

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ALABAMA
3 SOUTHERN DIVISION

4 ALABAMA STATE CONFERENCE *
5 OF THE NAACP, et al., *
6 Plaintiffs, * 2:21-cv-1531-AMM
7 vs. * November 19, 2024
8 WES ALLEN, in his official *
9 capacity as Alabama Secretary *
10 of State, et al., *
11 Defendant. *
12 *****
13

14 TRANSCRIPT OF BENCH TRIAL
15 VOLUME VI
16 BEFORE THE HONORABLE ANNA M. MANASCO
17 UNITED STATES DISTRICT JUDGE
18
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20

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CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, AL 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

APPEARANCESFOR THE PLAINTIFFS:

Amanda N Allen
HOGAN LOVELLS US LLP
555 13th Street NW
Washington, DC 20004
202-637-2521
Amanda.n.allen@hoganlovells.com

Brittany Carter
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC
40 Rector Street, 5th Floor
New York, NY 10006
646-761-0596
Bcarter@naacpldf.org

Colin Burke
NAACP Legal Defense and Educational Fund Inc
40 Rector Street
New York, NY 10006
646-531-3485
Cburke@naacpldf.org

Davin Rosborough
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, NY 10004
212-549-2613
Drosborough@aclu.org

Dayton Campbell-Harris
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
425-516-8400
Dcampbell-harris@aclu.org

Deuel Ross
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND INC
700 14th Street NW
6th Floor
Washington, DC 20005
202-682-1300
Dross@naacpldf.org

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Jack Genberg
2 SOUTHERN POVERTY LAW CENTER
3 P O Box 1287
4 Decatur, GA 30031
5 404-708-0554
6 Jack.genberg@splcenter.org

7 Jacob Van Leer
8 American Civil Liberties Union Foundation
9 915 15th St NW
10 Washington, DC 20005
11 603-277-0314
12 Jvanleer@aclu.org

13 James W Ettinger
14 HOGAN LOVELLS US LLP
15 1999 Avenue of the Stars
16 Suite 1400
17 Los Angeles, CA 90067
18 310-785-4608
19 Jay.ettinger@hoganlovells.com

20 Jess Unger
21 SOUTHERN POVERTY LAW CENTER
22 1101 17th Street NW
23 Suite 550
24 Washington, DC 20036
25 771-200-8943
Jess.unger@splcenter.org

Kathryn Carden Sadasivan
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC
40 Rector Street, 5th Floor
New York, NY 10006
332-600-9546
Ksadasivan@naacpldf.org

Laurel Ann Hattix
ACLU of Alabama
ACLU of Alabama
P.O. Box 6179
Montgomery, AL 36106
703-342-9729
Lhattix@aclualabama.org

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Michael Lovejoy Turrill
2 HOGAN LOVELLS US LLP
3 1999 Avenue of the Stars, Suite 1400
4 Los Angeles, CA 90067
5 310-785-4707
6 Michael.turrill@hoganlovells.com

7 Nicki Leili Lawsen
8 WIGGINS, CHILDS, PANTAZIS, FISHER & GOLDFARB, LLC
9 301 19th Street North
10 Birmingham, AL 35203
11 205-314-0535
12 Nlawson@wigginschilds.com

13 Shelita M Stewart
14 HOGAN LOVELLS US LLP
15 555 13th Street NW
16 Washinton, DC 20004
17 202-637-6960
18 Shelita.stewart@hoganlovells.com

19 Sidney Monroe Jackson
20 WIGGINS CHILDS PANTAZIS FISHER & GOLDFARB
21 301 19th Street North
22 Birmingham, AL 35203
23 205-314-0500
24 Sjackson@wigginschilds.com

25 FOR THE DEFENDANT:

Benjamin Matthew Seiss
ALABAMA OFFICE OF THE ATTORNEY GENERAL
P.O. Box 300152
501 Washington Ave (36104)
Montgomery, AL 36130
334-353-8917
Ben.seiss@alabamaag.gov

Brenton Merrill Smith
OFFICE OF THE ATTORNEY GENERAL OF ALABAMA
P.O. Box 300152
501 Washington Avenue
Montgomery, AL 36130
334-353-4336
Brenton.Smith@AlabamaAG.gov

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 James W Davis
2 OFFICE OF THE ATTORNEY GENERAL
3 501 Washington Avenue
4 P O Box 300152
5 Montgomery, AL 36130-0152
6 334-242-7300
7 Jim.davis@alabamaag.gov

8 Misty Shawn Fairbanks Messick
9 OFFICE OF THE ATTORNEY GENERAL
10 FOR THE STATE OF ALABAMA
11 501 Washington Avenue
12 P O Box 300152
13 Montgomery, AL 36130-0152
14 334-242-7300
15 Misty.Messick@AlabamaAG.gov

16 Michael P. Taunton
17 Riley Kate Lancaster
18 BALCH & BINGHAM LLP
19 1901 Sixth Avenue North, Suite 1500
20 Birmingham, Alabama 35203
21 (205) 251-8100

22 J. Dorman Walker
23 BALCH & BINGHAM LLP
24 445 Dexter Avenue, Suite 8000
25 Montgomery, Alabama 35203
(334) 269-3138

COURTROOM DEPUTY: Frankie N. Sherbert

COURT REPORTER: Christina K. Decker, RMR, CRR

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

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25

I N D E X

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 excuse Dr. Hood?

2 MR. SMITH: Not from defendant, Your Honor.

3 MS. ALLEN: Not from plaintiff, Your Honor.

4 THE COURT: Dr. Hood, thank you for being with us.

5 You are excused.

6 THE WITNESS: Thank you, Your Honor.

7 (Witness excused.)

8 THE COURT: Mr. Davis.

9 MR. DAVIS: Your Honor, our best guess, the direct
10 examination of our next witness, Dr. Landers, will be 30 to
11 45 minutes.

12 We are happy to proceed however the Court wishes -- lunch
13 break now or later, whatever you wish to do.

14 THE COURT: Do either set of counsel have a
15 preference? Who's hungry? Let's ask it that way. Mr. Ross is
16 hungry. Lunch now, and we will begin when we return.

17 All right. It's 11:45. Let's come back at 1:00. Is that
18 suitable?

19 All right. Thanks.

20 (Recess.)

21 THE COURT: Good afternoon, everybody.

22 All right. State's next witness.

23 MR. MINK: The defense calls Dr. Karen Landers.

24 THE COURT: All right.

25 KAREN LANDERS

1 having been first duly sworn by the Courtroom Deputy Clerk, was
2 examined and testified as follows:

3 THE COURTROOM DEPUTY CLERK: Please state and spell
4 your name for the Court.

5 THE WITNESS: Karen, K-A-R-E-N, Landers,
6 L-A-N-D-E-R-S.

7 THE COURTROOM DEPUTY CLERK: Thank you.

8 MR. MINK: Richard Mink for defendant Secretary of
9 State Wes Allen.

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MR. MINK:

13 Q Dr. Landers, could you tell us where you live by city and
14 state?

15 A Yes. I live in Leighton, Alabama.

16 Q How long have you lived there?

17 A 44 years.

18 Q Now, you are a medical doctor; is that correct?

19 A Yes, sir.

20 Q Could you describe your education?

21 A Yes. I have a bachelor's degree in biology from the
22 University of Alabama in Birmingham. I have a medical degree
23 from UAB School of Medicine, graduated in 1977. I am board
24 certified and maintenance of certification certified by the
25 American Board of Pediatrics.

1 Q When you graduated with your medical degree, did you begin
2 in private practice?

3 A Yes, sir. After I completed my residency at the
4 University of Tennessee Center For Health Sciences in 1980, I
5 entered private practice at the Florence Clinic in Florence,
6 Alabama.

7 Q Do you continue in private practice today?

8 A No, sir. I work for the Alabama Department of Public
9 Health.

10 Q And how long have you been with the Alabama Department of
11 Public Health?

12 A I was recruited to the Alabama Department of Public Health
13 in 1982 due to my interest and background in communicable
14 diseases and vaccine preventable diseases.

15 Q What is your current position with the Alabama Department
16 of Public Health?

17 A I am the chief medical officer.

18 Q And how long have you been in that position?

19 A Since May of 2022.

20 Q Who was your predecessor in that position?

21 A Dr. Mary McIntyre.

22 Q Do you know how long she held the position of chief
23 medical officer?

24 A Since approximately 2016 until her retirement in May of
25 2022.

1 Q And do you know Dr. McIntyre's race?

2 A Yes. She's an African-American person.

3 Q How did you become the chief medical officer? Was it a
4 selection process, or did you have to interview for the job or
5 how did that come about?

6 A I was interviewed and selected as the chief medical
7 officer.

8 Q And why were you interested in becoming the chief medical
9 officer?

10 A In May of 2022, we were still in a very intense period of
11 time in COVID-19 in the state of Alabama, as well as other
12 public health issues. And Dr. McIntyre was retiring. With my
13 background and experience in public health, I did not think
14 that it was a good time for two experienced medical officers to
15 leave public health when we still needed a lot of intense work
16 and intense follow-up in the education of the public related to
17 communicable diseases.

18 Q And who selected you as the chief medical officer?

19 A The State Health Officer, Dr. Scott Harris.

20 Q And is he your supervisor?

21 A Yes, sir.

22 Q I will ask you more about the COVID-19 pandemic in a
23 minute, but I wanted to ask if you had ever testified in court
24 before?

25 A Yes, sir.

1 Q And what was the circumstances of that?

2 A In my role as a primary care pediatrician with both
3 private practice and also the Alabama Department of Public
4 Health, I have testified in a number of child abuse and child
5 sexual abuse cases throughout my career.

6 Q Dr. Landers, do you know what the term "medically
7 underserved means?"

8 A It's a broad term, but, yes, I know what it means.

9 Q Could you tell us what it means?

10 A Well, medically underserved, if we're talking just about
11 the state of Alabama, we're talking about persons who may live
12 in rural areas of Alabama, areas that may not have physicians
13 or nurse practitioners available, areas that may not have
14 hospitals currently operating or providing medical services
15 within that county or community such that persons have to
16 travel to other larger regions to receive medical care.

17 Q Have you spent any of your time in your professional life
18 working to serve the medically underserved?

19 A Yes, sir, I have.

20 Q Could you describe some of those efforts?

21 A Well, again, when I came to the Alabama Department of
22 Public Health in 1982, I am, of course, also a primary care
23 pediatrician in addition to my role in public health. So I
24 operated the pediatrics clinics for the Alabama Department of
25 Public Health within the area, the public health area that I

1 worked.

2 And I also trained nurses and nurse practitioners to
3 provide early periodic detection and screening for pediatric
4 issues and problems. So I acted not only as a clinician, but
5 also as a trainer and referral source and a mentor for other
6 pediatric providers.

7 Q What sort of efforts did you make in those roles to reach
8 the underserved?

9 A Well, the children that frequented the Alabama Department
10 of Public Health pediatrics clinics during the time that I
11 worked as a primary care pediatrician were children who either
12 had no insurance coverage or had Medicaid coverage and again in
13 a very, very small area where there were not providers. So I
14 essentially was their pediatric provider. I was their doctor.

15 Q Did your provision of pediatric services involve services
16 to minority children?

17 A Yes, sir. I served all children that came into the
18 Alabama Department of Public Health.

19 Q Did you have particular areas of the state that you
20 focused on?

21 A I worked throughout the state of Alabama because, as I
22 said, I did train nurses in EPSDT, and I was their consultant
23 and their mentor and their referral source for patients.

24 My primary pediatrics clinics were in northern Alabama,
25 northwestern Alabama. So I drove from Lauderdale, Colbert,

1 Franklin, Marion, Winston, and Walker Counties. But I also saw
2 children from other counties and in other counties that I -- I
3 worked throughout the state of Alabama during my career,
4 including some of the much more rural counties in the state.

5 Q Could you describe some of the minority outreach programs
6 that the Alabama Department of Public Health operates?

7 A Yes, sir. In terms of pediatrics, the Alabama Department
8 of Public Health for a long period of time was the primary
9 resource for early periodic detection and screening or EPSDT.
10 That was with the Medicaid population.

11 Now, with more pediatricians accepting EPSDT patients
12 through the years, there were not as many still coming to the
13 Health Department.

14 In addition, we also saw children that did not have
15 insurance coverage or other coverage such as Medicaid,
16 including Hispanic populations, again, who did not have a
17 source of insurance. Again, that's just a couple of things
18 we're talking about with pediatrics.

19 We, at one time, provided the bulk of immunizations in the
20 state of Alabama. With the introduction for the Vaccines For
21 Children Program, we provided fewer immunizations than we
22 previously did. But, again, we provided vaccines to a large
23 portion of the citizens of Alabama, principally children.

24 We provide a number of other programs that I could
25 highlight, including our Family Planning Program, our cancer

1 detection program, our Well Woman Program. Again, these are
2 all programs that persons come to the Health Department for,
3 and they are assessed based upon income so that no person is
4 denied service for lack of ability to pay.

5 But, again, these are throughout the state of Alabama and
6 do serve persons that might not have other resources for
7 medical care for these services within their counties.

8 Q You said people who may not have the resources otherwise.
9 Do a lot of those individuals include members of the minority
10 population?

11 A Yes, sir. We serve all clients, regardless of race,
12 color, or creed, regardless of ability to pay. But we do
13 certainly have minority populations -- African-American
14 populations, Hispanic populations. We have some other minority
15 populations that have come into Alabama more recently for
16 various reasons, and we are serving them, as well.

17 Q Could you tell us what the Office of Rural Health does?

18 A The Office of Rural Health is not under my purview as the
19 chief medical officer. However, the Office of Rural Health
20 works in terms of education in communities, works with entities
21 that are in communities such as rural health programs or rural
22 health clinics providing information and education and cross
23 walking with services that we have at the Alabama Department of
24 Public Health.

25 For example, some of our rural health clinics might do

1 primary care for women, but they might not provide services
2 such as Pap smears or colposcopy so they would refer the
3 patients to our family planning program for those types of
4 services.

5 So, again, we work within the rural communities also
6 ensuring that any other needs that might be brought up that we
7 can work within those communities for education and
8 information.

9 Q Do you know if the Office of Rural Health serves the
10 minority populations across the state of Alabama?

11 A Again, we serve everyone in the Alabama Department of
12 Public Health who comes to our programs, regardless of race,
13 color, creed, or other factors.

14 Q Could you tell us what the Office of Minority Health does?

15 A The Office of Minority Health, again, is not under my
16 direct purview as the chief medical officer. However, the
17 Office of Minority Health operates in a similar manner, and
18 that is to provide information and education to underserved
19 populations and focusing on some education specifically related
20 to health conditions that might be more prevalent in minority
21 populations, such as information on diabetes, information on
22 hypertension, information on obesity.

23 These are, again, factors that are considered to be
24 prevalent health factors throughout the state of Alabama, but
25 areas that minority populations have more morbidity and need

1 more information and education.

2 Q And that is a program within the Department of Public
3 Health?

4 A Yes.

5 Q Is Operation WIPE OUT also a program within the Department
6 of Public Health?

7 A Operation WIPE OUT is a program that is actually part of
8 our family health services or our Family Planning Program.

9 Part of Operation WIPE OUT is, again, in public health, we
10 educate. So it's to provide education and information to women
11 about cervical cancer, and also outreach, in terms of
12 prevention of cervical cancer, such as accessing the human
13 papillomavirus vaccine or the HPV vaccine.

14 In addition to that, women who have Pap smears that might
15 require their having a procedure called a colposcopy, we also
16 have a colposcopy program where our nurse practitioners are
17 trained and mentored by a board certified OB-GYN, and also he
18 is able to assist them in terms of any biopsies or other
19 procedures that might need to be done for these women to
20 determine if they have cervical cancer.

21 If they do, to provide referral sources for these women
22 to, first of all, prevent cervical cancer if we can by
23 education and vaccination, to reduce the spread of cervical
24 cancer, if a woman already has cervical cancer, where she can
25 have procedures and treatment to, again, reduce the risk of

1 morbidity or mortality from this cancer.

2 Q And is that program available throughout all 67 of
3 Alabama's counties?

4 A We do have the program available, as far as our Family
5 Planning Program. And in every county, there is access either
6 to having the evaluation or being referred to an adjacent
7 county for evaluation.

8 For example, we don't do colposcopies every day in every
9 county because we don't have providers to do that every day in
10 every county. But we do have providers that can receive
11 appointments. And we work with the clients to ensure that they
12 -- if there's a barrier such as transportation or something of
13 that nature, that we can work through that to ensure that the
14 woman receives follow-up.

15 And follow-up is a big part of this. Once we have women
16 who have an abnormal Pap smear and might need to be evaluated
17 with a colposcopy or referred for a colposcopy, then we have a
18 way of tracking and following those patients so that they don't
19 get lost in the medical system and they receive their follow-up
20 appointments.

21 Q Do you know if any of the individuals served by the
22 Department of Public Health through this program are from the
23 minority population?

24 A Again, the Alabama Department of Public Health serves all
25 persons, so we do serve minorities.

1 Q And I understood that that's what you had said. But do
2 you know if minority women, for example, women who are members
3 of a minority community actually seek those services?

4 A Yes, sir. I know that for a fact.

5 Q I think I failed to ask you a minute ago.

6 What other positions have you held within the Department
7 of Public Health prior to your current position?

8 A When I first started out with the Alabama Department of
9 Public Health in 1982, again, I was a primary care
10 pediatrician, but I also worked in communicable disease.

11 And because I have background prior to coming to the
12 Alabama Department of Public Health in tuberculosis control. I
13 became the principle pediatric consultant for tuberculosis.

14 I actually held that position until we hired an additional
15 pediatrician, and I believe that was in 2021. I was the
16 principal pediatric TB clinician for all of those years.

17 I started out as a district medical officer. Then I
18 became an area health officer. Then I was promoted to a
19 position called assistant state health officer.

20 At that time, there were three of us in the state that
21 held that designation. I was one of the three that held the
22 designation of assistant state health officer. And with
23 realignment and title changes, I really have had a number of
24 different titles, such that by the time I became chief medical
25 officer, I was really functioning in a role as a deputy and an

1 assistant to the chief medical officer, as well as the
2 principal medical consultant for our media team and
3 communications, along with the primary consultant for
4 tuberculosis control and other vaccine preventable diseases.

5 And I was also serving in the capacity as the -- one of
6 the two principal scientific leads for COVID-19 and emerging
7 infectious diseases.

8 I have been the medical consultant for our Center For
9 Emergency Preparedness since its inception after 9/11. And I
10 was the medical consultant for the Center For Emergency
11 Preparedness until we hired a new physician for that role in
12 2021 prior to my taking the role as chief medical officer in
13 2022.

14 Q Let me ask you about the COVID-19 pandemic and the state's
15 response to that.

16 Did you work on the state's response to the COVID-19
17 pandemic?

18 A I was one of the two physicians that worked scientific
19 leads. I was co-lead scientific to the COVID-19 response along
20 with one of my other colleagues.

21 Q Was that Dr. McIntyre or someone else?

22 A It was actually Dr. Burnestine Taylor because Dr. McIntyre
23 was the chief medical officer at that time.

24 Q Did you work in conjunction with Dr. McIntyre at all on
25 the COVID response?

1 A Yes. Dr. McIntyre and I worked hand and glove, because I
2 was the principal consultant in terms of our communication to
3 the public, our media communications. I provided a number of
4 television, print, radio, other forms of communication at the
5 local, state, national, and international level.

6 I also assisted her in drafting and writing updates
7 regarding our isolation and quarantine policies, ensuring that
8 if persons had questions about administration of vaccine, I was
9 one of the primary consultants for the nurses during that time.

10 And, again, I assisted Dr. McIntyre as she directed the
11 roles of the programs during the COVID-19 pandemic.

12 Q Do you know if there was any specific outreach made to the
13 minority community during the pandemic?

14 A Yes, sir. I'm aware of quite a bit of outreach. I
15 actually did some of that myself personally in the minority
16 community. I was invited to a number of events, which I
17 attended at churches, at colleges, at health fairs or
18 health-related situations.

19 I actually presented at -- I believe it was AARP. They
20 were holding fairly regular roundtables. I participated on
21 Facebook live in a number of discussions and consultations
22 related to communicating to minority communities, as well as
23 the entire population.

24 I have a heavily Hispanic population in the area that I
25 previously directed. I worked with that population to provide

1 early education related to COVID-19 and vaccine for that
2 particular condition.

3 Q Were you and any of the other doctors at the Department of
4 Public Health involved in patient care during the COVID-19
5 pandemic?

6 A Yes, sir, we were.

7 Q Could you describe that?

8 A We had persons coming to the Alabama Department of Public
9 Health sites for COVID testing.

10 Initially, COVID testing had to be done in laboratories.
11 You did not have the rapid testing that we have now. And even
12 with rapid testing, we were some of the first entities to have
13 rapid COVID testing available through certain products that
14 were again available for onsite rapid COVID testing.

15 So early on, we operated COVID testing sites throughout
16 our -- at that time 66, county health departments. We have 67
17 now. One county was actually very small. We didn't have a
18 presence at that time.

19 So when persons presented who needed a COVID test and they
20 received the COVID test, if they did not have a physician of
21 record when they presented or they didn't state that they had
22 insurance or any other coverage, then those patients were
23 basically divided up, if you will, or assigned to the medical
24 officers to call and talk with those patients to, if you will,
25 do an over-the-phone direct patient care interview and to

1 discern whether or not that patient needed further referral as
2 a physician, or if they were, you know, able to be managed at
3 home. And I was one of the physicians who took care of a
4 number of COVID-19 patients during that time.

5 Q And that was -- you were one of four?

6 A At that time, Dr. Taylor had a case load. Dr. Thomas had
7 a case load. I had a case load. And then we had Dr. McIntyre
8 periodically taking a case load, as well.

9 Q That was in addition to your normal duties in the
10 Department of Public Health?

11 A Yes, sir. Yes, sir.

12 Q Can you speak to the demographics of the individuals who
13 sought direct help from public health?

14 A Again, early on, we were one of the few places that were
15 testing for COVID. So everyone came. Everyone came to the
16 Health Department to get testing. And then, of course, fairly
17 rapidly, hospitals were able to stand up to do testing.

18 Some hospitals developed their own individual COVID
19 testing programs. I'm very familiar with one that was done in
20 the Huntsville region. They called it the Fever and Flu
21 Clinic, and that's where people went for COVID testing.

22 Again, everyone came to us for testing or, again, fairly
23 rapidly went to other places that had access to testing. And
24 we provided COVID testing to whomever came and presented and
25 needed a COVID test.

1 Q Were there members of Alabama's minority community who
2 came to those testing centers?

3 A Yes, sir. Actually, in our specific region where I was at
4 the time, we had a catchment area of five counties that we
5 centralized our Health Department testing at an old community
6 college site, working in conjunction with the EMA and some of
7 the local hospitals so that we had a COVID testing site for
8 five county health departments at one site.

9 We also had people that -- we did drive-through so people
10 could drive into the back of the health departments or in the
11 area designated and some of us would be available there,
12 depending on the situation to actually do the nasopharyngeal
13 swab in appropriate PPE and either put that test in the media
14 to be sent to the Bureau of Clinical Laboratories, or
15 eventually, we were able to do rapid testing once that was
16 available onsite.

17 Q Once the COVID-19 vaccine became available, what was the
18 procedures that the Department of Public Health went through to
19 make that available to the public?

20 A When COVID vaccine first became available in December of
21 2020, it was actually mid-December of 2020, the initial
22 allocation for every state -- every state was on allocation
23 throughout the United States. And we received an allocation
24 from CDC just like any other state. And our allocation plan
25 was based solely upon the guidance of the CDC.

1 So initially, the vaccine was provided to frontline health
2 care workers -- persons that were in situations where they were
3 highly exposed to COVID cases, hospitals, emergency rooms, EMS
4 services, nursing home workers, in-home care workers, again,
5 persons that were working in the health care industry
6 primarily.

7 Q At some point, did the COVID vaccine become available to
8 everyone in the population?

9 A In April of 2021. And, again, we were allocated -- every
10 week, we got allocations from the federal government.

11 In April of 2021, the Alabama Department of Public Health
12 was finally able to open up for COVID vaccine for all persons
13 in the age group that was eligible that wished to receive the
14 vaccine. Because at that time, we still did not have emergency
15 use authorization for pediatric vaccine until later in the
16 year.

17 Q Was there any distinction made in the distribution of the
18 COVID vaccine based on someone's race?

19 A Well, again, we went strictly by the guidance of the CDC.
20 We had a phase plan -- Phase 1, Phase 1A, 1B, and 1C.

21 Again, we were in the phase plan. The guidance came out
22 from the CDC. And once we had adequate vaccine, CDC would make
23 a change based upon the perceived allocation that we had enough
24 allocation to move into another population, and we would do
25 that.

1 And, again, it was based on categorization of the patients
2 as outlined per the CDC.

3 For example, after we moved out of the initial health care
4 allocation, then we moved into age groups. For example,
5 persons 75 years of age and above were addressed due to higher
6 morbidities and mortalities.

7 So race was not a factor that was given to us as part of
8 the allocation from CDC, but rather health factors, health
9 factors, occupational factors, those kinds of factors.

10 Q You may have mentioned this earlier, but was there
11 specific efforts made to reach the minority communities about
12 the availability of the vaccine?

13 A When we started out doing our vaccine allocation plan,
14 even though we were working with the health care workers and
15 frontline workers, we received messaging information from the
16 CDC, and we followed that messaging information.

17 And in Alabama, it was important, and it is important to
18 insure that persons who are eligible and need the vaccine and
19 desire the vaccine received that.

20 So I was the principal communicator for the Alabama
21 Department of Public Health related to that.

22 So in terms of persons who were in those groups,
23 regardless of their racial composition, but if they were in
24 certain groups that were already identified, then the measures
25 were made to ensure that people understood what the COVID

1 vaccine was, how the COVID vaccine was administered, what the
2 COVID vaccine could do for them, in terms of protecting their
3 health and well-being, any questions they might have related to
4 contraindications or side effects.

5 So, again, we were communicating to everyone.

6 Now, that being said, certainly we wanted to ensure that
7 minority populations received information. So in coordination
8 with Dr. McIntyre, I worked with her in reaching out to groups
9 that were very heavily invested in the minority communities,
10 such as faith-based organizations such as HBCUs, other groups
11 that were advocates in the community or leaders in the
12 community, the Black Mayors Association is one group here in
13 Alabama, that we worked with.

14 Again, I've already mentioned, you know, faith-based,
15 other leaders in the community, colleges, and so forth.

16 Q Do you have a sense as to -- or maybe you have the actual
17 data -- to know the percentage of African-American Alabamians
18 versus percentage of white Alabamians who got the vaccine?

19 A As far as those actual numbers now, I do not recall
20 specific numbers.

21 When we had our dashboard -- and we had a dashboard that
22 was updated on a regular basis, and that dashboard had a number
23 of elements, including race, including age group. And looking
24 at the counties, some people may remember the color coding of
25 the counties and what the amount of -- the amount of COVID that

1 was being seen in the counties.

2 At one time early on in COVID -- and this actually
3 persisted through -- the African-American community was doing
4 an outstanding job in the particular groups that I mentioned.

5 I worked very, very closely with a number of ministers --
6 just talked to one of them the other day, in fact -- in
7 promoting this information through their faith-based groups.
8 There is an article that is in the MMWR from -- I believe it
9 was April of 2021 -- and Alabama ranked ninth in the United
10 States in terms of providing COVID vaccine to counties with
11 high social vulnerability indices.

12 So that was something that we were very encouraged to see
13 that, because there was a lot of work going into getting that
14 COVID vaccine out there to reduce morbidity and mortality.

15 Q So you mentioned -- correct me if I get this wrong --
16 social vulnerability index?

17 A The social vulnerability index, or indices is plural.

18 Q Can you explain what that is?

19 A Again, social vulnerability indices what we're really
20 looking at are factors that affect persons' ability, if you
21 will, to access medical care and other services.

22 So, you know, it's a broad category. There are 15
23 identified categories. And they're compacted down into four
24 smaller groups.

25 And, you know, just for example, what you're looking at in

1 the subcategorization, one of the categories is economic. You
2 know, one of the other categories is household makeup, if you
3 will; in other words, what, you know, what the makeup of your
4 household is in terms of numbers of persons in your household,
5 persons of certain age groups in your household. Just one of
6 the other factors is race, ethnicity, and language. So, again,
7 they're kind of compacted down in smaller groups.

8 But what you're really looking at is a number of outside
9 factors that can affect people's ability to access health care
10 services or understanding of health care information, et
11 cetera.

12 Q In the approximate 40 years that you have been with the
13 Department of Public Health, do you have a perception as to the
14 increased availability of public health services to minority
15 communities?

16 A Throughout my career, I have served all populations. I
17 have served minority communities, minority groups.

18 Again, as part of my work, the Alabama Department of
19 Public Health, again, being a public health agency, our goal is
20 to provide preventive health services to all persons.

21 We certainly have expanded in terms of our ability to
22 provide some types of specialized care, if you will, just for
23 example, our women's health, our colposcopy program. We are
24 exceedingly proud of the work that we have done to reduce
25 cervical cancer in the state of Alabama.

1 And that is a newer program that we have been carrying out
2 over the last few years to, again, advance women's health and
3 to reduce this terrible disease among women.

4 Certainly we have expanded our ability to provide
5 treatment services to tuberculosis patients, ensuring that
6 those patients receive the highest level of management and
7 treatment.

8 One of my late colleagues and I were the first physicians
9 in the state of Alabama to use the BPaL regimen, which is a
10 tuberculosis regimen for multidrug-resistant TB. We'd see that
11 really in foreign-born persons more than in minorities more.
12 So we have expanded our services throughout the Alabama
13 Department of Public Health during my tenure.

14 Q What about the access to pediatric care for citizens of
15 Alabama, particularly minorities?

16 A Again, in Alabama, when I first came to Alabama in 1980,
17 the coverage for Medicaid in the pediatric and the OB
18 population at that time was smaller.

19 In the early 1990s, the Medicaid expansion for pediatric
20 and OB patients was undertaken so that women at or below
21 150 percent of federal poverty -- and that's -- I don't know
22 the exact numbers there -- were able to access Medicaid for
23 maternity care, as well as their children staying on Medicaid
24 until they were 19.

25 In 1997, Alabama had the first child health insurance

1 program, which really was able to pick up children that were
2 above the Medicaid amount in income, but still did not have
3 insurance coverage.

4 So we just celebrated our 25th anniversary of the CHIP
5 program in 2022. We were, again, the first state in the nation
6 of a CHIP program.

7 Our ALL Kids program. We now have our ALL Babies program
8 that we have expanded throughout the state of Alabama such that
9 women that don't qualify for Medicaid, but are still
10 underserved, in terms of insurance coverage, can apply to be on
11 our ALL Babies program.

12 So we have, again, expanded our maternity access for
13 people to have coverage. We are not the providers of the
14 actual services. We are the intermediary for the insurance, I
15 guess, for lack of a better word with ALL Babies and ALL Kids.

16 MR. MINK: Judge, could I have just a moment?

17 THE COURT: You may.

18 MR. MINK: No further questions at this time. I will
19 pass the witness.

20 THE COURT: All right. Okay. Thank you. Counsel for
21 the plaintiff.

22 MR. UNGER: Thank you, Your Honor. Jess Unger for the
23 plaintiffs.

24 CROSS-EXAMINATION

25 BY MR. UNGER:

1 Q Good afternoon, Dr. Landers.

2 A Hello.

3 Q If I say ADPH, you will understand that I am referring to
4 the Alabama Department of Public Health, correct?

5 A Yes, sir.

6 Q Okay. You first joined ADPH in 1982?

7 A That's correct.

8 Q And prior to the COVID-19 pandemic, you considered
9 retiring; isn't that right?

10 A Yes, sir.

11 Q But you stayed on in your role at ADPH out of a sense of
12 duty after coronavirus hit; is that right?

13 A Yes.

14 Q I would like to talk about the coronavirus pandemic.
15 Governor Ivey declared a state of emergency statewide in
16 response to the pandemic, correct?

17 A Yes.

18 Q And Governor Ivey renewed that state of emergency several
19 more times; is that correct?

20 A That is correct.

21 Q And ADPH responded to the pandemic with public health
22 orders that had statewide effect, as well, correct?

23 A Yes, sir.

24 Q Black Alabamians were disproportionately hospitalized with
25 COVID; is that right?

1 A We had higher hospitalization in African-American persons.

2 Q And black Alabamians disproportionately died from COVID,
3 as well, correct?

4 A Yes, sir.

5 Q And those disproportionately hospitalizations and deaths
6 were related to underlying morbidities?

7 A Is that a question?

8 Q Yes, ma'am.

9 A Okay. Yes. African-American persons with, for example,
10 hypertension or diabetes or obesity or immunosuppression,
11 again, those are all contributory factors to mortality if
12 you're infected with SARS-CoV-2.

13 Q And black people in Alabama suffer disproportionately from
14 a number of those morbidities that you mentioned, correct?

15 A Yes, sir.

16 Q And black people in Alabama suffered disproportionately
17 from a number of chronic health problems, correct?

18 A Yes, sir.

19 Q Black Alabamians are at a higher risk for diabetes than
20 their counterparts in the rest of the population?

21 A Yes, sir.

22 Q Black Alabamians are at higher risk for hypertension than
23 their counterparts in the population?

24 A Yes, sir.

25 Q Black Alabamians are at higher risk for obesity than their

1 counterparts in the rest of the population?

2 A Yes, sir.

3 Q Black Alabamians are at higher risk for cardiovascular
4 disease at a high rate?

5 A That's correct.

6 Q Okay. On a number of factors generally speaking, black
7 Alabamians experience worse health outcomes, correct?

8 A Yes, sir.

9 Q And black people have had less access to health care in
10 Alabama, correct?

11 A Yes. Certainly depending on where people live, they might
12 have less access to health care.

13 Q Black women experience worse maternal mortality outcomes
14 compared to their white counterparts?

15 A Yes, sir.

16 Q And Alabama sees higher infant mortality among black
17 infants, as well, correct?

18 A They do.

19 Q As of 2022, babies born to black women in Alabama were
20 almost three times more likely to die than babies born to white
21 women in Alabama, correct?

22 A Yes, sir.

23 Q And you spent your career as a public health official
24 serving underserved populations, correct?

25 A Yes.

1 Q And access to health care plays a role in health outcomes
2 for underserved populations?

3 A Yes, sir.

4 Q And education plays a role, as well?

5 A Yes, sir.

6 Q And funding plays a role for health outcomes for
7 underserved populations, as well?

8 A Yes, sir.

9 Q And poverty plays a role in health outcomes for
10 underserved populations?

11 A Yes, sir.

12 Q And black Alabamians comprise a majority of the
13 populations you have served in underserved communities,
14 correct?

15 A I'm sorry. I didn't understand the way you asked the
16 question. Could you ask it again?

17 Q Yes, ma'am. Black Alabamians comprise a majority or most
18 of the population that you have served in underserved
19 communities, correct?

20 A Yes, sir.

21 Q These factors that we have been talking about like
22 education and poverty levels help inform your understanding of
23 why black Alabamians have disproportionately worse health
24 outcomes than white Alabamians, correct?

25 A Yes, sir.

1 Q If I refer to the United States Department of Health and
2 Human Services as HHS, you will understand what I am referring
3 to, right?

4 A Yes, sir.

5 Q You would not be surprised if HHS labels racial
6 discrimination as one of several determinants of health
7 outcomes, right?

8 A No, I wouldn't be surprised.

9 Q Okay. And access to health care services is related to
10 that, right?

11 A I'm -- if you're asking if racial discrimination is
12 related to my -- my providing care to persons, that would not
13 be correct.

14 Q That wasn't my question.

15 Access to health care services is related to the role that
16 racial discrimination plays as a determinant of health
17 outcomes; is that correct?

18 A Again, from my perspective as a provider, no.

19 Q Let me ask it this way: Access to health care services
20 can be affected by racial discrimination; isn't that right?

21 A Well, again, I can only speak to my own work as a
22 physician and my department and say that racial discrimination
23 is not a part of any factor of Alabama Department of Public
24 Health providing care to people in the state of Alabama.

25 Q I understand.

1 ADPH entered a resolution agreement with the United States
2 Department of Justice and HHS last year; is that right?

3 A ADPH entered into a voluntary agreement in -- and I
4 believe it was May of 2022.

5 MR. UNGER: John, could we pull up PX-368?

6 BY MR. UNGER:

7 Q The Resolution Agreement that you referred to had to do
8 with sewage in Lowndes County, correct?

9 A Yes.

10 Q Let's take a look at this agreement.

11 Do you recognize this document?

12 A I'm sorry. You are going to have to blow it up a little
13 bit.

14 Q Sure.

15 MR. UNGER: John, could we zoom in?

16 BY MR. UNGER:

17 Q Dr. Landers, do you recognize this document?

18 A I am familiar with the document. I have not read every
19 word of it.

20 Q Okay. Can you say what it is?

21 A It is -- do you want the title?

22 Q Sure.

23 A Okay.

24 Q If you can identify it, yes?

25 A Interim Resolution Agreement between the United States

1 Department of Justice and the United States Department of
2 Health and Human Services and the Alabama Department of Public
3 Health. Do you want me to keep reading?

4 Q No. That's all right.

5 Dr. Landers, how did you come to be familiar with this
6 document?

7 A I'm familiar with it, because when I became chief medical
8 officer, I was aware that this agreement was going to be
9 developed.

10 MR. UNGER: Plaintiffs would like to offer 368 into
11 evidence.

12 THE COURT: 368. Any objection?

13 MR. MINK: No objection.

14 THE COURT: All right. Admitted.

15 (Plaintiff's Exhibit 368 admitted in evidence.)

16 BY MR. UNGER:

17 Q Dr. Landers, this Interim Resolution Agreement is related
18 to a situation where people living in Lowndes County did not
19 have adequate sewage disposal options; is that right?

20 A Yes, sir.

21 Q And as a result, they were risking exposure to raw sewage;
22 is that right?

23 A Yes, sir.

24 Q Is it correct that the majority of households affected by
25 unsanitary waste water systems in Lowndes County are black

1 households?

2 A Lowndes County is a primarily African-American county, so
3 that is correct.

4 Q Okay.

5 Lowndes County is part of Alabama's Black Belt region; is
6 that correct?

7 A Yes, it is.

8 Q And Lowndes County borders Montgomery County; is that
9 right?

10 A I believe it does. I'm sorry I don't have a map right in
11 front of me, but I believe it does.

12 Q Okay. And it is a very poor area of the state of Alabama,
13 correct?

14 A It is a very poor small county. I believe the population
15 is about 10,000 people.

16 Q People in Alabama's Black Belt already face difficulties
17 accessing health care providers generally; is that right?

18 A Yes. There are few health care providers in those smaller
19 counties.

20 Q And that Resolution Agreement between the federal
21 government and ADPH remains in effect today, does it not?

22 A To my knowledge.

23 Q Okay. In the 1990s, you witnessed the effects of a health
24 care coverage eligibility expansion through the Medicaid
25 expansion that you referenced and CHIP, correct?

1 A The Medicaid expansion was separate from CHIP. Is that
2 what you're asking?

3 Q Yes.

4 A Okay.

5 Q I can ask one at a time.

6 You witnessed the effects of the health care coverage
7 eligibility expansion through Medicaid expansion early in the
8 1990s, correct?

9 A Yes.

10 Q And later in the 1990s, also through CHIP, as well?

11 A For the Child Health Insurance Program, yes.

12 Q And those prior expansions in the 1990s began to address
13 health disparities affecting black Alabamians in pediatric and
14 OB care, correct?

15 A Well, actually, affecting all Alabamians because persons
16 who were -- whomever would be eligible for that, which included
17 African-American persons, white persons, and persons of other
18 races that were eligible based on income guidelines.

19 Q And would it be fair to say that it began to address
20 disparities for the underserved population in Alabama, those --

21 A Yes.

22 Q Okay. And you are aware of a present-day debate whether
23 to expand Medicaid again under the 2010 Affordable Care Act,
24 correct?

25 A I'm peripherally aware of that. I am not directly

1 involved or engaged in at that discussion.

2 Q State of Alabama has not to this day undertaken that
3 expansion, correct?

4 A Again, to my knowledge, I don't work for Medicaid, so I
5 really don't have any specific knowledge related to that.

6 Q It is very important to you to study black women's health,
7 correct?

8 A It's very important for me to study everyone's health in
9 preventative measures, including African-American women.

10 Q And there is a history of racial disparities in health
11 outcomes in Alabama, correct?

12 A I think in terms of talking about infant mortality and
13 maternal mortality and other factors that affect
14 African-American persons, that is a fair statement.

15 Q And these racial disparities result from barriers like a
16 lack of access to education and information, correct?

17 A Yes.

18 Q Poor health outcomes can make it harder for someone to
19 maintain decent employment, correct?

20 A Yes, sir.

21 Q And it's possible that poor health outcomes can make it
22 harder for someone to participate in community activities,
23 correct?

24 A Again, I can assume that if persons are not well, they
25 might not be participating in other activities.

1 Q That could include things like a parent-teacher
2 association meeting or a town council meeting potentially?

3 A Yeah. I can only assume.

4 Q Okay.

5 MR. UNGER: May I have a moment to confer with
6 counsel?

7 THE COURT: You may.

8 MR. UNGER: No further questions for me. Thank you,
9 Dr. Landers.

10 THE WITNESS: Thank you very much. Any redirect?

11 MR. MINK: Yes, ma'am.

12 REDIRECT EXAMINATION

13 BY MR. MINK:

14 Q Dr. Landers, plaintiffs' counsel talked to you about the
15 Interim Agreement that he put up on the screen.

16 Do you know what the genesis of that issue was?

17 A Do you mean how this -- how it actually started? I want
18 to make sure I understand your question.

19 Q I mean, what were the -- what was the condition that
20 created the need for the agreement?

21 A Okay. To my understanding -- and I was not directly
22 involved in the agreement -- but to my understanding, in
23 approximately 2017, there was a study that was done in the
24 Lowndes County region using a non-FDA approved test for soil
25 helminths, which is like worms. That's what most people would

1 understand in terms of the -- that terminology.

2 And at that time, this non-FDA approved test was used in a
3 fairly small group of children and people indicating that these
4 persons could have soil-transmitted helminths.

5 If you read the entire article, which I read extensively
6 and reviewed extensively, the gold standard for
7 soil-transmitted helminths was actually not met according to
8 the CDC.

9 And so the study did not show that there was a problem
10 with soil-transmitted helminths in that region.

11 That particular study as I understood it -- again, I was
12 peripherally involved -- in terms of just being aware of it,
13 brought more attention to that region of Alabama to the Black
14 Belt.

15 Certainly people shouldn't have sewage running out in
16 their yard. They should have an appropriate sanitation system
17 for their home, for their own health and well-being. But that
18 particular study did not prove anything related to that.

19 So that was my understanding that that was a catalyst for
20 the subsequent activities. Again, I was very peripherally
21 involved in it at that time.

22 Q Do you know whether that agreement contained any provision
23 expressing fault or liability on the part of the state?

24 A Again, I'm not an attorney and it was -- I'm peripherally
25 aware of the information. It was my understanding -- because I

1 was asked in media interviews, and I reviewed the news release
2 on this -- that no fault was found with the state of Alabama
3 related to any discriminatory practices against the citizens of
4 Lowndes County. And that was my understanding.

5 Q Do you know if there have been any -- there has been any
6 progress made in the treatment of sewage in Lowndes County?

7 A Yes, sir. There has been progress made.

8 Q Could you describe any of that that you are aware of?

9 A Yes, sir. I have been more involved since I became chief
10 medical officer. And I am aware of a very extensive amount of
11 work on the part of the Alabama Department of Public Health,
12 including me, working within the community attending events,
13 going into the community and talking to the citizens.

14 There were a number of elements that the Alabama
15 Department of Public Health undertook. One of these elements
16 was an assessment, a community assessment survey. And that
17 information was gathered and analyzed based upon a number of
18 factors.

19 And that data was used to select persons that were at
20 highest risk for lack of a better word of needing the sewage
21 system because of the elements in their home, for example, such
22 as maybe having sewage backing up in your home or not having a
23 working system at all, not even having good straight piping or
24 anything of that nature, and health factors.

25 So a number of elements there analyzed such that persons

1 were ranked to be eligible to apply to get a septic tank system
2 that would be paid for through some funding that was received
3 through ARPA, you know, from the state of Alabama, if you will,
4 so that persons could again get a working system. And once
5 having a working system, would provide information and
6 education about maintaining that system for their home so they
7 could have that both now and in the future in their home.

8 Again, there was a lot of education. There is a lot of
9 education ongoing. We have persons that are hired to focus on
10 providing this information.

11 The Alabama Department of Public Health does not install
12 septic tanks. That is not part of our work. But we provide
13 information. We provide education. We provide access, the
14 terms of helping people get RFPs so that they can have an
15 application for working system.

16 Q Plaintiffs' counsel asked you a few minutes ago about the
17 fewer number of providers, health care providers in the Black
18 Belt counties recognizing that all of those counties are not
19 100 percent African-American. They're also other minorities,
20 as well as white Alabamians who live in those counties. Are
21 they also subject to those same -- that same lack of health
22 care?

23 A Again, in any of the rural counties in Alabama -- and, of
24 course, the Black Belt being some of the more rural counties in
25 -- Black Belt counties being named Black Belt because of the

1 soil there, if you will. Again, traditionally those are some
2 of the smaller counties and poorer counties.

3 But in any of the rural counties in Alabama, we're seeing
4 hospitals that are closing or already have closed. We are
5 seeing communities that a physician who may be my age that's
6 been practicing for a number of years, you know, has retired,
7 and there's not a physician to come along to take their place.

8 There's not a nurse practitioner to come along and take
9 their place. So there's not someone there to pick up the
10 medical care for the community. They're not OB providers to
11 provide obstetrics services to women. So there are fewer
12 places for women to be able to deliver babies.

13 And this is a problem in all of our rural counties in
14 Alabama.

15 Q You talked about a few minutes ago about the disparity in
16 the infant mortality rates between white Alabamians and I think
17 African-American Alabamians.

18 Has that rate changed over the time that you have been
19 working for the Department of Public Health?

20 A The rate has decreased thankfully. Certainly, I've been
21 at the department a long time. But it's not decreased down
22 below the national average, which is our goal. That's where we
23 want to be.

24 We want all Alabamians to be healthy. And I've spent my
25 whole career as a pediatrician and as a public health official,

1 you know, working for the health and well-being of the citizens
2 of Alabama.

3 I've treated a number of patients that are of all races,
4 colors, or creeds. Some of my patients have actually gone on
5 to be extremely successful professionals. They remember me. I
6 have to say I don't remember them, because now they're adults
7 and obviously they look different from when they did when they
8 were children.

9 But, you know, as a representative of the Department of
10 Public Health and as an individual physician, it has been my
11 great honor to serve the citizens of Alabama.

12 Q How did the minority communities respond to the COVID-19
13 vaccine when it first became available?

14 A In my own experience as a physician and as a public health
15 official, there was a lot of enthusiasm. And I actually think
16 at the moment -- this minister I just spoke to the other day --
17 there was a lot of enthusiasm. This one particular minister,
18 if you will, was a fabulous leader in north Alabama and really
19 got in front of COVID. I will have to say, he was just someone
20 who even before the pandemic became as widespread, he was in
21 the churches as a leader. And he was -- was actually a
22 veteran.

23 So he had military experience. He was a leader out
24 telling people, I think this is going to be something we're
25 going to have to pay attention to. Let's get out in front of

1 it. Let's educate people. Let's do what he can to serve our
2 citizens and to ensure their health and well-being.

3 Q You talked about your own efforts -- and I think you also
4 referred to the Department of Public Health's efforts. But is
5 the Alabama Department of Public Health working to address
6 those medical concerns that plaintiffs' counsel raised that are
7 present in the minority community, the different problems that
8 are there?

9 Is -- in other words, is the Alabama Department of Public
10 Health reaching out to those communities in an effort to
11 improve their health?

12 A Yes. We have many efforts. One is our -- our mortality
13 -- our maternal mortality review committee, our MMRC that is
14 led by one of our OB-GYNs and other persons, that he has
15 recruited OB-GYNs throughout the state and other health care
16 providers to look at maternal mortality with all women, whether
17 they be white women, African-American women, Hispanic women,
18 again, other groups to identify causes of maternal mortality.

19 You know, I think that's exceedingly important. One thing
20 that we found out in our maternal mortality review is the,
21 again, underlying health problems such as cardiovascular
22 disease. You know, one may not think about in pregnant women,
23 but that has been a factor, cardiovascular disease,
24 hypertension, certainly women having strokes or other
25 cardiovascular events.

1 So, again, attempting to determine that. And as part of
2 that, we also have our maternal autopsy program. I know that's
3 not something that people like to talk about. But once a woman
4 passes away as -- after pregnancy -- and, again, we are
5 following these women up to a year -- we would like to have an
6 autopsy in order to determine the cause or causes of death.
7 And that service is provided free of charge to that family.

8 Now, again, it's not something people like to talk about,
9 but we want to give families some closure. But we also want to
10 be able to have that data to see what factors were there that
11 we might have the opportunity to intervene. Again, you know,
12 was it a situation of sepsis or something of that nature.

13 Again, while it's a very heart-wrenching topic, it's
14 something that the Alabama Department of Public Health has
15 taken extremely seriously, is taking very seriously, and is
16 working to get this data to be able to share and present and
17 help the women of Alabama.

18 MR. MINK: Judge, can I have one minute?

19 THE COURT: You may.

20 MR. MINK: If we could have the last exhibit that was
21 pulled up, the Interim Agreement.

22 THE COURT: That was Plaintiffs' 368.

23 MR. MINK: If we could make it a little bit bigger so
24 I can see it, as well.

25 If you could scroll down I think to the second page.

1 Could you continue to scroll?

2 Okay. If you could highlight the paragraph D.

3 BY MR. MINK:

4 Q Dr. Landers, earlier, I asked you about whether this
5 agreement to your understanding constituted any sort of
6 admission on the part of Department of Public Health. And
7 looking at the last sentence of this paragraph D, I'm going to
8 read it, and I will ask you if I have read it directly.

9 This agreement does not constitute an admission of
10 noncompliance with Title VI and Section 1557 by ADPH; meaning,
11 the Alabama Department of Public Health, nor does this
12 agreement constitute a finding of noncompliance by the United
13 States.

14 Did I read that correctly?

15 A Yes, sir.

16 Q And was that your understanding of what this agreement
17 did?

18 A That was my understanding.

19 Q Okay.

20 MR. MINK: Thank you. You can take the document down.

21 I don't have any further questions.

22 THE COURT: All right. Thank you. Any from the
23 plaintiff?

24 MR. UNGER: No, Your Honor.

25 THE COURT: All right. Is there any reason I may not

1 excuse Dr. Landers?

2 MR. MINK: No, ma'am.

3 THE COURT: Okay. Dr. Landers, thank you for being
4 with us today. You're excused.

5 (Witness excused.)

6 THE COURT: All right. The Secretary's next witness?

7 MR. MINK: The defense calls Cedric Coley.

8 THE WITNESS: All right.

9 CEDRIC COLEY

10 having been first duly sworn by the Courtroom Deputy Clerk, was
11 examined and testified as follows:

12 THE COURTROOM DEPUTY CLERK: Please state and spell
13 your name for the record.

14 THE WITNESS: Cedric Coley, C-E-D-R-I-C, C-O-L-E-Y.

15 DIRECT EXAMINATION

16 BY MR. MINK:

17 Q Good afternoon, Mr. Coley.

18 A Good afternoon.

19 Q Could you tell the Court the city and state where you
20 live?

21 A Montgomery.

22 THE COURT: I don't think your microphone is on.

23 BY MR. MINK:

24 Q Could you please the state the city and state where do you
25 live?

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

11-19-2024

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255