

DOCKET NUMBER: 22-32516-CON

CERTIFIED
COPY

IN RE: PROSPECT ROCKVILLE :
HOSPITAL, INC. D/B/A :
ROCKVILLE GENERAL HOSPITAL, :
a civil penalty proceeding :
concerning Prospect :
Rockville Hospital, Inc. :
d/b/a Rockville General :
Hospital and its termination :
of surgical and procedural :
services. :

HELD BEFORE: DANIEL CSUKA

DATE: Wednesday, May 18, 2022

TIME: 10:00 a.m.

** ALL PARTIES APPEARED REMOTELY **

REPORTER: Tina M. Davis, LSR
(License No. 00221)

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

FOR THE CONNECTICUT OFFICE OF HEALTH STRATEGY

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FOR ROCKVILLE GENERAL HOSPITAL

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BY: MICHELE VOLPE, ESQ.
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In Attendance:

LESLIE GREER, OHS
JESSICA RIVAL, OHS
RUONAN ROY WANG, OHS
DEBORAH WEYMOUTH
STEVEN LAZARUS
C. PERIGO
N. COOK
DAN CSUKA
ANN TURKINGTON
BARBARA DURDY
DAN DELGALLO
EJAY LOCKWOOD
GREG WILLIAMS
JEN FUSCO
ORMAND CLARKE
SUE MALONE

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5 **Certificate** -----

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10 **EXAMINATIONS** **PAGE**

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12 **WITNESS: STEVEN LAZARUS**

13 **DIRECT EXAMINATION BY MS. MANZIONE** **24**

14 **CROSS EXAMINATION BY MS. MANZIONE** **33**

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16 **WITNESS: DEBORAH WEYMOUTH**

17 **DIRECT EXAMINATION BY MS. VOLPE** **65**

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E X H I B I T S

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(No exhibits were marked.)

1 (The hearing commenced

2 at approximately 10:01 a.m.)

3 HEARING OFFICER CSUKA: Is everyone
4 here?

5 Let's see.

6 Lara Manzione for OHS.

7 It also looks like Deborah Weymouth.
8 And I cannot see who is beside her without
9 expanding my screen.

10 Is Michele Volpe on the call?

11 MS. VOLPE: Yes, I am. Thank you.

12 HEARING OFFICER CSUKA: So you're
13 beside Deb?

14 MS. VOLPE: Correct.

15 HEARING OFFICER CSUKA: All right.
16 Good morning everyone.

17 This hearing before the Connecticut
18 Office of Health Strategy is identified by
19 Docket Number 22-32516-CON pursuant to
20 Section 19a-653 of the
21 Connecticut General Statutes.

22 The Petitioner in this matter, the
23 Connecticut Office of Health Strategy,
24 issued a notice of civil penalty in the
25 amount of \$118,000 to the Respondent

1 Prospect Rockville Hospital, Inc. d/b/a
2 Rockville General Hospital, relating to its
3 alleged failure to seek Certificate of Need
4 Approval under Connecticut General Statute
5 Section 19a-63(a) for the termination of
6 surgical and procedural services.

7 Thereafter, the Respondent requested a
8 hearing to contest the imposition of the
9 civil penalty and OHS issued a notice of
10 hearing.

11 Today is May 18, 2022. My name is
12 Daniel Csuka. Executive Director Vicki
13 Veltri designated me to be hearing officer,
14 and I will be issuing the final order in
15 this matter.

16 Also present on behalf of the Agency
17 today is Jessica Rival. She's a health care
18 analyst, who may be assisting me today as
19 needed.

20 There are also several other members of
21 OHS who are also present, and they'll
22 introduce themselves later on in this video.

23 Public Act number 22-3 authorizes an
24 agency to hold a public hearing by means of
25 electronic equipment in accordance with the

1 Public Act.

2 Any person who participates orally and
3 in electronic meeting shall make a good
4 faith effort to state his or her name and
5 title at the outset of each occasion that
6 the person participates orally. I note that
7 there are a number of people present for
8 this hearing today. I ask that all members
9 of the public please mute the device that
10 they are using to access the hearing AND
11 silence any additional devices that are
12 around them.

13 This public hearing is held pursuant to
14 Connecticut General Statute Section 19a-653
15 and will be conducted under the provisions
16 of Chapter 54 of the General Statutes.

17 The Certificate of Need process is a
18 regulatory process. And as such, the
19 highest level of respect will be accorded to
20 the Petitioner, the Respondent, and other
21 OHS staff.

22 Our priority is the integrity and
23 transparency of this process. Accordingly,
24 the decorum must be maintained by all
25 present during these proceedings.

1 This hearing will be transcribed and
2 recorded, and the video will also be made
3 available on the OHS website and its YouTube
4 account.

5 All documents related to this hearing
6 that have been or will be submitted to the
7 OHS are available for review through our
8 electronic CON portal, which is accessible
9 on OHS's website.

10 Although this hearing is open to the
11 public, as mentioned in the agenda for
12 today's hearing, only the Petitioner, the
13 Respondent, OHS, and their respective
14 representatives will be making comments,
15 presenting witnesses, and presenting
16 evidence.

17 Accordingly, the chat feature for this
18 Zoom call has been disabled.

19 As this hearing is being held
20 virtually, we ask that anyone speaking, to
21 the extent possible, also enable the use of
22 their video cameras when speaking during the
23 proceedings. In addition, anyone who is not
24 speaking shall mute their electronic
25 devices.

1 Lastly, as Zoom hopefully notified you
2 in the course of entering this meeting, I
3 wish to point out that by appearing on
4 camera in this virtual hearing you are
5 consenting to being filmed. If you wish to
6 revoke your consent, please do so at this
7 time.

8 Moving on. The CON portal contains the
9 table of record as of yesterday afternoon.
10 As of this morning, exhibits were identified
11 from A to R. Does either party have any
12 objection to these being entered into the
13 record as full exhibits?

14 MS. VOLPE: Michele Volpe for
15 Respondent, Rockville Hospital, I have no
16 objection to the table of contents, the
17 table of record.

18 HEARING OFFICER CSUKA: Thank you
19 Ms. Volpe.

20 Ms. Manzione, do you have any
21 objection?

22 MS. MANZIONE: No objection.

23 HEARING OFFICER CSUKA: Thank you.

24 In accordance with Connecticut General
25 Statutes --

1 MS. MANZIONE: We can't see -- it might
2 just be me, but I don't think we can see
3 your image.

4 HEARING OFFICER CSUKA: Is anyone else
5 having difficulty seeing me?

6 MR. LAZARUS: I can see Dan.

7 MR. WANG: I can see you, as well.

8 MS. MANZIONE: It must just be me.
9 Sorry.

10 HEARING OFFICER CSUKA: In accordance
11 with Connecticut General Statutes
12 Section 4-178, the parties are hereby
13 noticed that I may take administrative
14 notice of the following documents: the
15 Statewide Health Care Facilities Services
16 Plan, the Facilities and Services Inventory,
17 the OHS Acute Care Hospital Discharge
18 Database, the Hospital Reporting System
19 (HRS), Financial and Utilization Data, and
20 the All Payer Claims Database Claims Data.

21 I am taking administrative notice of
22 the following OHS dockets, which were
23 referred to in various places throughout the
24 participants' submissions to OHS. They are
25 Docket Number 20-32361-CONW. That is the

1 docket relating to
2 Rockville General Hospital's request for
3 waiver at the start of COVID, Docket Number
4 20-32405-CON. That is the termination -- or
5 the application for termination of
6 Rockville's license and consolidation with
7 Manchester Memorial Hospital. And the third
8 one is Docket Number 21-32508-DTR. That is
9 the determination request in which Rockville
10 sought an extension of its public waiver,
11 among other things.

12 I may also take administrative notice
13 of other existing OHS dockets, whether
14 currently pending or not, and prior OHS
15 final divisions, proposed final decisions,
16 decisions and agreed settlements which may
17 be relevant to this matter.

18 At this time I would like to ask
19 Ms. Rival, my assistant, if there are any
20 other exhibits that she is aware of that
21 need to be added to the record this morning.

22 MS. RIVAL: No, none that I'm aware of.

23 HEARING OFFICER CSUKA: Okay. Thank
24 you.

25 I also wanted to point out that in

1 addition to this piece of paper in front of
2 me and the laptop that I'm working from I
3 also have another laptop here, as well as
4 another monitor. So if you see me looking
5 over in that direction, it is not that I am
6 not paying attention to you, I definitely
7 am, it's just that I am looking in the other
8 direction at something for some particular
9 reason.

10 So I'm going to start with counsel for
11 the Petitioner, that's OHS. Can you please
12 identify yourself for the record.

13 Ms. Manzione, I believe you are muted.

14 MS. MANZIONE: Good morning. I have
15 unmuted myself. It's a good start to the
16 day.

17 Okay. I am Lara Manzione. I represent
18 the Petitioner,
19 The Office of Health Strategy.

20 HEARING OFFICER CSUKA: Would you mind
21 spelling your name, if you don't mind.

22 MS. MANZIONE: Sure. I'll spell both
23 names. Lara is L-a-r-a. Manzione is
24 M-a-n-z-i-o-n-e.

25 HEARING OFFICER CSUKA: Thank you.

1 I believe I cut you off. I'm sorry.
2 Were you planning to say something else?

3 MS. MANZIONE: No. I was going to say
4 if it pleases the court, I would start with
5 my opening statement.

6 HEARING OFFICER CSUKA: We will get to
7 that. There are a few other things that I
8 wanted to iron out first.

9 MS. MANZIONE: Okay.

10 HEARING OFFICER CSUKA: I did want to
11 have counsel for the Respondent identify
12 herself, as well.

13 MS. VOLPE: Sure. Thank you, Hearing
14 Officer Csuka.

15 My name is Michele with V-o-l-p-e. I'm
16 legal counsel for Rockville General Hospital.

17 HEARING OFFICER CSUKA: Thank you. Do
18 either of you have any additional exhibits
19 that you would like to enter into the record
20 at this time?

21 MS. MANZIONE: No, I do not.

22 MS. VOLPE: No.

23 HEARING OFFICER CSUKA: Okay. Thank
24 you.

25 Are there any other documents or

1 dockets that you would like me to take
2 administrative notice of at this time?
3 Certainly if they come up in the course of
4 testimony or in other places in the hearing,
5 you can ask that I take notice of those at
6 that time, as well.

7 MS. VOLPE: Yes.

8 For purposes of the record, as part of
9 our brief and pre-filed testimony we have
10 reference to numerous executive orders of
11 the governor, as well as various OHS
12 guidance and rulings and forms.

13 So it's our understanding that since
14 those are exhibits and part of our filings,
15 that those are, obviously, in the record.
16 And to the extent we reference them in our
17 statements, we will direct you to the
18 relevant numbers. Our understanding is
19 those are all part of the record, as well.

20 HEARING OFFICER CSUKA: That's correct.
21 That's why I didn't mention those earlier.

22 But in the event there is something
23 else that has been left out, feel free to
24 bring that up and I'm happy to take notice
25 of it, as well.

1 MS. VOLPE: Very good. Thank you.

2 HEARING OFFICER CSUKA: Ms. Manzione,
3 anything?

4 MS. MANZIONE: No.

5 HEARING OFFICER CSUKA: Thank you.

6 MS. MANZIONE: I think we are
7 officially administratively noticed.
8 Everything was in the record.

9 HEARING OFFICER CSUKA: So we haven't
10 done one of these hearings in quite some
11 time. This also is my first hearing as
12 hearing officer for OHS. We are bound to
13 encounter some bumps here and there, but we
14 will do our best to get through them.

15 So we're going to proceed in the order
16 established in the revised agenda for
17 today's hearing.

18 Are there any other housekeeping
19 matters or procedural issues that either of
20 you would like to bring up at this time?

21 MS. VOLPE: None from Respondent.
22 Thank you.

23 HEARING OFFICER CSUKA: Ms. Manzione,
24 anything?

25 MS. MANZIONE: No. I think at the end

1 of closing arguments maybe we can talk about
2 if there's any need for further briefs.

3 HEARING OFFICER CSUKA: Okay.

4 I am happy to discuss those afterwards.

5 So with that in mind, I guess we will
6 proceed to Petitioner's opening statement.

7 I give you the floor, Ms. Manzione.

8 MS. MANZIONE: Thank you.

9 Okay. Good morning. Good morning
10 Hearing Officer Csuka, Attorney Volpe,
11 representatives of Rockville General
12 Hospital and the Office of Health Strategy,
13 members of the health care community and
14 other interested parties.

15 My name is Lara Manzione, and I
16 represent the Office of Health Strategy.

17 Today's case is all about following the
18 rules. It's about who makes the rules and
19 who has to follow the rules. It's also
20 about how we interpret the words that are
21 used in rules.

22 In today's case the main rules we are
23 interested in are statutes, which are rules
24 made by the Connecticut General Assembly.

25 One rule is Connecticut General Statute

1 Section 19a-638(a)(5). This rule requires
2 that a Certificate of Need, or a CON, must
3 be issued in order to terminate in-patient
4 or out-patient services offered by a
5 hospital.

6 The other related rule, is Connecticut
7 General Statute 19a-653. It states that if
8 a health care facility or institution that
9 is required to file a CON under
10 Section 19a-638 willfully fails to seek CON
11 approval for any of the activities in
12 19a-638, they shall be subject to a civil
13 penalty of up to \$1,000 a day for each day
14 such health care facility or institution
15 conducts any of the described activities
16 without Certificate of Need approval, as
17 required by Section 19a-638.

18 The evidence presented today will show
19 that Rockville General Hospital broke these
20 rules and Rockville General Hospital knew
21 that they broke the rules and broke them
22 willfully and that they don't think the
23 penalty for breaking the rules should apply
24 to them.

25 Health care is a very regulated

1 industry. That's why hospitals and the
2 agencies that regulate them need so many
3 lawyers, like me and like Ms. Volpe, my
4 opposing counsel. It's our job to interpret
5 the many rules and regulations that apply,
6 whether from the Federal Government about
7 things like Medicare and Medicaid, or from
8 the state legislature, like the
9 Certificate of Need laws.

10 During the time period at issue the
11 evidence will show that the governor issued
12 a series of rules of his own. His rules are
13 called the executive orders, and they were
14 extraordinary measures taken to address the
15 nascent pandemic.

16 One of his early ones, Executive Order
17 7b was issued on March 14, 2020 and, among
18 other things, gave the Executive Director of
19 the Office of Health Strategy the authority
20 to waive provisions of statutory and
21 regulatory requirements to ensure adequate
22 health care resources and facilities were
23 available to respond to the COVID-19
24 Pandemic.

25 The executive director followed that

1 order and created CON waiver requests for
2 hospitals and institutions so they could
3 rework their facilities quickly to help
4 better align resources to treat the growing
5 number of people with infections.

6 The evidence will show that on
7 March 24, 2021, Rockville General Hospital
8 sought a CON waiver to close its operating
9 rooms in the gastroenterology surgery unit,
10 the pre-op and post-anesthesia care unit,
11 PACU, areas and to repurpose these spaces to
12 treat COVID patients.

13 The following day, March 25, 2021, OHS
14 approved the CON waiver for
15 Rockville General Hospital to do so.

16 The CON waiver stated that once the
17 Pandemic was over they would have to apply
18 for a full CON if they wish to permanently
19 terminate any services.

20 The evidence will show that
21 approximately one year later a new rule,
22 Executive Order 12B, was issued by the
23 Governor that rescinded the wide authority
24 granted to the OHS Executive Director,
25 effective as of June 30, 2021.

1 The evidence will also show that OHS
2 issued a guidance document explaining the
3 rules a few months later on October 22, 2021,
4 clarifying that all hospitals upon waiver
5 should be back to pre-waiver conditions.
6 Continued suspension would constitute a
7 violation of CON statutes and regulations.

8 The evidence will further show that
9 even though Rockville General Hospital
10 received this explicit notice of the rules
11 directly from the OHS that they should be
12 back to pre-waiver conditions,
13 Rockville General Hospital chose to
14 willfully ignore that guidance and break
15 that rule. Rockville General Hospital did
16 not reconfigure and restart its
17 gastroenterology surgery and procedure
18 services, which it closed in March 2020 and
19 for which it received a CON waiver.
20 Therefore, on October 22, 2021, OHS started
21 to assess a civil penalty of \$1,000 a day.

22 The evidence will show that one month
23 after they received the explicit guidance
24 from OHS saying that they should be back to
25 pre-waiver conditions, RGH filed a

1 determination with OHS, because they
2 believed no CON is required to extend the
3 waiver through the PHE, the public health
4 emergency.

5 Rockville General Hospital showed, once
6 again, that they did not want to follow the
7 rules given in the Executive Order 12B or in
8 the latter guidance provided by OHS.

9 On January 24, 2022, OHS issued a
10 determination stating that a CON is required
11 to terminate a service and RGH,
12 Rockville General Hospital, cannot do so
13 without approval in advance.

14 This was another decision, another rule
15 that RGH. didn't like. And the evidence
16 will show that the following day, the CEO of
17 Rockville General Hospital tried a new
18 tactic, a personal e-mail to the
19 Executive Director of OHS asking again to
20 change the rules. The Executive Director of
21 OHS did not respond to her request.

22 At the end of the day, the evidence
23 will show that Rockville General Hospital
24 did decide to resume surgical services on
25 February 16, 2022, so that is the last date

1 OHS assessed the \$1,000 a day civil penalty.

2 In conclusion, the evidence will show
3 that RGH, Rockville General Hospital, knew
4 what the rules were and knowingly, willfully
5 broke them. And the office of health
6 strategy should assess the \$118,000 civil
7 penalty as a consequence.

8 Thank you.

9 HEARING OFFICER CSUKA: Thank you.

10 So we are going to now proceed to your
11 evidence.

12 Do you have any individuals here who
13 are going to testify on behalf of the agency
14 today?

15 MS. MANZIONE: Yes, I do. I have
16 Steve Lazarus. He has submitted pre-filed
17 testimony, and he would also like to -- I'd
18 also like to have him testify briefly live
19 today.

20 HEARING OFFICER CSUKA: Okay.

21 I also believe you identified
22 Ron Sasomas (phonetic). Is he going to be
23 testifying, as well, today?

24 MS. MANZIONE: No, he is not. We
25 decided not to call him today.

1 HEARING OFFICER CSUKA: Okay. Thank you.

2 Mr. Lazarus, would you mind spelling
3 your name for the record, please.

4 MR. LAZARUS: Sure. My name is
5 Steven Lazarus. S-t-e-v-e-n. L-a-z-a-r-u-s.

6 HEARING OFFICER CSUKA: Okay. Thank
7 you very much.

8 I am going to swear you in now at this
9 time.

10 Please raise your right hand.

11 Do you solemnly swear or solemnly and
12 sincerely affirm, as the case may be, that
13 the evidence that you provided in your
14 pre-file and the evidence you shall give in
15 this case shall be the truth, the whole
16 truth, and nothing but the truth so help you
17 God or upon penalty of perjury.

18 MR. LAZARUS: I do.

19 HEARING OFFICER CSUKA: Thank you.

20 Do you adopt your pre-filed testimony
21 as your testimony here today?

22 MR. LAZARUS: I adopt my pre-filed
23 testimony.

24 HEARING OFFICER CSUKA: Thank you.

25 So, Ms. Manzione, you can proceed.

1 MS. MANZIONE: Okay. Thank you.

2 DIRECT EXAMINATION

3 BY MS. MANZIONE:

4 Q. Just a few questions just to give us a
5 flavor of your testimony.

6 So, Steve, would you tell us a little bit
7 about your work history.

8 A. Sure.

9 I work with Office of Health Strategy and
10 its predecessor agency for, approximately,
11 26 years over and through the different
12 iterations of OHS, if you want to call that.

13 I started off as a health care analyst, as I
14 actually was a Connecticut pre-trainee, and
15 moved up to associate, and currently I'm working
16 as the operations manager for OHS. And I report
17 to Kimberly Martone, who recollects is the
18 deputy director of the agency.

19 Q. And did you say you work with the CON unit
20 now?

21 A. I oversee the CON unit currently as an
22 acting supervisor for the program. I also have
23 other duties as part of the operations manager.
24 I run some of the work groups. And I have --
25 over the past few years I also oversee the

1 various OHS portals to make sure they're running
2 well. And I work the IT to ensure that
3 everything is running tiptop, as well as any
4 upgrades that might be needed.

5 Q. Perfect.

6 Okay. Tell us what it was like at OHS when
7 COVID-19 first hit back in March of 2020.

8 A. Well, like most places, we were working
9 normally until we heard about this virus that
10 was sort of spreading around the world and
11 coming to our doorsteps. And at that point we
12 were directed to work from home. And we were --
13 luckily we had the technology to be able to
14 transition to that without much of an issue.
15 And since then we've actually been working from
16 home the majority of the time. We were able to
17 continue to process our applications, have
18 public hearings, and other things just
19 everything electronically via Zoom or Teams.

20 Q. Okay. What was the first you became aware
21 of Rockville General Hospital's efforts or
22 interest in getting any kind of waiver having to
23 do with any of their services?

24 A. Well, I believe it was the waiver request
25 that was filed with OHS as part of the new

1 waiver form that we had developed based on the
2 Executive Order 7B. And that, I believe, was
3 filed on March 24, 2021 -- 2020.

4 MS. MANZIONE: Just for the record,
5 Hearing Officer Csuka noted that, that
6 Docket Number was 20-32361-CON-W.

7 BY MS. MANZIONE:

8 Q. Okay. So that was submitted.

9 Do you know what happened to that waiver
10 request?

11 A. Process wise, if I look at it, it was -- the
12 following day it was reviewed by OHS. And on
13 March 25, 2020, it was approved and uploaded to
14 the CON portal.

15 Q. What happened next?

16 A. As far as Rockville General Hospital, I
17 believe the -- following the Executive Order 12,
18 it was -- 12B, it was -- then there was a
19 guidance that was issued by OHS in October
20 2020 -- 2021. And following that there was a
21 determination filed by
22 Rockville General Hospital on November 22nd
23 requesting to be able to continue suspension of
24 the services. I believe that was under
25 21-332508-DTR.

1 Q. Okay. And you packed a lot of things in
2 there.

3 Just start with the Executive Order 12B.
4 What -- in your understanding, what happened --
5 what is the purpose or what did
6 Executive Order 12B do?

7 A. It's my understanding it actually -- I'm not
8 an attorney, so I didn't interpret it.

9 But it was -- basically was the one that
10 actually ended Executive Order 7B that initially
11 allowed hospitals to waive certain services to
12 focus on COVID-19. And I believe that ended
13 those services to resume on July 1st, which
14 would be June 30, 2021.

15 MS. VOLPE: I'm going to object to that
16 just for the record. I want it noted.

17 HEARING OFFICER CSUKA: Thank you.

18 MS. VOLPE: Your interpretation of the
19 Executive Order.

20 I'm happy to read that section of the
21 Executive Order into the record, but I'm
22 going to object to Mr. Lazarus's recitation
23 and understanding.

24 HEARING OFFICER CSUKA: Thank you.

25 I'll sustain the objection.

1 MS. MANZIONE: Okay. We'll move on.

2 BY MS. MANZIONE:

3 Q. So after the Executive Order 12B --

4 A. Uh-huh.

5 Q. -- what did the Office of Health Strategy
6 do?

7 A. There was the guidance that was issued on
8 10/22/21 clarifying what was in the
9 Executive Order 12.

10 Q. Do you recall what the guidance document
11 stated?

12 A. It generally stated the -- clarifying when
13 the Executive Order 7B ended and went to resume
14 services that were temporarily allowed to waive
15 under Executive Order 7B.

16 Q. Okay. So do you know if -- do you know how
17 Rockville General Hospital reacted to the
18 receipt of that guidance document in October, if
19 at all?

20 A. In October, I believe there was -- let me
21 just look at my notes here of my testimony.

22 I believe the next step that was actually
23 put in place was -- I don't know what -- how
24 Rockville General actually reacted in October,
25 but I do know that they applied the

1 determination in November of 2021.

2 Q. Can you tell us a little bit about what is
3 determination for? In general, what is that
4 process used for?

5 A. So CON determination process is a little
6 different than the CON application process.
7 It's basically where a Petitioner can request
8 whether they need a Certificate of Need for
9 something or not. And that's really what was
10 determined, whether the Office would approve or
11 not approve their request under the CON
12 determination process.

13 Q. And how many determinations would you say
14 the Office of Health Strategy gets in a year,
15 for example?

16 A. We average, approximately, 50 CON
17 determinations per year.

18 Q. What percentage, approximately, would you
19 say result in an answer of no CON required
20 versus CON required?

21 A. My guess would be around 10 percent, maybe,
22 about five per year. But that's hard to tell
23 depending which -- depending on the year and the
24 time of determination. But, generally, probably
25 about five.

1 Q. So the percentage that would require a CON
2 as a result of a determination letter would be
3 about 10 percent? So it's a pretty small
4 number?

5 A. Of the overall determination filed, yes.

6 Q. Okay. What, if you know, was the outcome of
7 the determination request submitted by
8 Rockville General Hospital under
9 Docket Number 21-32508-DTR.

10 A. On January 24, 2022, their request for the
11 CON determination was denied and -- yes, the
12 request was denied to continue the suspension of
13 services.

14 Q. So is that the same as meaning that a CON is
15 required?

16 A. Yes. A CON would have been required.

17 Q. Okay. And so what happened after that?

18 A. According to the record, it would be --
19 there was a civil penalty that was assessed on
20 February 16, 2022, by OHS.

21 Q. Okay. And do you remember anything else --
22 do you remember any other interactions that you
23 might have heard about --

24 A. No. The only other one -- the only thing
25 that I know of or heard of was there was a --

1 there was an e-mail that was sent from the CEO
2 of Rockville General Hospital to Vicki Veltri,
3 our executive director, that was also put into
4 the record, which was requesting her to
5 evaluate -- re-evaluate the determination or her
6 position and allow them to continue.

7 Q. Is it usual to put e-mails into the record?

8 A. Yes. Anything that comes in for a record,
9 that typically goes to the Executive Director or
10 anybody in the CON leadership would end up in
11 the record that it's supposed to go into.

12 That's the original file.

13 Q. Do you remember any of contents of the
14 message of the e-mail?

15 A. Generally, I remember -- you know, from what
16 I remember reading at the time was that it was
17 talking about -- requesting the
18 Executive Director to reconsider position, also
19 allow them to continue the suspension of
20 services.

21 Q. Okay. Thank you.

22 Do you know if -- do you know if the
23 services have been restarted at
24 Rockville General Hospital.

25 A. At this point I don't know. I do believe

1 they were started, perhaps, at a later date.

2 Q. But you don't know?

3 A. I do not know directly, no.

4 Q. Okay. And do you know if OHS has instituted
5 or has assessed penalties against hospitals or
6 health care facilities for violating CON laws in
7 the past?

8 A. I believe they have. I don't remember
9 specifically. I don't remember. But yes.

10 MS. MANZIONE: Okay. Those are all the
11 questions I have for Steve today.

12 HEARING OFFICER CSUKA: Okay. Thank
13 you very much.

14 So I am going to allow cross-examination.
15 and then, Ms. Manzione, if you have any
16 redirect on the cross, that's fine, as well.

17 So, Ms. Volpe, do you have any
18 cross-examination of Mr. Lazarus?

19 MS. VOLPE: Yes, I do.

20 HEARING OFFICER CSUKA: Okay. Thank
21 you.

22 You can proceed then.

23 MS. VOLPE: Okay.

CROSS EXAMINATION

BY MS. VOLPE:

Q. It's Michele Volpe, legal counsel for Rockville.

Steve, how are you doing today?

A. I'm well. Thank you, Michele.

Q. Good. I'm glad.

Steve, you just testified that -- if a party is uncertain whether they need a CON, what is it that they seek from the Office of Health Strategy?

A. Well, they would submit something called a CON determination, which would put a layout of the facts that the OHS would then review.

Q. So it's a formal process; correct?

A. Yes.

Q. Okay. And in that process, when we submit the facts and we send in the determination form, what does OHS do?

A. It's -- initially it's uploaded into the portal; it's assigned a docket number; and then it's reviewed by OHS staff. It's also reviewed for -- from the legal point of view. And then, ultimately, the decision is made by the Executive Director.

1 Q. So OHS issues a written response --

2 A. Yes.

3 Q. -- to that request on whether a party or a
4 hospital needs a CON to move forward.

5 You testified it's an official position of
6 OHS as to whether or not a CON is required for
7 these specific facts.

8 A. Yes.

9 Q. And you also testified that it's your
10 understanding that Rockville received a written
11 determination, CON response?

12 A. Yes.

13 Q. And do you recall what our response said
14 specifically?

15 Because as Attorney Manzione said in her
16 opening statement, you know, words matter. So
17 the words matter. Do you have the document --
18 the table of record in front of you?

19 A. I don't have the table of record, but I can
20 bring it up.

21 Q. If you can bring it up.

22 A. Sure.

23 Q. And if you can look at Bates stamp 000076.
24 That's the determination that Rockville
25 received. It's determination 21-32508-DTR.

1 It's already been entered into the record.

2 Let me know when you're ready, Steve.

3 A. Sure. My computer is running a little bit
4 slow.

5 Q. No worries.

6 HEARING OFFICER CSUKA: I'm sorry.

7 Ms. Volpe, which exhibit were you looking
8 at?

9 MS. VOLPE: The November -- the result
10 of the determination that we received in
11 response to our submission in November. The
12 January 24 2022, OHS determination.

13 HEARING OFFICER CSUKA: Yes. I was
14 looking for where in this hearing record we
15 would find that. Is that exhibit --
16 somewhere in Exhibit H?

17 MS. VOLPE: Yes. It's on a Bates stamp
18 under the table of record. If you have it,
19 it's easy to refer to.

20 It's part of our submissions under
21 our -- under the table of record.

22 BY MS. VOLPE:

23 Q. In the interest of time, I'm happy to read
24 what OHS's words are.

25 A. Sure.

1 Q. If I may be permitted.

2 OHS's words -- and we understand the words
3 are important. And the rules which we
4 followed --

5 HEARING OFFICER CSUKA: I would
6 actually prefer -- I'm having trouble
7 finding the document. You referred to the
8 table of record. Are you referring to OHS's
9 table of record?

10 MS. VOLPE: Yes. The table of record
11 and the submission in the record -- and the
12 Bates stamp usually helps locate it.

13 It's attached to our filing under --
14 it's Exhibit H.

15 HEARING OFFICER CSUKA: That's what I
16 was asking, which --

17 MS. VOLPE: Yes. Exhibit H.

18 HEARING OFFICER CSUKA: So in Exhibit H
19 which Bates number are you looking at?

20 MS. VOLPE: 000076.

21 HEARING OFFICER CSUKA: Okay.

22 MS. VOLPE: It's an exhibit.

23 HEARING OFFICER CSUKA: Mr. Lazarus, do
24 you have access to that right now?

25 MR. LAZARUS: I do. I'm just scrolling

1 down to that page.

2 HEARING OFFICER CSUKA: I'm sorry.

3 Ms. Volpe, I was having trouble -- I knew it
4 was in the record. I was having trouble
5 finding it myself. So I knew Mr. Lazarus
6 was probably also having difficulty.

7 MS. VOLPE: No worries.

8 MR. LAZARUS: Okay. I'm there now.

9 BY MS. VOLPE:

10 Q. Okay. Steve, can you read -- can you please
11 read for everyone the very last line of the OHS
12 decision starting with "therefore".

13 A. That's on page 76; right? The very last
14 line?

15 Q. The very last line. Correct. The decision.

16 A. "Therefore, it should be -- should the
17 Petitioner wish to formally terminate these
18 services, a CON is required."

19 Q. Very good. Thank you.

20 So as Attorney Manzione stated in her
21 opening remarks, she said we commenced services.
22 Is that your -- is that what she stated? Is
23 that what you heard?

24 A. I don't recall exactly the actual words.

25 Q. She stated that we commence services.

1 A. Okay.

2 Q. So a CON is required -- following the rules
3 and the statute, a CON is required in this
4 instance if we terminated services; correct?

5 A. That's what it says, yes.

6 Q. Okay. So based on your statement before
7 that a party can rely on a determination, which
8 Rockville received from OHS, based on that
9 statement, would we be required to file a CON?

10 A. I am -- I'm not sure I have the expertise to
11 interpret that determination. But I can -- I
12 mean, it states what it states.

13 Q. What does it state in that last line?

14 A. It says, "Therefore, should the Petitioner
15 wish to formally terminate these services, a CON
16 is required."

17 MS. VOLPE: Okay. Very good.

18 I have no further questions for,
19 Mr. Lazarus.

20 HEARING OFFICER CSUKA: Okay. Thank
21 you, Ms. Volpe.

22 Ms. Manzione, did you have any redirect
23 for Mr. Lazarus?

24 MS. MANZIONE: No, I don't have any
25 redirect.

1 HEARING OFFICER CSUKA: Okay. I do
2 have a couple questions for you, Mr. Lazarus.

3 So I believe you just stated that the
4 Executive Director makes decisions on
5 determinations; is that correct?

6 MR. LAZARUS: Yes. Or she can -- I
7 think she normally has a written permission.
8 She defers it to Kimberly Martone, who is
9 the deputy director, as she signs those
10 determinations.

11 HEARING OFFICER CSUKA: Okay. The
12 reason I ask that question was we were just
13 referring to Bates stamp 76. And I scrolled
14 to the second page, and it had Ms. Martone's
15 name and not Ms. Veltri's name.

16 MR. LAZARUS: Yes.

17 HEARING OFFICER CSUKA: There was also
18 one other question I had for you, maybe two.

19 In the pre-filed testimony that you
20 submitted you stated something along the
21 lines of -- or you quoted Ms. Weymouth's
22 e-mail to Ms. Veltri. Do you recall that in
23 your pre-file?

24 MR. LAZARUS: Yes, I do.

25 HEARING OFFICER CSUKA: You said -- you

1 stated in your pre-file that she stated,
2 "OHS is demanding a heavy lift that
3 DPH/community need/reality of staffing
4 available does not support."

5 And then you wrote, "I believe that
6 that's the only hospital that used that
7 reasoning. Most of the other hospitals and
8 facilities are facing the same challenges,
9 staffing issues, but they seemed to be able
10 to continue services."

11 MR. LAZARUS: Yes.

12 HEARING OFFICER CSUKA: Can you provide
13 more specifics for me about what other
14 hospitals and facilities you're referencing
15 are doing or provided.

16 MR. LAZARUS: Sure. I was just saying
17 that, you know, this was the reason that was
18 asked (audio distortion). But other
19 hospitals, if you look at the remaining
20 hospitals, they seemed to be -- it was --
21 these issues appear to be general in nature,
22 not specific to one place. I think that was
23 my interpretation. And, you know, other
24 hospitals were able to continue and resume
25 services.

1 HEARING OFFICER CSUKA: Okay. I think
2 those were the clarifying questions that I
3 wanted to have answered.

4 Thank you. I appreciate that. I
5 appreciate your time.

6 MR. LAZARUS: You're welcome.

7 HEARING OFFICER CSUKA: So now we can
8 move on to the Respondent's opening
9 statement.

10 Ms. Volpe, do you have an opening
11 statement you would like to make?

12 MS. VOLPE: Yes, I do. Thank you.

13 So we heard this morning from OHS
14 that -- their assertion that Rockville did
15 not follow the rules. And nothing can be
16 further the truth. And.

17 When we talk about the rules, the rules
18 have to apply to everyone, and they have to
19 be a level playing field.

20 And the rules in this matter precisely
21 are the CON statutes and when and under what
22 circumstances a civil penalty can be
23 assessed.

24 So following those rules you have to be
25 in a position to have been required to file

1 a CON to violate the statute.

2 We just heard that Rockville has not
3 terminated services. And under the statute,
4 that is the only thing that gets implicated
5 for not complying with the rules, the CON
6 statute. You're required to seek a CON if
7 you terminate a service.

8 OHS's own counsel has acknowledged that
9 we did not terminate service. So there's
10 been no service terminated. Therefore, the
11 CON statute doesn't get invoked. Therefore,
12 there's no requirement for us to file a CON.
13 That's the first part of the rule.

14 But there's two parts to this rule.
15 The second part is that we had to act,
16 Rockville had to do all of this willfully,
17 recklessly, not in compliance, in such an
18 egregious manner that we're required to be
19 fined.

20 How, in following the rules, by seeking
21 a formal waiver -- which the waiver stated,
22 by its own terms, we were allowed to suspend
23 services through the public health
24 emergency. That was what Rockville
25 understood to be the facts, suspend services

1 through the public health emergency, which
2 is precisely what was done.

3 The public health emergency has been
4 extended numerous times. At the time period
5 and which their understanding was is that
6 the public health emergency was going to
7 expire on February 16th. They implemented
8 those services, pursuant to a formal waiver
9 and decision from OHS, that said you can
10 suspend services through the public health
11 emergency.

12 If we turn to the specific words --
13 because the words are important. They're
14 OHS's words. If we turn to OHS's words, it
15 says right in the waiver you're entitled to
16 suspend services through the public health
17 emergency. Should you wish to terminate,
18 formally terminate, permanently terminate
19 after the public health emergency, you would
20 need to be required to seek a CON to
21 terminate those services.

22 So that's an important word that we
23 need to pay attention to in interpretation.

24 How could Rockville have willfully
25 violated the rules when we went and followed

1 OHS's rules, which were to file a formal
2 waiver determination, which we did?

3 Okay. Let's fast forward to October.
4 Rockville General Hospital,
5 Ms. Deborah Weymouth is under oath before
6 the Office of Health Strategy, under oath,
7 testifying under oath, that her
8 understanding was she had, through the
9 public health emergency, to implement
10 services. That was after the
11 Executive Orders were issued.

12 And we take issue with -- and that's
13 why I objected. And I apologize, Steve,
14 having to object. We object to your reading
15 and your understanding of the
16 Executive Order.

17 Lots of people's understanding,
18 including my client's understanding of the
19 Executive Order, was that
20 Executive Director Veltri's authority
21 expired with that order, but not formal
22 decisions that were issued by your
23 Office of Health Strategy. It was her
24 ability to make new rules and change the
25 rules. That's what expired.

1 So what does my client do?

2 I think there was a question

3 Attorney Manzione asked Mr. Lazarus, what
4 did Rockville do during that time period of
5 October. I'm not sure how he would know.
6 But let me tell you what we did.

7 What Rockville did was they got this
8 bulletin -- which, yes, they were aware of
9 the bulletin. And they're, like, wow, how
10 do we reconcile this, this makes no sense to
11 us, our specific waiver said we had through
12 the public health emergency. Oh. You know
13 what? What do I do?

14 We sought out -- talked to the
15 Connecticut Hospital Association, spoke --
16 called legal counsel. What do we do?

17 Well, what do you do when you're unsure
18 whether or not you need a CON? You file a
19 determination. That's precisely what
20 Rockville did.

21 How can they be -- how can it be even
22 suggested that they were you usurping the
23 CON laws when we followed the very rules
24 which are important, which said if you're
25 unsure whether you need a CON, file a

1 determination. That's precisely what we
2 did.

3 And we get back our determination in
4 January -- okay -- after we filed it in
5 November.

6 That whole time period what are we
7 doing?

8 We're marching along, having --
9 figuring out what needs to be done to get
10 these services safely implemented at the
11 hospital. There's a lot that gets involved.

12 It was stated today health care is a
13 highly regulated industry. Yes, it is. And
14 since COVID it's become even more so.

15 So what does the hospital do? It
16 spends days and weeks planning on how it's
17 going to implement these services safely.
18 That's what was done during this entire time
19 period.

20 And we all know -- because Mr. Lazarus
21 read for us -- what did that determination
22 say. It said if you're going to terminate,
23 you need a CON.

24 So let's bring us back. Okay?

25 What you heard from OHS today and the

1 remarks that were made do not support nor
2 rise to the level of a civil penalty and the
3 penalty should be rescinded.

4 OHS, by the way, has the burden of
5 proof. And they need to show that we needed
6 a CON, that we violated the CON statutes and
7 we needed a CON. It's been established we
8 did not.

9 They also have to show, to make us pay
10 a civil penalty or impose it, that we did so
11 willfully. We decided just flippant we're
12 not going to follow the rules. Again, not
13 true.

14 OHS has not put forward any facts,
15 evidence, or law to support the imposition
16 of a civil penalty against Rockville.

17 Although OHS, again, has the burden of
18 proof, it has been Rockville that has filed
19 and set out in detail, through its legal
20 briefs, pre-filed testimony, rebuttal
21 testimony, as well as the testimony you're
22 going to hear today, hundreds of pages as to
23 why there is nothing in the docket or the
24 proceedings that support the imposition of a
25 civil penalty against Rockville.

1 Again, the rules we're following are
2 the statutes that have been made by the
3 legislature. Those are the rules.

4 Our submission includes nearly
5 200 pages of evidence and testimony that
6 completely refute OHS's position that
7 Rockville be assessed a civil penalty,
8 essentially that Rockville didn't follow the
9 rules of the law.

10 The facts, the filings, the timeline,
11 the testimony speak for themselves. It's
12 overwhelming evidence that the assessment of
13 a civil penalty is completely unwarranted.

14 Not only does OHS have the burden of
15 proof, but their burden is a high one.
16 Okay? It's at a minimum by a preponderance
17 of the evidence. It's at a minimum they
18 have to show that we acted willful. It
19 means as a matter of law that OHS has to
20 prove many things before they can say a
21 civil penalty is owed.

22 We talked about the primary two reasons
23 and elements that they have to prove. They
24 have to prove that Rockville was required to
25 obtain a CON, and they have to prove that we

1 acted willfully in failing to seek a CON.

2 The fact that we filed a determination
3 that stated we didn't need a CON unless we
4 were terminating services, that is what has
5 to be looked at. That is the operative
6 ends.

7 Nothing can be further from the truth
8 that this matter that we usurped the CON
9 statutes. The facts don't support that
10 finding.

11 What does this all mean legally? It
12 means like we stated, OHS has to prove by at
13 least a preponderance of the evidence that
14 we didn't follow the law.

15 Again, why would Rockville have to file
16 a CON? We would only have to file a CON if
17 we terminate services at issue, which we did
18 not.

19 OHS has to prove that we formally and
20 permanently -- those are their words, we
21 heard that the words are important -- that
22 we formally and permanently terminated the
23 services. We have not.

24 Those specific words must guide OHS in
25 its decisions.

1 We found that those are your words,
2 those are OHS's words, not Rockville's
3 words.

4 The services were, in fact, suspended
5 during a once-in-a-lifetime global pandemic
6 where millions of Americans have died, where
7 the Country was experiencing a national
8 health care worker shortage, and Connecticut
9 was in the midst of a behavioral health
10 crisis.

11 We haven't heard anything about that.
12 But there's a lot today yet -- but there's a
13 lot in the docket.

14 What was going on at Rockville during
15 the time period that OHS was investigating
16 us, looking to impose civil penalties? What
17 was going on?

18 I'll tell you what was going on.
19 Rockville, Manchester, ECHN network was
20 probably the only -- if not the only --
21 hospital to step up when all the state
22 agencies were looking for help to address a
23 dire, dire need, a crisis that was occurring
24 in Connecticut for children with behavioral
25 health needs. That's what we were doing.

1 We were determining how can we
2 rearrange what we have going on to open up
3 beds specifically for adolescents. We were
4 doing that in conjunction with OHS,
5 unbeknownst to us that they were
6 investigating us. We were doing that in
7 conjunction with the department of public
8 health. Rockville was doing that in
9 conjunction with the Department of Social
10 Services. We were working with all these
11 agencies on how can we step up and fill a
12 dire crisis need for behavioral health
13 services for children. That's what was
14 going on there.

15 So the -- yes, the services were
16 suspended that were pursuant to the waiver,
17 those surgical services, those GI
18 procedures. We're not contesting that.
19 There's -- we're not refuting that. They
20 were suspended. So were they for many other
21 hospitals.

22 To address, you know, the point on the
23 e-mail, yes, of course our -- the president
24 of the hospital reached out to the
25 Executive Director. Why? Because it was

1 unconscionable that they're saying you need
2 to immediately implement, accelerate your
3 implementation that was planned for
4 February 16th. January 24th you have to
5 immediately implement. It doesn't make
6 sense.

7 We know health care is highly
8 regulated. We know it takes a lot to
9 implement the service. We were marching
10 along ready to implement that service,
11 which, by the way, was not terminated and
12 which was, in fact, implemented on
13 February 16th.

14 Rockville has testified and understood
15 that a CON would only be required if it were
16 to formally and permanently terminate the
17 services.

18 Rockville followed the rules. They
19 received a waiver. They relied on the
20 waiver. They relied on the words in the
21 waiver that stated that their services could
22 be suspended through the public health
23 emergency.

24 We got new guidance, by the way, that
25 showed up from the Office of Health Strategy

1 months after the Executive Order that said
2 implement -- implement automatically,
3 implement immediately.

4 We're, like, what does that mean? We
5 have a waiver, issued a formal position that
6 allows us to suspend services through the
7 public health emergency.

8 So what do we do? We follow the rules.
9 We submit a determination. We ask you what
10 does that mean?

11 You're not saying that the law doesn't
12 require a CON for a suspension of services.
13 That's not what you're saying; right?

14 And you answered. Right, that's not
15 what we're saying. We're saying if you're
16 going to formally terminate you need a CON.
17 Rockville did not terminate the service.
18 Second, it did not act willfully in
19 disregard of the law.

20 There's testimony under oath by
21 Ms. Weymouth as far back as last October and
22 as recent as this week in the rebuttal
23 stating that Rockville understood -- that's
24 an important word -- understood and believed
25 it had until February 16th to re-implement

1 services.

2 As important, these services have not
3 been terminated, they were implemented, so a
4 CON is not required. So we don't even
5 trigger the civil penalty statutes.

6 Rockville did not violate the CON
7 statutes. And it certainly did not act in
8 any manner to usurp the CON laws.

9 The only conclusion any reasonable
10 trier of fact can arrive at is that civil
11 money penalties must be rescinded.

12 Let's keep in mind to impose a civil
13 penalty under the Connecticut statutes, OHS
14 must find that a CON is required. That's
15 the first prong. And the second element is
16 that Rockville willfully failed to file a
17 CON application.

18 Again, when do you have to file a CON?
19 When you terminate a service.

20 There's nothing in the statutes or the
21 regulations or even in OHS's own precedent
22 that indicates that a temporary suspension
23 versus a total termination or elimination of
24 services requires a CON.

25 And, in fact, a waiver approval

1 response from OHS specifically advised
2 Rockville that the temporary suspension of
3 services was not a termination of service.

4 A termination of service is a
5 prerequisite for a CON being required -- and
6 I'm going to quote the institute that OHS
7 counsel quoted -- 19a-638(a)(5). That's the
8 statute. That's the operative rules.

9 Termination is not defined in the
10 statue, not the present statue.

11 Absent of finding those services were
12 terminated, there's no obligation to file a
13 CON and no willful failure.

14 Let's talk about what it means to be
15 willful. So we haven't really heard a lot
16 of that today.

17 To be willful we have to understand
18 that we're doing something wrong and we're
19 intending to do it and we're acting
20 recklessly in doing it.

21 Under Connecticut law, whether conduct
22 is willful is based on the state of mind of
23 the actor. Whether a party engaged in
24 willful, wanton, or reckless conduct cannot
25 be determined simply by asserting if a

1 policy has been violated or hasn't been
2 followed.

3 Willful means it requires a
4 determination that you have the intent to
5 violate that policy, none of which existed
6 in this matter.

7 How can we have intended to violate the
8 statute when we followed the very rules that
9 OHS set out?

10 Connecticut case law holds that a
11 misunderstanding or a good faith dispute
12 does not constitute willfulness. Again, we
13 got to follow Connecticut law. We've got to
14 follow the statutes. We should follow the
15 case law.

16 A good faith dispute or a legitimate
17 misunderstanding about the mandates of an
18 order preclude a finding of willfulness.
19 There's lots of case law that state that.
20 We cited it in our brief. That's all in the
21 table of record.

22 Rockville never acted willfully.
23 Rockville believed in good faith that no CON
24 was required to continue the suspension of
25 services during the public health emergency.

1 We stated that under oath.

2 In addition, as evidenced by
3 Rockville's conduct in filing the November
4 determination, again, a following your
5 rules, OHS cannot find that Rockville
6 understood a CON was required. If we
7 thought a CON was required, why did we file
8 the determination, the very filing that you
9 do to ask if a CON is required.

10 Again, Rockville acted with complete
11 transparency, availed itself of every means
12 offered by OHS to ensure compliance, every
13 formal means through the waiver and the
14 determination, and yes, every informal means
15 by reaching out directly to the
16 Executive Director, who had been
17 collaborating with the president of the
18 hospital on the behavioral health needs.
19 It's only natural that two senior people
20 discuss do you really -- we're not
21 terminating; right? So we're implementing
22 it in a few weeks. We can't implement
23 immediately safely. That would jeopardize
24 patients. That's not good practice.
25 That's not what the

1 Department of Public Health would want.

2 So Rockville did not believe a CON was
3 required, because it did not formally
4 terminate its service. And, therefore, it
5 never acted willfully or reckless in
6 disregard for the CON laws. With that
7 intent, there can be no willful failure.
8 And without a willful failure to comply with
9 the CON laws, there can be no civil penalty.

10 So I'd like to introduce
11 Ms. Deborah Weymouth. She's president of
12 Rockville General Hospital.

13 She's here today to adopt her pre-filed
14 testimony and to add additional support to
15 what the Hospital understood it was required
16 to do during a once-in-a-lifetime global
17 pandemic.

18 Ms. Weymouth.

19 HEARING OFFICER CSUKA: Thank you,
20 Ms. Volpe.

21 Ms. Weymouth, would you please spell
22 your name for the record, please.

23 MS. WEYMOUTH: Sure. Deborah Weymouth.
24 D-e-b-o-r-a-h. Weymouth, W-e-y-m-o-u-t-h.

25 HEARING OFFICER CSUKA: Okay. Thank

1 you for coming today.

2 And now I will swear you in.

3 Please raise your right hand.

4 Do you solemnly swear or solemnly and
5 sincerely affirm, as the case may be, that
6 the evidence you shall give in this case
7 shall be the truth, the whole truth, and
8 nothing but the truth so help you God or
9 upon penalty of perjury?

10 MS. WEYMOUTH: I do.

11 HEARING OFFICER CSUKA: Thank you.

12 Do you adopt your pre-filed testimony?

13 MS. WEYMOUTH: I do adopt my pre-filed
14 testimony.

15 HEARING OFFICER CSUKA: Thank you very
16 much.

17 Ms. Volpe, it sounds like you have
18 either some questions for her or
19 Ms. Weymouth wanted to present a statement.
20 So proceed however you would like at this
21 point.

22 MS. VOLPE: Thank you. We appreciate
23 that.

24 Ms. Weymouth would like to make a few
25 remarks.

1 HEARING OFFICER CSUKA: Okay.

2 MS. WEYMOUTH: Thank you.

3 As stated, my name is Deborah Weymouth,
4 and I'm the Chief Executive Officer of
5 Eastern Connecticut Health Network, which
6 operates Rockville General Hospital.

7 When COVID-19 hit us all in early 2020,
8 every hospital and health care facility had
9 to rapidly adjust.

10 Rockville General Hospital was no exception.

11 This worldwide pandemic that now has
12 taken the lives of over a million people in
13 the United States alone required only the
14 declaration of the public health
15 emergency -- not only the declaration of the
16 public health emergency, but also an
17 adjustment to constantly changing guidance
18 and expert input.

19 One of those adjustments was to suspend
20 the GI and surgical services at Rockville.

21 This was only a suspension.

22 Rockville Hospital is now back performing GI
23 and surgical services. There has been no
24 permanent or formal termination of GI or
25 surgical services at Rockville.

1 Rockville always -- was always in
2 compliance with the CON statutes, as the CON
3 statutes only address termination of
4 hospital services.

5 It was represented before OHS, formally
6 and informally, that Rockville would be
7 resuming services on February 16, 2022.
8 And, in fact, Rockville commenced
9 implementation of suspended services on
10 February 16, 2022, just as it stated it
11 would.

12 Further, Rockville always believed it
13 maintained compliance with the CON statute.
14 We never understood we needed a CON to
15 suspend services. The statute and the
16 determinations Rockville General received
17 all specifically reference a formal
18 termination of services and not a temporary
19 suspension. We believed and still believe
20 that we complied with the CON law and
21 certainly never intended to usurp the CON
22 requirements.

23 In fact, we engaged in countless
24 measures to ensure continued compliance,
25 acted with full transparency and with

1 regular communication with OHS.

2 OHS has honed in on one phase in my
3 e-mail I sent to Commissioner Veltri that
4 this would be a, quote/unquote, heavy lift.

5 First, please note that this e-mail
6 came about as a result of several attempts
7 to reach the Commissioner by phone.

8 Neither my phone calls nor my e-mail
9 received the courtesy of a response.

10 Further, this statement must be read in
11 context with the rest of the e-mail and the
12 various avenues that Rockville pursued.

13 At the time of the issuance of the
14 January 24th determination, we were dealing
15 with the height of the Omicron surge,
16 tremendous staffing shortages, and there
17 were -- and we were months into planning the
18 opening of a new adolescent behavioral
19 health unit to help alleviate the dire
20 pediatric behavioral health crisis that was
21 going on in the State.

22 This was an urgent need for children
23 with extensive related media coverage, and
24 various state agencies had rightfully made
25 this a priority.

1 There were numerous calls and Zoom
2 meetings with state leadership and CCMC to
3 share this information and then obtain their
4 agreement on ECHN's path.

5 ECHN was the first and one of the only
6 providers who made this decision at the
7 height of the third wave of COVID, a
8 significant health care shortage --
9 shortages to open and staff additional
10 in-patient behavioral health benefits.

11 Even with the nationwide health care
12 worker shortage, with ECHN have up to 150 of
13 its regular employees out with COVID, a mass
14 ECHN provider retirement, along with many
15 other obstacles, ECHN still opened the
16 ten-bed unit and still actively planned on
17 the resumption of GI and surgical services
18 at Rockville for February 16, 2022, as it
19 had always done.

20 At this same time, unbeknownst to us,
21 OHS was actively investigating us and
22 running up our fines and issued a
23 determination that would have us resume
24 services three weeks before the planned
25 date.

1 At that moment, yes, OHS was indeed
2 imposing a heavy lift with immediate
3 resumption.

4 As I testified, our intention was to
5 always reopen our suspended services at RGH
6 and we have done so.

7 We did not willfully fail to file a
8 CON, as we were confident no CON was
9 required, based on what we understood is the
10 law, the guidance, and the waiver that we
11 received from OHS. It is our position that
12 we complied with the CON laws.

13 For the reasons set forth in all of the
14 filings and in my statements under oath
15 today, we respectfully request that OHS
16 waive this civil penalty.

17 Thank you.

18 HEARING OFFICER CSUKA: Thank you
19 Ms. Weymouth.

20 Ms. Volpe, did you want to do any
21 direct examination of your witness at this
22 time?

23 MS. VOLPE: Well, I'd like to see if
24 Attorney Manzione is going to present any
25 cross and then have the opportunity to

1 redirect.

2 HEARING OFFICER CSUKA: Okay. That's
3 fine with me.

4 Ms. Manzione, do you have any
5 cross-examination?

6 MS. MANZIONE: Just one minute, please.

7 (Pause.)

8 MS. MANZIONE: No, I don't have any
9 cross-examination.

10 MS. VOLPE: If there's no cross, then I
11 would like to have this opportunity to pose
12 some direct, just as Attorney Manzione did
13 for Mr. Lazarus.

14 HEARING OFFICER CSUKA: Certainly.
15 That's fine with me.

16 MS. VOLPE: Okay. Thank you.

17 DIRECT EXAMINATION

18 BY MS. VOLPE:

19 Q. How are you doing, Ms. Weymouth?

20 A. I'm great, Ms. Volpe. Thank you.

21 Q. Okay. Good. I'm glad.

22 MS. MANZIONE: I'd like to retain my
23 ability to impose cross after this, because
24 there might be new evidence that comes up.

25 HEARING OFFICER CSUKA: Okay. Thank

1 you.

2 BY MS. VOLPE:

3 Q. Did you testify under oath at the OHS CON
4 hearing on October 13, 2021 that Rockville was
5 planing to resume surgical and procedural
6 services upon the expiration of the public
7 health emergency?

8 A. Yes.

9 MS. VOLPE: For the record, that
10 testimony is in the table of record. And if
11 need be, we can cite to it or read to it.
12 But it's entered in as evidence in the table
13 of record, the sworn testimony by
14 Ms. Weymouth.

15 HEARING OFFICER CSUKA: I believe it's
16 an excerpt, right, not the full testimony?

17 MS. VOLPE: Correct. It's not the full
18 testimony. And it's from the docket that
19 you took administrative notice on.

20 HEARING OFFICER CSUKA: Okay. Thank
21 you.

22 MS. VOLPE: Thank you.

23 BY MS. VOLPE:

24 Q. Based on that testimony which you made under
25 oath, you believe the hospital had, through the

1 public health emergency, to suspend services;
2 correct?

3 A. Yes.

4 Q. Did you continually assess when the public
5 health emergency expiration date was?

6 A. Yes.

7 Q. What did you understand you would be
8 required to implement? What day?

9 A. February 16. The day the public health
10 emergency was due to expire.

11 Q. Thank you.

12 After your testimony, OHS issued a bulletin
13 on the expiration of COVID waivers. This is the
14 bulletin that was referenced today by OHS
15 counsel that was filed on October 22, 2021.

16 What did you do when you became aware of
17 that bulletin issued by OHS days after your own
18 testimony?

19 What did you do when OHS -- counsel had
20 asked that of Mr. Lazarus, but let's hear from
21 you. What did you do?

22 A. I reached out to CHA, the Connecticut
23 Hospital Association, for direction. And I
24 questioned, as CHA has regular meetings with
25 OHS, and they raised this issue along with

1 others.

2 One of my -- I know they raised this issue
3 on one of the calls. But it was my
4 understanding that there was no definitive
5 agreement on what Rockville General should do.

6 Q. Okay. So since there wasn't any definitive
7 agreement and were still unsure, what did you do
8 next?

9 A. I reached out to legal counsel.

10 Q. Okay. What was the outcome of reaching out
11 to CHA and legal counsel? What did you decide?

12 A. Both legal counsel and CHA recommended that
13 we request a determination from OHS, as my
14 understanding was that Rockville had through the
15 public health emergency, as we already had a
16 determination, and I understood that we could
17 rely on. And that was inconsistent with the
18 bulletin, and it was unclear which one took
19 precedent.

20 Q. Okay. So after that what did you do since
21 you were uncertain, wasn't clear, and
22 you thought --

23 A. We filed a CON determination.

24 Q. And that was the determination that's
25 already been referenced numerous times today in

1 November 22, 2021?

2 A. Yes.

3 Q. And what did you do when you were waiting
4 months to hear from OHS? What did you do?

5 A. Well, we continued our internal planning
6 that had started early in the fall. We were
7 implementing all the logistical aspects that are
8 required for re-implementing or reopening a
9 service.

10 Q. What's involved in that re-implementing
11 resuming, resumption of services?

12 A. Well, there's a lot of work to be done.
13 Given the provider retirements and the staffing
14 shortages, we had a number of meetings, we
15 tracked our progress, we had site visits, we
16 reached out to providers, we reviewed our
17 physical plant and so forth.

18 This was all being done at the same time
19 that we were dedicating the significant
20 resources to opening the ten-bed adolescent
21 behavioral health unit.

22 Q. And when did Rockville perform its first
23 procedure that was suspended pursuant to the
24 waiver?

25 A. February 16, 2022.

1 Q. So after you received the determination on
2 January 24th regarding OHS's position on the
3 suspension of services, what did you do next?

4 A. Well, I called Victoria Veltri and then
5 eventually e-mailed her, because my calls went
6 unanswered. She also did not respond to my
7 e-mail.

8 Q. Okay. Why did you e-mail her?

9 I understand you just testified because you
10 didn't get a response to your calls. But why
11 were you persistent working on making sure we
12 were compliant? What was going on?

13 A. Well, based on our understanding of the law
14 and the OHS guidance, we still did not feel that
15 a CON was required, because we were not
16 terminating services. And we wanted to
17 re-implement them after the public health
18 emergency and then reassess. And I wanted to
19 reiterate our position and give OHS a realtime
20 update on the hurdles in starting our most
21 recent service, that ten-bed adolescent
22 behaviorial health unit.

23 This was a priority for the State and for
24 DPH and we had been working towards putting
25 these beds into service at request of the state.

1 MS. VOLPE: I have no additional
2 questions for Ms. Weymouth. But I also
3 would like the opportunity to redirect if
4 Attorney Manzione has any questions.

5 HEARING OFFICER CSUKA: Okay. That's
6 fine.

7 Ms. Manzione, do you have anything?

8 MS. MANZIONE: Yes. Yes, I do. Thank
9 you.

10 I want to make sure I have the right
11 document that I am referring to.

12 CROSS EXAMINATION

13 BY MS. MANZIONE:

14 Q. Good morning, Ms. Weymouth.

15 A. Good morning.

16 Q. It's still morning; right?

17 A. Yes, it is.

18 Q. Good morning.

19 Just a couple questions.

20 When we're talking about the guidance
21 document that was issued by OHS in October -- I
22 think it was October 22nd of 2021 -- you said --
23 you just testified that you reached out to CHA
24 and also to your legal counsel. Is the legal
25 counsel, is that in-house legal counsel, or is

1 that outside counsel?

2 A. It's outside counsel. I spoke to Ms. Volpe.

3 Q. Okay. When you say you reached out to CHA,
4 can you tell me a little bit more about that?

5 A. The Connecticut Hospital Association?

6 Q. Yes.

7 Who did you reach out to? What happened?
8 How did you reach out to them? Why did you
9 reach out to them?

10 A. So the Connecticut Hospital Association
11 exists to support the hospitals in the
12 State of Connecticut, as you're well aware. And
13 often they connect and -- connect with elected
14 officials and regulatory bodies that provide us
15 information that is helpful. Knowing that they
16 have this data, I utilized them as a resource.

17 Q. So was there a particular person at the
18 Connecticut Hospital Association you reached out
19 to?

20 A. No, not in particular. There are several
21 people who are involved in this process.

22 Q. But nobody you remember at this time?

23 A. That's correct.

24 Q. Okay. Do you remember any specific
25 information that you received from the

1 Hospital Association regarding this guidance
2 document that was issued by OHS in
3 October of 2021?

4 A. No.

5 Q. Do you remember asking the questions of the
6 Hospital Association saying something to the
7 effect of have you gotten questions from any
8 other hospitals about this?

9 A. I'm sorry. What did you -- can you restate
10 that for me?

11 Q. Sure.

12 So when you spoke to a person at the
13 hospital -- Connecticut Hospital Association,
14 did you --

15 A. Right.

16 Q. -- did you possibly ask something along the
17 lines of have you heard from other hospitals
18 about this document that OHS issued, what have
19 you heard?

20 A. I don't recall exactly.

21 Q. Okay. Do you recall anything from the
22 Connecticut Hospital Association where the
23 representative you spoke to said this is the
24 crazy document that the OHS filed or issued,
25 something along those lines?

1 A. I have -- no.

2 Q. Certainly the word wasn't crazy.

3 Ridiculous, unnecessary, confusing? Was any
4 characterization --

5 A. The -- as I said, Connecticut Hospital
6 Association exists to provide us advice and
7 support the hospitals in the
8 State of Connecticut.

9 You know, I -- I -- I don't recall them
10 using those types of words, no.

11 Q. So would the -- or did the
12 Connecticut Hospital Association suggest to you
13 that this would be an important document from
14 the state regulator that you should take
15 seriously and follow?

16 (Pause.)

17 BY MS. MANZIONE:

18 Q. Maybe that's a compound question. Let me
19 break that down.

20 Did the person you spoke to at the
21 Connecticut Hospital Association say this is an
22 important document that was issued by the state
23 regulator?

24 A. The persons that I spoke to at
25 Connecticut Hospital Association suggested that

1 I call Commissioner Veltri for clarification and
2 for understanding and to work together as
3 professionals.

4 Q. Okay. So you reached out to the
5 Hospital Association, I would say, short -- I'm
6 guessing shortly after the guidance was issued
7 in October of 2021. So that meant the
8 Hospital Association representative suggested
9 that you reach out to Executive Director Veltri
10 soon; is that what you're testifying to?

11 (Pause.)

12 BY MS. MANZIONE:

13 Q. I'm just trying to understand what your
14 timeline is. Because I know that you sent an --
15 you said you call and you didn't get a response
16 to an e-mail, but that was in January of 2022,
17 after you received the termination request. I'm
18 wondering if you tried sooner, closer in time to
19 the October guidance letter.

20 A. So we filed the determination, as you
21 recall, at that point in time in November and
22 heard nothing for an extended period of time
23 until January. And, obviously, time causes one
24 to say, you know, what -- where is our response,
25 what's happening.

1 I would also like to point out that I'm in
2 regular contact with the
3 Connecticut Hospital Association. I'm actually
4 currently a board member there. So I chat with
5 them on a regular basis. So it's not a one time
6 communication. There is always regular updates
7 on what's happening legislatively and things
8 that we need to be aware of as hospital
9 providers in the State of Connecticut.

10 Q. So as a board member -- were you a board
11 member back in November of 2021 --

12 A. No.

13 Q. -- of the Connecticut...

14 No.

15 Did the Connecticut Hospital Association
16 have board meetings, monthly, for example?

17 A. They have -- I just became a board member in
18 2022.

19 Q. Okay. So what I'm trying to get at is was
20 the topic of the guidance document or
21 regulations, questions about regulations, a
22 topic of discussion in front of the
23 Connecticut Hospital Association in the fall of
24 2021?

25 A. As I stated, all regulatory issues are

1 topics of conversation at the
2 Connecticut Hospital Association all the time.

3 Q. Okay. Do you recall any specific
4 conversation about this guidance document?

5 A. No.

6 Q. Do you recall any other hospitals receiving
7 this guidance document or telling you they
8 received the guidance document?

9 A. I understood that the hospitals throughout
10 the State of Connecticut have received the
11 guidance document.

12 Q. Were they as surprised by the guidance
13 document or confused by the document?

14 MS. VOLPE: I'm going to object to
15 that.

16 I'm going to object to Ms. Weymouth
17 testifying about the reactions of other
18 presidents and executives of other hospitals
19 on their position to the OHS guidance
20 waiver.

21 MS. MANZIONE: The reason I'm asking
22 this --

23 HEARING OFFICER CSUKA: Ms. Manzione, I
24 was going to suggest that you try to
25 rephrase the question. I think it can be

1 asked in a way that is not objectionable.

2 MS. MANZIONE: Sure. Okay.

3 BY MS. MANZIONE:

4 Q. Ms. Weymouth, I'm trying to get at --

5 HEARING OFFICER CSUKA: Or if you want
6 to move on, that's fine, too.

7 MS. MANZIONE: Right.

8 HEARING OFFICER CSUKA: It's your
9 choice.

10 MS. MANZIONE: I will wrap this up.

11 BY MS. MANZIONE:

12 Q. I'm just trying to get at -- I understand if
13 you -- I understand your testimony so far was
14 that you received -- let's see.

15 In your rebuttal testimony to our witness,
16 Mr. Lazarus's testimony, that you have -- there
17 was a lot of confusing information around, that
18 it was not clear to everyone what the impact of
19 the Executive Order 12B was, and it was further
20 muddled, perhaps is one way to describe it, by
21 the issuance of this guidance document from OHS
22 that was issued in October of 2021. You reached
23 out to legal counsel. Understandable. That's
24 your personal resource. It's makes a lot of
25 sense. And you reached out to an industry

1 association, Connecticut Hospital Association,
2 who has connections and hopefully the ear of
3 lots of the other hospitals and hospital
4 regulators.

5 I'm trying to get at did they give you any
6 clarity? Did they encourage you to do any
7 particular actions? I'm not sure that I got an
8 answer to that.

9 But what you did do or what the Hospital did
10 do was to file a determination request in
11 October. So I'm wondering if in between the
12 guidance document, the receipt of the guidance
13 document --

14 MS. VOLPE: Just for the record, just
15 for the record, there's a lot of testifying
16 going on right now and not a question.
17 So --

18 MS. MANZIONE: Here is the question.

19 BY MS. MANZIONE:

20 Q. So between October of 2021 and November 22nd
21 of 2021 did -- Ms. Weymouth, did you reach out
22 to OHS, by telephone or by e-mail, to any person
23 at OHS to ask for clarification?

24 A. No. We filed our determination.

25 Q. Okay. And after November 22, 2021, when you

1 filed your request for a determination and you
2 were waiting for the results, did you
3 communicate the fact that you were planning and
4 re-implementing -- on re-implementing your
5 services, did you communicate all the work that
6 you were doing to anyone at OHS, that you were
7 doing all of this work?

8 I saw a lot of documentation as part of the
9 rebuttal testimony -- or the rebuttal evidence
10 that was submitted in rebuttal to Mr. Lazarus's
11 testimony.

12 Did you communicate that in any way?

13 A. So we had filed the determination, and we
14 were waiting to hear back from OHS, expecting
15 to, literally, daily to get communication that
16 we did not receive until nearly the end of
17 January.

18 Q. So did you communicate the fact that you had
19 a lot of planning about re-implementing your
20 services, that you had tracking logs, that you
21 had lots of meetings going on, you had
22 recruitment, you had site visits going on, any
23 and all that information that you submitted as
24 remember evidence? Did you communicate that to
25 anybody at OHS, perhaps, as an attachment to

1 your determination request?

2 A. Perhaps you could help me with the process
3 for that.

4 We knew the process was a letter of
5 determination. I'm unfamiliar with how I would
6 share internal documents of plans and
7 implementation trackers that would go on to OHS
8 for their review.

9 Q. So it sounds like, no, you didn't?

10 A. Like I said --

11 Q. Is that true?

12 A. Please help me with the process of what I
13 would have done, other than to file a letter of
14 determination to share that information.

15 HEARING OFFICER CSUKA: I'm just going
16 to direct the witness to answer
17 Ms. Manzione's question, rather than asking
18 another question in response.

19 MS. VOLPE: So I want clarity on the
20 question. We're trying to follow all of
21 this.

22 Is the question did you informally
23 reach out to OHS and tell them, yes, our
24 services are suspended? I think they knew.

25 It was our understanding, we learned

1 now, that you were investigating us. So,
2 presumably, you would have understood that
3 we were looking to re-implement and we were
4 engaged in this.

5 During this time period in question we
6 were working very cooperatively with OHS on
7 behavioral health services. So if there was
8 any --

9 HEARING OFFICER CSUKA: I --

10 MS. VOLPE: We received no questions on
11 our determination.

12 You know, I've submitted lots of
13 determinations. And if OHS has a question
14 on what we submit, they ask us a follow up.
15 They could have asked us.

16 We submitted a formal determination.
17 You could have asked us what are you doing
18 to re-implement suspended services? What
19 are you doing? Nobody ever asked us.

20 We just -- we hadn't heard from you in
21 months. And we get a decision that says if
22 you're going to terminate, file a CON.

23 So yes, I think we can answer. I think
24 it's -- it's abundantly -- and I can have
25 Ms. Weymouth answer that, no, we did not

1 produce trackers in our determination
2 request, nor did OHS ask us to do that. You
3 could have.

4 You had -- the Executive Director had
5 the authority to permit suspended services
6 prior to COVID. That was allowed all the
7 time, during COVID, subsequent to COVID, a
8 public health emergency. Suspensions occur.

9 You could have come to us and said,
10 hey, look it, you're asking for an extension
11 of the waiver. I don't really feel like I
12 have authority to extend a waiver, but I
13 certainly have authority to allow you to
14 continue to suspend services.

15 So yes, she could have said show me
16 what you're doing. What are you doing to
17 advance this?

18 You want to commence February 16th.
19 What are you doing?

20 So to answer your question -- answer
21 it -- no, we did not produce trackers, nor
22 were we asked for those at the time, which
23 OHS could have asked us for those trackers.

24 MS. MANZIONE: Okay.

25 HEARING OFFICER CSUKA: I'm going to

1 remind both of you that your testimony is
2 not anything that I can use in making my
3 decision. So -- and it's not actually
4 testimony at all. It's just statements of
5 counsel.

6 A. So my answer is no.

7 MS. MANZIONE: Okay.

8 HEARING OFFICER CSUKA: I'm sorry.

9 Lara, can you just state what the question
10 was?

11 I think we got pretty far off on what
12 the actual question was.

13 MS. MANZIONE: Sure.

14 BY MS. MANZIONE:

15 Q. So my question was so after the
16 determination request of November of 2021 was
17 filed and you were waiting for months for some
18 kind of response that didn't come right away,
19 did you at all communicate with OHS that you
20 were planning on re-implementing services and
21 that you actually had a very robust system, a
22 plan, including tracking systems and plans and
23 site visits and all sorts of things going on.

24 A. No.

25 Q. Did you communicate any of that --

1 A. No.

2 Q. -- in any way?

3 Okay. Thank you.

4 Okay. So just to close this loop, did OHS
5 ask you any follow-up questions to your
6 determination? Sometimes you'll get a letter of
7 completeness request clarifying questions, like
8 you would get sometimes in a full CON
9 application, but sometimes you'll get them in a
10 determination request. Did you receive any of
11 those?

12 A. No.

13 MS. MANZIONE: Okay. That's the end of
14 my cross-examination. Thank you very much.

15 HEARING OFFICER CSUKA: Thank you.

16 Ms. Volpe, did you have any further
17 redirect?

18 MS. VOLPE: I do actually.

19 REDIRECT EXAMINATION

20 BY MS. VOLPE:

21 Q. Ms. Weymouth, while I did not put in the
22 trackers, you did put in the determination. And
23 what does your determination -- can you read
24 right here what --

25 I'm having her read from the determination

1 that was submitted. It's Bates stamp 000071.

2 A. "Despite the noted difficulties and the
3 continued impact of COVID-19, Rockville is
4 actively working to resume services that were
5 temporarily suspended pursuant to the waiver.
6 Resumption of services is planned on or before
7 the expiration date of the public health
8 emergency on or about February 15, 2022."

9 Q. That was an update.

10 If OHS required further questions or
11 documentation, they had the obligation to
12 request --

13 HEARING OFFICER CSUKA: Ms. Volpe,
14 you're free to ask it. Don't testify on
15 behalf of --

16 MS. VOLPE: I have no further
17 questions. Thank you.

18 HEARING OFFICER CSUKA: Ms. Weymouth, I
19 have a few clarifying questions of my own
20 based on my review of what was submitted.

21 Ms. Volpe, perhaps you can assist her
22 with this.

23 I just wanted her to take a look at
24 Exhibit H, page 50, Bates stamp page 52.

25 MS. VOLPE: Yes. I'll pull it up.

1 MS. MANZIONE: Which specific document
2 is that, just so I -- because I have it
3 subdivided.

4 HEARING OFFICER CSUKA: That's their
5 original waiver form. It's page 3 of their
6 waiver.

7 MS. MANZIONE: Okay. Thank you. Got
8 it.

9 MS. WEYMOUTH: Yes.

10 MS. VOLPE: We have it in front of us.

11 HEARING OFFICER CSUKA: Okay.

12 So in that first paragraph it sounds
13 like you were requesting a number of things
14 be suspended. It sounds like operating
15 rooms for elective and nonelective
16 surgeries, your -- specifically the GI
17 procedure for elective nonelective
18 surgeries, the pre-op area, the
19 post-anesthesia care unit area.

20 Did those all come back online
21 effective February 16th.

22 A. On February 16th or shortly thereafter.

23 HEARING OFFICER CSUKA: So can you --
24 can you provide some more information about
25 that, like when, specifically, certain

1 procedures came back on and what were the
2 first days that they were performed?

3 A. Sure.

4 The 16th, actually, was -- they're not
5 spelled out here by numbers.

6 So procedure rooms and so forth on the 16th.
7 And on May 10th were the surgical services.

8 HEARING OFFICER CSUKA: All right.

9 Sorry. So between February 16th and
10 May 10th?

11 A. Uh-huh.

12 HEARING OFFICER CSUKA: What
13 transpired? I'm sorry. Just in terms of
14 when things came --

15 A. Yeah.

16 The cases and procedures transpired at
17 Rockville during that time.

18 HEARING OFFICER CSUKA: So looking at
19 that first paragraph of page 52 -- on
20 page 52 of your submission --

21 A. Uh-huh.

22 HEARING OFFICER CSUKA: I'm just trying
23 to figure out when each of those requests
24 that you made were reversed. You said they
25 weren't all February 16th.

1 A. Right.

2 HEARING OFFICER CSUKA: So what was on
3 February 16th that restarted?

4 A. Our GI procedures.

5 HEARING OFFICER CSUKA: Okay. It
6 sounds like there were a number of other
7 things that were suspended pursuant to this
8 waiver. What else came -- what else was
9 restarted as after February 16?

10 A. So all of those things are actually under a
11 title of perioperative services. And you
12 utilize each one of those areas as you actually
13 do a case. So they're not separate and
14 distinct. You actually do those functional
15 procedures as you go through the case on any
16 given day. So they're not, like, separate rooms
17 or floors or so forth.

18 HEARING OFFICER CSUKA: So I think this
19 has been described as the suspension or the
20 termination of surgical services and
21 procedures.

22 Were there any other surgical services
23 or procedures that were suspended pursuant
24 to this waiver that were not restarted on
25 February 16th?

1 A. Okay. So the process of re-implementing all
2 the services is a process that does take time,
3 because you have to have providers to, you know,
4 provide the various care functions. So as we
5 have providers available, we offer that service.

6 So the GI services started on the 16th, and
7 as I said, others followed shortly thereafter.

8 HEARING OFFICER CSUKA: Okay. I am
9 trying to understand what "shortly thereafter"
10 is. Because if -- part of your argument is
11 I should mitigate or I should rescind based
12 on the fact that you restarted everything on
13 February 16th.

14 A. Uh-huh.

15 HEARING OFFICER CSUKA: But now you're
16 telling me that not everything restarted on
17 February 16th.

18 A. So as I said, they are different processes.
19 As you go through a perioperative procedure, you
20 know, you have a pre-op area, a post-op area,
21 you have the operating area, the procedure room.
22 All of those all function together in providing
23 perioperative care for the most part.

24 So what I'm saying is that we reopened that
25 service on February 16th.

1 HEARING OFFICER CSUKA: Okay.

2 A. And that there were no termination -- there
3 was no termination of a service that exists
4 pursuant to the waiver.

5 HEARING OFFICER CSUKA: Okay. So
6 everything was technically -- and correct me
7 if I'm wrong. But everything was
8 technically reopened on February 16, but
9 certain procedures didn't take place
10 immediately, because it was dependent upon
11 the availability of different doctors and
12 things of that nature; is that correct?

13 A. Yes.

14 HEARING OFFICER CSUKA: Okay. I'm
15 sorry to have belabored that. I just wasn't
16 quite understanding what was going on,
17 because it -- in a number of spots it said
18 that RGH has resumed certain services as of
19 February 16th. But there were places --
20 actually, pretty much every time that was
21 referenced, it said certain services,
22 certain services. It didn't say all
23 services.

24 But what you're telling me is that all
25 services resumed effective February 16th,

1 it's just that some of them didn't begin
2 taking place on February 16th?

3 A. Correct.

4 HEARING OFFICER CSUKA: Okay.

5 Another question -- and certainly
6 Michele and Ms. Manzione if you have any
7 questions in follow up to anything that I'm
8 asking, I'm happy to open up the floor to
9 you to clarify anything, as well.

10 So in your rebuttal that was submitted
11 a couple days ago it seemed like the first
12 meeting that took place -- or at least the
13 first document that was produced that
14 suggested a meeting took place that planning
15 was -- was under -- was being -- okay. Let
16 me back up. I'm sorry.

17 So the first document that I saw in
18 your rebuttal that showed that a meeting
19 took place where you were planning to
20 restart these services was October 26, 2021.
21 It looks like it was Bates number 140.

22 To your -- to the best of your
23 knowledge, was that the first date that this
24 planning to resume services began.

25 A. So it's the first documented date when it

1 appears on an agenda or a tracking document.
2 But those kind of conversations go on, on a
3 regular basis here at ECHN.

4 HEARING OFFICER CSUKA: Okay. That's
5 what I was getting at. I wasn't sure if
6 there was anything before that date or not.
7 So thank you for answering that.

8 The last question I had for you was
9 on -- Ms. Volpe brought it up with
10 Mr. Lazarus. It's Exhibit H. It's your
11 exhibit. Bates number 76. So that is --

12 MS. MANZIONE: Which document is that,
13 just so --

14 HEARING OFFICER CSUKA: That's OHS's
15 decision on Rockville General's
16 determination request.

17 MS. MANZIONE: Okay. So it's their
18 Exhibit 6. Okay.

19 HEARING OFFICER CSUKA: Yes. It's
20 page --

21 MS. MANZIONE: I got it.

22 HEARING OFFICER CSUKA: -- 3 of that.

23 MS. MANZIONE: Okay. The January 24th
24 document. Okay.

25 HEARING OFFICER CSUKA: So I am, again,

1 going to focus on that last sentence of
2 page 76. Do you see where I'm looking?

3 A. Yes.

4 HEARING OFFICER CSUKA: Do you -- in
5 your mind, is there a difference between
6 formal termination and termination?

7 A. No.

8 HEARING OFFICER CSUKA: Okay. That was
9 my only question on that.

10 Ms. Volpe, did you have any questions
11 that you wanted to ask your witness based on
12 my questioning?

13 MS. VOLPE: No. Nor do I think anyone
14 else should. But no, I do not.

15 HEARING OFFICER CSUKA: Okay. So I
16 think we are going to -- actually, one other
17 question -- I'm sorry -- Ms. Weymouth, about
18 your background.

19 Do you have any formal legal training
20 or education?

21 A. No.

22 HEARING OFFICER CSUKA: Okay. Thank
23 you.

24 I do have a couple questions for --
25 actually, I have one question for the

1 attorneys.

2 I'm going to pose it and then I am
3 going to suggest that we take maybe a
4 ten-minute break before we do final
5 arguments, closing arguments.

6 The question is, is there a limit to
7 which assessed penalties I can mitigate or
8 waive?

9 So if I determine that it was proper
10 for the civil penalty to have been assessed,
11 can I mitigate or waive it anyway, or am I
12 compelled to let the civil penalty stand?

13 So I'm just curious. I would like to
14 hear from both of you on that question when
15 we come back. And afterwards we can do
16 closing arguments. Does that sound okay?

17 MS. VOLPE: Okay.

18 MS. MANZIONE: Can you repeat -- I'm
19 sorry. I just want to make sure I
20 understand. Would you repeat that question,
21 please?

22 HEARING OFFICER CSUKA: I guess it was
23 two parts.

24 The first one is, is there a limit to
25 which assessed penalties I can mitigate or

1 waive.

2 And the second component is if I
3 determine that it was proper for the civil
4 penalty to have been assessed under
5 Section 19A-653, can I mitigate it or waive
6 it anyway, or am I compelled to let the
7 civil penalty stand?

8 MS. VOLPE: We'll be prepared to
9 address that after the break.

10 HEARING OFFICER CSUKA: Okay. Thank
11 you.

12 Certainly if you feel as though you'd
13 like to address it in writing, as well,
14 that's fine. It's sort of an informal
15 question.

16 MS. MANZIONE: If you have it in
17 writing, I would love if you could put it in
18 writing, either on screen or in a chat or
19 e-mail it to us.

20 HEARING OFFICER CSUKA: Sure.

21 MS. MANZIONE: I just want to make sure
22 I get it right. It's kind of complicated.

23 HEARING OFFICER CSUKA: I will e-mail
24 it to both of you.

25 Let's, I guess, come back at 12:15. So

1 that will give us 15 minutes. Does that
2 sound okay.

3 MS. VOLPE: That works for us. Thank
4 you.

5 MS. MANZIONE: Thank you.

6 HEARING OFFICER CSUKA: All right. So
7 we are going to pause the video for
8 15 minutes and we'll come back at 12:15.
9 Thank you.

10 (A recess was taken from
11 12:01 p.m. to 12:16 p.m.)

12 HEARING OFFICER CSUKA: So we're going
13 to proceed in the same order as we have
14 been.

15 Since the burden is on OHS, I'm going
16 to ask that Ms. Manzione answers or responds
17 to that question or questions that I sent
18 you by e-mail.

19 Did you both receive those, the e-mail?

20 MS. MANZIONE: Yes.

21 MS. VOLPE: I haven't checked my
22 e-mail, but I heard -- I heard your question
23 and wrote it down during the proceeding.

24 MS. MANZIONE: Yes.

25 MS. VOLPE: So we're prepared to answer

1 it.

2 HEARING OFFICER CSUKA: Okay. Thank
3 you.

4 Ms. Manzione, you can proceed.

5 MS. MANZIONE: Sure. Thank you.

6 So you had two questions. The first
7 one is there a limit to which assessed
8 penalties you can mitigate or waive.

9 So under Section 19a-653, I do not
10 believe there is a limit to which assessed
11 penalties you can mitigate or waive.

12 The applicable section is 19a-653
13 subsection C. In the middle -- actually
14 close to the end of the section it says,
15 "The Office of Health Strategy may mitigate
16 or waive the penalty upon such terms and
17 conditions as, in its discretion, it deems
18 proper or necessary upon consideration of
19 any extenuating factors or circumstances."

20 So I think that you have a lot of
21 discretion to do as you see fit based on
22 whatever you think is appropriate.

23 HEARING OFFICER CSUKA: Okay.

24 MS. MANZIONE: If you determine that it
25 is proper for the civil penalty to have been

1 assessed can you mitigate it or waive it
2 anyway or are you compelled to let the civil
3 penalty stand?

4 No. I think you can mitigate it. I
5 think you can waive it.

6 And I do recall, from my earlier
7 research on hearings on civil penalty, that
8 in the past hearing officers had conducted
9 these kinds of proceedings and, after taking
10 testimony, had decided to waive the fines or
11 the penalties that had been imposed in more
12 than one case. So I think that there's
13 precedent for that.

14 I don't have those cases handy, but I'm
15 sure I can find them if that is something
16 you would like.

17 And, similarly -- you didn't ask this
18 question. But if you choose to keep the
19 penalty imposed and if the Respondent is
20 not -- doesn't agree with that or is unhappy
21 with that, they have the right to go for an
22 appeal directly to the Judicial District of
23 New Britain.

24 HEARING OFFICER CSUKA: Okay.

25 Ms. Volpe, I assume you're not going to be

1 inconsistent with OHS's position, but I'll
2 let you speak on the questions, as well, if
3 you'd like.

4 MS. VOLPE: I would. Thank you.

5 No. I absolutely agree that you have
6 complete discretion to rescind or waive the
7 penalties. And the statute says so right in
8 it that you could mitigate or waive
9 penalties on the terms and conditions in
10 your discretion you deem proper or
11 necessary. That's, you know, right in the
12 statute. There absolutely is precedent for
13 you to do that, to waive any and all
14 penalties.

15 In fact, I know we filed hundreds of
16 documents, so it's hard to have things jump
17 out. But we cited precedent for you on
18 Bates stamp 36. It's Docket Number 12-31797.
19 That is also precedent allowing you to
20 completely waive and rescind the penalties.

21 Also, as part of our legal brief that
22 was filed in this proceeding on
23 Bates stamp 25, we stated, "OHS is
24 explicitly permitted under law to mitigate
25 or waive the penalty upon such terms and

1 conditions in its discretion it deems proper
2 or necessary based upon facts and
3 circumstances."

4 And we cite the statute which gives you
5 that authority.

6 And we also go on to state that if a
7 global pandemic, a nationwide health care
8 worker shortage, and a statewide pediatric
9 behavioral health crisis are not extenuating
10 factors or circumstances for a small
11 community hospital like Rockville, it's
12 really incomprehensible what qualifies if
13 those don't.

14 So yes, we agree that you have full
15 authority to take that action.

16 HEARING OFFICER CSUKA: Okay. Thank
17 you, Ms. Volpe.

18 So now we can move on to closing
19 arguments. I'm going to start with
20 Ms. Manzione for the Petitioner. Do you
21 have a closing argument that you'd like to
22 present?

23 MS. MANZIONE: Yes, I do. And it will
24 be relatively brief. So I will go ahead and
25 jump in.

1 To stay with my theme, rules --

2 HEARING OFFICER CSUKA: I'm sorry to
3 interrupt.

4 Even though this was scheduled for two
5 hours, we are free to go over that. So
6 don't feel as though you have to be brief.
7 Similarly, Ms. Volpe don't feel like you to
8 be brief either.

9 MS. VOLPE: I appreciate that.

10 MS. MANZIONE: Thank you. I didn't
11 realize we were scheduled for two hours. I
12 was thinking it would be an hour total and
13 here we are at two and a half hours. So --
14 anyway.

15 Okay. I'm going to go ahead and start
16 my closing argument, then.

17 Okay. So rules are rules. Everyone
18 has been told that at some point. We know
19 we are expected to follow the rules. We are
20 expected to know what the rules are, even
21 when the rules are complicated. Especially
22 in a regulated industry like health care, we
23 all have to follow the rules.

24 You can't make up your own rules. You
25 can't say you relied on a different

1 interpretation. It doesn't matter that you
2 argued in a different proceeding that the
3 public health emergency was the trigger for
4 the CON waiver expiring.

5 If the Governor makes the rules, the
6 Governor can change the rules.

7 Rockville General Hospital thinks they
8 know best. Rockville General Hospital think
9 they should interpret the rules made by the
10 Governor.

11 Executive Order 12B didn't mean what
12 the executive branch of the government says
13 it means. It should mean what a private
14 for-profit hospital says it means.

15 In July 2021, the Governor said that
16 the Executive Director of OHS's authority to
17 grant CON waivers expired.
18 Rockville General Hospital didn't listen or
19 follow that rule.

20 In October 2021, the
21 Office of Health Strategy told
22 Rockville General Hospital what the rule
23 meant. And, once again, Rockville General Hospital
24 didn't follow the rule willfully.

25 The Office of Health Strategy said

1 Rockville General Hospital should be back
2 at, quote, pre-waiver status, end quote, by
3 now, and Rockville General Hospital didn't
4 agree. It didn't follow the rule.

5 Rockville General Hospital kept its
6 surgery services closed when it should have
7 opened them. Rockville General Hospital
8 broke the rule.

9 In November 2021, Rockville General Hospital
10 filed their determination arguing that they
11 didn't need to file a CON.

12 Rockville General Hospital willfully
13 kept its surgery services closed when it had
14 been repeatedly told it should have
15 restarted them.

16 In January 2022, OHS issued a decision
17 on the determination that
18 Rockville General Hospital should file a CON
19 or start the services, which were still
20 closed. RGH willfully continued to keep its
21 surgery services closed.

22 Finally, when they didn't receive the
23 answer they wanted from the determination,
24 the CEO of Rockville General Hospital tried
25 a different approach by sending an e-mail

1 directly to the Executive Director of OHS
2 pleading, again, to extend the waiver. The
3 CEO was still under the impression that the
4 rules didn't apply to her or the
5 Rockville General Hospital. The OHS
6 Executive Director did not reply to this
7 e-mail message.

8 A civil penalty is another type of
9 rule. It is a consequence for breaking
10 rules. In this case, Rockville General Hospital
11 broke the rules by not resuming emergency
12 services by October 2021 or by not
13 requesting a CON to terminate surgery
14 services once the authority of the
15 Executive Order ended.

16 Even though Rockville General Hospital
17 stopped breaking the rules when they
18 restarted surgery services on February 16, 2022,
19 they still must pay the consequences for
20 breaking the rules. And that costs \$1,000 a
21 day from October 22, 2021, to February 16, 2022,
22 for a total of \$118,000. That's what you
23 get when you break the rules. And this
24 tribunal has the power to enforce the rules.

25 Thank you.

1 HEARING OFFICER CSUKA: Thank you,
2 Ms. Manzione.

3 Ms. Volpe, do you have any -- would you
4 like to make a closing argument or a closing
5 statement?

6 MS. VOLPE: Yes, I would. Yes, I
7 would.

8 So there's been a lot of talk about the
9 rules. Okay?

10 The rules are the statutes. The rules
11 have to apply when you want to impose a
12 civil on a hospital.

13 To impose a civil against the hospital
14 you have to prove -- you, OHS, has the
15 burden of proof -- you have to prove that we
16 failed to file a CON and that we terminated
17 a service and that we willfully did not file
18 a CON, that we were looking to usurp the CON
19 statutes.

20 Again, you have not met your burden.
21 One, because we didn't terminate a service.
22 So the statute doesn't even get invoked.

23 Two, we certainly didn't act willfully.
24 We followed your rules, OHS's rules, which,
25 by the way, we have hundreds of pages where

1 your rules were changing, sometimes hourly
2 and daily.

3 Admittedly, we were dealing with a
4 global crisis on the Pandemic. So do we
5 give you some leeway in your constant
6 changing of guidance? Yes.

7 But we expect the courtesy, as well.
8 We followed the rules.

9 Your rules are apply for a waiver. We
10 applied for a waiver.

11 Your waiver said if you're going to
12 terminate, come back to us.

13 It said your waiver is in place through
14 the public health emergency.

15 Following your rules, marching along,
16 you knew what our intent was. You
17 understood what our intent was.

18 Intent is very important under the
19 civil penalty statutes. You can't impose a
20 civil penalty against us if we understood
21 that we were in compliance.

22 And it was reasonable for Rockville to
23 believe they were in compliance, because,
24 based on your words, it said we had through
25 the public health emergency.

1 Also, based on your words, it said that
2 we would only be required to file a CON if
3 we terminated a service.

4 And I want to speak to --
5 Hearing Officer, you know, your question on
6 what does -- do we -- did Ms. Weymouth
7 understand the distinction between a formal
8 and a term -- a formal termination.

9 No. As a layman, we all know you
10 either terminate or you don't.

11 As a hospital executive, you're
12 providing services, either you're providing
13 services or you're not. They're
14 terminating. I think there's a plain
15 reading and understanding of a termination.

16 But then I ask why does OHS -- if we're
17 talking about words -- and words are so
18 important -- why do they reference formal
19 termination? Is there such a thing as an
20 informal termination? No. I think the
21 distinction is in suspension.

22 There's lots of precedent before OHS
23 dealing with suspension of services.

24 So when you said formally terminate,
25 perhaps you're making a distinction between

1 a suspension versus a termination, a
2 formal -- you used the word permanent
3 termination.

4 Again, in decisions we got from you on
5 these very issues, again, permanent. That
6 means not to ever be brought back online.
7 Totally distinguishable from suspension.

8 So I do think, like we've been talking
9 about, the words matter. Yes.

10 But what does matter is the law. And
11 what is the law related to a civil penalty?

12 You, OHS, have the burden of proof to
13 show two things, neither of which you've
14 shown; (1) that there was a termination of
15 service, and we had to file a CON; and
16 (2) that we just willy-nilly went about our
17 business trying to usurp the CON statutes
18 and not comply.

19 So when you apply the facts in this
20 case to the law, which OHS is required to
21 do, they don't support the imposition of a
22 civil penalty against Rockville. There was
23 no termination of service, and there was
24 absolutely nothing done willfully.

25 OHS carries the burden of proof in a

1 civil penalty proceeding, and OHS has not
2 met its burden.

3 Rockville did not terminate the
4 service, let alone formally or permanently.
5 Again, using your words. They were
6 suspended during a once-in-a-lifetime global
7 pandemic. Without termination, there is no
8 violation of CON statutes, because that's
9 when they get invoked, if you're going to
10 terminate.

11 In addition, OHS has the burden and
12 must prove that Rockville willfully failed
13 to file a needed CON.

14 In my opening statement I detailed for
15 you what constitutes willful failure, and
16 this most definitely has not been
17 established by OHS.

18 It is what is the intent of the person.
19 And Mrs. Way testified on a number of
20 occasions what their understanding was, how
21 they were proceeding, and there was no
22 willful intent to invade the CON process.
23 There's been no malice or intent to deceive
24 OHS.

25 Ms. Weymouth has represented under oath

1 on numerous occasions and made multiple
2 representations to the Office of Health Strategy
3 that her understanding was that Rockville
4 had through the public health emergency to
5 re-implement services on February 16th.

6 Nothing, no decision that OHS sent to
7 Rockville talked anything about -- it all
8 specifically said you need a CON if you're
9 going to permanently and formally terminate
10 services.

11 Rockville has shown how it's impossible
12 for OHS to meet its burden, because none of
13 the statutory elements exist that are
14 legally required for OHS to impose civil
15 penalties against Rockville.

16 OHS has failed to present any evidence
17 that Rockville violated CON statute.

18 We respectfully request that you
19 rescind the penalty, which you have full
20 authority to do.

21 Thank you.

22 HEARING OFFICER CSUKA: Thank you,
23 Ms. Volpe.

24 There was one other thing that I wanted
25 to bring up to both of you.

1 There was the fact that -- Ms. Volpe,
2 you filed a legal brief -- actually, I
3 believe you raised this earlier on in the
4 hearing.

5 You had filed a legal brief in
6 connection with your pre-filed testimony.

7 Ms. Manzione, you did not.

8 But regardless of that fact, I was
9 curious if either of you wanted to file a
10 post-hearing legal brief, as well?

11 Ms. Manzione, would you like an
12 opportunity to do that?

13 And then, Ms. Volpe, I will ask you, as
14 well.

15 MS. VOLPE: Well, I mean, if -- I'll
16 leave it up to Lara.

17 HEARING OFFICER CSUKA: Okay.

18 MS. VOLPE: But I will say this. That
19 we don't -- we don't intend to file a
20 post-hearing brief. However, if OHS elects
21 to file a post-hearing brief, we would also
22 like the opportunity to file a post-hearing
23 brief.

24 HEARING OFFICER CSUKA: Noted.

25 Ms. Manzione, do you have a position on

1 that?

2 MS. MANZIONE: Sorry. I was speaking,
3 but, apparently, I was speaking into the
4 mute button.

5 If it would be helpful for the hearing
6 officer for me to submit a post-hearing
7 brief, I would be happy to do so.

8 HEARING OFFICER CSUKA: I don't think
9 it would be, honestly.

10 So my suggestion would be that neither
11 of you file them. I don't think it's
12 necessary. I don't want either of you to do
13 unnecessary work.

14 MS. MANZIONE: Okay.

15 MS. VOLPE: That works for us.

16 MS. MANZIONE: Fair enough.

17 HEARING OFFICER CSUKA: I'm sorry?

18 MS. VOLPE: I said that works for us.

19 HEARING OFFICER CSUKA: Okay. Thank
20 you.

21 MS. VOLPE: So it standards that there
22 will be no post-hearing briefs?

23 HEARING OFFICER CSUKA: Correct.

24 MS. VOLPE: Okay.

25 HEARING OFFICER CSUKA: Are there any

1 other loose ends that either of you wanted
2 to address at this time?

3 MS. VOLPE: I have a loose end.

4 I don't think it's a loose end, per se,
5 but I was waiting to hear whether or not
6 post-hearing briefs were going to be
7 submitted.

8 Hearing that post-hearing briefs will
9 not be submitted, we respectfully request
10 that this proceeding be closed and the
11 record be closed and that there be no
12 additional filings so that the record could
13 be closed at the conclusion of this hearing
14 today.

15 HEARING OFFICER CSUKA: That was going
16 to be my plan, to adjourn the hearing and
17 close the record.

18 MS. VOLPE: All right. Thank you.

19 HEARING OFFICER CSUKA: So we are
20 thinking alike.

21 MS. MANZIONE: I support that idea, as
22 well.

23 HEARING OFFICER CSUKA: Okay. So with
24 all of that said, I think we're all set and
25 we can close -- we can adjourn the hearing

1 and close the record.

2 Thank you both and thank you to your
3 witnesses. It was very helpful. I
4 appreciate your time.

5 MS. VOLPE: Thank you. I appreciate
6 your time.

7 MS. MANZIONE: Thank you.

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11 (The hearing concluded
12 at approximately 12:37 p.m.)
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C E R T I F I C A T E

I, Tina M. Davis, Registered
Professional Reporter, do hereby certify
that the foregoing testimony is a true and
accurate transcription of my stenographic
notes to the best of my knowledge and
ability.

WITNESS MY HAND, this 7th day of
June 2022.

A handwritten signature in cursive script, reading "Tina M. Davis". The signature is written in black ink and is positioned above a horizontal line.

Tina M. Davis, Court Reporter