recognition (“OCR”) has been applied to the detainee files, not all information in the files is searchable through this process because the files contain handwritten information and faint ink that is not conducive for OCR. We are determining whether the disciplinary / corrective action forms you request have any text that is searchable to OCR to facilitate isolation and review of those documents. We will update you once we have confirmation.

Rachel Dempsey
April 26, 2019
Page 3

Request No. 12:

We are conducting a search for these documents and will produce responsive non-privileged documents and information, to the extent they exist, as follows: contracts for cleaning services from for the time period from October 22, 2004 through October 22, 2014; and copies of contracts for housekeeping, laundry and kitchen services for the time period from October 22, 2011-October 22, 2014. We are reviewing the contention you raised on the call related to whether detainees performed landscaping and snow removal at the Aurora Detention Facility and will follow up with you on this issue.

Request Nos. 17-21:

As GEO has stated in previous correspondence, GEO disagrees that video footage is covered by Plaintiffs' Request Nos. 17-21. GEO does not have responsive video footage. GEO's CCTV system has a fixed amount of memory and once it reaches capacity, it overwrites the oldest recorded footage. Generally, the capacity is such that it overwrites approximately every 30 days. GEO is not in possession of any video footage from the class periods responsive to these Requests for Production.

Request Nos. 32-33:

GEO has previously provided Plaintiffs with and referred Plaintiffs to the United States Department of Labor Wage Determinations. As discussed during the April 23 call, Plaintiffs will provide GEO with a specific proposal as to the records they are requesting.

Request No. 35:

As GEO recently indicated to Plaintiffs' counsel as part of GEO's efforts to finalize class list information, while OCR has been applied to the detainee files, not all information in the files is searchable through this process because the files contain handwritten information and faint ink that is not conducive for OCR. We are determining whether the disciplinary / corrective action forms you request have any text that is searchable to OCR to facilitate isolation and review of those documents. We will update you once we have confirmation.

Request No. 36:

GEO agrees to provide Plaintiffs with responsive documents and information applicable to the Aurora Detention Facility.

Request No. 37:

As discussed on April 23, GEO objects to Plaintiffs' request for documents and information related to GEO facilities other than the Aurora Detention Facility. The sole basis provided by Plaintiffs for their contention that information and documents concerning other facilities is relevant to this

Rachel Dempsey
April 26, 2019
Page 4

case is language included in GEO's ninth affirmative defense set forth in GEO's Answer to the Complaint. [Dkt. No. 26]. As stated during our call on April 23, GEO will withdraw this affirmative defense to clarify that GEO is not basing its defense on claims that "any work performed by a plaintiff was 'consistent with that performed by detainees at ICE facilities throughout the United States.'" GEO does not agree that information and documents related to other GEO facilities is relevant to this litigation.

Request No. 38:

GEO agrees to provide audits and/or evaluations that were conducted or cover GEO's operations at the Aurora Detention Facility during the class period.

Request No. 39:

Plaintiffs' statements regarding requests made by Congress to the U.S. Department of Justice, the U.S. Department of Labor, and ICE on March 7, 2018 (as asserted in Plaintiffs' April 5 letter) have no relation to the claims and defenses in this case, nor has Plaintiffs demonstrated any connection between this lawsuit and those communications such that it provides a basis for the information and documents requested in Request No. 39.

RFP No. 40:

As discussed on April 23, GEO objects to Plaintiffs' request for documents and information related to GEO facilities other than the Aurora Detention Facility. The sole basis provided by Plaintiffs for their contention that information and documents concerning other facilities is relevant to this case is language included in GEO's ninth affirmative defense set forth in GEO's Answer to the Complaint. [Dkt. No. 26]. As stated during our call on April 23, GEO will withdraw this affirmative defense to clarify that GEO is not basing its defense on claims that "any work performed by a plaintiff was 'consistent with that performed by detainees at ICE facilities throughout the United States.'" GEO does not agree that information and documents related to other GEO facilities is relevant to this litigation. GEO further disagrees that communications after the class period regarding the use of detainee labor at the Aurora Facility is relevant to this case. Those communications would not concern use of detainee labor during the class period, which is the subject of this suit, and are therefore not relevant to the claims and defenses in this case. Expanding this request to include documents and information outside of the class period is also not proportional to the needs of the case.

Request No. 42:

GEO is conducting a search to determine whether any documents responsive to this Request exist outside of the detainee files and will provide representative copies of responsive documents it is able to locate both within and outside of the detainee files, to the extent they exist.

Rachel Dempsey
April 26, 2019
Page 5

Request No. 43:

We will add the term “special details” to search term list. GEO will search for documents that relate to the detainee labor outside of the context of special details to the extent such documents exist.

Request No. 45:

GEO has filed a motion to withdraw the affirmative defense related to this Request.

Request No. 46:

Per Plaintiffs’ request in the April 5 letter, GEO is willing to meet and confer on this Request.

Request No. 47:

GEO is conducting a search and will produce any outstanding position description information in its possession for the time period from October 22, 2011 to October 22, 2014. To the extent there are specific descriptions that Plaintiffs seek, please provide GEO with a list of those that Plaintiffs believe to be outstanding.

Request No. 48:

Per Plaintiffs’ request in the April 5 letter, GEO is willing to meet and confer on this Request.

Request No. 49:

Except for disciplinary or corrective action records previously discussed herein, GEO has produced documents in its possession that are responsive to this Request.

Request No. 50:

Except for disciplinary or corrective action records previously discussed herein, GEO has produced documents in its possession that are responsive to this Request.

Request No. 51:

We are conducting a search for log books from October 22, 2004 – October 22, 2014. They are not stored electronically. After we determine the extent of the records we have, we will confer with you about burden and format of production.

Plaintiffs’ Interrogatories

GEO’s responses below are without waiver of any objections previously raised, or any other objections not raised herein.

Rachel Dempsey
April 26, 2019
Page 6

Interrogatory No. 8:

As discussed on April 23, GEO objects to Plaintiffs' request for documents and information related to GEO facilities other than the Aurora Detention Facility. The sole basis provided by Plaintiffs for their contention that information and documents concerning other facilities is relevant to this case is language included in GEO's ninth affirmative defense set forth in GEO's Answer to the Complaint. [Dkt. No. 26]. As stated during our call on April 23, GEO will withdraw this affirmative defense to clarify that GEO is not basing its defense on claims that "any work performed by a plaintiff was 'consistent with that performed by detainees at ICE facilities throughout the United States.'" GEO does not agree that information and documents related to other GEO facilities is relevant to this litigation.

Interrogatory No. 17:

We are searching for and preparing information responsive to this Interrogatory and will provide information responsive to the Interrogatory, to the extent it exists.

Interrogatory No. 19:

GEO has filed a motion to withdraw the affirmative defense related to this Interrogatory.

Interrogatory No. 20:

GEO is reviewing its answer to Interrogatory Nos. 9 and 20 and will supplement its response.

Interrogatory No. 22:

GEO requests that the parties meet and confer to discuss the feasibility of providing the information requested in this Interrogatory.

Rachel Dempsey
April 26, 2019
Page 7

Requests for Admission

GEO's responses below are without waiver of any objections previously raised, or any other objections not raised herein.

RFA No. 5:

We are still reviewing this issue and, if necessary, will supplement GEO's response to one or both requests.

We look forward to continuing to confer with you regarding open items and working cooperatively to resolve any outstanding discovery matters.

Sincerely yours,

HOLLAND & KNIGHT LLP

/s/ Carolyn P. Short

Carolyn P. Short

CPS/lak

cc: Dana Eisemeier, Michael Ley, Stacy Blank, Valerie Brown

Exhibit L

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA, *et al.*

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO DEFENDANT

To: Defendant THE GEO GROUP, INC.

PLEASE TAKE NOTICE THAT the Named Plaintiffs hereby request that you respond to the following interrogatories, requests for production, requests for admission, and request for inspection under oath pursuant to rules 26, 33, 34, and 36 of the Federal Rules of Civil Procedure ("FRCP") separately and fully, in writing, within the time allotted by the FRCP. Your answers should include all information known up to the date of their verification or signing.

The Named Plaintiffs request that you respond to the requests for production 33 days from the date of this request, and continuing from day to day thereafter, until completed, at 1535 High St., Suite 300, Denver, CO 80218 or at such time and place as may be agreed upon by all counsel.

PLEASE TAKE FURTHER NOTICE that you are under a duty to supplement responses pursuant to Rule 26(a) of the FRCP if you discover that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not

otherwise been made known to Plaintiff during the discovery process or in writing. Further, pursuant to Rule 26(e)(2), you are under a duty to seasonably amend responses to these discovery requests if you learn that any response given is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the Plaintiff during the discovery process or in writing.

Definitions

As used in these Interrogatories, requests for production, and requests for admission, the following terms have the following meanings:

1. The term “GEO” is defined as the Defendant THE GEO GROUP, INC.
2. The term “Detainee Volunteer Work Program” (“VWP”), is defined as the program involving labor performed by detainees for remuneration pursuant to 8 U.S.C. § 1555(d) and Performance Based National Detention Standard 5.8 (2011).
3. The term “Housing Unit Sanitation Policy” is defined as the written policy requiring certain actions of U.S. Immigration and Customs Enforcement (“ICE”) detainees at GEO’s Aurora, Colorado detention facility, as described in GEO’s detainee handbook, and implemented in practice by GEO staff.
4. The term “Aurora Facility” is defined as the Aurora Contract Detention Facility, located in Aurora, Colorado, and operated by GEO pursuant its federal contract with ICE.
5. The term “detainee” is defined as any person detained in an immigration detention facility operated by GEO.
6. The term “person” is defined as any natural person or business, legal, or governmental entity or association.

7. The terms “Plaintiffs”, “Plaintiff”, “Defendant”, and “Defendants” as well as a party’s full or abbreviated name or pronoun referring to a party, mean the party and, where applicable, his officers, directors, employees, partners, corporate parent, subsidiaries, predecessors, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

8. You/Your: The terms “you” and “your” include the person(s) to whom these requests are addressed, and all of that person’s agents, representatives, and attorneys.

9. The singular of each word shall be construed to include its plural and vice-versa, and the root word and all derivations (i.e., “ing,” “ed,” etc.) shall be construed to include each other.

10. The words “and” as well as “or” shall be construed both conjunctively and disjunctively.

11. The word “each” shall be construed to include “every” and vice-versa.

12. The word “any” shall be construed to include “all” and vice-versa.

13. The present tense shall be construed to include the past tense and vice-versa.

14. The masculine shall be construed to include the feminine and vice-versa.

15. The words “knowledge,” “information,” “possession,” “custody,” and “control” of a person shall be construed to include such person’s agents, representatives, and attorneys.

16. The word “including” shall have its ordinary meaning and shall mean “including but not limited to” and shall not indicate limitation to the examples or items mentioned.

17. The term “communication” means the transmittal of information by any means (in the form of facts, ideas, inquiries, or otherwise).

18. The term “concerning” means relating to, referring to, describing, evidencing or constituting.

19. The terms “document” and “documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents” in F.R.C.P. 34(a)(1)(A).

20. The term “electronically stored information” is defined to be synonymous in meaning and equal in scope to the usage of “electronically stored information” in F.R.C.P. 34(a)(1)(A) and shall be abbreviated from time to time as “ESI”.

21. “Identify:”

a. When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person; and

b. When referring to documents, “to identify” means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

c. The word “document” is defined to be synonymous in meaning and equal in scope to the usage of this term in F.R.C.P. 34(a). A draft of a non- identical copy is a separate document within the meaning of this term.

22. If the requested documents are maintained in a file, the file folder is included in the request for production of those documents.

Instructions for Interrogatories

1. In answering each of these Interrogatories, please furnish all information that is available to you.

2. Pursuant to F.R.C.P 26 and 33, each Interrogatory shall be answered separately and fully in writing under oath unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer.

3. In the event that you are unable to fully answer one or more of the following interrogatories after exercising due diligence to secure the necessary information, provide the most complete answer possible and specify the reason(s) for the inability to provide a complete response at the present time.

4. Should a privilege be asserted with respect to any part of any discussion, document, or other communication concerning information requested by any of the following interrogatories, you must answer the Interrogatories in the manner indicated herein, except that the contents of the part deemed privileged need not be summarized; instead, indicate that a privilege is claimed for such part and state the nature of the privilege claimed and the facts upon which such claim is based in sufficient detail to permit the Court to adjudicate the validity of the privilege claim.

5. Defendant is requested to supplement or correct his answers to these Interrogatories should Defendant later obtain information indicating answers are not complete or accurate. See F.R.C.P. 26(e).

6. For each Interrogatory or part of an Interrogatory that you refuse to answer on grounds of burdensomeness, explain in as much detail as possible the basis for your contention.

Instructions for Requests for Production

1. If, in responding to this Request, the responding party encounters any ambiguities when construing a request or definition, the response shall set forth the matter deemed ambiguous and the construction used in responding.

2. Whenever in this Request you are asked to identify or produce a Record which is deemed by you to be properly withheld from production, inspection, or copying:

a. If you are withholding the Record under claim of privilege (including but not limited to, the work product doctrine), please provide the information set forth in F.R.C.P. 26(b)(5), including the type of Record, the general subject matter of the Record, the date of the Record, and such other information as is sufficient to identify the Record, including, where appropriate, the author, addressee, custodian and any other recipient of the Record, and where not apparent, the relationship of the author, addressee, custodian, and any other recipient to each other, in a manner that, without revealing the information claimed to be protected, will enable this party to assess the applicability of the privilege or protection claimed by you;

b. If you are withholding the Record for any reason other than an objection that it is beyond the scope of discovery or that a request is unduly burdensome, identify as to each Record and, in addition to the information requested in paragraph 2.A. above, please state the reason for withholding the Record.

3. When a Record contains both privileged and non-privileged material, the non-privileged material must be disclosed to the fullest extent possible without thereby disclosing the privileged material. If a privilege is asserted with regard to part of the material contained in a Record, the party claiming the privilege must clearly indicate the portions as to which the privilege is claimed. When a Record has been redacted or altered in any fashion, identify as to each Record the reason for the redaction or alteration, the date of the redaction or alteration, and the person

performing the redaction or alteration. Any redaction must be clearly visible on the redacted document.

4. If production of any requested Record(s) is objected to on the grounds that production is unduly burdensome, describe the burden or expense of the proposed discovery.

5. Plaintiffs reserve the right to request to view the original of any copy of a Record provided in response to this Request.

6. Pursuant to FRCP 34(B)(1)(c), please produce all electronically stored information (“ESI”) in its original file format as maintained in your regular course of business and in a format readable by readily available commercial software. In the alternative, ESI may be produced in a format otherwise agreed upon by the parties.

Interrogatories

1. Please provide the name and Alien Registration Number of each detainee who participated in the VWP at the Aurora Detention Facility between October 22, 2012 and the present.

2. Please provide the name and Alien Registration Number of each detainee subject to the Housing Unit Sanitation Policy at the Aurora Detention Facility between October 22, 2004 and the present.

3. Please provide the full name, dates of employment, last known address, last known personal e-mail address, and last known personal telephone number of each of your employees or other agents, current or former, who supervised any detainee in any job in the VWP at the Aurora Facility between October 22, 2012 and the present.

4. Please provide the full name, dates of employment, last known address, last known personal e-mail address and last known personal telephone number of each of your employees or other agents, current or former, who supervised any detainee in performing work pursuant to the Housing Unit Sanitation Policy in the Aurora Facility between October 22, 2004 and the present.

5. Please describe in detail each and every disciplinary or corrective action taken against a detainee for failing or refusing to fully participate in work pursuant to the Housing Unit Sanitation Policy from October 22, 2004 to the present and any policies of the Defendant that govern these disciplinary or corrective actions. For each disciplinary or corrective action (an “Action”), please provide the following information:

- a. The name and Alien Registration Number of the detainee subject to the Action;
- b. The name and all known contact information for any employee or agent of GEO who assigned, carried out, or otherwise had knowledge of the Action; and
- c. A description of the Action.

6. Please describe in detail each and every disciplinary or corrective action taken against a detainee in the Aurora Facility that resulted in a detainee being disciplined in any way, including, but not limited to, placed in solitary confinement, at any time from October 22, 2004 to the present and any policies of the Defendant that govern these disciplinary or corrective actions. For each disciplinary or corrective action (an “Action”), please provide the following information:

- a. The name and Alien Registration Number of the detainee subject to the Action;
- b. Any employee or agent of the Defendant that assigned, carried out, or otherwise had knowledge of the Action; and

- c. A description of the Action and the reason for the Action, including a description of the purported violation justifying the Action.
7. Please describe in detail each and every policy of GEO that resulted in disciplinary or corrective action taken against a detainee for refusing to work pursuant to the Housing Unit Sanitation Policy in the Aurora Facility from October 22, 2004 to the present.
8. For each policy identified in response to the previous interrogatory, please state which GEO facilities implemented each policy and between what dates each policy was in effect at each facility.
9. Please provide the full name, dates of employment, last known address, last known personal e-mail address and last known personal telephone number of each of your employees or other agents, current or former, responsible for reporting to, communicating with, or otherwise liaising with the ICE personnel, including, but not limited to, the ICE Contracting Officer's Technical Representative(s) and ICE Designated Service Official, regarding GEO's compliance with the federal contractual and legal requirements, at the Aurora Facility between October 22, 2012 and the present.

Requests for Production

1. Please provide all "Detainee Payroll" documents bearing any date between October 22, 2012 and the present that pertain to or record work in the VWP at the Aurora Facility.
2. Please provide any and all documents summarizing, recording or reflecting hours worked in the VWP at the Aurora Facility between October 22, 2012 and the present.

3. Please provide any and all documents summarizing or recording payments made to detainees working in the VWP at the Aurora Detention Facility between October 22, 2012 and the present.

4. Please provide any and all documents summarizing, constituting or recording policies, guidelines, or authority pursuant to which you conducted the VWP between October 22, 2012 and the present.

5. Please provide any and all documents summarizing, constituting, recording or referencing any disciplinary or corrective action taken between October 22, 2012 and the present which arises from, references or concerns the VWP or any job assigned pursuant to that program.

6. Please provide any and all documents summarizing, constituting, recording or referencing any disciplinary or corrective action taken between October 22, 2004 and the present which arises from, references or concerns the Housing Unit Sanitation Policy or any job assigned pursuant to that policy.

7. Please provide any and all documents summarizing, constituting, recording or referencing any disciplinary or corrective action taken between October 22, 2004 and the present that involves the use of solitary confinement.

8. Please provide any and all documents recording or summarizing the identities of individuals tasked with working pursuant to the Housing Unit Sanitation Program between October 22, 2004 and the present.

9. Please provide any and all documents summarizing, constituting or recording policies, guidelines, or authority pursuant to which you conducted the Housing Unit Sanitation Policy between October 22, 2004 and the present.

10. Please provide any and all documents summarizing, constituting or recording communications between you and any person representing the ICE, dated between October 22, 2004 and the present and which reference the Housing Unit Sanitation Program.
11. Please provide any and all documents summarizing, constituting or recording communications between you and any person representing the ICE, dated between October 22, 2012 and the present and which mention the VWP.
12. Please provide any and all documents summarizing or constituting any contract you executed to purchase services, including cleaning services, to be delivered at the Aurora Facility between October 22, 2004 and the present.
13. Please provide any and all documents summarizing, constituting, or recording Performance Evaluation Meetings, including all draft invoices, signed minutes, and GEO responses to any areas of disagreement between ICE and GEO, that occurred or were scheduled to occur between you and ICE from October 22, 2004 and the present.
14. Please provide all requests for reimbursement from GEO to ICE, and any responses thereto, for monies related to the Detainee Volunteer Work Program created on or after October 22, 2012.
15. Please provide any and all documents you provided to any Plaintiff.
16. Please provide any and all documents which purport to be signed by any Plaintiff.

Requests for Admission

1. Admit that at least one detainee in the Aurora Detention Center faced disciplinary or other corrective action for refusing to participate in work pursuant to the Housing Unit Sanitation Policy.
2. Admit that immigration detainees in other detention facilities owned and or operated by GEO are paid more than \$1 per day for their participation in the VWP.
3. Admit that there is no law, regulation, or contract preventing GEO from paying detainees at its Aurora Detention Facility more than \$1 per day for their participation in the VWP.
4. Admit that GEO informed at least some detainees at the Aurora Detention Facility that the \$1 a day wage for the VWP was set by ICE or some other branch of the Federal government.

Request for Inspection

Pursuant to FRCP 34(a)(2), Plaintiffs request that they and/or their agents and attorneys be allowed to enter onto and inspect GEO's Aurora Detention Facility (the "Property") on December 11, 2015 at 10am for the purposes of inspecting, measuring, surveying, photographing, testing, or sampling said property. The Plaintiffs specifically request to inspect the following portions of the Property:

1. All facilities used for disciplinary or corrective actions against detainees, including any facilities used for solitary confinement;
2. Any area that was the subject of detainee work, including cleaning, as a result of the Housing Unit Sanitation Policy; and
3. Any area that was the subject of detainee work as a result of the VWP.

Dated: 7/31/2015

s/Alexander Hood
Alexander Hood
Towards Justice
1535 High St., Suite 300
Denver, CO 80218
Tel.: 720-239-2606
Fax: 303-957-2289
Email: alex@towardsjustice.org

Attorney for the Plaintiffs

Certificate of Service

I hereby certify that on 7/31/2015, I served a true and correct copy of the forgoing on the individuals below pursuant to F.R.C.P. 5.

Attorneys for Defendants

David R. DeMuro
Charles A. Deacon
Mark Thomas Emery
Shelby Anne Felton

s/Alexander Hood
Alexander Hood

Exhibit M

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-CV-02887-JLK

ALEJANDRO MENOCA,
MARCOS BRAMBILA,
GRISEL XAHUENTITLA,
HUGO HERNANDEZ,
LOURDES ARGUETA,
JESUS GAYTAN,
OLGA ALEXAKLINA,
DAGOBERTO VIZGUERRA, and
DEMETRIO VALERGA,
on their own behalf and on behalf of all others similarly situated,

Plaintiffs,

vs.

THE GEO GROUP, INC.,

Defendant.

**DEFENDANT GEO'S RESPONSES TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES, REQUESTS FOR ADMISSIONS, REQUESTS FOR
PRODUCTION OF DOCUMENTS, AND REQUEST FOR INSPECTION**

Defendant GEO, by its attorneys, Vaughan & DeMuro and Norton Rose Fulbright US LLP, hereby responds to Plaintiffs' first set of interrogatories, requests for admissions, requests for production, and request for inspection.

GENERAL OBJECTIONS AND STATEMENTS

1. Defendant objects to the disclosure of any information protected from discovery by the attorney-client privilege or work product doctrine.
2. Defendant states that any discovery relating to the production of confidential information regarding detainees, GEO Group employees, or GEO Group policies is subject

to federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951) and a stipulated protective order to be entered in this case.

3. The responses to the discovery below are to the best of Defendant's present ability and information. Defendant reserves the right to supplement these responses after completion of discovery, investigation, or preparation for trial. Defendant further reserves the right to introduce evidence at the time of trial based upon information and/or documents located, developed, or discovered subsequent to the date hereof, which evidence may supplement, amplify, modify or be in conflict with the following answers that are based upon present information only.

4. Defendant objects to the "Definitions" and "Instructions," in Plaintiffs' discovery requests, to the extent they impose obligations beyond those imposed by the Federal Rules of Civil Procedure and to the extent they are vague and fail to provide specific understandable definitions.

5. Defendant objects to the discovery requests to the extent they seek information regarding GEO Group facilities, detainees, or employees outside the facility in Aurora, CO. Information regarding other facilities is not relevant and not likely to lead to the discovery of relevant information. Such requests are also overbroad and unduly burdensome. For purposes of answering this discovery, Defendant will refer only to its facility in Aurora, Colorado, and the detainees and employees from that facility as that facility is where Plaintiffs were housed.

6. Defendant objects to these discovery requests to the extent that they seek discovery beyond class certification issues.

INTERROGATORIES

1. Please provide the name and Alien Registration Number of each detainee who participated in the VWP at the Aurora Detention Facility between October 22, 2012 and the present.

ANSWER: Objection. Defendant objects to this interrogatory as unduly burdensome, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence, and because it seeks confidential information subject to the Privacy Act. Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Pursuant to direction from DHS/ICE and the Department of Justice, Defendant objects to and cannot provide the Alien Registration Number (“A Number”) for each detainee who participated in the VWP because the A Number is not relevant to any claim or defense, is not likely to lead to the discovery of admissible evidence, and because the A Number is confidential information subject to the Privacy Act, 5 U.S.C §552a, FR Doc No: 2013-27895. This interrogatory is more appropriately submitted via a Freedom of Information Act request to the Department of Homeland Security, Bureau of Immigration and Customs Enforcement

Defendant objects to this interrogatory as unduly burdensome because there could be approximately 4,000 to 6,000 ICE detainees that are housed at the Aurora facility every year.

	intake	release
2014	3,630	3,693
2013	4,374	4,367
2012	5,471	5,433
2011	5,838	5,903

2010	6,175	6,192
2009	6,222	6,189
2008	6,640	6,674
2007	5,809	5,556
total	44,159.00	
avg	5,519.86	

Plaintiffs are seeking information for almost three years, or potentially 18,000 detainees. On any given day there could be up to 80 detainees participating in the VWP. Defendant objects to creating a list of these detainees as it is unduly burdensome.

Without waiving those objections, Defendant provided VWP payroll information in its Rule 26 disclosures at GEO_MEN 057-58, 63-66, 71-78, 85-86, 94-103, 108-116, 121-125, 142-153. Defendant has provided some monthly reimbursement reports for the VWP (which includes the names of the detainees who were paid pursuant to the VWP) to DHS/ICE/DOJ for its review. At this time, pursuant to a letter from the US Attorney’s office, Defendant is unable to provide those reports until approval is received from DHS/ICE/DOJ. See attached letters. Defendant understands that if Plaintiffs want these documents, they must provide DHS/ICE/DOJ with the “detailed description of the relevance of the information as it pertains to the issue at hand.” See attached letters.

2. Please provide the name and Alien Registration Number of each detainee subject to the Housing Unit Sanitation Policy at the Aurora Detention Facility between October 22, 2004 and the present.

ANSWER: Objection. Defendant objects to this interrogatory because it seeks confidential information subject to the Privacy Act and as unduly burdensome, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence.

Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Pursuant to direction from DHS/ICE/DOJ, Defendant objects to providing the Alien Registration Number (“A Number”) for each detainee subject to the sanitation policy because the A Number is not relevant to any claim or defense, is not likely to lead to the discovery of admissible evidence, and because the A Number is confidential information subject to the Privacy Act, 5 U.S.C §552a, FR Doc No: 2013-27895.

Defendant objects to this interrogatory as unduly burdensome because there could be approximately 4,000 to 6,000 ICE detainees that are housed at the Aurora facility every year. All detainees are subject to ICE’s housing sanitation policy and Plaintiffs are seeking information for ten years and, therefore, potentially 60,000 detainees. Defendant does not have, in the ordinary course of business, any document that lists every detainee that has been housed in the Aurora facility in the last ten years. Defendant objects to creating a list of 60,000 names as it is unduly burdensome.

Defendant objects to this interrogatory as it has not been given approval from DHS/ICE/DOJ to provide information from detainee files per the attached letters.

3. Please provide the full name, dates of employment, last known address, last known personal e-mail address, and last known personal telephone number of each of your employees or other agents, current or former, who supervised any detainee in any job in the VWP at the Aurora Facility between October 22, 2012 and the present.

ANSWER: Objection. Defendant objects to this interrogatory as unduly burdensome, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence, and because it seeks confidential information. Defendant objects to this request

as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

This interrogatory is overbroad as the Aurora facility employs approximately 189 people on the ICE contract at any time and, of course, employees separate from employment and are hired at various times. Who was employed and the number of people employed may vary at any time. Defendant does not, in the ordinary course of business, maintain any document that would readily identify which of those employees supervised detainees in the VWP. Even reviewing daily detainee payroll sheets submitted each day for each of the 80 jobs in the VWP may not identify the employee that actually supervised the detainees on each job.

Defendant also objects to providing the personal contact information for its current and former employees as the contact information is not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence, and because it seeks confidential information. Providing the names and contact information for employees (to persons who were previously or are currently detained) presents a security risk and a safety issue for those employees. Additionally, providing the requested information would unduly interfere with the privacy expectations of Defendant's current and former employees because Defendant considers such information confidential.

Defendant objects to this interrogatory as it has not been given approval from DHS/ICE/DOJ to provide information related to detainees per the attached letters.

4. Please provide the full name, dates of employment, last known address, last known personal e-mail address and last known personal telephone number of each of your employees or other agents, current or former, who supervised any detainee in performing work pursuant to the Housing Unit Sanitation Policy in the

Aurora Facility between October 22, 2004 and the present.

ANSWER: Objection. Defendant objects to this interrogatory as unduly burdensome, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence, and because it seeks confidential information. Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

This interrogatory is overbroad as the Aurora facility employs approximately 189 people on the ICE contract at any time and, of course, employees separate from employment and are hired at various times. Who was employed and the number of people employed may vary at any time. The officers work three shifts, 24 hours a day, 365 days a year and anyone of them could have supervised cleaning pursuant to the sanitation policy at any time. Defendant does not, in the ordinary course of business, maintain any document that would identify which of those employees supervised detainees cleaning pursuant to the sanitation policy. This interrogatory is also unduly burdensome as Plaintiffs are seeking information regarding all detention officers employed for a ten year period.

Defendant also objects to providing the personal contact information for its current and former employees as the contact information is not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence, and because it seeks confidential information. Providing the names and contact information for employees (to persons who were previously or are currently detained) presents a security risk and a safety issue for those employees. Additionally, providing the requested information would unduly interfere with the privacy expectations of Defendant's current and former employees because Defendant considers such information confidential.

Defendant objects to this interrogatory as it has not been given approval from DHS/ICE/DOJ to provide information related to detainees per the attached letters.

5. Please describe in detail each and every disciplinary or corrective action taken against a detainee for failing or refusing to fully participate in work pursuant to the Housing Unit Sanitation Policy from October 22, 2004 to the present and any policies of the Defendant that govern these disciplinary or corrective actions. For each disciplinary or corrective action (an "Action"), please provide the following information:

- a. The name and Alien Registration Number of the detainee subject to the Action;**
- b. The name and all known contact information for any employee or agent of GEO who assigned, carried out, or otherwise had knowledge of the Action; and**
- c. A description of the Action.**

ANSWER: Objection. Defendant objects to this interrogatory because it seeks confidential information subject to the Privacy Act and as unduly burdensome, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence. Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Defendant objects to this request as vague because "disciplinary," and "corrective action," are not defined. It is unknown whether this follows the allegation in the Complaint that there were "threat[s] to put those who refused to work (for no pay) in 'the hole,' or solitary confinement." Doc. 1. Defendant employs approximately 189 people on the ICE contract during three shifts, 24 hours a day and 365 days a year and those employees change over time. This request could be interpreted as asking whether some employee

referred to solitary confinement or “the hole” in relation to the sanitation policy at some time since 2004. Defendant simply has no way of determining the answer to this interrogatory.

Pursuant to direction from DHS/ICE/DOJ, Defendant objects to providing the Alien Registration Number (“A Number”) for each detainee subject to the sanitation policy because the A Number is not relevant to any claim or defense, is not likely to lead to the discovery of admissible evidence, and because the A Number is confidential information subject to the Privacy Act, 5 U.S.C §552a, FR Doc No: 2013-27895.

Defendant also objects to providing the personal contact information for its current and former employees as the contact information is not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence, and because it seeks confidential information. Providing the names and contact information for employees (to persons who were previously or are currently detained) presents a security risk and a safety issue for those employees. Additionally, providing the requested information would unduly interfere with the privacy expectations of Defendant’s current and former employees because Defendant considers such information confidential.

Defendant objects to this interrogatory as unduly burdensome because there could be approximately 4,000 to 6,000 ICE detainees that are housed at the Aurora facility every year. All detainees are subject to ICE’s housing sanitation policy and Plaintiffs are seeking information for ten years and, therefore, potentially 60,000 detainees. In the ordinary course of business, Defendant does not maintain any document that would identify disciplinary or corrective actions for each of those 60,000 detainees or the employees involved in those actions. Therefore, answering this interrogatory would require reviewing each of up to 60,000 detainee files to locate any disciplinary or corrective actions.

Defendant objects to this as unduly burdensome.

As to policies, see the objections, answer, and responses to Response to Request for Production No. 9.

Defendant also objects to this interrogatory as Defendant has not received approval from DHS/ICE/DOJ to provide information from the detainee files as stated in the attached letters.

6. Please describe in detail each and every disciplinary or corrective action taken against a detainee in the Aurora Facility that resulted in a detainee being disciplined in any way, including, but not limited to, placed in solitary confinement, at any time from October 22, 2004 to the present and any policies of the Defendant that govern these disciplinary or corrective actions. For each disciplinary or corrective action (an "Action"), please provide the following information:

- a. The name and Alien Registration Number of the detainee subject to the Action;**
- b. Any employee or agent of the Defendant that assigned, carried out, or otherwise had knowledge of the Action; and**
- c. A description of the Action and the reason for the Action, including a description of the purported violation justifying the Action.**

ANSWER: Objection. Defendant objects to this interrogatory because it seeks confidential information subject to the Privacy Act and as unduly burdensome, overbroad, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence. Defendant objects to this request as vague because “disciplinary,” and “corrective action,” are not defined. Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Defendant objects to his request as overbroad, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence. The allegations in Plaintiffs' Complaint are very specific and only include discipline related to refusing to participate in ICE's sanitation policy. Therefore, information regarding detainees subject to discipline for any other reason is overbroad, not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence.

Defendant objects to providing the Alien Registration Number ("A Number") for the reasons already stated. Defendant objects to providing the personal contact information for its current and former employees for the reasons already stated. Defendant objects to this interrogatory as unduly burdensome because of the number of detainees housed during the time period and the number of employees, as stated above.

Defendant also objects to this interrogatory as Defendant has not received approval from DHS/ICE/DOJ to provide information from the detainee files as stated in the attached letters.

7. Please describe in detail each and every policy of GEO that resulted in disciplinary or corrective action taken against a detainee for refusing to work pursuant to the Housing Unit Sanitation Policy in the Aurora Facility from October 22, 2004 to the present.

ANSWER: Objection. Defendant objects to this interrogatory as vague because "disciplinary or corrective action" is not defined. Defendant objects to this interrogatory as it presumes there are policies that state that there will be disciplinary or corrective action taken against detainees for refusing to work pursuant to the Housing Unit Sanitation Policy. Defendant objects to this interrogatory to the extent that it presumes that there were

detainees that received disciplinary or corrective action for refusing to work pursuant to the Housing Unit Sanitation Policy at the Aurora Facility. Defendant objects to this interrogatory as overbroad and unduly burdensome as it seeks policies for a ten year period of time.

See objections, answers, and responses to Interrogatory No. 5 and Request for Production No. 9.

8. For each policy identified in response to the previous interrogatory, please state which GEO facilities implemented each policy and between what dates each policy was in effect at each facility.

ANSWER: Objection. Defendant objects to this request as overbroad, not relevant, and not likely to lead to the discovery of admissible evidence because this request seeks information from facilities other than the Aurora facility, but the Aurora facility is the only facility at issue in this case.

9. Please provide the full name, dates of employment, last known address, last known personal e-mail address and last known personal telephone number of each of your employees or other agents, current or former, responsible for reporting to, communicating with, or otherwise liaising with the ICE personnel, including, but not limited to, the ICE Contracting Officer's Technical Representative(s) and ICE Designated Service Official, regarding GEO's compliance with the federal contractual and legal requirements, at the Aurora Facility between October 22, 2012 and the present.

ANSWER: Objection. Defendant objects to this interrogatory as vague, overbroad, unduly burdensome, not relevant to any claim or defense and not likely to lead to the

discovery of admissible evidence, and because it seeks confidential information.

Defendant objects to this interrogatory as vague. Defendant is unfamiliar with the phrase “ICE Designated Service Official.” Additionally, it is unclear what is meant by the phrases “responsible for reporting to, communicating with, or otherwise liaising with,” and “compliance with the federal contractual and legal requirements.”

Defendant objects to this interrogatory as overbroad as any employee could potentially provide information to an ICE official, if asked.

Defendant objects to providing the personal contact information for its current and former employees for the reasons already stated above.

Without waiving those objections and limiting the question to known regular communications with ICE, Defendant states that there are generally weekly meetings between department heads at the Aurora facility and local ICE officials. Currently, the persons at the meetings are:

<u>GEO Staff</u>	<u>ICE Staff</u>
John Choate, Warden Dawn Ceja, AW Operations Barb Krumpelmann, AW Finance and Administration Jaime Davis, Chief of Security Dennis McCoy, Fire Safety Manager Kevin Martin, Programs Manager Joshua Dittmar, Transportation SV Paul Pinksonly, Maintenance SV Scott Kennedy, Food Service Manager Michele Cooper, Executive Secretary Tommy Jensen, IT Brad Stelter, ACA Compliance Trina McCuen, Training Manager Health Services Administrator	Amelia Sanchez, COR Contracting Officers Representative Carl Zabat, AFOD Asst. Field Office Director Chris Jones, SDDO Supervisory Detention Deportation Officer Tracy Cammorto, SDDO Supervisory Detention Deportation Officer Fred Krzysiak, Detention Services Manager

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please provide all "Detainee Payroll" documents bearing any date between October 22, 2012 and the present that pertain to or record work in the VWP at the Aurora Facility.

RESPONSE: Objection. Defendant objects to this request as vague and overbroad, unduly burdensome and because it requests confidential information.

Defendant objects to this request as vague, overbroad, and unduly burdensome because of the use of the words/phrase "all 'Detainee Payroll' documents" and "pertain to or record work." This request could seek all documents with the name "Detainee Payroll" or all documents with detainee payroll information. There are an unknown number of types of documents that could contain detainee payroll information.

Defendant also objects to this request based on the same objections asserted in answer to Interrogatory No. 1. Without waiving any objections, and limiting its response to the documents most readily used in the ordinary course of business, Defendant's response to this request is the same as its objections and answer to Interrogatory No. 1.

Upon approval from DHS/ICE/DOJ, Defendant may also be able to permit inspection of approximately 47+ boxes of "daily sheets" which the detainees sign each day they work. A redacted example of a "daily sheet" was provided to attorney Brandt Milstein via email on June 10, 2015.

2. Please provide any and all documents summarizing, recording or reflecting hours worked in the VWP at the Aurora Facility between October 22, 2012 and the present.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents” and “summarizing, recording or reflecting.” See also objections, answers, and responses to Interrogatory No. 1 and Request for Production No. (“RFP”) 1.

3. Please provide any and all documents summarizing or recording payments made to detainees working in the VWP at the Aurora Detention Facility between October 22, 2012 and the present.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents” and “summarizing or recording.” See also objections, answers, and responses to Interrogatory No. 1 and Request for Production Nos. (“RFP”) 1 and 2.

4. Please provide any and all documents summarizing, constituting or recording policies, guidelines, or authority pursuant to which you conducted the VWP between October 22, 2012 and the present.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents” and “summarizing, constituting or recording,” and “policies, guidelines, or authority.” Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Without waiving those objections and limiting its response to official local policies, Aurora local policy 8.1.8 addresses the voluntary work program. Copies of those policies will be provided upon approval of DHS/ICE/DOJ and the Court’s entry of a protective order.

Additionally, Defendant conducts the VWP program pursuant to the PBNDS, the contract with ICE, and the ICE detainee handbook, all of which were previously provided.

5. Please provide any and all documents summarizing, constituting, recording or referencing any disciplinary or corrective action taken between October 22, 2012 and the present which arises from, references or concerns the VWP or any job assigned pursuant to that program.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents” and “summarizing, constituting, recording, or referencing” and “disciplinary or corrective action.” Defendant also objects to this request based on the same objections set forth in answer/response to Interrogatory Nos. 5-7.

6. Please provide any and all documents summarizing, constituting, recording or referencing any disciplinary or corrective action taken between October 22, 2004 and the present which arises from, references or concerns the Housing Unit Sanitation Policy or any job assigned pursuant to that policy.

RESPONSE: Objection. See objections, answers, and responses to Interrogatory Nos. 5-7 and RFP 5.

7. Please provide any and all documents summarizing, constituting, recording or referencing any disciplinary or corrective action taken between October 22, 2004 and the present that involves the use of solitary confinement.

RESPONSE: Objection. See objections, answers, and responses to Interrogatory Nos. 5-7 and RFP 5 and 6.

8. Please provide any and all documents recording or summarizing the identities of individuals tasked with working pursuant to the Housing Unit Sanitation Program between October 22, 2004 and the present.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrases “any and all documents” and “recording or summarizing.” See objections, answers, and responses to Interrogatory No. 2.

9. Please provide any and all documents summarizing, constituting or recording policies, guidelines, or authority pursuant to which you conducted the Housing Unit Sanitation Policy between October 22, 2004 and the present.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents” and “summarizing, constituting or recording,” and “policies, guidelines, or authority.” Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Without waiving those objections and limiting its response to official local policies, Aurora local policy 12.1.4 addresses sanitation. Copies of those policies will be provided upon approval of DHS/ICE/DOJ and the Court’s entry of a protective order.

Additionally, sanitation is conducted pursuant to the PBNDS, the contract with ICE, and the ICE detainee handbook, all of which were previously provided.

10. Please provide any and all documents summarizing, constituting or recording communications between you and any person representing the ICE, dated

between October 22, 2004 and the present and which reference the Housing Unit Sanitation Program.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents,” “summarizing, constituting or recording,” and “communications.”

Defendant also objects to this request because at this time, pursuant to letters from the US Attorney’s office, Defendant is unable to provide any communications with ICE until approval is received from DHS/ICE/DOJ. See attached letters. Defendant understands that if Plaintiffs want these documents, they must provide DHS/ICE/DOJ with the “detailed description of the relevance of the information as it pertains to the issue at hand.” See attached letters.

11. Please provide any and all documents summarizing, constituting or recording communications between you and any person representing the ICE, dated between October 22, 2012 and the present and which mention the VWP.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase “any and all documents,” “summarizing, constituting or recording,” and “communications.”

Defendant also objects to this request because at this time, pursuant to letters from the US Attorney’s office, Defendant is unable to provide any communications with ICE until approval is received from DHS/ICE/DOJ. See attached letters. Defendant understands that if Plaintiffs want these documents, they must provide DHS/ICE/DOJ with the “detailed description of the relevance of the information as it pertains to the issue at hand.” See

attached letters.

12. Please provide any and all documents summarizing or constituting any contract you executed to purchase services, including cleaning services, to be delivered at the Aurora Facility between October 22, 2004 and the present.

RESPONSE: Objection. Defendant objects to this request as not related to class certification issues. Defendant objects to this request as not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence. These documents will not make it more likely than not that Defendant violated the TVPA or was unjustly enriched.

13. Please provide any and all documents summarizing, constituting, or recording Performance Evaluation Meetings, including all draft invoices, signed minutes, and GEO responses to any areas of disagreement between ICE and GEO, that occurred or were scheduled to occur between you and ICE from October 22, 2004 and the present.

RESPONSE: Objection. Defendant objects to this request as it is not aware of what is meant by a "Performance Evaluation Meeting." Defendant objects to this request as not related to class certification issues. Defendant objects to this request as not relevant to any claim or defense and not likely to lead to the discovery of admissible evidence. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase "any and all documents," "summarizing, constituting or recording," and "draft invoices, signed minutes, and GEO responses to any areas of disagreement."

Defendant also objects to this request because at this time, pursuant to letters from

the US Attorney's office, Defendant is unable to provide any communications with ICE until approval is received from DHS/ICE/DOJ. See attached letters. Defendant understands that if Plaintiffs want these documents, they must provide DHS/ICE/DOJ with the "detailed description of the relevance of the information as it pertains to the issue at hand." See attached letters.

14. Please provide all requests for reimbursement from GEO to ICE, and any responses thereto, for monies related to the Detainee Volunteer Work Program created on or after October 22, 2012.

RESPONSE: Objection. See objections, answers, and responses to Interrogatory No. 1 and RFP 1-3.

15. Please provide any and all documents you provided to any Plaintiff.

RESPONSE: Objection. Defendant objects to this request as vague, overbroad and unduly burdensome based on the use of the words/phrase "any and all documents." Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Without waiving those objections, and limiting its answer to its current review of documents, the requested documents are typically maintained in a detainee's file. Defendant has provided redacted detainee files for each currently named plaintiff to DHS/ICE/DOJ for its review. However, Defendant objects to this request because at this time, pursuant to letters from the US Attorney's office, Defendant is unable to provide the detainee files until approval is received from DHS/ICE/DOJ. See attached letter. Defendant understands that if Plaintiffs want these documents, they must provide

DHS/ICE/DOJ with the “detailed description of the relevance of the information as it pertains to the issue at hand.” See attached letters.

16. Please provide any and all documents which purport to be signed by any Plaintiff.

RESPONSE: Objection. See objections and response to RFP 15.

REQUESTS FOR ADMISSION

1. Admit that at least one detainee in the Aurora Detention Center faced disciplinary or other corrective action for refusing to participate in work pursuant to the Housing Unit Sanitation Policy.

ANSWER: Objection. Defendant objects to this request as vague and overbroad. This request is overbroad and unduly burdensome as it is not limited in time. This request is vague and overbroad as “faced,” “disciplinary,” and “other corrective action,” are not defined. It is unknown whether this follows the allegation in the Complaint that there were threats “to put those who refused to work (for no pay) in ‘the hole,’ or solitary confinement.” Doc. 1. Defendant employs an average of 189 employees on the ICE contract during three shifts, 24 hours a day and 365 days a year and those employees change over time. This request could be interpreted as asking whether some employee referred to “the hole” or solitary confinement in relation to the sanitation policy at some time during the entire time ICE detainees have been housed at the Aurora facility. Defendant simply has no way of determining the answer to this request.

Defendant also objects to this request because it seeks confidential information subject to the Privacy Act and as unduly burdensome, not relevant to any claim or defense

and not likely to lead to the discovery of admissible evidence. Defendant objects to this request as it is governed by federal regulations at 6 C.F.R. §§ 5.41-5.49 and by United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

Defendant objects to this request as unduly burdensome because there could be approximately 4,000 to 6,000 ICE detainees that are housed at the Aurora facility every year. All detainees are subject to ICE's housing sanitation policy and Plaintiffs are seeking information for ten years and, therefore, potentially 60,000 detainees. In the ordinary course of business, Defendant does not maintain any document that would identify disciplinary or corrective actions for each of those 60,000 detainees. Therefore, answering this request would require reviewing each detainee file to locate any disciplinary or corrective actions. Defendant objects to this as unduly burdensome.

Defendant also objects to this request as Defendant has not received approval from DHS/ICE/DOJ to provide information from the detainee files as stated in the attached letters.

2. Admit that immigration detainees in other detention facilities owned and or operated by GEO are paid more than \$1 per day for their participation in the VWP.

ANSWER: Objection. Defendant objects to this request as overbroad, not relevant, and not likely to lead to the discovery of admissible evidence because this request seeks information from facilities other than the Aurora facility, but the Aurora facility is the only facility at issue in this case. Different facilities work with different ICE contracting officers and each facility has its own contract terms, including the terms related to the detainee work program.

Defendant further objects as it can neither admit nor deny this request. There are some ICE detainees at some GEO facilities in some jobs that are paid more than \$1 per day. There are also some detainees at a GEO facility that are permitted to work more than one job, are paid \$1 per day for each job and, therefore, could earn more than \$1 per day for their participation in the VWP. However, all facilities that receive reimbursement from ICE for the VWP, are only reimbursed \$1 per day.

3. Admit that there is no law, regulation, or contract preventing GEO from paying detainees at its Aurora Detention Facility more than \$1 per day for their participation in the VWP.

ANSWER: Objection. Defendant objects to this request as it requires a legal conclusion and an ultimate issue for trial. Defendant can neither admit nor deny this request. Pursuant to 8 U.S.C. § 1555(d), the Immigration and Naturalization Service (“INS,” now known as DHS/ICE) can appropriate money for work performed by persons held in custody under the immigration laws. The amount of payment was set by the Department of Justice Appropriation Act, 1978, Pub.L. No. 95-86, 91 Stat. 426 (1978), at a rate not to exceed \$1.00 per day.¹ See also Department of Justice Appropriation Act, 1979, Pub. L. No. 95-431, 92 Stat. 1021, 1027 (Oct. 18, 1978); Department of Justice Appropriation Act, 1978, Pub. L. No. 95-86, 91 Stat. 419, 426 (August 2, 1977).² Congress has never raised

¹ The court in *Alvarado Guevara v. INS*, 902 F.2d 394, 396-977 (5th Cir. 1990), held that the Congressional authorization of the payment to detained aliens is “a valid exercise of the congressional power to regulate the conduct of aliens.”

² Additionally, the Department of Justice Appropriations Authorization Act, 1979, Pub. L. No. 96-132, § 2 (10), 93 Stat. 1040, 1042 (1979), gave the INS (now DHS/ICE) authority comparable to the authority in 8 U.S.C. 1555(d). The 1979 Act appropriates money to the INS/DHS/ICE for “payment of allowances to aliens, while held in custody under the immigration laws, for work performed.” *Id.* Unlike Section 1555(d),

that rate.

The plain language of the contract states that Defendant “shall not exceed the **quantity** shown without prior approval by the Contracting Officer.” Doc. 11-2, pp. 3, 5-8. The **quantity** is the total dollar amount allocated for that line item in the contract. *Id.* The contract makes no statement that Defendant may seek approval for a **rate** higher than \$1.00 per day. *Id.* To the contrary, the contract prohibits Defendant from making a higher payment providing that the government’s appropriation or “reimbursement . . . will be at actual cost of \$1.00 per day per detainee.” *Id.* DHS/ICE included this term in the contract for services with Defendant at the Aurora facility (Exhibit C to ECF 11) and in the ICE Detainee Voluntary Work Program (Exhibit A to ECF 11).

The requirement that any reimbursement over \$1 per day occur only with the "approval of the Contracting Office" indicates a strong federal interest in controlling the levels of reimbursement provided to detainees under the VWP, and in not having such reimbursement calculated based on a post-hoc "fair market value" analysis. See Doc. 29 at 29-30. Allowing Colorado common law to be inserted into the federal government-contractor relationship to vary a material pricing term of the GEO/ICE contract-i.e., paying excess of \$1 per day without the "approval of the Contracting Office"-directly and significantly conflicts with the government-contractor relationship. See Doc. 29, at 30 (citing U.S. v. City of Las Cruces, 289 F.3d 1170, 1186 (10th Cir. 2002)).

however, Section 2(10) does not require Congress to set the rate of compensation for each fiscal year. 93 Stat. at 1042. Congress has renewed Section 2(10) in subsequent fiscal years. See e.g. Pub.L.No. 98-166, 205(a), 97 Stat 1086 (1984); Pub.L.No. 102-140, 102(a), 105 Stat. at 791 (1992); Pub.L.No. 104-208, 102(a), 110 Stat. at 3009-17 (1997); Pub.L.No. 107-77, 102, 115 Stat. 764 (2002).

Strictly speaking, the "at least" qualification is consistent with the contract, which provides that more than \$1 per day could be paid with approval of the Contracting Office. But that language alone does not authorize payment of more than \$1 per day, and does not override the contractual prohibition that the \$1 per day rate not be exceeded without "approval of the Contracting Officer."

4. Admit that GEO informed at least some detainees at the Aurora Detention Facility that the \$1 a day wage for the VWP was set by ICE or some other branch of the Federal government.

ANSWER: Objection. Defendant objects to this request as vague. Defendant is unable to respond to this request as it is unknown who "GEO" is and there is no time frame for this request. Defendant employs approximately 189 employees on the ICE contract during three shifts, 24 hours a day and 365 days a year and those employees change over time. Defendant houses 4,000 to 6,000 detainees per year at the Aurora facility. This request could be interpreted as asking whether some employee made such statements at some time to some detainee during the entire time ICE detainees have been housed at the Aurora facility. Defendant simply has no way of determining the answer to this request.

REQUEST FOR INSPECTION

Pursuant to FRCP 34(a)(2), Plaintiffs request that they and/or their agents and attorneys be allowed to enter onto and inspect GEO's Aurora Detention Facility (the "Property") on December 11, 2015 at 10:00 a.m. for the purposes of inspecting, measuring, surveying, photographing, testing, or sampling said property. The Plaintiffs specifically request to inspect the following portions of the Property:

1. All facilities used for disciplinary or corrective actions against detainees, including any facilities used for solitary confinement;
2. Any area that was the subject of detainee work, including cleaning, as a result of the Housing Unit Sanitation Policy; and
3. Any area that was the subject of detainee work as a result of the VWP.

RESPONSE: Objection. Defendant objects to this request for inspection as it is not related to class certification.

Defendant objects to the inspection of the facility as such inspection is not relevant to either party's claim or defense and not likely to lead to the discovery of admissible information. An inspection will not make it more or less likely that Defendant violated the TVPA or was unjustly enriched. Defendant also objects to the inspection of the new facility based on security concerns and that it will unduly burden the operation of the facility.

Submitted September 23, 2015.

AS TO OBJECTIONS, REQUESTS FOR PRODUCTIONS, REQUESTS FOR ADMISSIONS, and REQUEST FOR INSPECTION:

VAUGHAN & DeMURO

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2015, I electronically submitted **DEFENDANT'S RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR ADMISSIONS, REQUESTS FOR PRODUCTION OF DOCUMENTS, AND REQUEST FOR INSPECTION** via electronic mail to the following

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Exhibit N

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

PLAINTIFFS' SECOND SET OF REQUESTS FOR INSPECTION

Pursuant to FRCP 34(a)(2), Plaintiffs¹ request that they and/or their agents and attorneys be allowed to enter onto and inspect GEO's Aurora Detention Facility (the "Property") on January 18, 2018 at 10:00 a.m., or an agreed-upon time thereafter, for the purposes of inspecting, measuring, surveying, photographing, testing, or sampling said property. The Plaintiffs specifically request to inspect the following portions of the Property:

1. All facilities used for administrative or disciplinary segregation of immigration detainees;
2. All housing units occupied by any Plaintiff, including both individual cells and common areas;
3. All areas where any Plaintiff performed work, including cleaning, pursuant to the Housing Unit Sanitation Policy;
4. All areas in which GEO stores or stored records and/or electronically-stored

¹ Plaintiffs incorporate by reference the Definitions in Plaintiffs' First Set of Discovery Requests to Defendant, dated July 31, 2015.

information (“ESI”); and

5. All areas where any Plaintiff performed work pursuant to the Voluntary Work Program.

Dated: December 15, 2017

By: /s/ Juno Turner
Juno Turner

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Class Counsel

Exhibit O

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

PLAINTIFFS' SECOND SET OF REQUESTS FOR INSPECTION

Pursuant to FRCP 34(a)(2), Class Members¹ request that they and/or their agents and attorneys be allowed to enter onto and inspect GEO's Aurora Detention Facility (the "Property") on January 21, 2019 at 10:00 a.m., or an agreed-upon time thereafter, for the purposes of inspecting, measuring, surveying, photographing, videotaping, testing, or sampling said property.

The Class Members specifically request to inspect the following portions of the Property:

1. All facilities used for administrative or disciplinary segregation of immigration detainees;
2. All housing units occupied by any Class Member, including both individual cells and common areas;
3. All areas, including but not limited to GEO's on-site medical facility, laundry room, dining area, kitchen, law library, barbershop, intake area, solitary confinement unit, warehouses, any exterior or outdoor areas, and ICE and GEO offices, including, but

¹ Class Members incorporate by reference the Definitions in Class Members' First Set of Discovery Requests to Defendant, dated July 31, 2015.

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Class Counsel

Exhibit P



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December 27, 2018

VIA EMAIL

Juno Turner

Elizabeth Stork

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Re: Alejandro Menocal v. The GEO Group, Inc. - Case No. 2014CV02887

Dear Juno and Elizabeth,

This letter serves to follow up on our brief discussions regarding Plaintiffs’ Second Requests for Inspection, served November 2, 2018 (“Second Inspection Requests”), through which Plaintiffs seek to conduct an inspection of the Aurora facility on January 19, 2019.

As a preliminary matter, this letter confirms our discussions that the January 19 date was a placeholder date and that the parties will work together and with ICE to schedule any inspection on a mutually convenient date.

More broadly, we briefly discussed that all inspection requests must be approved by and scheduled through ICE. During that conversation, you indicated that Plaintiffs wanted to view *all* areas of the facility as identified in the Second Inspection Requests. I advised that it was my understanding that narrowing the scope of the Second Inspection Requests to *representative samples* of areas, rather than *all* areas, would facilitate ICE approval of the requested inspection, and that insisting on viewing *all* areas would likely lead to obstacles in obtaining ICE approval. To further these discussions, we are providing the following information regarding the process that GEO must follow with ICE with respect to obtaining approval for the inspection, and ask that you reconsider your position on viewing *all* areas in light of this information.

All inspection requests must be initiated by the facility and submitted to the facility’s Assistant Field Office Director (“AFOD”) at ICE. When the facility generates an inspection request, the AFOD inquires as to the purpose of the request and the *specific* areas to be visited. ICE needs this information for both logistical and security purposes: ICE and GEO staff must clear detainees from the areas while visitors are present, must address national security concerns, and must ensure the security of visitors while at the facility.

In our experience, ICE does not approve requests that would, in effect, allow inspection of broad areas of the facility without limiting the inspection to representative samples of those

December 27, 2018

Page 2

areas. As drafted, your request does exactly this and would likely be denied. Though we are able to submit your inspection request as is, we believe it is more productive to collaborate with you to craft a narrower inspection request that both: (1) meets your litigation needs; and (2) is likely to be approved by ICE. We believe this is the most efficient approach to conducting this portion of discovery.

Further, once ICE has approved a physical inspection of the facility, there will need to be a further plan for the logistics of any such inspection. To that end, we will, in advance of the inspection, present you with a specific plan that addresses logistics such as sequencing and timing of the areas to be inspected, and give you time to comment on any such plan. To the extent you find deficiencies within the proposed plan, we will meet and confer in good faith about revising the plan and help negotiate any revisions with ICE.

Finally, we note you that when we submit the request for physical inspection, we are obligated to disclose to ICE that you intend to take photographs and video of the facility. That request will likely be handled separately by an individual in the Department of Homeland Security, and we will keep you updated on the proper procedure for that aspect of the inspection.

Please let us know your thoughts on the above. We are available to set a call to further discuss if that would be helpful.

Very truly yours,



Naomi G. Beer

NGB/je

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WDC 373833778v1

Exhibit Q

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ALEJANDRO MENOCA, *et al.*,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

NO. 14-CV-02887-JLK

**DEFENDANT THE GEO GROUP,
INC.’S RESPONSES AND
OBJECTIONS TO PLAINTIFFS’
SECOND SET OF REQUESTS FOR
INSPECTION**

Defendant GEO, by its attorneys, Holland & Knight LLP and Burns Figa & Will, hereby responds to Plaintiffs’ second set of requests for inspection.

GENERAL OBJECTIONS AND STATEMENTS

1. Defendant objects to the disclosure of any information protected from discovery by the attorney-client privilege or work product doctrine.
2. The responses to the discovery below are to the best of Defendant’s present knowledge and information. Defendant reserves the right to supplement these responses after completion of discovery, investigation, or preparation for trial. Defendant further reserves the right to introduce evidence at the time of trial based upon information and/or documents located, developed, or discovered subsequent to the date hereof, which evidence may supplement, amplify, modify or be in conflict with the following answers that are based upon present information only.
3. Defendant objects to the “Definitions” and “Instructions,” in Plaintiffs’ discovery requests, to the extent they impose obligations beyond those imposed by the Federal Rules of Civil Procedure and to the extent they are vague and fail to provide specific understandable definitions.

PLAINTIFF’S SECOND SET OF REQUESTS FOR INSPECTION:

Pursuant to FRCP 34(a)(2), Class Members request that they and/or their agents and attorneys be allowed to enter onto and inspect GEO’s Aurora Detention Facility (the “Property”), for the purposes of inspecting, measuring, surveying, photographing, videotaping, testing, or sampling said property. The Class Members specifically request to inspect the following portions of the Property:

1. All facilities used for administrative or disciplinary segregation of immigration detainees;

2. All housing units occupied by any Class Member, including both individual cells and common areas;
3. All areas, including but not limited to GEO's on-site medical facility, laundry room, dining area, kitchen, law library, barbershop, intake area, solitary confinement unit, warehouses, any exterior or outdoor areas, and ICE and GEO offices, including, but not limited to, conference rooms and break rooms, where any Class Member performed work, including cleaning, pursuant to the Housing Unit Sanitation Policy;
4. All areas in which GEO stores or stored records and/or electronically-stored information ("ESI"); and
5. All areas, including but not limited to GEO's on-site medical facility, laundry room, dining area, kitchen, law library, barbershop, intake area, solitary confinement unit, warehouses, any exterior or outdoor areas, and ICE and GEO offices, including, but not limited to, conference rooms and break rooms where any Class Member performed work pursuant to the Voluntary Work Program.

RESPONSE:

Defendant objects to the Requests for Inspection (the "Requests") on the grounds that the terms "inspecting, measuring, surveying, photographing, videotaping, testing, or sampling" are vague and ambiguous and subject to multiple interpretations; thus it is unclear what actions Plaintiffs intend to carry out while at the Property. Defendant objects to the Requests on the grounds that "inspecting, measuring, surveying, photographing, videotaping, testing, or sampling" infringes upon the privacy rights and other statutory, regulatory, and contractually protected rights of individuals who are not party to this litigation. Defendant objects to the Requests on the grounds that the Requests cover information and premises that are not relevant to Plaintiffs' claims or Defendant's defenses in this litigation, and are not likely to lead to the discovery of admissible evidence. Defendant objects to the Requests to the extent that the areas requested to be inspected, measured, surveyed, photographed, videotaped, tested or sampled is configured differently than it was during the time period relevant to Plaintiffs' claims. Defendant further objects to the Requests on the grounds that the Requests are not proportional to the needs of the case. Defendant objects

to the Requests on the grounds that the Request poses security concerns and creates an undue burden on the operation of the facility. Notwithstanding the foregoing objections, Defendant is willing to agree to the following: access to one unit pod where detainees reside (all of the housing pods mirror each other), the kitchen, the library, laundry facilities, medical unit, solitary confinement unit, and common areas. Due to privacy and security concerns, neither photography or videotaping are permitted. Names and dates of birth of all visitors must be provided in advance for a routine background check prior to facility access.

Dated: April 26, 2019

HOLLAND & KNIGHT LLP

/s/ Carolyn P. Short

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**ATTORNEYS FOR DEFENDANT
THE GEO GROUP, INC.**

CERTIFICATE OF SERVICE

I, Carolyn Short, certify that on April 26, 2019, I caused to be served a true and correct copy of the above GEO's Second Set of Requests for Inspection, via Electronic Mail as follows:

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I certify under penalty of perjury that the above information is true and correct.

Dated this 26nd day of April 2019, at Philadelphia, PA.

/s/ Carolyn P. Short
Carolyn P. Short

Exhibit R

immigrants held in Customs and Border Protection custody or in Office of Refugee Resettlement shelters, including three Guatemalan children who have died since December.)

In at least a half dozen of these cases, there have been allegations that inadequate medical care preceded the deaths. Samimi’s case appears to be one of those —and an example of how government contractors running facilities like Aurora have struggled to provide adequate care for a drastically increasing detainee population.

An internal ICE review of Samimi’s death found there were major deficiencies in his medical care for severe opioid withdrawal before his death, according to a source who viewed the document. The source asked not to be named because they are not authorized to speak to the press and fear retaliation.

ICE’s detention standards [provide](#) that “detainees experiencing severe or life-threatening intoxication or withdrawal shall be transferred immediately to an emergency department for evaluation” and returned to the detention facility only if it is “staffed with qualified personnel and equipment to provide appropriate care.” Investigators found that Samimi’s treatment violated this standard and many others, according to the Project on Government Oversight’s source.

ICE’s official review of Samimi’s death has not yet been publicly released, despite multiple pending Freedom of Information Act [lawsuits](#) for such release. An ICE spokesperson said the agency could not comment on the case due to pending litigation.



The women’s medical room is seen at the Adelanto immigration detention center, which is run by the Geo Group, in Adelanto, Calif., on April 13, 2017. (Photo: Lucy Nicholson/Reuters)

According to an [inspection report](#) on ICE's website, the 64-year-old Samimi "was placed in medical observation directly from intake" because he reported suffering from depression, methadone and heroin addiction, and abdominal pain, and "began rather quickly complaining of nausea and vomiting and was observed to vomit blood."

On Nov. 28, 11 days after he was taken into custody, Samimi "was observed to have a bed sheet tied tightly around his neck" and was placed on suicide watch. On Dec. 2, "the detainee attempted to get into a wheelchair but vomited blood and collapsed" and stopped breathing. Soon after, he was pronounced dead at a local hospital. The inspection report, quoting from a source that it does not identify, states that "the most likely cause of death was noted as 'the result of asphyxia secondary to aspiration of bloody vomitus.'"

The local coroner's [autopsy](#) states that Samimi's cause and manner of death are "undetermined," but that emphysema and gastrointestinal bleeding were likely contributing factors. The forensic pathologist wrote that Samimi had been addicted to methadone since 1990 and that "methadone withdrawal cannot be ruled out as the cause of death, however, deaths due to methadone withdrawal are rare."

Samimi's case is just one of many that critics of the Aurora detention center say shows a bigger problem with care there and throughout America's growing immigrant detention complex, where [around 50,000 people](#) are detained on an average day.

A [complaint](#) filed last year by the American Immigration Council and American Immigration Lawyers Association alleges a pattern of "dangerously inadequate medical and mental health care" at the jail in the Denver suburbs. Since the complaint was filed, ICE has drastically expanded the detention facility, putting even greater stress on its medical care system.

At the time of Samimi's death, Aurora's medical director — and sole full-time physician — was Jeffrey Elam Peterson, MD. He left Aurora a few months later, in approximately April 2018, to become medical director at

the nearby Arapahoe County jail. It is unclear whether his departure was linked in any way to Samimi's death. GEO Group did not respond to the Project on Government Oversight's requests for comment.

Several former Aurora detainees and their attorneys have accused Peterson specifically of providing inadequate health care and attempting to intimidate detainees when they advocated for better treatment.

In one extreme case, a paralyzed detainee, Ronnie Keyes, alleged in [a lawsuit](#) against GEO Group that his leg had to be amputated as a result of Peterson's negligent medical care. GEO Group settled the case for an undisclosed sum shortly before it was scheduled to go to trial in March.

Keyes, a U.S. citizen, was arrested on federal weapons charges and sent to Aurora in June 2016. (GEO Group primarily holds immigration detainees at Aurora, but also contracts with the U.S. Marshals Service to hold a small number of detainees awaiting trial on federal criminal charges.) Keyes is paralyzed from the waist down, which places him at risk of developing pressure ulcers, also known as bedsores, according to the lawsuit.



In 2016, supporters link arms around a group of Hispanic demonstrators at the Immigration and Customs Enforcement detention center in Aurora, Colo., after an 11-mile prayer walk to show solidarity with immigrants. (Photo: [Steven K. Paulson/AP](#))

According to his legal complaint, Keyes had two mild pressure ulcers at the beginning of his detention. As soon as he arrived, he requested a specialized air mattress to prevent them from deteriorating or new sores from forming. He was never provided one, and his ulcers deteriorated and eventually became severely infected.

The complaint alleges that between his detention at Aurora in June and his hospitalization in September, Keyes filed over 50 written complaints about his medical care. “Not one was taken seriously,” it says.

In July, Keyes wrote that Peterson had ordered that the dressing on his wounds be changed once every three days, when a daily change was required to avoid infection, and that several of the nurses at Aurora acknowledged that they were not equipped to properly treat him.

In August, he began requesting to be taken to the hospital, in part because his pressure ulcers “had gotten even worse, they were bleeding, and they smelled bad.” He was finally taken to the emergency room after “staff at the facility found him passed out in his wheelchair.”

The infection had spread to his blood and the bone in his foot. His left leg was amputated below the knee on Sept. 20, 2016.

Even after the amputation, Keyes’s pelvic bone remained infected, requiring multiple hospitalization and surgeries. Keyes’s attorney, David Lane, said in an interview, “The doctors believe it’s a matter of time until it kills him.”

Lane said that based on Keyes’s experience, medical care at Aurora was “abysmal.”

“I wouldn’t let Dr. Peterson give me a haircut,” he added.

Attorneys representing Aurora detainees have alleged that Peterson reprimanded their clients for filing grievances or seeking assistance from attorneys in obtaining medical care. Arash Jahanian of the ACLU of Colorado, wrote in a [court declaration in 2017](#) that when a client of his filed grievances because he was not receiving treatment for an arterial blockage, Dr. Peterson and one other official “told him to stop filing grievances.”

Another former Aurora detainee, René Lima Marín, recently filed a [legal claim](#) alleging that he had received inadequate treatment for multiple fractures to bones in his face resulting from a fall in his cell. Lima Marín was

taken to the emergency room the night of Feb. 7, 2018, and told that he needed to return in a week or two for surgery to ensure the bones healed properly. On Feb. 16, his attorneys wrote to Aurora’s warden, Johnny Choate, alleging that Lima Marín was not receiving adequate care.

In response, according to the legal claim, Peterson “berate[d] Mr. Lima Marín for involving his lawyers in his medical care,” and “accused him of lying and exaggerating his injuries.” Peterson also wrote in an email to Lima Marín’s attorneys that he perceived their letter as “an unprofessional and threatening document,” and was planning to file a formal complaint against them with the Colorado Bar Association.

Danielle Jefferis, one of Lima Marín’s lawyers, said in an interview that other clients of hers had also had experience with Peterson “telling them they’re faking it or they’re lying.”

Peterson did not respond to messages left with his previous and current employer, texts and calls to the mobile phone number listed on his state medical license, and letters sent to his home and work addresses.



In 2017, an employee of the GEO Group wears a company patch on his uniform as he works at the Northwest Detention Center in Tacoma, Wash., during a media tour. (Photo: Ted S. Warren/AP)

Aurora isn’t the only ICE detention facility where detainee grievances have allegedly been met with threats. The Department of Homeland Security’s inspector general [reported](#) in December 2017 that detainees at other detention centers said “staff obstructed or delayed their grievances or intimidated them, through fear of retaliation, into not complaining.

These deterrents may prevent detainees from filing grievances about serious concerns that should be addressed and resolved.”

The American Immigration Council and American Immigration Lawyers Association [complaint](#) from last summer describes the experiences of seven Aurora detainees, all identified by pseudonyms. One of them, identified as “Abdo,” a refugee from South Sudan, was placed in isolation for a month after a dispute with a guard despite suffering from post-traumatic stress disorder, as part of which he experienced auditory and visual hallucinations.

During fiscal year 2018, when most of these cases occurred, the Aurora detention facility had an average daily population of 644 ICE detainees. It now holds over 1,000 — but there is still just [one full-time physician](#). (Nationally, the United States has [2.56 doctors per 1,000 people](#). [The ratios in jails and prisons tend to be lower](#), and detainees’ medical needs higher.)

In late January, the GEO Group opened a [432-bed annex](#) next door to the main detention center. The annex is the original Aurora detention center, where the GEO Group’s business of contracting with the federal government to detain immigrants for profit began in 1987. It had been vacant for several years after the GEO Group opened its newer, larger detention site nearby.

ICE and GEO initially contracted to operate the annex for [90 days](#). In late April, the contract was [extended another year](#), for \$14 million.

ICE has [said](#) the annex was recently remodeled. Elizabeth Jordan, an attorney for the Civil Rights Education and Enforcement Center, said in an interview that she saw little sign of that when she visited the facility. “It’s very clearly an old jail,” she said, that appeared to have been abandoned and used for storage.

According to Laura Lunn, who manages the Rocky Mountain Immigrant Advocacy Network’s detention program, the annex was filled with new detainees flown in from the U.S.-Mexico border “essentially overnight” after it opened in January 2019. Several flights of detainees arrived in quick succession, without a

corresponding increase in guards or medical staff at the time.

“They were not scaling up to accommodate the needs of the people being detained,” said Lunn, whose organization offers legal orientation to newly arrived detainees at Aurora. GEO has since hired more staff, Lunn said, though it is not clear whether the pace of hiring has matched the expansion of the jail.

Lunn said that her own organization was “overwhelmed and overburdened” trying to conduct intake interviews with recent arrivals.

Weeks after the expansion, [357 detainees in Aurora were under quarantine](#) for exposure to chicken pox and mumps. Detainees’ attorneys said that although Aurora had experienced quarantines for chicken pox before, they had not occurred on this scale, and quarantines for mumps were much rarer. Lunn said that “a shockingly high number of units” were quarantined and noted that there had been an “uptick of quarantines around the country.”



In 2017, a women's area at the Northwest Detention Center in Tacoma, Wash., is shown during a media tour of the facility. The federal facility, operated under contract by the GEO Group, is used to house people detained [for](#) migration and other violations. (Photo: Ted S. Warren/AP)

As of March 7, there were 2,287 ICE detainees in quarantine across the country, [Reuters reported](#). There were 236 confirmed or probable cases of mumps in ICE detention in the past year, as opposed to zero in the previous two years.

At Aurora, most detainees under quarantine [had their immigration court hearings canceled](#), which had the practical effect of lengthening their time in detention.

They also lost access to outdoor recreation and visits to families.

Alethea Smock, an ICE spokesperson in Colorado, said in an email about the quarantines that “medical personnel are credited with reducing the further infection of detainees by their quick reaction.” She added, “Each detainee receives a medical examination upon arrival at the facility to check for potential signs of illness, however ICE has no way of knowing what viruses a person may have been exposed to prior to entering the facility.”

Detainees’ lawyers dispute this. Jefferis noted that the mumps outbreak “coincided with arrivals of large numbers of people, as they were filling the annex” and medical intakes were not happening promptly. One of her clients told her that two detainees in his housing unit who contracted mumps had gone untreated for days as they got sicker, and at least one eventually had to be hospitalized.

The quarantines have now been lifted in Aurora, but the facility’s chronic problems with medical care remain.

Another one of Jefferis’s clients has Type 1 diabetes, which requires daily insulin treatment. Between his arrest in early February and mid-March, she said, he rarely received the correct dosage of insulin at the correct time. He began suffering increasingly severe nerve damage, vision loss and pain as a result, and was eventually hospitalized with a blood sugar level that placed him at risk of a diabetic coma. Jefferis said that since returning from the hospital, the client had begun receiving the proper medication, but was still suffering from nerve damage and vision loss.

Aurora is located in the congressional district of Democratic Rep. Jason Crow. Anne Feldman, a spokeswoman for Crow, wrote in an email, “We’ve heard multiple reports of poor conditions and disease outbreaks at the GEO Group-run facility in Aurora from detainees themselves and some attorneys. Despite our concerns, DHS has yet to respond to our multiple letters on the topic.”

Crow was also turned away twice when he tried to visit the facility in February and March, before finally receiving a tour 24 days after his first request. He and 20 colleagues are now [seeking](#) to pass legislation requiring that members of Congress be given access to ICE detention facilities with 48-hours notice.

The medical care problems at Aurora, according to the American Immigration Council and American Immigration Lawyers Association [complaint](#), are “the norm rather than the exception” in ICE custody.

Jordan, the attorney for the Civil Rights Education and Enforcement Center, agreed that medical care problems are pervasive in ICE detention centers, many of which are further from major hospitals and metropolitan areas than the jail in the Denver suburbs. Aurora, she said, is “an illustrative example of the entire way the system fails.”

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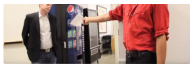
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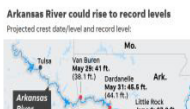
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