UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

STATE OF MISSISSIPPI,
ex rel. LYNN FITCH, in Her
Official Capacity as Attorney General
of the State of Mississippi — PLAINTIFF

V. — CIVIL ACTION NO: 1:20CV168

THE PEOPLE'S REPUBLIC OF CHINA,
THE COMMUNIST PARTY OF CHINA,
NATIONAL HEALTH COMMISSION OF
THE PEOPLE'S REPUBLIC OF CHINA,
MINISTRY OF EMERGENCY MANAGEMENT
OF THE PEOPLE'S REPUBLIC OF CHINA,
MINISTRY OF CIVIL AFFAIRS OF THE
PEOPLE'S GOVERNMENT OF HUBEI PROVINCE,
PEOPLE'S GOVERNMENT OF WUHAN CITY,
WUHAN INSTITUTE OF VIROLOGY,
and CHINESE ACADEMY OF SCIENCES — DEFENDANTS

TRANSCRIPT OF EVIDENTIARY HEARING

BEFORE HONORABLE TAYLOR B. MCNEEL
UNITED STATES DISTRICT JUDGE

FEBRUARY 10, 2025

DAN M. RUSSELL, JR., UNITED STATES COURTHOUSE
GULFPORT, MISSISSIPPI

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THE COURT: Please be seated.

Madam Clerk, will you please call the case.

COURTROOM DEPUTY CLERK: In the United States District Court for the Southern District of Mississippi, Southern Division, State of Mississippi versus People's Republic of China, et al., Civil Case Number 1:20cv168, set for evidentiary hearing.

THE COURT: Would counsel please enter their appearances for the record, beginning with counsel for the government -- or counsel for the State of Mississippi.

MS. SECOY: Your Honor, Crystal Utley-Secoy, Director of Consumer Protection for the Mississippi Attorney General's Office.

MR. RANKIN: James Michael Rankin, local enforcement attorney for the Consumer Protection Division of the Mississippi Attorney General's Office.

MS. BEALE: Good morning, Judge. I'm Tricia Beale, also with the Attorney General's Office. I'm just sitting over here because we needed to spread out a little bit, if that's okay with you.

THE COURT: That's fine.

And do we have anyone in the courtroom here on behalf of any of the defendants?

(No response.)

THE COURT: I see none.

All right. Before we get into the evidentiary portions of this hearing, it does appear from the pretrial brief, from the motion in support of default judgment, that the State of Mississippi does intend to do some type of presentation before we get into evidentiary hearing on introduction and jurisdiction. Is that -- is that correct?

MS. BEALE: Yes, Your Honor. I'm here to give an introduction of the case and then talk about the Foreign Sovereign Securities Act -- Immunities Act. I'm sorry.

THE COURT: Yes. Are you ready to proceed?

MS. BEALE: Yes, sir.

THE COURT: All right. You may proceed.

MS. BEALE: Good morning, Judge. My name is Tricia Beale. I'm the deputy director at the Mississippi Attorney General's Office and on behalf of the State in the case that is being heard today. As you can see by the agenda, we each kind of took a portion of the case that we're going to argue today, and my portion is the introduction and the jurisdiction.

As an initial matter, since none of the defendants appeared in the case, we've been unable to conduct any additional discovery, or any discovery, against some of the defendants. And so just as an initial matter, we'd like to dismiss three of the defendants without prejudice. The three defendants are the People's Government of the Hubei Province,

the Ministry of Civil Affairs of the People's Republic of China, and the Ministry of Emergency Management of the People's Republic of China, and that's without prejudice.

THE COURT: Okay. Hold on one second. Let me make sure I have all three of those. Are you going to be filing a motion to dismiss those without prejudice?

MS. BEALE: We can, or ore tenus, whichever the Court would prefer.

THE COURT: Okay. I'll take that motion under advisement if you're moving that ore tenus. Please identify again for the record the three defendants you're desiring to have dismissed without prejudice.

MS. BEALE: It's the People's Government of the Hubei Province.

THE COURT: Okay.

MS. BEALE: The Ministry of Civil Affairs of the People's Republic of China.

THE COURT: Okay.

MS. BEALE: And the Ministry of Emergency Management of the People's Republic of China.

THE COURT: All right.

MS. BEALE: Your Honor, this case is about the defendants -- and when I say "the defendants," I mean all of the remaining defendants -- withholding information and lying about the nature of the COVID-19 virus, hoarding personal

protective equipment, and cornering the market on the equipment. And if it's okay with you, Judge, I'd like to refer to that as PPE, just to shorten it for the record.

THE COURT: Sure.

MS. BEALE: And then once they hoarded and cornered the market, then they -- the defendants then turned around and sold the PPE to the United States, when we needed it the most, for a higher price. The causes of action in this case are under our Consumer Protection Act. That's found at Mississippi Code 75-24-1 et. seq. The defendants engaged in unfair methods of competition affecting commerce and unfair and deceptive trade practices affecting commerce. This case is also brought under Mississippi's antitrust laws, which are found at Mississippi Code 75-21-1 et. seq. Because the defendants hoarded PPE, they cornered the market for PPE, and then they turned around and sold it at a higher price.

Your Honor, the reason why we're in federal court is because of the foreign nature of the defendants. We only brought state law claims. Usually in Attorney General litigation, we file in Hinds County Chancery Court. So we're only in federal court due to the Foreign Sovereign Immunities Act. But the defendants in this case did the same thing defendants have done in our other cases: Violations of the Consumer Protection Act affecting commerce, and violations of our antitrust laws, but because the defendants are foreign

states and foreign agencies and instrumentalities, we're here under the Foreign Sovereign Immunities Act, which, with your permission, I'd like to call the Immunities Act for the record.

THE COURT: Sure.

A question for you. So you just referred to the defendants as including foreign states and agents and instrumentalities. One of the questions I'm going to have is whether the Mississippi Consumer Protection Act and the Mississippi antitrust laws apply to foreign states, agents, and instrumentalities, and where that is in those acts specifically.

MS. BEALE: Yes, and Crystal is prepared to answer that question for you.

THE COURT: All right. We can get to that later, but I just wanted to let you know I am going to have a question about that.

MS. BEALE: Okay. Thank you.

THE COURT: And one other question I know I'm going to have is it seems like you-all are taking the position -- of course, I have six factors to analyze in any default judgment. It seems like that you-all are taking the position in your pretrial memorandum and your brief that the first factor, whether material issues of fact exist, that essentially, I don't even need to reach that factor because the defendants

are in default; in other words, de facto don't even have to reach that factor. It seems like that's the position you-all are taking, and I just wanted to address that as well. We don't have to address it right now. I'm not going to interrupt your introduction, but I wanted to go ahead and give you an idea of some of the questions that I'm going to have. Thank you.

MS. BEALE: Thank you.

So, Your Honor, under the Immunities Act, the first question as to whether the Court has jurisdiction or not under the defendants is whether they were properly served. And yes, all the defendants were properly served. They were served under USC -- 28 USC 1608(a), that's option (4), through the State Department and diplomatic channels. If you see Docket Numbers 36 through 41, those defendants were properly served on January 18, 2023; and then Docket Numbers 56 through 58, those defendants were served on January 5, 2024. So the initial question to be answered is were the defendants properly served, and yes, they were, under the Immunities Act.

And then -- so since we have proper service and nobody answered to our lawsuit, the next question, then, is do these defendants enjoy immunity or not. And the Immunities Act lists several exceptions, and the exception we are moving under is the commercial activity exception, and that is found in 28 USC 1605(a)(2). And in this case, the immunity of the

defendants is abrogated by the commercial activity that they committed.

The defendants' acts were commercial in nature. The commercial acts in China had a direct effect in the United States. The hoarding of the PPE and cornering the market was connected to the United States paying a higher price for the PPE, and the higher price was paid in the United States when the -- you know, when the material got here from China.

Now, the commercial activity at issue, the courts -- in the authorities, the courts always say, What is a commercial activity? And what it comes down to, is it the type of activity a private player in the marketplace could do, or is it something that only a foreign government could do? Well, in this case, clearly it's the type of activity a private commercial company would do. And that definition is found by the U.S Supreme Court in *Argentina v. Weltover*, which is 112 S.Ct. 2160. And that's an old case, and that has withstood every challenge.

So the question is, is the type of activity that the defendants engaged in the type that a private company would engage in? So the State alleges that the defendants withheld information; they misled the United States about the COVID-19 virus during the critical weeks of the initial outbreak; they withheld the fact that evidence showed human-to-human

transmission of the virus. And withholding information and misrepresenting evidence is the same type of conduct that companies engage in that the Attorney General's Office sees all the time. I mean, that's a basis of a lot of our litigation. And one example is the case we had against Johnson & Johnson for withholding information from the public about the evidence showing natural talc was carcinogenic. They knew it and withheld it. And it's the same exact situation here. Johnson & Johnson knew about it and just kept quiet and misrepresented what they knew, and people were being diagnosed with cancer; but in that case, Johnson & Johnson was held accountable for withholding the information, and we're asking the Court to do the same thing here.

The actions undertaken by the defendants are no different than what companies do, what they already have done. The defendants knew that COVID-19 could be spread by human-to-human contact. They had evidence of it but withheld the information, all while they're involved in the scheme to hoard the PPE and then release it and make tons of money because people in the United States are getting sick and dying and in desperate need of it.

And I wanted to point out, Judge, that for PPE, we always think it's a mask, but it's also gloves, it's also hospital gowns, it's all kinds of things that the United States needed right in that critical point, is the

direct effect. We needed it the most then, and that's when they are misrepresenting, hoarding, and then turn around and sell it, and we have no choice but to buy it.

Your Honor, China is the leading supplier of PPE. They manufacture at least 80 percent of the world's supply. So we were basically held hostage by them -- by their -- and that's classic antitrust activity, is, "Oh, yeah, you know, we're -- we don't know what's happening. This is fine," while they're sitting there scheming in China to hold all the PPE while all of us are, "Please ship it to us, please ship it to us."

"Oh, no, no, no. We're going to hold it."

And then when we need it the most, "Okay," and then they ship it, and then we pay much higher prices because we have to. We didn't have a choice. They were controlling the PPE market, and this is classic antitrust behavior that the Attorney General's Office sees all the time.

The defendants' actions did cause a direct effect in the United States. And it's -- it's a financial loss, but it's more than that. A direct effect that the United States suffered was financial, but also loss of lives in that critical time period, lost wages, economic losses, disruption in education. It caused a lot of damage here. And, Your Honor, a lot of the cases --

THE COURT: But let me understand exactly what's the

liability, the causation of the damages argument is, kind of a little bit more specifically. Because it seems like a lot of the pretrial brief and the memorandum in support of the motion for default judgment are based on an allegation that these defendants allegedly hoarded PPE and then the State of Mississippi had to pay more for PPE. Right? That seems like that's what a lot of the allegations are.

But it seems like what you're saying today and what also was in the pretrial brief is you're -- it seems to be you're alleging it was more than just paying an additional price. If we take a mask example, say if a mask costs -- and I don't know what your evidence is going to show about this, but just hypothetically if a mask costs two dollars initially before COVID and then by the time the State of Mississippi got around to buying it, it cost five dollars, where there's a three-dollar increase. It seems like that's going to be part of your evidence, but it also seems like you're trying to seek damages over and above that.

MS. BEALE: Yes.

THE COURT: So what is -- kind of hone in on that. And you don't have to do it right now, but I am -- I am curious what that is.

MS. BEALE: Yes, and we have that evidence here. The evidence will show that the commercial activity of the defendants, the commercial acts that they committed did cause

loss of lives here, lost wages, economic losses --

THE COURT: But you're talking about the alleged hoarding of the PPE.

MS. BEALE: And the misrepresentations for not telling us in the beginning -- it was -- they're all intertwined. They didn't tell us while they're hoarding, cornering the market. Then they release it. So all these damages result from their conduct of misrepresenting, lying to us, cornering the market and then selling it to us, selling the PPE to us.

THE COURT: Okay. But, I mean, are y'all going to be seeking damages related to lost lives?

MS. BEALE: Yes.

THE COURT: Okay.

MS. BEALE: Yes. And we have evidence to show why we're doing that and the connection and what the --

THE COURT: The connection to a Consumer Protection Act in an antitrust law.

MS. BEALE: Yes.

THE COURT: I mean, that's just -- it's not typical, obviously. Usually --

MS. BEALE: Well --

THE COURT: Usually -- I mean, obviously, antitrust laws are designed for the protection of the consumer, and it's usually based off of price and the damages from price, right,

is the vast majority of antitrust cases. It focuses on the protection of the consumer and then --

MS. BEALE: Well, we --

THE COURT: -- how the consumer was harmed by those prices.

MS. BEALE: Well, and we're also -- we filed this complaint as *parens patriae* as well on behalf of people, on behalf of individuals, not just for the State.

THE COURT: Okay.

MS. BEALE: And we're allowed to do that under, I believe the case is, *Alfred Snapp*, S-N-A-P-P. And I can get that -- well, I think that's in our briefing. It allows the Attorney General's Office to bring a case on behalf of people, lost lives.

THE COURT: Okay. But the two legal theories are the Mississippi Consumer Protection Act and Mississippi's antitrust laws.

MS. BEALE: Yes.

THE COURT: Right?

MS. BEALE: State law. Uh-huh.

THE COURT: Right. Okay.

MS. BEALE: Yes, sir.

And, Your Honor, there are a lot of cases concerning the Immunities Act. Most of them, I guess I could say, are not really in the Fifth Circuit. I did locate one. It's

called the *Voest-Alpine Trading and Bank v. Bank of China*, 142 F.3d 887, and I have a copy of it here for you. And there, the Fifth Circuit did at least confirm that a financial loss -- minimally, a financial loss is a direct effect from a commercial activity that happens abroad, direct effect in the United States. And the reason why I brought that -- even though we're claiming lost lives, lost wages, it's just one element of our claim. And I brought that for you just because you'll see cases from a lot of other circuits, and at least the Fifth Circuit has affirmed that a financial loss is a direct effect in the United States.

And, Your Honor, also as we asserted in our motion for default judgment in Docket Number 81, the Missouri -- Missouri has a case similar to ours, and the Eighth Circuit did also recognize the commercial activity exception under the Immunities Act and found that the PPE hoarding claim was a commercial activity which had a direct effect in the United States. The Court said in that opinion that China's market power and its superior knowledge about the virus meant that no one else other than the defendants created the effects that resulted from the hoarding and then the shipping and then us paying higher prices. And the effects that we're alleging are loss of lives, lost wages, economic damages, and paying more for the PPE.

That's all I have, Judge. Did you have any questions

for me?

THE COURT: I don't have any more questions right now. Thank you.

MS. BEALE: Thank you.

MS. SECOY: Your Honor, may it please the Court, I appreciate your patience as we walk through your questions from our pretrial conference and your questions today. We hear you, and we will -- I believe we'll get through those.

I would also like to give an introduction on the facts generally, and then we'll jump into facts specifically per defendant. And forgive me for reading. I want to make sure I capture everything.

Your Honor, the Chinese government intentionally concealed the severity of COVID-19 starting in December of 2019 in order to hoard, or in antitrust terms, engross and forestall PPE by increasing imports and decreasing exports. It stockpiled PPE before telling anyone that the country and the Wuhan Institute for Virology knew that the pneumonia taking over their country was viral and very contagious. We're talking about actions in a small yet crucial period of time that could have prevented the pandemic and avoided hundreds of thousands of people from dying. All of this so they could corner the market.

According to Secretary of State Marco Rubio's investigation, which I'll enter into evidence in a moment, the

PRC, People's Republic of China, the Institute for Virology, and the Communist Party of China started preparing their scientific community for a potential leak from their labs in January 2018 because they had inadequate safety precautions. As stated in the report and in Exhibit 9 of our pretrial brief, which I'll also get into evidence -- that was the report on the origins of COVID-19 and the investigation of the Wuhan Institute for Virology by the Minority Staff of the House Committee of Foreign Affairs -- it was no surprise to them that in the fall of 2019, lab employees, military athletes visiting Wuhan, and the general public in the area became sick, just like 20 years ago with SARS. They immediately recognized the virus because they had been studying its precursor since 2013 and had mapped the genome sequence in 2018, as described in both of these exhibits. The Institute for Virology had even published a study on the virus, and by the time of the leak, it was still 96 percent the same. They began working on a vaccine in November 2019, according to the Journal of Science, but they chose to lie and hide the nature of the virus so they could get busy engrossing and forestalling PPE.

Rubio's report notes that the virus spread, and by December 27th, hospitals in Wuhan had sent samples to Vision Medicals who sequenced the virus on behalf of the Central Hospital of Wuhan and shared this with the Chinese Academy of

Science, which then replicated the genome sequence by January 2nd, yet the PRC did not notify the public or the World Health Organization until January 9th of its viral and contagious nature and did not share the sequence with the World Health Organization until January 12th, a concern also reported by the U.S. Director of National Intelligence.

By the time the World Health Organization reported the global emergency, the virus had already spread by 100 to 200 times according to China's own CDC. According to their CDC scientists on January 29th, the virus had been doubling in size every week, and they knew it was contagious at least, at the very minimum, since mid-December 2019. According to the House Foreign Affairs Minority Report, which we will enter, they could have prevented the pandemic if the PRC had not acted unfairly and deceptively. The report cites the medical journal MedRxiv whose authors determined that China could have reduced the number of cases by 95 percent if they had notified the public around December 27th when they got their lab results and when they had sequenced the genome. So these facts lead us here today.

I'd like to pause for a moment and briefly go over the two statutes that the defendants had violated before going into the factual details and the relationship amongst the defendants. So first, the Mississippi Consumer Protection Act 75-24-5(1) prohibits unfair methods of competition affecting

commerce and unfair or deceptive trade practices in or affecting commerce. Subsection (2) also prohibits misrepresenting the quality and the characteristics of a good. And whenever the Attorney General has reason to believe the person is using, has used, or is about to use any practice prohibited by this statute, then she can bring an action in the public interest. Subsection 15 talks about damages on behalf of the State. Subsection 19 goes into our penalties. Subsection 11 covers any other remedy that the State can seek; and James Rankin will go into further detail about our damages and penalties sections. Subsection 3(a) defines "person" as any natural person, corporation, trust, association, and, I quote, "any other legal entity."

THE COURT: And I saw that definition in the Mississippi Consumer Protection Act. So I guess it's the State's position that all defendants are considered legal entities of some form or fashion, including --

MS. SECOY: Yes.

THE COURT: -- a foreign state?

MS. SECOY: Yes.

THE COURT: Okay.

MS. SECOY: I think the language is very broad, "any other legal entity."

Under 75-21-3(c), our state antitrust laws prohibit a person or association of persons from engrossing or

forestalling any commodity to a degree that is inimical to the public welfare. The Mississippi Supreme Court has stated that "engross," for antitrust purposes, means to buy large quantities of a stock or commodity in an effort to corner the market and control the price. That was from *Georgia Pacific*, 194 So.3d. And Your Honor, we have copies of all these cases if you'd like a copy.

THE COURT: Okay. Sure. That would be helpful.

MS. SECOY: Do you want us just to hand them to you as we make reference to them?

THE COURT: Sure. Well, you can do it at the end of your presentation.

MS. SECOY: Okay.

THE COURT: That would probably be easier. Thank you.

MS. SECOY: The Miriam Webster Dictionary defines "forestall" as to prevent the normal trading in something by buying or by diverting goods. That will be important for us.

Getting back to the standard of proof under the Immunities Act, many cases under the Immunities Act have allowed U.S. Government reports in lieu of other forms of evidence, such as *Karcher v. Islamic Republic of Iran* where they allowed U.S. Government reports and records and statements as evidence in an Immunities Act default hearing under the public records exception to the hearsay rule, which

we intend to do today. *Rux v. Republic of Sudan* also said evidence at the Immunities Act hearing included unclassified U.S. Department of State reports, a 9/11 Commission report, and a couple of other similar documents. *Sotloff v. Syrian Arab Republic* allowed evidence in an Immunities Act default hearing, A State Department Overview of State-Sponsored Terrorism also as a public record, and the Court took judicial notice of facts found elsewhere in addition to written testimony of their experts.

So switching gears to each defendant, Your Honor, I'm going to talk about -- I'm going to start off talking about two of our exhibits. Most of these are in the pretrial brief, but we've had a couple of extras since then. So I'd like to enter into evidence Secretary of State Rubio's report as well as a Congressional Research Primer on China. These are both public records under Rule of Evidence 803(8), and self-authenticating official publications under Rule 902.

(Brief pause in proceedings.)

THE COURT: We're just having a couple of technical difficulties. I'm going to get you to put back on the record essentially what you just said after we reboot this. Thank you.

Okay. Just restate for the record your position on exactly what you would like for me to enter into evidence as an exhibit, if you would.

MS. SECOY: Your Honor, as I go through these, I have a handful of exhibits. Would you like me to go ahead and do them all at once?

THE COURT: Yeah, we can go ahead and do them all at once.

MS. SECOY: Okay.

THE COURT: Thank you.

MS. SECOY: That would probably help.

I believe that all of these are under those same rules, the public record exception to hearsay and self-authenticating official publications.

THE COURT: Okay.

MS. SECOY: Congressional Research Service - China Primer.

COURTROOM DEPUTY CLERK: Is that P1?

MS. SECOY: Yes.

(Exhibit P1 marked for identification.)

MS. SECOY: This is Secretary of State Marco Rubio's report, A Complex and Grave Situation: A Political Chronology of SARS-COVID-2 Outbreak, also entered as a public record, an unofficial publication.

COURTROOM DEPUTY CLERK: That's P2?

MS. SECOY: P2.

(Exhibit P2 marked for identification.)

MS. SECOY: House Foreign Affairs Committee Minority

Staff Report, Final Report on The Origins of the COVID-19 Global Pandemic, Including the Roles of the Chinese Communist Party and the World Health Organization, entered as a public record and self-authenticating official publication. P3.

(Exhibit P3 marked for identification.)

MS. SECOY: This is an earlier version of the same document, House Foreign Affairs Committee Report by Minority Staff on The Origins of COVID-19, as P4.

(Exhibit P4 marked for identification.)

MS. SECOY: Congressional Research Service Report on The COVID-19 and Domestic PPE Production and Distribution: Issues and Policy Options, also entered as a public record and self-authenticating official publication, as P4.

COURTROOM DEPUTY CLERK: P5?

MS. SECOY: P5. Thank you.

(Exhibit P5 marked for identification.)

MS. SECOY: Similarly, Congressional Research Service Report on COVID-19: China Medical Supply Chains and Broader Trade Issues, a public record and self-authenticating official publication. P6.

(Exhibit P6 marked for identification.)

MS. SECOY: And this is an unclassified report from the Department of Homeland Security on New Analytic Techniques Indicate China Likely Hid the Severity of COVID-19 from the International Community While it Stockpiled Medical Supplies.

We enter those on the same basis, as a public record and official publication, as P7.

(Exhibit P7 marked for identification.)

MS. SECOY: I think this is my last one for this group: A Report by the Office of Director of National Intelligence, National Intelligence Council, Updated Assessment on COVID-19 Origins, as a public record and a self-authenticating publication, official publication.

COURTROOM DEPUTY CLERK: P8?

MS. SECOY: Yes. Thank you.

(Exhibit P8 marked for identification.)

MS. SECOY: Those will get me a bit.

THE COURT: Yes. And you said that you are entering -- you're asking for these to be entered under the hearsay exception and under 902(11) related to public records? Is that what --

MS. SECOY: Official publications. Rule of Evidence 803(8), and official publications under Rule 902.

THE COURT: Okay. So 803(8) and 902. What part of 902?

MS. SECOY: One moment, Your Honor.

THE COURT: For authentication purposes.

MS. SECOY: (5). 902, subsection (5), official publications.

THE COURT: All right. Thank you.

MS. SECOY: Thank you.

THE COURT: Okay. So what I'm going to do with all these exhibits, they're officially marked for ID only. I'm going to take them under advisement for admissibility purposes, because each one of these exhibits may require a little bit of a nuanced ruling as to its admissibility, and in order just to keep the hearing moving, I need to -- obviously you'll have free rein to use them for all purposes of today's hearing and tomorrow's hearing, but I'm going to take them under advisement because I may have a little bit of a nuanced ruling as to their admissibility.

MS. SECOY: Okay. Thank you.

Your Honor, may I proceed?

THE COURT: You may.

MS. SECOY: The Communist Party and People's Republic of China are completely interwoven and control all of the aspects of business and life in China, as stated on their official websites and confirmed by the Congressional Research - China Primer. For example, as described by Secretary of State Rubio's report, they have multiple reports describing the Party's involvement and the PRC's involvement in every agency and instrumentality, every entity, really, across China. For instance, there were nine reports in July of 2019 on the Institute for Virology describing how the Chinese Communist Party dictated what should happen at the Chinese

Academy of Science and the Institute for Virology.

On June 20, 2019, the Wuhan Institute for Virology Chinese Communist Party Secretary General -- and I apologize for butchering their names -- Xiao Gengfu instructed staff on how to get over biosafety challenges and held a followup meeting on July 8th regarding processes in the lab that was in question, the lab that studied the Coronaviruses. The same gentleman called a meeting to address problems from the Institute and concerns amongst personnel, personnel issues, in August of 2019. So that's the Institute for Virology's Communist Party Secretary General addressing issues related to biosafety and personnel at the Institute for Virology.

In November 2019, PRC President Jinping sent written and oral instructions to the Institute via the institute's parent organization, the Chinese Academy of Science, to address biosafety concerns. The Institute for Virology described this as instructions and demands from the Communist Party regarding safety and security. And that is in Secretary of State Rubio's report.

A congressional report noted that the PRC required -- so just getting into the facts. That's kind of laying examples of their relationship. But getting into the facts at hand, the congressional report noted that the PRC required all viral samples to be destroyed or sent to the Institute for Virology in order to centralize unique knowledge of the virus and to

give them an advantage. They refused to allow World Health Organization or other scientists to conduct a visit for over a month after they finally told everyone that this was a contagious virus. And per Rubio's report, the National Health Commission of the People's Republic of China sent a working group to guide the City of Wuhan in their response on December 31st, and, according to Rubio's report, they coordinated with Wuhan officials to reprimand doctors who attempted to warn the public.

On January 1st, they issued a gag order, the PRC issued a gag order, which the Institute for Virology then implemented. Per Rubio's report, when they finally admitted on January 9th on state-run media that this was a Coronavirus, Xu Jianguo, clinical biologist for the PRC and CDC, lied and said that they hadn't sequenced the virus until January 7th, which we know that it was sequenced at the end of December and then the Institute replicated that on January 2nd. So this -- I know it's just five days, but the way the virus spread so quickly, just five days makes a huge difference.

Oddly, even after making that announcement on state-run media, they reverted back to the propaganda two days later, and the National Health Commission issued a report that there was no clear evidence of human-to-human contact, human-to-human transmission, according to Secretary of State Rubio.

Within the internal government, they declared a state of emergency, but their CDC continued to tell the public that this was low risk and to falsify the number of cases by 15 to 40 times, according to U.S. intelligence agencies and Secretary of State Rubio's investigation and report. Our congressional research, which has been admitted and was Exhibit 3 in the pretrial brief, found that these lies and withholding of information were driven specifically by the PRC's market ambition, I quote, "to benefit state-controlled firms."

Switching to the Communist Party of China, the Wuhan Party Secretary, which is a communist-appointed official, is the highest ranking authority in the City of Wuhan, more powerful than the mayor. Secretary of State Rubio found that the Communist Party controlled the information distributed which was withheld and misrepresented. They possessed the information and did not disclose it until others leaked it and they were forced to address it, at which time even when the information was leaked, they still misrepresented the nature of the virus for months.

The Communist Party controls all of the PRC's state administrative systems. For instance, on October 31, 2019, they adopted several governing policies including the prevention of epidemics.

The Communist Party constructed, supervised, and

controlled the Institute for Virology, which is a branch of the Chinese Academy of Science. As listed on the Chinese Academy of Science and Institute's websites and as cited by the Minority Staff Report, which we've entered into evidence, Wang Yanyi, Director General of the Institute for Virology, is the Deputy Director of the Wuhan Communist Party. Until early 2020, Yuan Zhiming managed the lab -- the BSL-4 lab in question and was Communist Party President at the Wuhan branch of the Chinese Academy of Science. We know they conducted an inspection in September of 2019 per Secretary of State Rubio's report citing the Chinese Academy of Science Website, and leading up to the policy announcement regarding biosafety on October 31st, the Chinese Communist Party actually told insiders, as laid out of in the report, that the military athletes that became ill when they visited Wuhan in the fall, they became ill because there was a leak, and the Institute of Virology, when talking about biosafety on their website, reported in November of 2019 that this had occurred repeatedly.

I just want to note that I referenced the National Health Commission of the People's Republic in relation to People's Republic of China activities.

Regarding the Wuhan Institute for Virology, when people started talking about bad cases of pneumonia going around, the Institute took down their database of viral sequences, as

noted by the database monitoring system online, the Scientific Database Service Monitoring, which is a public record under Rule of Evidence 8 and a record of regularly conducted activity under 803, subsection (6). But they took it down. This was discussed also in the Minority Staff Report. Right when people would actually need to see the viruses that they've sequenced and studied and say, "Hey, this looks exactly like this. This looks like the virus you have," they took it down. No reason.

While her own colleagues came down with symptoms in November of 2019 of the very virus they had been studying, the U.S. State Department reported that Institute -- the Institute's senior researcher, Shi Zhengli, stated that there were zero infections amongst her staff. She then trained all of her new hires on the importance of secrecy, according to the Secretary of State Rubio's report.

The City. So according to Rubio's report for the City of Wuhan, as cases began to arise in December, they joined in the denial of person-to-person infection in the Wuhan Municipal Health Commission Situational Report on Pneumonia Epidemic Currently in Our City.

On December 30th, the Wuhan Municipal Health Commission website continued to say pneumonia of unknown cause when the Wuhan officials had already sequenced the virus.

After the PRC arrived on the 31st of December, the Wuhan

Municipal Health Commission issued another statement denying human-to-human transmission. A research journal, SSRN, reported at this point -- and I would submit that that is a learned treatise under Rule of Evidence 803(18) -- they reported that at this point they had a surplus of evidence to the contrary, yet they continued this propaganda on their website repeatedly at least until January 20th of 2020. We have specific examples from the report on January 3rd, January 5th, January 14th, and January 15th.

On January 1st, Wuhan also reported on social media that they had dealt with the rumormongers, and the Communist Party's official newspaper, The People's Daily, reiterated this. They're talking about Dr. Li and other doctors who tried to warn the public, and they reprimanded him, they punished him. They made him sign a letter saying how he had, you know, embarrassed the Communist Party and had lied to the public, and then he died from the virus. So the Minority Staff Report goes into this, and they also have a letter attached as an exhibit of the letter they forced Dr. Li to sign.

According to the Minority Staff Report and in response to questions and accusations, the mayor of Wuhan simply responded that he could only disclose information with authority from the Chinese Communist Party.

I'd also note that I referenced the Chinese Academy of

Science, the parent organization of the Wuhan Institute for Virology, when discussing the other defendants.

Switching gears to our antitrust violations, the Department of Homeland Security brief on that publication, New Analytic Techniques, which I've included into our exhibits, it noted that the PRC provides 80 percent of the global supply of surgical facemasks, and that congressional research, which we have admitted into evidence, reported that they provide 70 percent of masks and 55 percent of other PPE for the United States, yet despite having the bulk of the market already, they increased imports of masks by 278 percent, gowns by 72 percent, and gloves by 32 percent. Meanwhile, they decreased their exports of masks by 48 percent and medical supplies on average by 53 percent.

So this exhibit from the Department of Homeland Security, when we review it, they've combined the product codes in their figures, Your Honor, but the Congressional Research Service titled China Medical Supply Chains and Broader Issues, they have broken down those figures further, and so that will become relevant as James talks to you about damages and penalties.

We also noted that bulk orders require two to four weeks. So for the imports to show up on January trade statistics, they had to start hoarding all of this at the very first of the month, at the very beginning of January 2020.

According to Congressional Research and the Minority Staff Report, the PRC also commandeered U.S. factories located in China. Talk about diverting trade. They nationalized and commandeered 3M, Foxcomm, and GM for domestic Chinese use only. This is the essence of forestalling a commodity.

Their Ministry of Commerce also released circulars instructing staff to buy up supplies and raw materials, as cited in the Congressional Research Service Report. Per these instructions, Greenland, a PRC-controlled company, bought 3 million masks, 700,000 hazmat suits, and 500,000 pairs of gloves in January and February of 2020. After they stockpiled the PPE, China turned around and sold what they didn't need at sky-high prices, and a good bit of that was not even quality -- the quality represented, and it was unusable. We have this graph here that will show just the extent of the price increases.

So according to the Cambridge University Press study, which I submit is a learned treatise under the exception to hearsay, the disposable gowns peaked at $12 during the first week of March, which is 13.7 times higher than pre-pandemic prices; the average gown -- hospital gown was seven and a half times higher than pre-pandemic prices; N95 respirators had a peak price of $12, eight times higher than pre-pandemic prices; and facemasks peaked at .55, which is 11 times higher. And this is -- these are Chinese exports, when they finally

felt like they had enough and they could sell it. Gloves averaged two and a half times higher than the pre-pandemic price. This drastically impacted our frontline medical responders' ability to do their jobs protecting us and themselves. The graph, just to show the impact, the light orange demonstrates pre-pandemic prices on average, and the dark orange shows the post-pandemic price.

When we were trying to get evidence for you, Your Honor, despite the fact that the defendants were not cooperating and were not cooperating with discovery, I learned that Office Depot, when they were struggling to provide PPE despite the fact that China was hoarding it, it forced them to become vulnerable to scams, and they ended up filing two different lawsuits against two different sets of scammers who tried to defraud them because they were, you know, in a vulnerable position in the wake of the hoarding and trying to find some source of PPE. And I have a copy of those two complaints if you would like to see them.

THE COURT: Are you offering those into evidence?

MS. SECOY: Well, they -- I mean, I think they're an example of the result -- you know, the result of their hoarding.

THE COURT: Okay. But are you offering them into evidence? Or are you just kind of saying that this is -- it's not really -- it's not really something that you're proving or

attempting to prove from a causality standpoint?

MS. SECOY: Correct.

THE COURT: Okay.

MS. SECOY: I just wanted you to be aware of it.

THE COURT: Okay.

MS. SECOY: Okay. So we just went through how each of the defendants individually committed overt acts in violation of the Consumer Protection Act and the antitrust law -- Mississippi state antitrust law. These are all activities in connection with commercial activity under the Immunities Act. As Tricia stated, a foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case in which the action is based upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that that act causes a direct effect in the United States. As she mentioned, the Eighth Circuit has already found that the harm received from COVID is a direct effect from their hoarding. And when determining whether a party's allegations are well pled, the Court considers whether a plaintiff's complaint contains a short and plain statement of claim showing that the pleader is entitled to relief. That is under *Wooten* and then reiterated by *Twombly*. We submit, Your Honor, that our complaint goes well beyond a short and plain statement.

Courts have applied a lenient standard for factual findings by a trial court in Immunities Act default hearings, recognizing that, quote, "firsthand evidence and eyewitness testimony is difficult or impossible to obtain from an absent and likely hostile sovereign." That's in *Owens v. Republic of Sudan*. Given the difficulty of obtaining direct proof of the types of conduct for which Immunities Act provides a remedy, the statute permits courts to credit indirect evidence and to impose a lower evidentiary burden than they might apply in a different context, and that is quoting *Saharkhiz v. Islamic Republic of Iran*.

THE COURT: Now -- all right. So, I mean, of course, you're citing a good bit of law in your pretrial brief and your memorandum in support of motion for default judgment that goes through the traditional default judgment factors and talks about well-pleaded factual allegations, it talks about the first factor, which is whether there's any genuine issues of material fact, and then a good bit of your brief also focuses on the Immunities Act and how you are supposed to deal with default judgments involving foreign states. And it seems like at times you're saying, Well, under the traditional factors, the State of Mississippi doesn't really have to put on evidence of liability because the defendants are in default, but at times you're also -- when you're talking about the Immunities Act, it seems like you're talking about the

State does have some type of evidentiary burden that it has to meet with regard to liability, but it's just not as high as it would be at a jury trial. Do you see what I'm saying? It sounds like there's a little bit of a distinction there.

And so, of course, we are at hearing here, and this is somewhat of a prove-up hearing, to some extent. What is your burden, do you think, in terms of demonstrating facts on liability, if at all?

MS. SECOY: Your Honor, we -- I would submit that we need to follow *Lindsayca* which said because they failed to answer, they've deemed to -- they've admitted our allegations.

THE COURT: Okay. So that's -- I mean, it's the State's position that essentially y'all don't have to prove facts that are well pled in the complaint. As long as they're well pled, then you don't have to prove any more facts, right?

MS. SECOY: Correct.

THE COURT: Is that fair?

And I think what you're also -- it seems like what your position is, you're going to try to put forward some facts that are not in the complaint, and you're looking to prove those up. Is that a fair assumption?

MS. SECOY: Well, I mean, the -- you asked us to walk through the liability and evidentiary as if we were having a trial, and so we have attempted to do that, despite the fact that we've had no discovery and zero cooperation from the

defendants.

THE COURT: Okay.

MS. SECOY: If it's okay with you, Your Honor, I was just going to note that, you know, vicarious liability and joint and several liability, and then go into the default standard for this --

THE COURT: Sure. But as we're kind of getting into that -- because we're starting to get into some specifics about the alleged hoarding of the PPE, the rising of the costs of the PPE, and the Fifth Circuit and some other courts have had opinions about, kind of, in other contexts, where American citizens were hoarding PPE, for example, or allegedly hoarding PPE, and some courts have talked about how in light of COVID, the prices were inevitably going to go up. Right? They were inevitably going to go up because the demand all of a sudden for PPE became so high worldwide. And so what is the distinction between the prices inevitably going up at least some and how much the hoarding or alleged hoarding of the PPE by these defendants caused the PPE prices to go up?

MS. SECOY: I think that, you know, some of that is hypothetical, you know, that -- an expectation of demand; but what we know is that they took away the supply. And when you don't have supply, that's going to make the demand, the prices worse, under just, you know, traditional antitrust theory.

So China provided 80 percent of global supply for

PPE. They provided 70 percent to the United States. And so they had control over that market, and they removed that supply from the market, which is just going to -- I mean, it put people like Office Depot in, you know, a terrible position to try to find it somewhere else when we didn't -- they -- we had no notice from them. If they had been honest and told us the nature of the virus, you know, if they hadn't lied, then people could have gone and -- it would have -- we would have been able to prepare ourselves. But they kept all the information. We had no clue about the nature of the virus and were not able to prepare or protect ourselves. So while, you know, you could say that when demand goes up, prices go up, but that -- that equation is much worse when you remove the supply from the market.

It is true that once they, you know -- being the major -- the primary supplier of PPE and they -- I mean, at some point I think something said 11 times higher, when they increased prices, it did cause the few domestic producers to match those prices, and so then the whole market was, you know, saturated with extremely high prices.

But just for the record, Your Honor, I submit that each of the remaining defendants are liable for this conduct. They're liable under the Consumer Protection Act and our state antitrust laws. They've caused a direct effect in the United States, as stated in the complaint. As we were just

discussing, we could not acquire PPE when we finally found out, our frontline medical providers could not equip themselves, we lost lives, livelihoods, not to mention the permanent effect on our society thanks to schools and businesses closing for months. The two Congressional Research Reports, those publications on the China Medical Supply Chain and COVID-19 and Domestic PPE Production, go into those impacts in great detail. Those were -- I don't recall our numbers for today, but those were pretrial Exhibits 3 and 11.

So again, the PRC and the Communist Party are completely interwoven and control all aspects of life in China from local governments to business. Congress has found that the PRC and the Communist Party, I quote, "exercise overall leadership over all areas of endeavor in every part of the country." "Over all the areas of endeavor." And that's in the China Primer that we have submitted as an exhibit.

In addition to the Institute for Virology in the City of Wuhan, all of the remaining named defendants are responsible for every act described today. Joint and several liability exists where two or more wrongdoers contribute to the injury of another by their several acts which operate concurrently so that the effect of their damages suffered are rendered inseparable. These defendants worked together to withhold information and deceive the public as part of their scheme to hoard PPE before the rest of the world knew what was

happening, and they are all jointly and severally liable.

As stated in the State's Memo in Support of Default, Docket Number 81, an Affidavit in Support of Default, the State requests a default judgment be entered against all remaining defendants. The State followed all steps set forth under the Hague Convention and provided by the State Department to serve each and every defendant. All of those steps have been filed and documented with this court. We have set out their violations of law and will continue to discuss the harm that they have caused when James joins me.

So in determining whether to enter a default judgment, the Fifth Circuit, as you mentioned, requires the six steps: Whether material issues of fact exist; whether there has been substantial prejudice; whether the grounds for default are clearly established; whether the default was caused by a good faith mistake or excusable neglect; the harshness of default; and whether the Court would consider itself obligated to set that aside. That's from *Lindsayca v. de Venezuela*.

As I mentioned, we take the position, as in *Lindsayca*, that there are no material issues of fact because the defendants have failed to answer the lawsuit, and they are deemed to have admitted all of the allegations in the complaint. Just as an alternative, Your Honor, if you found under the Immunities Act that you needed to, you know, work

through some level of an evidentiary hearing, as we are doing today, I would note the lenient standard that that case law references.

Second, there is no prejudice to the defendants. They were properly served. And other than to call Mississippi's lawsuit vexatious, defendants have failed to respond to the lawsuit. And that letter, they actually -- you know, the diplomatic notes confirm service of all of the defendants, and that has been filed with the court. And when submitting the diplomatic notes, they included that nice letter referring to our lawsuit as vexatious, and that is -- that was Exhibit A to our pretrial brief, and it's on the docket with the diplomatic notes. It's interesting they couldn't appear here today, but they were fully capable of appealing the federal ban against TikTok. So they're capable of litigating in the United States. The defendants have offered no defense to this default. They had plenty of time to respond to the complaint and to this motion. We have been at this for going on five years and we haven't heard a word from them other than the letter, intention- -- like, intentionally refusing to cooperate.

The culpability laid out in our complaint, our pretrial brief, and here today, it's egregious. We're talking about a global pandemic that they could have prevented, according to the exhibits, according to the reports that we've

submitted, or at least significantly lessened. The harm to the public interest in Mississippi is enormous. And I would note that we're also following the guidance of *Hibernia National Bank*, which is a case in the Fifth Circuit from Louisiana. It was not a default proceeding, but they discussed default as an aside.

This is not an administrative error. They did not think that they answered the complaint but actually failed to submit it. China has written to say that they are aware of the lawsuit and refuse to answer. They willfully did not answer the complaint. A default judgment would not be harsh when the defendants have not even bothered to respond to the, I quote, "vexatious lawsuit," especially considering the harm that we've alleged in the complaint. Mississippians and the State of Mississippi deserve justice for what they have been through thanks to the defendants, and any harshness of default is incomparable.

Finally, we are aware of no facts that would with cause this Court to set aside a default judgment should it be challenged later.

The Immunities Act standard that I referenced earlier is especially appropriate here when defendants have refused to appear in court and subject themselves to discovery and are known to intimidate defectors and potential witnesses. They had a similar situation in *Han Kim v. Democratic People's*

Republic of Korea. The standard recognizes the practical realities of demonstrating a claim against a hostile and defaulting state and is part of the risk that sovereign runs -- this is a quote from *Owens* -- when it does not appear after being properly served.

The defendants have violated the State's Consumer Protection Act as well as our state antitrust laws by committing unfair methods of competition affecting commerce and unfair and deceptive trade practices in and affecting commerce. The PRC, Communist Party, Wuhan, and the Institute for Virology directly misled the public, including Mississippians and the State of Mississippi, regarding the nature of COVID-19 while the PRC engrossed and foresaw the market of PPE. And rather than respond to these allegations, Your Honor, the defendants have chosen to be and are in default.

So I would note when I was walking through the Consumer Protection violations, there are 16 instances that we know of where they withheld information and misled the public that I walked through today. I would also submit that antitrust violations are also unfair trade practices; so I think that these allegations overlap.

Unless you have further questions for me, Your Honor, I'm going switch gears and invite my colleague, James Rankin, to talk to you about damages and penalties and collectibility.

THE COURT: So just on antitrust law, I mean, kind of what category of antitrust law would you fit this into in terms of monopoly, monopsony, you know, are we talking about what would traditionally -- I know this is Mississippi antitrust law, but would you say this is something that's more akin to like a Section 2 Sherman Act claim? You know, where would this fall if I was looking for analogous case law in terms of price-fixing or -- I mean, there's all these different categories of antitrust law, right?

MS. SECOY: Right.

THE COURT: There's horizontal price-fixing, there's vertical, there's all these other types of categories, and I'm trying to understand exactly what you would say this falls into if I was looking for analogous case law.

MS. SECOY: So engrossing and forestalling are in their own category.

THE COURT: Okay.

MS. SECOY: It's apart from mergers and acquisitions or apart from a boycott or a general restraint of trade. It's a specific -- kind of a unique violation.

THE COURT: Okay. But it's engrossing and forestalling --

MS. SECOY: Yes.

THE COURT: -- is the category that you would put it in if I was looking for analogous case law.

MS. SECOY: Absolutely.

THE COURT: Okay. Thank you.

MS. SECOY: You're welcome.

And, Your Honor, I would add that that's unilateral conduct that the -- it can be unilateral or an association to commit that.

THE COURT: Okay. And you would -- it sounds like your argument is it's joint and several liability. So even if --

MS. SECOY: Right.

THE COURT: I mean, how are you -- how are you getting there for, say, the Chinese Academy of Sciences for allegedly engrossing and forestalling?

MS. SECOY: We believe that they intentionally withheld information and misrepresented the nature of the virus in order to buy them time to hoard the PPE. So we submit that it is -- it was all a scheme and that the congressional reports that we submitted found the same thing, that they -- they lied and withheld information to buy -- to buy them time to scoop up all this PPE while the rest of the world had no idea what was happening. So while the allegations we have today regarding the antitrust violations are primarily focused on the People's Republic of China, we do submit that they are jointly and severally liable for the entire scheme together.

THE COURT: Okay. Thank you.

MS. SECOY: Thanks.

MR. RANKIN: May it please the Court.

Your Honor, my names is James Rankin, local enforcement attorney in the Consumer Protection Division of the Mississippi Attorney General's Office. It is a privilege for me to be here to speak to you today and address some of the issues you inquired about in our pretrial conference. I have three specific topics to address, and I propose, given that Tricia and Crystal were similarly occupied with answering some of those questions you had, I would like to begin on the issue of collectibility, and then secondly, damages, and lastly, penalties. The reason why I would like to pursue that order is there was a -- there was some indication in the hearing that collectibility was a concern with respect to consideration of the default, the liability therein, et cetera. So what I would be proposing to do is to speak on collectibility. When I reach the topic of damages, I'm going to present expert testimony from the State Economist for the State of Mississippi, Corey Miller, who is with us by Zoom, thankfully. And then I would conclude with penalties.

I did not want to begin on the issue of collectibility without having kind of noticed that it was somewhat out of order, but given that you had asked, I thought as a threshold issue, it was worth addressing.

THE COURT: Okay.

MR. RANKIN: Okay.

In our pretrial conference, you requested we specifically address the issue of collectibility of whatever judgment might result from this case. I submit the following to show that the law provides a sufficient mechanism and procedure for such collection, and evidence shows that China has assets in the United States sufficient to satisfy potentially up to every last dollar that may be recovered, including both damages and penalties.

Our law provides for execution of a judgment against China for assets they hold in the United States pursuant to the Uniform Enforcement of Foreign Judgments Act -- I could use the acronym hence forward as UEFJA. I'm not sure how much simpler that makes it, but that's what I will use -- and the Federal Rules of Civil Procedure.

First, a word about the Uniform Enforcement of Foreign Judgments Act, UEFJA. This is a mechanism that Mississippi has passed to allow people who hold judgments from other states to collect upon those judgments here in Mississippi. In Mississippi, our statute is Mississippi Code 11-7-301 et. seq. Forty-eight states total in the United States have adopted this as of this time, in my current knowledge and information and belief. That would exclude California and Vermont. The District of Columbia has also

adopted the UEFJA. This would allow Mississippi, presumably, in the event it were to be awarded the default judgment and the respective damages and penalties requested, to collect in any of those jurisdictions in the same manner that would be set forth in the Federal Rules of Civil Procedure Rule 64, seizing a person or property; Rule 69, execution, to obtain a writ of execution to satisfy the judgment depending on the nature of the assets in question.

I want to list for you and give you a brief detail of some of the assets we've identified that are potentially there for the purpose of collectibility. There will be three categories, I believe. And at the conclusion of that, I will make my way to damages.

I'm not sure exactly how the pattern was for the introduction of the exhibits or what number we left off on, but I do have a series of exhibits I can present in support of all of this that I'm about to assert.

THE COURT: We left off on P8 as to what was introduced for ID only for this purpose, and I have taken under advisement the admissibility.

Isn't that what you have, Miss Clerk? P8? Yeah.

So we're on P9, would be the next one.

MR. RANKIN: Your Honor, if you'll give us one moment, there may be some remaining items from Crystal's presentation as well.

THE COURT: Sure.

(Brief pause in proceedings.)

MR. RANKIN: Okay. So I think our numbering is a little bit strange, but -- it was referred to in our pretrial brief as Exhibit 12, but I think because we left off with Exhibit 8. In November, Corey Miller prepared an expert for us, which I'll go ahead and get in the record, just for the sake of chronology, based on what was laid out in the pretrial brief, and it's his November 2024 report. He will authenticate in his testimony. I'll go ahead and get this out of the way. That would be Number 9? Is that correct?

THE COURT: We can put it in as P12.

MR. RANKIN: Okay.

THE COURT: And we can just have 9, 10, and 11 as unused for now. That's fine. Just so it doesn't get confusing for -- because y'all have -- you have them attached to your pretrial brief, and that may just make it easier.

MR. RANKIN: Yes, Your Honor. Whatever you prefer.

THE COURT: Okay. We'll just put it in as P12 for ID only at this point in time.

(Exhibit P12 marked for identification.)

MR. RANKIN: So that will lead us to the next exhibit, which is 13. I'll revisit the Exhibit 12 when I have a word with Corey here in a moment.

Exhibit 13 is going to be a table from the U.S.

Department of Treasury, and that table shows that China holds no less than $768.6 billion of U.S. Treasury securities as of November 2024. And I will go ahead and present that as Number 13 here.

(Exhibit P13 marked for identification.)

MR. RANKIN: If you review back through the record and the transcript, Your Honor, along with the exhibits, you'll see in the first vertical column, the month of November 2024, the second highest holder of U.S. Treasuries is China, 768 billion -- 768.6 billion. There's a link at the top that takes you to the Treasury -- it's a hyperlink that takes you to the Treasury's website and it shows that most recent data.

The question might arise to you, simply because they have these Treasury securities, how would that be something that might be subject to judgment. And I would present to you several authorities that support the proposition that they may very well be subject to the judgment, and collectibility could be had through these securities.

Title 31 of the Code of Federal Regulations, Section 315.21 -- I think I have a copy of it here I can enter along with the other complementary case law and statutes if you'd like -- is the section in question that addresses the possibility of satisfying this judgment through U.S. Treasury bonds, and I will just mention part of it, and it's subsection

(a), where it says, Purchaser or officer under levy, the Department of the Treasury will pay but not reissue a savings bond to the purchaser at a sale under a levy, or to the officer authorized under appropriate process to levy upon property of the registered owner or co-owner to satisfy a money judgment. As required in most administrative laws, the regulation cites its source of authority, and it cites U.S. Code, Title 31, Section 3105, and Title 5, U.S. Code, Section 301.

In addition to the regulation and the statute, case law further reinforces the authority to execute on Treasury bonds in satisfaction of a judgment. The United States Supreme Court in the case of *Free v. Bland*, that's 369 U.S. 663, stated that those regulations do not immunize the bonds from execution in satisfaction of a judgment. We have two additional cases we can provide. One is *Ex parte Little*, 67 So.2d 818, which says that a creditor who has reduced his claim to judgment may subject the purchaser's interest in such bonds to the payment of the purchaser's debts. Another case, *Iowa Methodist Hospital v. Long*, 12 N.W.2d 171, also states that bonds may be levied upon in valid judicial proceedings. Treasuries are hardly the only asset which would be susceptible to execution of a judgment in this case. Therefore, addressing your concerns about collectibility, there are at least two more other categories.

The next exhibit I'm going to present is from the USDA Farm Service Agency, U.S. Department of Agriculture, and the report is entitled Foreign Holdings of U.S. Agricultural Land through December 31, 2023. And, Your Honor, this -- the totality of this report, which is available online per the link that's included in there, the totality of the report with appendix is roughly around 300 pages, but the main body is ten; so what I'm presenting to you is the main body of the report. If for some reason you were to need or locate, we could, of course, supplement, or otherwise, online is available. So what I'm presenting now would be my next exhibit, USDA Foreign Holdings of U.S. Agriculture.

COURTROOM DEPUTY CLERK: P14.

(Exhibit P14 marked for identification.)

MR. RANKIN: The report begins with several Roman numeral pages, and then when you reach the Arabic numerals, page 5, there's a section titled Chinese, Iranian, North Korean, and Russian Investment in U.S. Agricultural Land. You'll see mentioned therein a statement on page 5 that says, Chinese investments in U.S. agricultural land are spread across the country. The states with the largest Chinese holdings are Texas, 123,708 acres of land; North Carolina, 44,263 acres; Missouri, 42,905 acres; Utah, 33,035 acres; and Florida, 12,798 acres.

You will also see on that very same page it states,

The report provides that the acreage associated with China, or any other country discussed in this report, should be interpreted as a minimum.

I would also note for you in reference previously to the UEFJA, that each one of the states I've discussed above has passed that statute; Texas, North Carolina, Missouri, Utah, and Florida.

In addition to land, we have on information and belief a number of U.S. companies in which China has or may have an ownership interest. Still related to the previous exhibit, you'll see on that same page 5 a reference to a company known as Smithfield Foods believed to be owned by the Wuhan group. But in addition to Smithfield Foods, I would read off some of the following that our own research has identified as China either having ownership interest in or ownership of a shell corporation that has ownership interest in. Those companies include General Electric, Smithfield Foods, Syngenta, ByteDance, Riot Games, Morgan Stanley, Visa, and Blackstone. So I presented at least three different types of assets which may be susceptible to execution of a judgment in the event damages and penalties are awarded in this matter.

To address your question regarding collectability, respectfully, Your Honor, I want to add the following, which is when you brought the issue up, we spent some time researching some case law on it, and we have the cases to

provide for you as well. We have two Federal District Court cases wherein collectibility was found to be generally irrelevant to the question of liability. One of them is *U.S. v. Caldwell*, and the court states, While, as a practical matter, the plaintiff may be unable to actually collect on this judgment, matters of collectibility are generally irrelevant to questions of liability.

The second case is *Zavala*, Z-A-V-A-L-A, *Alvarez, v. Darbar Management, Incorporated*. The case says, There is a difference between the ability to pay and the obligation to pay. The financial position of a defendant affects the ability to pay and thus, the collectibility of the judgment, but it does not have much of a bearing on whether the liability exists in the first place.

So to conclude on this portion with respect to collectibility, to the extent that in the pretrial conference or elsewhere it would have been considered to be a factor for the purpose of the ruling on default, we would submit that it should not be. And in the event that it remains a factor, we would submit that the evidence clearly reflects significant amount of assets which could be subject to further judicial process for the purpose of satisfying the judgment.

I'm going to move on now to the topic of damages with your permission, Judge, if you have no questions on that.

THE COURT: Sure.

MR. RANKIN: Okay. It is not lost on me, and it will be mentioned in our expert, Corey Miller's, testimony, that as attorney for the State of Mississippi, in the capacity of *parens patriae*, I stand before you on behalf of no less than 11,857 dead Mississippians. Death.

You raised questions earlier about the categories of damages that would be rewarded in this case or could be rewarded in this case, and I'll discuss that under the statutory authority, but I think it's worth noting at the outset of this discussion the solemnity of the moment, that these 11,857 Mississippians have been told by Godless communists that they are nothing more than vexatious. The definition of "vexation," colloquially, is "annoying." The People's Republic of China and the Chinese Communist Party feels as if it can cause through this alleged conduct, as we've presented here, no less than 11,857 deaths of Mississippians and not only not respond in any meaningful pleading, other than a letter, and not only not attend the hearing of this matter, but to frame the very notion of this claim as annoying. The communists are annoyed by 11,857 dead Mississippians.

With that being established, the case that was referenced previously by Tricia, and we have a copy for you today, U.S. Supreme Court case from 1982, that establishes the *parens patriae* authority of our State on behalf of consumers,

both in statutory and common law. I believe earlier we had a brief discussion about the definition of a person. The State is a person under the statute. And the case I can give you for that is *Hood ex rel. State v. BASF Corp.*, 2006 WL 308378, at page 11. We also have a copy of that printed for you today.

The following statutes that I will cite provide the authority, an additional authority, for damages to be awarded in this matter, and I think this will address some of your concerns that were stated at the outset of the hearing about the quality/quantity, et cetera, categorization of damages. Mississippi Code Section 75-21-9 provides for the recovery of, quote, "all damages of every kind sustained." Mississippi Code Section 75-24-11 provides that you may issue a judgment or order, including restitution, as may be necessary to restore any person in interest. I would submit to you both of these sections are very broad in their categorization of damages. Lastly, Mississippi Code Section 75-24-15 allows for the recovery of any ascertainable loss of money or property.

With that set forth, and with a very patient State Economist on the other end of our Zoom conference, I would like to move at this point, with Your Honor's permission, to take testimony from our expert, Corey Miller.

THE COURT: All right. Before we get into Mr. Miller's testimony, I've got a few questions for you to

make sure I'm understanding the categorization of damages.

All right. So the -- let's go through the categories of damages. Essentially, I think you have wrongful death damages that you're putting forward in P12 on behalf of every single Mississippian who died from COVID either as an underlying or contributing cause of death. Is that fair?

MR. RANKIN: The categorization of the damages -- well, to answer your question, I believe so, yes. The categorization --

THE COURT: That's one category, is kind of wrongful death damages for every single Mississippian who died as a result of an underlying or contributing cause of COVID-19.

MR. RANKIN: The category would be loss of life. Wrongful death, to the extent it would imply some type of non-commercial tort, is not something we're arguing here, nor is it something we would present, pursuant to the Eighth Circuit's ruling, that the Court would have jurisdiction over. So the damages are calculated in part, as Corey will testify, Mr. Miller will testify, in the context of lives lost --

THE COURT: What's the difference? I mean, wrongful -- I mean, loss of life and wrongful death, aren't they just one and the same?

MR. RANKIN: With respect to the cause of action, to the extent that wrongful death refers to a cause of action, we're here today on Consumer Protection Act and antitrust --

THE COURT: And that goes to the -- I mean, I don't think I saw any cases in the briefing where under the Mississippi Consumer Protection Act or Mississippi antitrust laws that loss of life has ever been sought as a damage remedy for Mississippi Consumer Protection laws or under Mississippi antitrust laws. Have -- has Mississippi sought loss of life before?

MS. SECOY: Your Honor, in our Johnson & Johnson surgical mesh case that Tricia referenced earlier, we certainly had people die, and I think that, you know, is a result of a Consumer Protection violation. I mean -- but we ended up settling that particular case. So we have seen instances where death was a result of the misrepresentations.

I guess what James is trying to say is that we're not -- we're not proceeding under a personal injury cause of action. And I -- it's just an extreme example, you know, of the harm -- extreme and unusual example where unfair and deceptive trade practices and antitrust practices literally led to death.

THE COURT: Yeah -- okay. But it seems like what y'all are alleging is that every single death, those that either there was an underlying or a contributing cause of the death was related to COVID-19 in the state of Mississippi is related to a violation of the Mississippi Consumer Protection Act and/or Mississippi antitrust laws. In other words,

Mississippi would not have experienced a single death from COVID-19 if there was no violation of Mississippi Consumer Protection laws or no violation of Mississippi antitrust laws.

MR. RANKIN: I will submit that's a correct statement, Your Honor.

To the degree I was trying to distinguish between wrongful death or loss of life is to assure that we are not seeking any pursuit or recovery under a noncommercial theory. And when 11,000 Mississippians die, I think the -- it almost goes without saying that it would affect the economy.

And for purposes of defining commercial activity -- affecting commercial activity, the loss of life, mind you, that is -- when I have said "no less than," that's because I'm only referring to the years 2020, 2021, and 2022, which is a generous cutoff, honestly, given some of what is out there. But when 11,857 Mississippians die, there is an effect on the commercial activity of the State of Mississippi.

THE COURT: And the way you're valuing that effect on commercial activity is you're saying the value of every human life is $10 million.

MR. RANKIN: Corey -- I would allow -- with respect, Your Honor, I would allow Corey to testify as to that. He has a methodology and basis and foundation for those findings. You know, I wouldn't want to mischaracterize his -- his own words.

THE COURT: Okay. Because, I mean, at least that's what you're putting forward in P12. You're saying the estimate of the statistical value of a human life for 2020 that we use is approximately $10 million. You cite to some type of a report called Gonzalez 2020. Now, that's -- it's different than the typical way that human life is, especially economically, is pursued in a wrongful death case. I mean, usually if there's, I mean -- a value is put on human life, it's based off of age, life expectancy, it's based off of economic output that's expected, it's based off of whether they're retired, it's based off of how much longer they have in the working life, it's based off of their income, et cetera, et cetera, et cetera, to determine the economic value. Now, non-economic is a whole separate thing, but the economic value. Right?

And so -- but I -- I am curious about that because that's something new that you just -- it's just one number for every single alleged life. And then just to clarify, you-all are not seeking non-economic damages. It's only economic damages.

MR. RANKIN: We are -- in addition to damages for lost lives, we are seeking them for loss of wages as well.

THE COURT: But that's economic.

MR. RANKIN: Yes. The --

THE COURT: I mean, in a lot of -- and I keep using

the term "wrongful death." Y'all don't want me -- I mean, I understand y'all's distinction, that you want to -- you want to have a line of demarcation. You're saying, Well, this is not a wrongful death case. But a lot of times in a wrongful death case, the non-economic damages can be more than the economic damages, and so -- but y'all are not seeking non-economic damages related to loss of life for any Mississippians, correct?

MS. SECOY: I think, Your Honor, we would leave that to the Court's discretion if you identified something in addition to what we're presenting. You know, our prayer for relief included, you know, all just and fair relief, you know, that the Court deems appropriate. So I would defer to James and to our economist, but if there's -- you know, we are open to any remedy that you think is appropriate for the State of Mississippi.

THE COURT: But could I even award that under the law?

MS. SECOY: Yes, I think -- and James --

MR. RANKIN: Your Honor --

MS. SECOY: Your Honor talked to him about 75-21-9 that you mentioned a moment ago.

MR. RANKIN: Yes, and specifically the language that it says all damages of every kind sustained. And the question you -- several -- you raised very relevant concerns and

factors that are taken into account in determining a number, and almost -- I don't know exhaustively, but almost every factor you listed is one that Corey Miller is going to testify was taken into account and addressed in his calculation. So he doesn't -- he doesn't just end with a 10 million number. He then explains his methodology, which I would look forward to presenting to you in his testimony.

THE COURT: Okay. Let me -- before we get there, so we have the loss of life category of damages. Okay? What are the other categories of damages?

MR. RANKIN: Lost wages.

THE COURT: Okay. So loss of life, plus lost wages. Okay. But what's the distinction between loss of life and lost wages? If loss of life is encapsulating economic damages for the lost life, then aren't lost wages economic damages related to loss of life?

MR. RANKIN: Your Honor, I think the question would be more --

THE COURT: Or -- or is lost wages for individuals who did not perish, is what I'm --

MR. RANKIN: Lost wages would be beyond the scope of just individuals who passed away.

THE COURT: Okay.

MR. RANKIN: And I think that many of your concerns will be addressed when Corey goes through the detail of his

report. And as he will say specifically, as is in the report, they did not guess, and the methodology is a reliable principle by any evidentiary standard, as he will present.

THE COURT: Okay. So we have loss of life, we have lost wages, and what are the other categories of damages?

MR. RANKIN: Those are the categories that Corey will be testifying to today. He will also present to you --

THE COURT: And those are the two primary categories that the State of Mississippi is seeking damages related to?

MR. RANKIN: Those are the two addressed in his report, yes.

THE COURT: All right. Because in some cases, some Consumer Protection cases that the State of Mississippi has pursued, in other examples that I have seen, like a price-gouging case, maybe, for example, a price-gouging case, they say, you know, gas allegedly was X price at this gas station; the gas station allegedly raised the price, maybe -- let's say gas, just to use a round number, was two dollars a gallon before the alleged gouging, and then the gas station raised the price to four dollars a gallon before the alleged gouging, there's a two-dollar difference, and that gasoline was sold to the public for a period of three months. So then the State of Mississippi -- I've seen this before -- they then have pursued individuals for alleged price gouging and have said, Well, over the course of that three months, you sold X

number of gallons at four dollars a gallon. It was two dollars a gallon before the alleged gouging. You take that difference and then you -- and then that's the damages and the harm to the public. It doesn't sound like that's what y'all are attempting to pursue with regard to alleged hoarding of PPE or the alleged misrepresentation.

MR. RANKIN: Well, first I would submit that price gouging is certainly not an exclusive remedy in this case. And we do actually have some evidence related to price gouging which Crystal can supplement the record with. Corey's testimony will not relate to price gouging.

MS. SECOY: So, Your Honor, you're absolutely right, and we -- we're missing some data since the defendants did not cooperate. Price gouging is a component of unfair and deceptive trade practices when we're in a state of emergency, and we were in a state of emergency. We do have a spreadsheet from our own -- from one of our own public records that lists all of the price gouging complaints that we received up to July 1st, 2020, so probably from like March 2020 through June, and we made an excerpt of that because it includes consumer private information. We -- you know, we don't know if these -- they're masks and gowns -- if these were directly purchased from Chinese state-controlled firms or from domestic producers. We -- like I mentioned before, we do -- there is evidence that, you know, Chinese -- China, when they

reintroduced the supply, they drastically increased the prices, and then when state producers were able to manufacture, they matched those prices. And so it's a result of their price hike. But we don't know --

THE COURT: But the State of Mississippi should know, I mean, generally how much PPE cost prior to the pandemic --

MS. SECOY: Yes.

THE COURT: -- and then how much it cost during the pandemic.

MS. SECOY: Yes.

THE COURT: Right? You know that.

MR. RANKIN: Correct.

THE COURT: Okay.

MS. SECOY: The reports that I submitted discuss how much the prices increased, and my oral argument summarized those.

THE COURT: But you're not seeking damages related to the price increases.

MS. SECOY: Well, we don't have -- if you can help us figure out how to reach that, we would -- we would love to include it. We're just -- we're missing some data points. And so -- so two-fold here: We have these complaints that show what we received from consumers regarding masks and gloves, and then we also looked at these as -- because we were missing some of the data to determine if these were domestic

producers or PRC. We -- James is going to talk to you about how they amount -- they can be considered towards penalties. You know, sometimes when -- if we can't connect the dots to determine an exact figure for damages, it can go towards penalties for intentional violations of the statute. And so James has a spreadsheet that he's going to walk through that shows, you know, the number of masks hoarded -- number of PPE hoarded across the country, and the -- and it summarizes our penalty statutes for you as well.

So if you'd like, I can give you a copy of this spreadsheet. We have -- as I mentioned, it has consumer information on it like their names, addresses, and phone numbers, so we copied and pasted the spreadsheet without the consumer private information for you. So this is -- and this is a public record from the State -- from the Attorney General's Office.

THE COURT: Okay. Are you seeking to introduce this?

MS. SECOY: Yes.

THE COURT: Okay. All right. You may present that. And that's going to be, I guess, P15.

(Exhibit P15 marked for identification.)

MS. SECOY: And I apologize, James, for interrupting.

MR. RANKIN: No problem.

MS. SECOY: Again, we have the original spreadsheet, but this is an excerpt because we needed to protect consumers'

personal information. And it's a public record from the Attorney General's Office.

THE COURT: And this is going to be entered as ID only.

And what we're going to do, just to make sure the record is clear, is eventually, towards the end of this hearing, once y'all have everything in as ID only, I want you to make sure that you've put into the record your basis evidentiary-wise for why every document should be admitted. You've already done it for P1 through P8, I believe, but you just need to make sure that you do it for all of them, because right now I'm just going to basically enter every exhibit in as ID only. Then we'll have all of your arguments as to why they're admissible, too, from an evidentiary perspective. And the record -- we need to make sure that all of that's in the record. All right? Okay.

MR. RANKIN: Your Honor, with your permission, I'd like to proceed with calling witness Corey Miller.

THE COURT: Yes. You may proceed.

COURT REPORTER: Judge, could I ask for a five-minute break before we start that?

THE COURT: Sure. Yeah.

Before we do that, we're going to take approximately a ten-minute recess. How long do you think the testimony will take?

MR. RANKIN: I intend to review -- let Corey review his CV for the purpose of satisfying you of his expertise. His reports you'll find are actually, especially comparatively, not very long. We should be able to go through them fairly quickly. If indeed you have a number of questions beyond those that I have, you know, it perhaps could take longer. Personally, I would not estimate more than 30 minutes.

THE COURT: Okay. Yeah, let's take approximately a ten-minute recess, and then we'll have Mr. Miller testify, and then we'll break for lunch after that.

MR. RANKIN: That's great.

THE COURT: All right. Court will stand in recess.

(Recess taken.)

THE COURT: Ready to proceed?

MR. RANKIN: Thank you, Your Honor.

In anticipation of bringing in Corey, I want to go ahead and introduce his CV. And I think this item in particular, based on your previous questions, you'll find of utmost use, which is his updated report from February of this year, 2025.

THE COURT: Okay.

MR. RANKIN: We will discuss -- essentially, this report that I'm introducing, as he will explain, it's the entirety of the November report and then there's an addendum

wherein he looks at an additional method for calculation that was used in the Missouri case you had previously asked us about.

THE COURT: All right. Thank you.

MR. RANKIN: So I'll bring these up.

THE COURT: All right. So, Mr. Rankin, are you looking to present these as exhibits into evidence, which would be a supplement to P12? That's the February 2025 report, and then also Mr. Miller's CV.

MR. RANKIN: If that would be most convenient for you to keep them all in one -- kind of one place.

THE COURT: Yes. Okay. All right. So the CV will be -- I believe it will be P16, and the updated report from Mr. Miller will be P17.

(Exhibits P16 and P17 marked for identification.)

THE COURT: These are ID only because we're just going to take up all the arguments from the State related to the admissibility, and we can just kind of go through each one to make sure y'all put all of your arguments on the record. For now, we'll admit everything as ID only. All right.

COREY MILLER,

having appeared via Zoom remote videoconference and been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

- - -

BY MR. RANKIN:

Q. Okay. Mr. Miller, I'm not sure if you can see me or if your view is just of the judge.

A. That's correct.

Q. Okay. I just wanted to clarify at the outset so I knew whether I had eye contact.

A. Okay. Now I see you.

Q. Okay. All right.

Mr. Miller, I already introduced into evidence your CV, a report you prepared for us in November of 2024, and a report -- a supplemental report with an addendum that you prepared for February of 2025. I know those are there also because they were provided to me by you. They are also there in front of you, albeit via Zoom. Therefore, I wanted to make sure that we're working from the same page and that you would authenticate the CV that I have here is the same one that you have with you as well and these are all documents that were --

A. Yes.

Q. -- provided to me by you.

A. Yes.

Q. Okay.

MR. RANKIN: We're pleased to have with us today the State Economist for the State of Mississippi, J. Corey Miller.

BY MR. RANKIN:

Q. Corey, I'm going to ask you several questions where you

can briefly give us a little bit of your background for the purposes of establishing your expertise in economics. I'm looking at your CV. I'm just going to walk through it with you, and if at any point I or the judge would have any questions, feel free to elaborate.

So it looks like with experience, what is your current position?

A. I am State Economist for the State of Mississippi and Director of the University Research Center, which is a division of the Mississippi Institutions of Higher Learning.

Q. Would it be correct to go ahead and clarify that in your reports we're going to see University Research Center often referred to as URC?

A. That's correct.

Q. And, of course, Institutes of Higher Learning would also be IHL?

A. Yes.

Q. The acronyms appear frequently. I just wanted to go ahead and get that out of the way.

I think it's important to note the significance to the answer of this question, which is: Mr. Miller, have you ever testified as an expert in a trial before?

A. No.

Q. So you are not a hired mercenary in any way?

A. No. No.

Q. You are not compensated in any way for this testimony beyond the scope of your regular role as State Economist for Mississippi; is that correct?

A. That's correct.

Q. I see you've also held previous positions with the State, also in economics. Would you like to review those?

A. Yes. From 2002 until 2014, I worked as a research associate at Mississippi State University; and from 2014 until November of 2020, I was an economic analyst with the University Research Center. Since November of 2020, I have been State Economist for Mississippi.

Q. Thank you, Mr. Miller.

You've also provided for us some information about your education, if you'd like to briefly summarize.

A. Yes. I obtained a bachelor of science degree in agribusiness from Mississippi State University in 1998; obtained a master of science in agriculture and economics from Mississippi State University in 2000; and from 2000 to 2001, I completed 36 hours of Ph.D. economics courses at Virginia Tech University. Did not receive the Ph.D. degree, but I completed some coursework.

Q. Okay. Mr. Miller, just to clarify on the testimony part, I note in previous discussions with you, you advised me that although you don't testify as a mercenary trial expert, is it true that you've testified before our state's legislature on a

number of occasions related as an economics expert?
A. Yes.
Q. Can you describe somewhat the role you play there?
A. Most of my testimony is with regard to the state of the economy in Mississippi and the national economy and what our forecast for that economy looked like. I have testified on a couple of occasions with regard to the labor market, labor force dissipation in Mississippi, and also made presentation on at least an annual basis, usually twice a year, on revenue estimations for the general fund for Mississippi.
Q. So is it fair to say that the State of Mississippi, in terms of its representatives and its senators and the legislature, relies on you as an economics expert routinely?
A. Yes, I would agree with that.

MR. RANKIN: Your Honor, based on the CV in its entirety and the testimony, I would tender Mr. Miller as an expert in the field of economics.

THE COURT: I recognize that the State of Mississippi is tendering Mr. Miller as an expert in the field of economics, and based off of his CV and his testimony to date, I will admit him as an expert in the field of economics, and he can so testify as to his expert opinion in that field.

MR. RANKIN: Thank you, Your Honor.

BY MR. RANKIN:

Q. Mr. Miller, for the sake of simplicity, briefly I'm going

to make sure I clarify to the Court as well, we had requested information from you which you provided in November of 2024, which composed your initial report. The entirety of that report is retained and reiterated in your February of 2025 report. And the reason that you updated your report was specifically at my own request after having attended the pretrial conference and being aware of some of the specific questions that His Honor had regarding detailed factors and specifics to be known in this case, especially with relationship to PPE hoarding. You've attached an addendum to that report; is that correct?

A. Yes, that's correct.

Q. Okay. So for the sake of simplicity, because the November report is encompassed within the February report, I'm just going to be reviewing and talking us through with you and asking questions regarding the February 2025 report. Is that correct?

A. Yes.

Q. Okay. Because you had been listening in, I think you may be familiar with perhaps some of the questions that the Court is interested in with regards to your methodology and categorization of damages to the State, et cetera. I'm sure we will focus in on specific areas of the report, but first I would just ask you if you would like to go ahead and just take a look at what you have and give us what you feel is a most

precise summary of your findings, and also include within that a reference to the addendum as well. And hopefully with that we'll have laid a sufficient foundation for any questions that the judge may have specifically on your methodology.

A. Okay. Just to summarize our report, we estimated costs to the Mississippi economy from COVID-19 from 2020 -- calendar years 2020 through 2022, and in so doing, we estimated losses from two primary sources: Loss of life and loss of wages.

We based loss of life on the total number of deaths reported by the Mississippi Department of Health across those three years in question, which you mentioned earlier it was 11,857. Based on the statistical methodology that we used and we outlined in the report, we estimated the total statistical value of those lives lost at almost $10.8 billion.

Again, using data from another agency, the U.S. Bureau of Labor Statistics, in terms of lost wages, Mississippi lost 148,700 jobs in March and April of 2020. And based on wage estimates across sectors, again from the Bureau of Labor Statistics in Mississippi, we estimate the value of the wages lost from March 2020 through January 2022 at just under $1.4 billion.

And neither of those adjustment -- neither of those estimates has been adjusted for inflation. So summing those two primary sources of losses, we estimate that the total economic cost of COVID-19 to the State of Mississippi

from 2020 through 2022 was just under $12.2 billion. We think that is a relatively conservative estimate as we did not estimate any other costs, such as those costs associated with so-called long COVID, people who contracted COVID and initially recovered but may still be experiencing repercussions from it that have prevented them from resuming normal activities, and we also did not look at any costs associated with emotional distress/mental anguish because we don't -- as with these other costs we did not look at, we don't believe there was sufficient data to -- to make a determination. And that's basically the summary of our initial report.

Our addendum, as you noted, was based on work performed in the Missouri case in which Dr. Joseph Haslag determined that based on the supply of PPE coming from China, which was 70 percent, and that this PPE could reduce infections by 50 percent, he believes that that means the incidence rate could have been 35 percent lower if PPE hoarding had not occurred. Based on that 35 percent number, we determined that we could assign approximately $4.2 billion of our total of almost 12.2 billion to the hoarding of PPE, or in other words, had PPE hoarding not occurred, our estimate would have been lower by approximately $4.2 billion.

Q. Thank you, Corey. I want to step in for just a second. You were doing an outstanding job summarizing your findings,

and I wouldn't presume to think I could do any better, but I know there are several matters of specific concern that were asked by the judge that I wanted you to discuss.

One is he mentioned some factors and things and whether they were or were not taken into account with respect to the $10 million figure. And shortly after, in your -- back in the initial report, back on page 1 -- or -- yeah, the first text page of it, you begin to explain some of the methodology and the things that were taken into account with respect to life expectancy, discount to present value, and many other factors that Your Honor -- because you had used the example of wrongful death, things that would be taken into account in that particular situation. And then also I'd point out, as you previously said, that you did not take into account mental anguish or emotional distress, which might be available in some other tort claims.

So if you would, please tell us what you did with the $10 million per life, where it comes from, how you used it.

A. We looked for an example of what the value of a human life was determined in 2020, and we found an example that was calculated by a Professor Kip Viscusi from Vanderbilt University, that he calculated for the federal government. I don't know which specific agency he used that he calculated that for, but that $10 million is based on individual risk preferences and probabilities of death. Their determination

was that across a number of occupations ranging from construction to office jobs, many different occupations, that the odds of an individual's death in one of those occupations was one in 25,000. And they also determined that -- and I assume this was done through a survey, as that's how it's typically conducted -- that an individual knowing those odds, the amount of compensation that he or she would require to perform the job knowing those odds was about $400. And that's -- again, that's across all of those different occupations. So $400 times 25,000 is the $10 million. So that is the assessment they made in 2020 dollars at the time that COVID was first occurring.

And so that $10 million, we used to value the lives lost in Mississippi. And unlike the way the federal government typically uses that number, we discounted it across age ranges in Mississippi and using the life expectancy in Mississippi of -- which was 70.9 in, I believe, 2021. I think we used that -- that number for all three years. We discounted that, and that is how we arrived at the number we did. Obviously had we just multiplied 10 million times all of the lives lost, we would have gotten the number much closer -- much higher and closer to, I'll say, 120 million, but we did not do that because we knew that much of the loss of life associated with COVID came at the lower and higher ends of the life expectancy, and so we discounted the number that way. So that

was how we used that number.

We also took account for underlying or contributing cause of death associated with COVID and we -- if it was a contributing cause, we reduced the value as well. So that was how we arrived at our total amount for value of lives lost due to COVID-19.

Q. Okay. Mr. Miller, I wanted to clarify a couple of things before we get into the addendum. The preparation and the content of the November 2024 report, the Attorney General's Office never made any suggestion to you of any method to computate it at all. This was your own --

A. No.

Q. -- understanding of a reliable principle and method?

A. Yes.

Q. I also wanted to point out to the Court something I think we all can appreciate in a case like this where many things seem uncertain. In the second paragraph of your report, the paragraph beginning with the word "before," a little ways down, you say the phrase, We did not "guess." Is that correct?

A. That's correct.

Q. So your testimony, as you've said, based on reliable principles and methods in the field of economics, leads you to the numbers you have here today which you present here not as someone hired specifically for the purpose of inflating the

numbers; and, in fact, rather, you present a conservative number that, if anything, errs on the side of caution to avoid overestimating the impact. Is that correct?

A. Yes, I agree with that.

Q. You provide a list of references on page 4 of the report, and, you know, I noticed myself it was a little bit different than the way we would cite normally in legal pleadings where we would provide the full citation up front and then short afterwards, whereas your report kind of gives a short cite and then a list of references at the end. But those are references to scholarly and other expert information that you would have used in preparing the information; is that correct?

A. That's correct. And all of the data we used came from secondary sources, and we reference those in the report.

Q. Thank you, sir.

Page 5 of the February report is an addendum. And the addendum was produced by you as a result of our office asking you to apply a methodology that was used in another case; is that correct?

A. That's correct.

Q. Okay. If you will, go ahead and just summarize --

MR. RANKIN: First what I'd like to do is introduce into the record, this is the report to which he is referring in his addendum by Dr. Joseph Haslag, who was the expert in the Missouri trial. I use the term loosely "the Missouri

trial," but it's the same trial that Your Honor asked us about previously in order to address and distinguish jurisdictional issues with our case. So I would like to submit this into the record.

COURTROOM DEPUTY CLERK: That's P18.

(Exhibit P18 marked for identification.)

THE COURT: All right. P18 is marked for ID only, but if you want to, obviously, elicit any testimony from the State Economist regarding P18, including its admissibility, please do so.

MR. RANKIN: Sure.

BY MR. RANKIN:

Q. So, Corey, the reason I went ahead and introduced that exhibit is you're referring to its methodology. Specifically, this was something we presented to you at our request for you to take a look at this; is that true?

A. That's true.

Q. Okay. If you will, summarize, in essence, your review of Dr. Haslag's methodology and how you were able to apply it to the present case.

A. Well, with regard to the hoarding of PPE by the People's Republic of China, as I stated earlier, he used two pieces of information, two data points, to determine, one -- and I'm quoting from the report now. We start with two facts: One, 70 percent of the supply of PPE coming from China; and two,

PPE reducing infections by 50 percent. So using those two rates, he was able to determine that infections or the incidence rate would have been 35 percent lower had PPE hoarding not occurred. And so we made a calculation for Mississippi based on his conclusion.

We made these separately, first. For the value of wages lost in Mississippi from March of 2020 through January of 2022, we determined 35 percent of that, which was about $483 million. Then we used that 35 percent number or rate for the value of lives lost that we determined, which ended up being almost $3.8 billion. So summing those two, we determined that based on Dr. Haslag's assessment, that approximately $4.3 billion of our estimate resulted from the hoarding of PPE by People's Republic of China.

Q. Thank you, Mr. Miller. And just to clarify just for -- although you prefaced it with the word "approximately," you give us the number of $4,260,077,991. Is that correct?

A. That's correct.

Q. Thank you.

Is it fair to say that applying Dr. Haslag's method as you did in the addendum, narrowing the case down to only what would have been caused as a result of PPE hoarding, has resulted in a reliable principle and a number here that is essentially a -- sets a floor, if you will, a minimum number, if you will, for what has been caused by the alleged activity

in this case?

A. Yes.

Q. Over $4 billion at a minimum caused by the hoarding of PPE by the defendants; is that correct?

A. That's correct.

MR. RANKIN: Your Honor, if you have any specific additional questions for Mr. Miller...

THE COURT: Specifically how is the $10 million figure reached relating to the value of human life for 2020?

THE WITNESS: Well, again -- I'll repeat what I said earlier -- it's based on individuals' risk preferences. And so I assume this was probably done through a type of survey, could have been some other assessment, where the researchers determined across a number of occupations, you know, that the odds of death in working the occupation were one in 25,000. You know, there's odds of death, obviously, no matter what you're doing. You know, there's some chance of death, you know, just driving to work in the morning --

THE COURT: Yeah, but doesn't -- I mean, that goes to the likelihood or unlikelihood of someone dying. I mean, what is -- what is -- how was the economic value of a life determined to be $10 million?

THE WITNESS: Okay. And what they do with those risk preferences is then ask individuals what compensation would they require knowing that. You know, in addition to, you

know, the salary they would earn for performing a particular job, just knowing those odds, what would it require, what payment would be required for them to engage in those activities. And, again, across a number of individuals within different occupations, they determined that amount was $400. Again, that's in 2020 dollars. And so that means implicitly, each life is valued at $10 million, the product of 400 and 25,000.

And this is just one example. Other federal agencies --

THE COURT: Wait. Say that again. Explain that. $400 times 25,000. But the $25,000 --

THE WITNESS: Yes.

THE COURT: -- the 25,000 number is coming from what?

THE WITNESS: It is odds of death in a particular -- in not a particular occupation, across a number of occupations, one in 25,000.

THE COURT: Okay. I've just seen -- I've seen the value of life calculated many times before, and this is -- it's just new to me to hear it calculated in that form. And maybe that's perfectly -- perfectly fine. It's just a new form of calculation of death -- I mean calculation of the value of human life.

All right. So, now, it says in your report that you didn't consider any transfer payments from the federal

government from the Coronavirus Aid Relief and Economic Securities Act, the CARES Act, or other legislation. So I assume that means that any infusion of federal funds into Mississippi's economy through PPP loans or anything else is not being considered in this.

MR. RANKIN: Your Honor, we would object to any information --

A. Correct.

MR. RANKIN: -- related to a collateral source. I just want to preserve it on the record. I'm not --

THE COURT: Okay.

MR. RANKIN: -- trying to object to your question --

THE COURT: And so you would say that's a collateral source.

MR. RANKIN: I would -- I would present to you that that's collateral source evidence, which is inadmissible in this proceeding.

THE COURT: Okay. All right. We may just want to get in -- I may want some posttrial briefing about that.

MR. RANKIN: Sure. I just wanted to preserve it on the record.

THE COURT: About collateral sources.

MR. RANKIN: The damages are not based on GDP. In fact, Mr. Miller, in the sense of deciding what would be the most accurate measurement for the purpose of calculating the

damages to Mississippi, with no input from our office at all, chose the methodology he did in his initial report. There -- you know, I -- the methodology is certainly not one he created himself. It may -- it may be novel, perhaps, in this case, but I know I, myself, have seen it used by organizations such as Heritage Foundation and others; but that's anecdotal.

I think the main question for Mr. Miller is:

BY MR. RANKIN:

Q. Is that methodology that you used with the $10 million, is that a reliable principle and method?

A. Yes. It's used by a number of federal agencies in doing cost benefit analyses, that same methodology.

And different federal agencies use different values of human life, you know, depending on what -- what they find from their research. You know, the Environmental Protection Agency has their number, the Federal Emergency Management Agency has their number, and they use that in cost benefit analyses and in other computations.

Q. And so your opinion reflects a reliable application of that reliable principle and method; is that correct?

A. I believe so, yes.

Q. And that's your opinion as an expert in the field of economics?

A. Yes.

Q. Thank you.

THE COURT: All right. Anything else, Mr. Rankin?

MR. RANKIN: I have no further questions.

THE COURT: All right.

Thank you, sir. Thank you for joining us.

That will conclude -- unless you want to consult with your co-counsel.

MR. RANKIN: I have no additional questions for Mr. Miller. I do have additional argument on the remainder of the case.

THE COURT: Yes.

Mr. Miller, thank you for your time today. That will conclude your testimony.

THE WITNESS: Thank you.

THE COURT: Mr. Rankin, do you want to -- it's now 1:08 p.m. Do you all anticipate that we'll finish the hearing today, or are we going to proceed into tomorrow as well?

MR. RANKIN: Your Honor, I would certainly anticipate today. And in fact, the remainder of my argument should not take up incredibly too much more of your time.

MS. SECOY: I think on our end we may have like ten more minutes. And then we're open to going over the exhibits, as you mentioned, and anything else you need to ask us.

THE COURT: Okay. Why don't we take a lunch break, just so y'all can make sure that -- because you've now introduced all exhibits. I believe that's correct. But just

so you can make sure, you can go ahead and make sure that all exhibits that you want to have in the record have been introduced, you can formulate all the arguments that you want to make as to admissibility, make sure that that's clear in the record and that's on the record, and then just any other additional argument that you want to make with regard to damages, remedies, penalties, et cetera, or any other issues that y'all want to raise before we conclude today's hearing.

MR. RANKIN: Your Honor, just to clarify, we did have one additional exhibit.

THE COURT: Okay. Which one is that?

MR. RANKIN: This is a summary exhibit. It's a spreadsheet, and it will be used with respect to the argument on penalties and the numbers of items that were hoarded and other violations of Mississippi law.

MS. SECOY: So that's a summary exhibit preceding from today's Exhibit Number 6, which was pretrial Exhibit Number 3.

THE COURT: Are you looking to introduce this as P19? That's the next one that we have.

MR. RANKIN: Yes, Your Honor. If that's the next number in the consecutive numbering, yes.

THE COURT: Okay. All right. This will be marked for ID only as P19.

(Exhibit P19 marked for identification.)

THE COURT: And then if you-all will just -- we're going to put these exhibits up here at the front just so you-all can make sure that y'all are on the same page about exactly what has been introduced as ID only. I believe I already have all the arguments for P1 through 8 that you-all want to present. If you want to present any additional arguments on P1 through P8, we can do that after the lunch break. But just so y'all know exactly what's been introduced as to ID only, we're going to put them up here for your review. Then you can present any additional arguments that you want to make as to admissibility when we come back from the lunch break, and you can present any other arguments that you want to present on damages, on remedies, or any other issue that you want to raise before we conclude today's hearing. Okay?

All right. We are going to take a lunch break until -- let's say until 2:30. Until 2:30. It's 1:11 right now. Thank you.

Court will stand in recess.

(Recess taken.)

THE COURT: All right. Mr. Rankin, are you ready to proceed?

MR. RANKIN: Yes, Your Honor.

THE COURT: I will let y'all know, too, that one thing that we're going to do procedurally is you're going to

be filing a post-hearing brief to address some legal issues.

So this is going to be a conversation today. I'm not going to be ruling from the bench today. I'm eventually going to need to issue a fairly lengthy written opinion addressing the issues that the State of Mississippi is raising, of course; but before that, you-all are going to be submitting a post-hearing brief. So we're going to kind of start that conversation today about some things that I'm going to be looking for in that brief in terms of some of the law that I'm going to need to assist me with my ruling.

All right. You may proceed.

MR. RANKIN: Thank you, Your Honor. May it please the Court.

We left off with expert testimony from the witness, Corey Miller, on the issue of damages, and I just wanted to conclude, before I moved on to penalties, by restating the standards that were set forth in the statute regarding damages.

THE COURT: Yeah, and where are you in the statute about damages, more specifically?

MR. RANKIN: First, for Mississippi Code Annotated 75-21-9 is in the antitrust statute, and it provides for recovery of all damages of every kind sustained.

THE COURT: Okay. And it's your position that that's not just for private rights of action; that's also for the

Mississippi Attorney General to pursue on behalf of the State of Mississippi.

MR. RANKIN: That's correct, Your Honor, in its position and role as *parens patriae*.

THE COURT: What was that?

MR. RANKIN: In its position and role as *parens patriae*.

THE COURT: Okay. So in that role that the State of Mississippi is pursuing -- because -- let me just back up.

So the Mississippi Consumer Protection Act and the Mississippi antitrust laws does not specifically say anywhere in there that the Mississippi Attorney General can recover monetary damages for X. Right? It doesn't say that explicitly anywhere. And so I understand -- this is why I wanted to kind of go ahead and start this conversation that y'all can help me with briefing after the fact. So it seems like -- now, under the Mississippi Consumer Protection Act and the Mississippi antitrust laws, it does specify some things that the Mississippi Attorney General can do, very specifically.

MR. RANKIN: Yes, Your Honor.

THE COURT: For example, under the Mississippi Consumer Protection Act, I believe under 24-9, it says that the Mississippi Attorney General can pursue injunctive relief. There was a case in 2020 that Justice Maxwell prepared a

written opinion on that addressed the Mississippi Consumer Protection Act and the Mississippi antitrust laws that dealt with the Mississippi Attorney General pursuing certain civil penalties, pursuing injunctive relief potentially, et cetera. And what I've been trying to find is a case where monetary damages have been pursued by the Mississippi Attorney General's Office either under the Mississippi Consumer Protection Act or the Mississippi antitrust laws, and I haven't found that yet. And it may be just because it's never been pursued before, or it's never been pursued and gone to decision under the Mississippi Supreme Court. Regardless, it may be one of those two scenarios.

But what is -- I guess what you're saying is there's a separate statute that essentially allows the Mississippi Attorney General to pursue damages on behalf of its citizens, and as a result of that, any Mississippi statute, which would include the Mississippi Consumer Protection Act and Mississippi antitrust laws, that specify a private right of action for individuals allows the Mississippi Attorney General to pursue that private right of action on behalf of its citizens. Is that kind of a fair way of saying it from a statutory basis standpoint?

MS. SECOY: Your Honor, we're happy to spell all this out in writing posttrial -- post-hearing --

THE COURT: Yes.

MS. SECOY: -- but 75-24-11 gives us the right -- and I think James is going to go into this -- gives us the right to pursue restitution for consumers, and it also includes -- it basically just says anything that the Court deems appropriate to resolve the situation. That's 75-24-11. It's very broad.

We have case law where the State has -- and cases where the State has pursued damages for state agencies under 75-24-15. And I believe there's -- there's a statute I'll have to supplement the record with that says that the State can pursue any remedy that an individual can pursue. It's a Mississippi state statute. And then James mentioned the 75-21-9 as far as antitrust.

But we do have a number of cases where as far as *parens patriae* and for state agencies, we have obtained monetary recovery. I think *AWP* --

THE COURT: As *parens patriae*, is that a constitutional ability of the Attorney General's Office to pursue that? Is it a statutory basis, or is that a common law basis? And you may not know the answer off the top of --

MS. SECOY: All of the above.

THE COURT: Okay.

MS. SECOY: The *Snapp* case, that we'll provide for you, S-N-A-P-P, it goes through every angle of that. We have -- *Gandy* is a great case that goes through the Attorney

General's statutory Mississippi Constitution and common law basis for the Attorney General's authority, and we can include that in our briefing.

THE COURT:

MS. SECOY: And then James is going to talk to you about penalties. We have three or four statutes on penalties that we haven't gone over yet today.

THE COURT: Yes. Well, I see that under the Mississippi Consumer Protection Act, civil penalties can be awarded if the action is brought under, at least as it's been interpreted, under Title 75-24-9, Mississippi Code Annotated 75-24-9, if an injunction has been brought, is how it's been at least --

MS. SECOY: Correct. So you're required to -- so just to answer your -- before I forget, and we'll supplement and provide these, but AWP, *Average Wholesale Pricing*, that litigation, and *Watson* are both great examples of monetary recoveries which has been reported in case law.

THE COURT: But *Average Wholesale Price* litigation, was that civil penalties or was that monetary damages?

MS. SECOY: You know, I don't recall all of the remedies in that case, sitting here today.

THE COURT: Okay.

MS. SECOY: And then you asked me -- I'm sorry. What was your last question?

THE COURT: Well, and I know some of my questions are going to blend all of y'all to some extent. Some of them are going to be kind of -- while they're on damages, there are -- there's a little bit of a nexus for the damages that I have some of my questions. So I'm perfectly fine for you answering some, and you answering some, Mr. Rankin.

MS. SECOY: Thank you. Thank you for our informality here.

75-24-9 and 19(1)(b), they require in order to pursue penalties, the State must plead for injunctive relief. And I think that's what you were getting at that was discussed in *Yazaki* and then in *Navient*. But we have -- we have pled injunctive relief. We have asked for injunctive relief. Getting the PRC to follow it, you know, would be a challenge, but we have certainly asked for it.

THE COURT: Okay.

MS. SECOY: And I will sit down.

MR. RANKIN: Injunctive relief is specifically requested in the complaint, although -- I mean, it's at least invoked in the initial complaint.

THE COURT: Okay.

MR. RANKIN: And on the specific statute that Crystal had mentioned regarding restitution, some of the language right after that -- this is 75-24-11 -- it says, Restitution as made necessary to restore any person in interest. Again,

fairly broad.

And then lastly, and I think we ended up discussing this in that exchange, but also I was just going to recap that Mississippi Code 75-24-15 allows recovery for any ascertainable loss of money or property.

I wanted to move on to penalties, with Your Honor's permission, if there were no more questions on damages at this time.

THE COURT: Sure.

MR. RANKIN: Okay. We have several different provisions for penalties, all applicable in this matter. The final exhibit we presented, which I believe was Number P- -- is it -- at this point it's P19? Is that correct?

COURTROOM DEPUTY CLERK: Yes, P19.

MR. RANKIN: Yes, P19. The title at the top is Penalties for Violations of Hoarding PPE. And I believe shortly before the break earlier, we introduced that as the last exhibit for now. It's a summary exhibit that includes references to the authority that is in, I believe, Exhibit P6 regarding the Cambridge study.

I'm going to speak on specifically a number of items hoarded, because the situation we face in this with respect to penalties is, I think it's reasonable to expect that Your Honor will ask me: If these are awarded according to the number of violations, what is that number? And that's what

this spreadsheet and the exhibit tries to answer for you.

THE COURT: Okay. Ms. Butler, will you give me the exhibits, please?

MR. RANKIN: So categorically, before referring to the spreadsheet, I was just going to mention the applicable penalty statutes. 75-24-19 is for civil violations and penalties for Consumer Protection Act violation. Subsection (b) allows for a civil penalty in a sum not to exceed $10,000 per violation. So if you were to ask me in reference to this spreadsheet what -- you know, what we're getting at in terms of trying to articulate the number of violations, that is one of the statutory elements, if you will, to establish penalties.

A little bit quirky, and it takes a minute to grasp, it took me a minute, is Mississippi Code 75-21-7. This is in the antitrust statute. And in the grand scheme of things, it's not necessarily as large of a number; however, it's a penalty for not less than $100 and not more than $2,000 for each such violation. And the reason this is separate and distinct, though, is if you look at the next sentence, you'll see it says, Each month in which such person, corporation, or association shall violate this chapter shall be a separate violation. Your Honor, at this time we're only alleging three months, January, February, and March of the year 2020. So under this particular section, and it's noted -- you can see

it in the note on the spreadsheet as well, that's -- you know, in the grand scheme of things, it's a smaller number, but it is there.

Lastly --

THE COURT: Where is that on the spreadsheet?

MR. RANKIN: That is -- oh, it -- let's see. It's 70- -- under the note, it says 75-21-7 allows a penalty for each month in which there is a violation of no less than 100, and no more than 2,000. And then beneath that, it says, For forestalling and engrossing PPE, the penalty, and then is essentially based on three months total, the parenthetical.

THE COURT: Okay. Yeah. Minimum of $300 and up to $6,000.

MR. RANKIN: You know, I wouldn't want to -- wouldn't want to get too lost in that section given some of the other provisions at stake, but as previously referenced also, 75-21-9 is the section that referred to the State recovering all damages of every kind sustained. And right after that, it includes an additional penalty of $500. That does not refer to per violation.

So when we present to you what we have for your consideration when trying to determine the number of times the statute was violated, this chart proposes that each hoarded item of PPE is a violation, and it --

THE COURT: Now, where do we get this from, these

items of hoarded violations? Where is the evidence for that?

MS. SECOY: So this is pretrial Exhibit 3 and our current Exhibit 6. That's where the figures are from. And so we've presented it as a summarial exhibit on that report, and then we have applied the penalties statute. Specifically the graph, I believe, is regarding, you know, penalties under 75-24-19(1)(b). We've taken those figures from Exhibit 6 and applied our statute to show what the penalties could be.

THE COURT: Okay. So this is from your Exhibit 3 and your Exhibit 6 is how you get to, for example, masks, that 6,696,353 masks were hoarded.

MS. SECOY: So it's -- let me come up there. Our current Exhibit 6, it was pretrial Exhibit 3, so it's the same document.

THE COURT: Okay.

MS. SECOY: What we basically extrapolated in the figures in your chart. I think it starts around page 17.

THE COURT: Hold on. Let me get there. You said it's your pretrial Exhibit 3? Is that right?

MS. SECOY: Yes, Your Honor.

THE COURT: Okay. So your pretrial exhibit -- and that's from the Congressional Research Service, the China Medical Supply Chains and Broader Trade Issues?

MS. SECOY: That's correct.

THE COURT: Okay. All right. So where are you in

this document?

MS. SECOY: I believe the charts start around page 17. We tried to -- there are a couple of different charts over those next six pages that we analyzed to reach this document. Because it shows the -- like, the change -- the exhibit itself shows the change in exports from 2019 to 2020, and then it also included the prices.

THE COURT: Okay. And so -- yeah. So just explain to me, how do we get to 6,696,353 number of masks that were hoarded?

MS. SECOY: The report refers to the price at the time. And so I believe we just divided the total amount of items hoarded by the price of the item to reach the number of items.

THE COURT: Okay.

MS. SECOY: We had the cash value divided by the price would equal the number of items.

THE COURT: Okay. And this number is not discounted for masks that are relative only to the state of Mississippi. It's the -- it's the entire world? Or it's the United -- well, I mean, is it the world or the United States?

MS. SECOY: They -- we -- to get to the Mississippi figure, we took the ratio by GDP. So Mississippi -- and our reported GDP is .5 percent of the United States GDP, and so we adjusted it based on that.

In other instances where we've had a national damages figure, we've adjusted that by population. And we thought that this was comparable to take the national figure and adjust it by our percent of the U.S. GDP to get the Mississippi versus United States ratio.

THE COURT: Okay. All right.

MS. SECOY: And, Your Honor, we -- you know, we submit that we would interpret 75-24-19(1)(b) granularly, and that's why we have it as number of items hoarded multiplied by the maximum under that statute, but it is your discretion how -- you know, how you would want to apply the statute. Under case law, the Court has the discretion.

THE COURT: Okay. Thank you.

MS. SECOY: You're welcome.

And we just added the other penalties on this summary exhibit, honestly, as a cheat sheet just so you would have a list of those statutes.

THE COURT: All right.

MR. RANKIN: And lastly, on the note there, you'll see at the bottom, when Crystal presented the various facts and causation earlier today, it's our position that those constitute another 16 violations. And I believe the breakdown, based on her facts, her -- let's see where I have it. It's 16 total for misrepresentation. I believe that's five for the PRC, People's Republic of China; three for the

Wuhan Institute; and eight for the City of Wuhan.

THE COURT: Okay. Where are you with that? Where is -- where is that spelled out to me?

MR. RANKIN: Those 16 violations were asserted by Crystal in her presentation earlier.

THE COURT: Okay. So that was -- that was orally delivered. So I just need to go back and look at the transcript and make sure that I'm on the same page.

MR. RANKIN: Yes.

THE COURT: Okay. All right. Anything else?

MR. RANKIN: So, Your Honor, on the issue of damages, you had heard in the approximate number a minimum in this case, an absolute minimum of 4 billion, and that is for what the Eighth Circuit has recognized is a valid cause of action over which there would be jurisdiction under the FSIA. That will be for PPE hoarding alone. The allegations that we have put forth and the evidence we've put forth extend to violations of the Consumer Protection Act beyond just Mississippi antitrust act. The total number, as you can see in the spreadsheet, when you take the number of violations, is approximately 20 million times 10,000. Clearly we're dealing with a very large number.

I would pose to you that based on everything that's been presented today, unrebutted, that we're here on behalf of those people who lost their lives, not as an annoyance, but

speaking justice. These statutes, the Consumer Protection Act and Antitrust Act, contemplate just a situation. Clearly a global pandemic may not have been what everyone was expecting at that time, and there have been a number of years since then, but for the people that sustained these losses, in the case of lost wages, for example, that Mr. Miller testified to, people were furloughed, people had nowhere to work. The impact of those deaths extends beyond simply the loss in population numbers in Mississippi at the time, and it extends to every single person who was then in fear for their own lives, whether it be for not wanting to go out in public, restaurants being empty, being unable to provide services adequately at that time. Our expert Mr. Miller took a very conservative approach in evaluating all of that data. He had other options. We didn't go into them much, but he had others that could have -- he could have given a much higher number. He chose what he thought was the most valid and accurate representation of the loss sustained to us as a result of this conduct.

And then subsequent to our pretrial conference, based on -- you gave us a number of really great detailed questions to assist in presenting you with precise information -- I made sure that we went back to him with what was filed most recently in the Missouri case, with that expert's report, to where he could, if Your Honor were to isolate this case down

to what I consider to be the bare minimum, which is the PPE hoarding and nothing else; but even then, his own report establishes approximately $4 billion as a minimum for damages. That's before penalties.

He explained his methodology. He's unrebutted. No one else is here to contradict his testimony. He goes before the legislature on a near annual basis, as he testified, and our State relies on him for all other sorts of estimates. What he presented to you was reliable methodology that he stood behind.

Between the Eighth Circuit recognizing this cause of action under the FSIA and our expert's testimony and the evidence presented to you by Ms. Secoy, my colleague, it's very clear that 4 billion would be a minimum. And I would pose to you that that would be our position.

There is no one -- and we are happy to address the evidentiary issues you've raised, but no one here has raised hearsay objections. The People's Republic of China does not deem the lives of Mississippians worthy of appearing in this courtroom to raise those objections. And while we're happy to show you where and how our evidence meets whichever standard is applicable, and it does, all of it, the silence -- when I pause, the silence, with no questions other than those from yourself to our expert, that has been justified to us and to this Court as a response to something that is annoying and

vexatious. This Court is not annoying and vexatious. Ignoring this Court is conduct that has led us, by -- by the People's Republic of China and the remaining defendants, has led us to this default hearing.

The State has incurred considerable expense for which we're also allowed to recover. Serving process on these entities, the State had to research service under the Hague Convention. We followed every single formality required of us for this matter, and we're standing here unrebutted.

In your pretrial conference, you emphasized, and I paid close attention to you, Your Honor, and I thank you for the advice -- I know you wouldn't say "advice," but the questions that you raised so that we would be able to adequately present this case. You emphasized the phrase "well pled." And Crystal came before you today and she articulated what that standard was and is under our law. And everything that's before you is well pled. Everything is admissible evidence. No hearsay objection has been stated by any opponent in this court.

This penalty figure, admittedly, is a very large number. But when we talk about a floor, just as sure as we talk about 4 billion roughly approximately being the floor, the ceiling is astronomical. I had to pause a number of times to grasp exactly what was available, but I've shown you today that even if you were to award the entire amount, all of it,

which is roughly $208 billion, that China has assets and property in this country that are susceptible to that judgment that you would issue, and that we have a process and a path in place to pursue to the gates of hell every single dime that Mississippi is entitled to as a result of these unfair and deceptive business practices and these antitrust violations.

With that, I would make myself and Ms. Secoy and Ms. Beale available for any additional questions you have. And, of course, we look forward to the opportunity to address anything you would raise with respect to a brief, as you mentioned.

Also, if indeed -- I would request that if indeed the Court were somehow considering to exclude something on the basis of hearsay, that we would somehow know exactly which provision that was going to apply. Because we don't -- you know, we're not in the position where we have a defendant standing up articulating what and how they're objecting. And I appreciate Your Honor's concern for authentication and all the formalities. I would do it the exact same way if I were you. And you don't need me to verify your method; however, if indeed anything about the standard of what has been presented to you, you deem, in your own eyes, to be deficient, it is something that I am confident with either supplementing the record or in briefing, we can fully address to your satisfaction.

I believe Mr. Miller established that 4 billion is the floor approximately. I would use his more precise number, I think it was 4,260,077,991. He said it himself. It's not guesswork. It's not speculation. He's an expert. He's unrebutted. With that, Your Honor, if you have any additional questions.

I know you want to give us some instructions on things you would like for us to brief, and we will be happy to -- to work this case up to whatever extent is necessary to succeed, despite the fact that the defendants have so disrespected this Court that they have put you in the place of raising objections on their behalf, which you shouldn't have to do. We appreciate that you expressed the concerns, and we're happy to address them, every single one; but, Your Honor, I would respectfully submit that if there is anything that, you know -- whether it be a certain provision of the evidentiary rules, you know, that you find should have been applied one way or the other, that we would have adequate time to remedy whatever that is, because we don't -- we don't have that level of specificity here, and we have a knowingly absent stubborn set of defendants who are well aware that this litigation has occurred, that it's -- that it's occurring this very day. They know we're here; and they're not.

With that, Your Honor, I yield to your questions or anything else Ms. Secoy or Ms. Beale has.

MS. SECOY: Your Honor, would you like us to go through the exhibits?

THE COURT: Yes. We're going to do that in a little bit. I still -- let's make sure we do that. And, look, I'll make -- I'll make it clear why I want y'all to put your basis on the record for the exhibits, because I very well may rule at the end of today's hearing on the admissibility of the exhibits. My understanding from default judgment hearings, number one, any default judgment hearing, there are some courts that talk about the evidence that is presented at a default judgment hearing has to be admissible, number one, some courts talk about. Some of them don't as much, but some of them do.

Number two, whenever we are dealing with the Foreign Sovereign Immunities Act, and Foreign Sovereign Immunities Act says, it specifies, under Section 1608(e) that a judgment by default cannot be entered or may not be entered against a foreign state unless the claimant establishes his claim or right to relief by evidence satisfactory to the Court. So I do believe that it would be very dangerous to drift into reversible error if there was no basis put into the record whatsoever for the admissibility of exhibits. I believe I have to hear the basis for the exhibits and make a finding on the basis for the exhibits.

Of course, we are a nation of laws. That's what

separates us. We are -- from many other countries. And I'm not talking about China, but I'm just saying we're a nation of laws. That's what we are. We are -- we are governed by the rule of law. That's what we're governed by. And in any case, whether it's a pro se plaintiff, whether it is an absent party, and regardless of who the parties are, I am required to follow the law and interpret the law, and that's my job.

MS. SECOY: Your Honor, thank you, and I absolutely understand.

James, if I may?

I believe what James is getting at is there's a case regarding the Immunities Act, *Sotloff v. Syrian Arab Republic*, which says this does not require a Court to step into the shoes of the defaulting party and pursue every possible evidentiary challenge.

THE COURT: And I agree with that. I'm not -- I'm not here to be an advocate, by any stretch of the imagination. I am here solely to understand what the law is presented by you-all, to understand the basis, to understand the basis for what the evidence is being offered, just if you take that example, and then to make a finding based off of the law.

And so before we get into the exhibits, let's talk about just some of the questions that I have. Okay? And then we'll get into the exhibits.

All right. So first off, Mr. Rankin, what is the

total number of damages that the State of Mississippi is pursuing, and what are those categories of damages?

MR. RANKIN: Your Honor, I would refer you to our expert's report, the February 2025 report.

THE COURT: Right. And that one's over -- I get that category. That's over $4 billion in damages that was identified by the State's economist, and that's related to loss of life, number one, and lost wages, number two. Correct?

MR. RANKIN: Yes. And the 4 billion is only with respect to what resulted from PPE hoarding specifically. And the reason the remainder of his November report is contained within the February report is the original number still stands. I mean, it -- the effect of this conduct which led to Mississippi having the effect of COVID-19 remains -- all of his previous numbers remain. The addendum was not him cutting his number down, other than at my request asking him, based on what we saw in the pending litigation, when Your Honor asked us in a previous order, you know, you asked us to address that case and you wanted us to let you know how things were different and how -- you know, where things were the same. And I wanted to make sure when I knew that there was up-to-date current information that you had the latest and most precise figures and the most -- given that, you know, other than apparently this case and the Missouri case, there

are not many others like this currently, I wanted you to have the most accurate information.

So I would -- I would submit to you that in his report, the original calculation of damages, which was $12,171,651,402, represents the entirety of what he calculated for the purposes of lives lost and wages lost.

There were many other things, as he stated, you know, when he talked about the value of a life and things that can't be taken in -- you know, in many ways is, quote, "immeasurable," he says in his report. He left out mental anguish and emotional distress.

So Corey Miller was only comfortable with those two categories. That's what he felt was reliable. He took a conservative approach, and that was the total he came to. I came back to him and I said, Corey, there's an expert in Missouri who thinks, you know, there's a way to get at even more narrowly, if Your Honor were to limit our recovery to only PPE hoarding --

THE COURT: But I'm required to, aren't I?

MR. RANKIN: I'm sorry?

THE COURT: I'm required to, aren't I? I mean, that's what you're seeking.

MR. RANKIN: Exactly. Which is -- which is why I made sure we had the exact number.

MS. SECOY: We're not seeking -- I mean, we're

alleging violations of the Consumer Protection Act and violations of antitrust statute. So there's more conduct than just the hoarding, you know, that the withholding of information and the misrepresentations, we believe, were all part of the scheme to give them time to hoard.

As I mentioned earlier, so we have -- we have Corey's testimony regarding loss of life and livelihood. You know, we do have evidence of the number of masks hoarded, and we have our -- you know, examples of our complaints, but we chose to -- with the missing data figures, we've chosen to focus on penalties.

THE COURT: Well, not penalty -- I mean, the State Economist testimony is not penalty testimony.

MS. SECOY: Correct.

THE COURT: It's monetary damage testimony.

MS. SECOY: Correct.

THE COURT: Right?

MS. SECOY: Right. I just wanted to be clear that we're not just focusing on hoarding.

THE COURT: Right. But it -- okay. But -- but it's misrepresentation plus hoarding.

MS. SECOY: Yes.

THE COURT: Right?

MS. SECOY: Correct.

THE COURT: And they're intertwined --

MS. SECOY: Yes.

THE COURT: -- is, I think, the State's position.

MS. SECOY: Yes, Your Honor.

THE COURT: Okay.

MS. SECOY: I think we're -- I think we're -- we're probably ad nauseam trying to make sure we're answering your questions.

MR. RANKIN: Well, and the goal of requesting the supplement was to provide the Court with as clear of information as possible with what was related to what. And I think he did that by his own testimony and in a reliable method and one that's been used in another court as well.

THE COURT: So we've got the over $4 billion from the State Economist. That's one category. And that's monetary damages. That's the only monetary damages, right?

MR. RANKIN: Well, no. Arguably, he -- well, not just arguably; I mean, his original finding is a total of 12 billion approximately.

THE COURT: But you're not seeking that.

MR. RANKIN: No, we are. We absolutely are.

THE COURT: Well, what's that -- what's --

MR. RANKIN: That includes -- the 4 billion is for PPE hoarding. The remainder includes conduct that is unfair and deceptive under the Consumer Protection Act.

THE COURT: Okay. I'm trying to --

MR. RANKIN: When one behaves in an unfair and deceptive way that causes loss of life in the state and loss of wages.

MS. SECOY: He attributed the 4 billion to the part of the conduct -- the steps in the scheme specifically to the -- stopping the exports, drastically importing, commandeering the U.S. companies in China. He attributed 4 billion to those three steps. And the other -- the rest of it would be attributed to the first half of the scheme to withhold and misrepresent the nature of the virus. But he was able to -- he was able to say, based on the research he mentioned and the Eighth Circuit opinion, that at least -- at minimum, 4 billion is attributed to the act of hoarding, which we refer to as engrossing and forestalling under the Antitrust statute.

THE COURT: Okay. All right. I think I'm following. So you're seeking over 12 billion.

MR. RANKIN: Correct, Your Honor.

THE COURT: Essentially 8 billion for misrepresentation, 4 billion for hoarding PPE. That's kind of one way to categorize it, right, for monetary damages. And that's the monetary damages you're seeking.

MR. RANKIN: Yes.

THE COURT: All right. Plus penalties.

MR. RANKIN: Correct.

THE COURT: And what is the total number of penalties in terms of monetary?

MR. RANKIN: Well, the spreadsheet and the number stated takes into account -- there's a number in the right column that's in bold, and then beneath it, a total maximum number -- or total maximum dollar amount. That amount includes every item -- a violation for every single item hoarded; it includes the 16 violations we mentioned that were from the evidence presented by Crystal; and the total leaves you, for penalties, to $208,362,801,127.96.

And clearly, as the statute states, it's a sum not to exceed $10,000, and Your Honor is within his own discretion as to what extent penalties will serve in this matter; but we certainly think, based on the allegations that have been shown and are unrebutted, that the conduct merits the imposition of all penalties.

THE COURT: Okay. So the total monetary award is close to 230 billion.

MS. SECOY: I just wanted to make sure we had all four penalty statutes covered in there. So you're looking at about 221 billion, I believe.

THE COURT: Yes. Yeah. Yes. About 221 billion.

MS. SECOY: And we determined they have almost 800 billion in U.S. Treasury bonds.

THE COURT: Okay. All right. Anything else before

we get into exhibits? And then I'm going to give you some instructions about supplemental briefing.

MS. SECOY: Okay.

THE COURT: Anything else?

MR. RANKIN: That's it, Your Honor. Thank you. Nothing else.

THE COURT: All right. Let's make sure that you-all have presented all of your exhibits and any evidentiary basis that you want to for those exhibits, and I may be able to rule on those today.

So I think you've already put forward P1 through 8. Do you have anything else about P1 through 8?

MS. SECOY: Your Honor, we -- I mentioned that those were self-authenticating under -- as official publications under Rule of Evidence 902(5) because they are official documents that are published, they're found online. If you would like me to, I could go into more detail regarding the nature of each of those, a congressional report, Marco Rubio's investigation, just to show that they are what we purport them to be.

THE COURT: Well...

MS. SECOY: If you'd like to walk through each one individually.

THE COURT: Sure. Let's do that.

MS. SECOY: So the first one was the Congressional

Research Service China Primer on China's Political System. That's a public record under Rule 803 --

THE COURT: Hold on. Was that -- was that P1 in your pretrial brief, too?

MS. SECOY: No, Your Honor.

THE COURT: It's different.

MS. SECOY: We just added it.

THE COURT: Okay. Right. That's right. Because it's new. That's -- I need to --

MS. SECOY: I know I should have added it at the end and then I wouldn't have messed up our numbering system.

THE COURT: That's okay. All right. So --

MS. SECOY: A number of these -- we have three reports by the Congressional Research Service.

THE COURT: Right. All three reports from the Congressional Research Service are admitted for the reasons that you have stated.

MS. SECOY: Thank you.

THE COURT: And the Department of Homeland Security, which is -- that's -- wait. That's not -- which one was -- hold on. What was P1 again?

MS. SECOY: So the pretrial Exhibit P1 is the Department of Homeland Security. And --

THE COURT: But you have P1 is the Congressional -- wait. Hold on a second.

(Brief pause in proceedings.)

THE COURT: So P1 is the Congressional Research Service. Is that right?

MS. SECOY: That was the Primer, the China Primer.

THE COURT: Okay.

MS. SECOY: Uh-huh.

THE COURT: So all the Congressional Research Service's ones are admitted -- that's P1, that's P5, that's P6, right? -- for all the reasons that you've stated, for the legal basis that you've stated.

(Exhibits P1, P5 and P6 admitted into evidence.)

THE COURT: All right. Let's do P2. So P2 is the Marco Rubio, A Complex and Grave Situation: A Political Chronology of the SARS-COVID-2 Outbreak. That is...

MS. SECOY: It's the thick one, and I think it's in a rubber band.

THE COURT: Okay. And this is the one that was presented today.

MS. SECOY: Right. It is -- it was --

THE COURT: It's --

MS. SECOY: -- the same as pretrial Exhibit 6.

THE COURT: Okay. And so who prepared this document?

MS. SECOY: Senator Rubio's office prepared this document. He also had assistance from former Assistant Secretary of Defense of Indo-Pacific Security, Randall

Schriver. And I believe that Senator Rubio's report along with the two minority staff reports are similar to the Congressional Research Reports where they're -- you know, Congress often will -- like for instance, they recently submitted the report on PBMs. You know, their -- as part of their duty to the public as members of the Congress, they research and submit reports regarding various activities impacting the United States. And --

THE COURT: But Senator Rubio prepared this report, which is P2?

MS. SECOY: Yes.

THE COURT: When he was a senator. He's now Secretary of State.

MS. SECOY: Correct.

THE COURT: And he prepared that in his -- in his role as senator, I assume is what you're saying.

MS. SECOY: Yes, Your Honor. We have -- I believe it's self-authenticating as an official publication, but also under just traditional authentication, we don't have any reason to believe that it's not what it appears to be.

THE COURT: And I do note that for admissibility purposes, one of the ways that a public record can be admissible -- and this is a public record. It was prepared by Senator Rubio's office, according to you -- is that the opponent does not show that the sources of information lack

trustworthiness. There's no opponent showing that today. And it does appear to be a public record. It does seem to fit into hearsay exceptions, and it does appear to be self-authenticating for public record purposes. So that's also admitted.

(Exhibit P2 admitted into evidence.)

MS. SECOY: Thank you, Your Honor.

I believe the Minority Staff Report and Final Report, which are pretrial Exhibits 8 and 9 --

THE COURT: Those are P3 and P4.

MS. SECOY: Correct.

THE COURT: All right. P3 and P4 are also admitted for all the legal reasons that you've stated previously. As they're clearly public records, they fit into 803(8), and they are self-authenticated.

(Exhibits P3 and P4 admitted into evidence.)

MS. SECOY: We also have a report by the Director of the Office of National Intelligence -- it's a short report up there -- that I submit for the same reasons.

THE COURT: Which --

MS. SECOY: P8.

THE COURT: P8?

MS. SECOY: Uh-huh. And I believe --

THE COURT: Okay. And that's also admitted as that's a public record. That is -- falls under 803(8), and it also

is officially authenticated.

(Exhibit P8 admitted into evidence.)

THE COURT: What about P7? That's from the Department of Homeland Security?

MS. SECOY: Yes. For the same basis, Your Honor. That's --

THE COURT: Okay. And for the same reasons, P7 is admitted.

(Exhibit P7 admitted into evidence.)

THE COURT: All right. P9 has not been offered. P10 has not been offered. P11 has not been offered.

P12 is Mr. Miller's report, his initial report, and then P17 is his supplemental report. And, of course, affidavits can be submitted in furtherance of a default judgment hearing. In addition to these reports, Mr. Miller testified. He testified consistent with these reports, and I see no basis to exclude P12 or P17, and they shall be so admitted.

I do note that P16 is a CV. Ordinarily in jury trials, CVs are not necessarily admitted. For purposes of the jury, they're used for demonstrative purposes. But this is not a jury trial, and I see no reason P16 shouldn't be admitted. So P12, P16, and P17 are also admitted.

(Exhibits P12, P16, and P17 admitted into evidence.)

THE COURT: P13, that's the Major Foreign Holders of

Treasury Securities?

MS. SECOY: Yes. P13 and P14 are both public records that -- they're published. They're official publications under 902(5), and we submit that they should be admitted into evidence.

THE COURT: Who publishes those? Let me see if I can find that. The Major Foreign Holders of Foreign Securities --

MR. RANKIN: Your Honor, on the chart itself there's a link to the Treasury.gov website, which is where that information is maintained, or that is the source from which we printed the report.

THE COURT: That's from the Treasury's website?

MR. RANKIN: Yes. And the link is provided, if you -- on the top left.

THE COURT: Okay. And that's public information available on the Department of Treasury's website?

MR. RANKIN: Yes, Your Honor.

THE COURT: Then -- hold on one second. It shall be so admitted, and I see no reason that it should not. That's P13.

(Exhibit P13 admitted into evidence.)

THE COURT: Okay. P14 is USDA Farm Service Agency Report. For the reasons you stated with regard to other exhibits and this exhibit previously, that shall be so admitted under 803(8) and under 902 and 903.

(Exhibit P14 admitted into evidence.)

THE COURT: All right. P15, that is the spreadsheet. Now, that would -- that's a different spreadsheet, though.

MS. SECOY: Right.

THE COURT: That's -- that's the spreadsheet that you offered, I believe, that has the list of names and some gloves and costs of gloves and masks, isn't that one?

MS. SECOY: Yes, that's -- that spreadsheet, it's a compilation of price gouging complaints that the Attorney General's Office Consumer Protection Division received from March 16, 2020, through June 29, 2020. I personally compiled this spreadsheet and updated it as we went through the pandemic. So I submit, Your Honor, that it's a record of regularly conducted activity under Rule of Evidence 803(6). It's also a public record of the Attorney General's Office under Mississippi Code Annotated 25-61-1 et. seq. of price gouging observed at the height of the pandemic by the Attorney General's Office.

THE COURT: Okay. P15 shall be so admitted for the reasons that you state.

MS. SECOY: Thank you.

THE COURT: All right.

(Exhibit P15 admitted into evidence.)

MS. SECOY: James also included P18 as an exhibit or attachment to Mr. Miller's report, so I believe it's really

part of that.

THE COURT: Yes, and experts can rely on information from other sources, and this was information that was clearly relied on by Mr. Miller in his testimony. And additionally, it is a publicly available document in another case, I believe, in the Eastern District of Missouri, in the State of Missouri's case.

MR. RANKIN: Yes, Your Honor.

THE COURT: And so I see no reason that that should be excluded, and P18 shall be so admitted.

(Exhibit P18 admitted into evidence.)

THE COURT: Then we have P19, and that's essentially just a demonstrative that explains the basis for the penalties requested by the State of Mississippi. There's nothing that would prohibit the State of Mississippi from putting this in a brief, for example. Demonstratives are regularly used in litigation, and I see no reason that P19 should be excluded.

So all exhibits that have been offered today are admitted.

(Exhibit P19 admitted into evidence.)

MS. SECOY: Thank you.

THE COURT: All right. Now, this brings us to a conversation I want to have about supplemental briefing. Let's first talk about some specifics that I would like to see in the supplemental briefing, and then we'll talk about a

timeline. Because I want to hear -- I want you to understand kind of specifics, and then I'm going to ask you how long you would like before you file your supplemental brief.

All right. So big-picture standpoint, I mean, we are traveling under the Foreign Sovereign Immunities Act to some extent, right, jurisdictionally. And so I quoted to you previously the portion of the statute that deals with default judgments and foreign states and it says -- Section 1608(e) states that a Court may not enter a judgment by default against a foreign state unless the claimant establishes his claim or right to relief by evidence satisfactory to the Court.

So similar to what y'all did in your memorandum in support of motion for default judgment and similar to your pretrial brief, I do want to have a firm understanding of what your position is under the law as to the standard of review. It seems like you-all are taking the position that essentially if there are well pleaded factual allegations and defendants have not appeared, then it's not really my role to look at the evidence from a liability perspective. Okay? That seems to be the view that y'all are taking. That's -- I'm not so sure about that. And I understand that that is the view of a lot of courts in your traditional default judgments. I'm not so sure about that with regard to the Foreign Sovereign Immunities Act and specifically when 1608(e) says what it

says.

To me, it seems like I am required by law to, at the very least, make sure that there is satisfactory evidence for what the claimant is attempting to establish. So that's kind of a standard review issue.

There's also a jurisdictional issue. There's also a jurisdictional issue potentially under the Foreign Sovereign Immunities Act with regard to commercial activity. It seems like that y'all are taking the position -- and I'm not saying the entire case is not subject to the proper jurisdiction in this court, but I think I have to do a jurisdictional analysis to some extent, because it seems like what y'all are taking the position of is the only way under the Foreign Sovereign Immunities Act that I even could find liability against at least some of these defendants is if there is commercial activity.

MS. SECOY: Uh-huh.

THE COURT: Right? Is that fair?

MS. SECOY: We think that -- I mean, subsection (2) is the basis of our jurisdiction --

THE COURT: Right. That's -- I mean, because there's a number of different exceptions to the sovereign immunity of foreign states under the Foreign Sovereign Immunities Act. And, I mean, there's a host of exceptions, but the one y'all are traveling under is commercial activity. And so I do want

commercial activity to be analyzed. It seemed like in your prior briefs you were essentially saying, look, certainly what the defendants engaged in impacted commercial activity to a large extent, and so the exception is met.

I was looking at some of the cases on commercial activities, because I'm going to have to analyze this in my fairly lengthy opinion, I think, quite frankly, and that is some of those cases they go through what commercial activity looks like under the Foreign Service -- Foreign Sovereign Immunities Act. There's also a Foreign Services Immunities Act, and I've been misspeaking at times, but the Foreign Sovereign Immunities Act is what we're traveling under. Just for example, some cases point to how courts should look at the nature of the course of conduct or the particular transaction or act rather than by reference to its purpose. And additionally some courts have stated that a foreign government remains immune with respect to its sovereign or public act but not with respect to its acts that are private or commercial in character.

MS. SECOY: And that's in regard to subsection (2) to -- this --

THE COURT: Yeah. Well, I think it's in regard -- it's the definition of "commercial activity," and there's just --

MS. SECOY: Okay.

THE COURT: -- a number of cases kind of addressing this. Like for example, the *Republic of Argentina v. Weltover*, that's a United States Supreme Court opinion from 1992 that can be found at 504 U.S. 607, at page 614. 504 U.S. 607, at page 614. And additionally, *Saudi Arabia v. Nelson*, 507 U.S. 349, at page 360, a United States Supreme Court opinion from 1993.

And so I do want a pretty good analysis of what -- for example, the misrepresentations that y'all are alleging these defendants engaged in as it applies to a foreign state or any other entity that could be subject to the Foreign Sovereign Immunities Act, were those misrepresentations being made in the sense of if my test is whether those acts are being made in the same way a private or commercial character would be made, or are those acts that are being made by a sovereign through its, like, governmental role. Do you see what I'm saying?

MS. SECOY: Uh-huh.

THE COURT: And you'll have to kind of get into these cases, but I do think there's going to have to be an analysis of that. Like, are the misrepresentations done by a foreign state in its sovereign capacity, or are they done in the commercial context?

MS. SECOY: So earlier Tricia mentioned that we compared it to our *Johnson & Johnson* case where they

misrepresented the nature of talc --

THE COURT: Right.

MS. SECOY: -- which is a natural element that they used, in their baby powder case. So for us, it's --

THE COURT: Yeah. And I think one of the reasons it's going to have to get into the case law a little bit more than that --

MS. SECOY: Okay.

THE COURT: -- is because Johnson & Johnson is a commercial entity. Johnson & Johnson is not a dual role. Johnson & Johnson has no sovereign ability. So it can't speak as a sovereign, ever. Right?

And so you're going to have to analyze cases for the dual role purposes, because sovereigns can speak as purely a sovereign, and it can act as purely a sovereign. And just because a sovereign says something that has an impact on commercial activity, my view of the case law from what I'm seeing, does not necessarily equate to commercial activity for this statutory purpose. Do you see what I'm saying?

MS. SECOY: Yeah.

THE COURT: There can be indirect consequences from what a sovereign says to the global commercial activity or to intrastate commercial activity or to interstate commercial activity. It can have indirect consequences whenever a sovereign speaks. But a sovereign can also speak in a way

that a commercial participant can speak and impact commercial activity. And I think that's what I want y'all to explain to me is what you believe this falls under, under this bucket, as you-all are advocating for the State of Mississippi. I would like to understand your position more on that commercial activity from a jurisdictional standpoint.

MS. SECOY: Okay.

THE COURT: All right? And then that -- so we talked about standard of review. We talked about jurisdiction. And then we talk about liability, and then we'll talk about damages.

So liability, you pointed out to me today your legal basis for why you believe a foreign state is subject to the Mississippi Consumer Protection Act, and statutorily, what your position is, under the plain language of the Act, it refers to a legal entity, and you believe any -- you believe a sovereign is a legal entity. I would just like to see some law supporting that, that a sovereign is a legal entity for the purposes of what you believe the Mississippi Consumer Protection Act is.

And similarly, similarly, under Mississippi antitrust laws, what subjects a foreign state to Mississippi antitrust laws. I would like to kind of know that stat- -- like the plain language of the statute that says that it's getting you there. And then, of course, if you have any case law from the

State of Mississippi or you have any case law from other jurisdictions that have interpreted similar language legal entities or similar language from a statute to apply to a foreign sovereign, then feel free to point that out. I mean, these are some of the things that I'm going to be considering, and I want y'all to know in advance and have the opportunity to brief it in front of me.

We talked about this a little bit, but I just want to put a little finer point on it and remind you, I am -- I do want to know from your briefing the statutory basis and the case law, if any, that supports the recovery of monetary damages by the State of Mississippi through the Attorney General's Office for violations of, number one, the Mississippi Consumer Protection Act and, number two, the Mississippi antitrust laws. We had that discussion earlier. I think y'all know kind of -- you know, you obviously know your arguments. You were able to, pretty quickly, orally state them. I would just like to you put them on paper --

MS. SECOY: Sure.

THE COURT: -- me to be able to see them, and also add any additional context, color, or law supporting those arguments that you would like to in a supplemental brief.

MS. SECOY: Absolutely. We're used to that question. We can do that.

THE COURT: And I've already started looking at some

of the cases interpreting the Mississippi Consumer Protection Act and the Mississippi antitrust laws, and so any -- any cases that you want to point out to me on those issues, feel free as well. I mean, just -- and, look, I've already started highlighting Mississippi Encyclopedia -- Mississippi Practice Encyclopedia of Mississippi Law and the Encyclopedia of Mississippi Law for antitrust and Mississippi Consumer Protection Act, and I've looked at the cases that are cited in the Encyclopedia of Mississippi Law. Like for example, the Mississippi Consumer Protect Act can be found at Section 2561 of Encyclopedia of Mississippi Law, and under antitrust law, it's 2560. And so I was looking just if there was a -- just a -- you know, as I mentioned before, I didn't see that just definitive explicit recovery of monetary damages by the Attorney General or by the State of Mississippi. So I think what y'all's argument is, is you're going to say, well, this portion of the statute plus this portion of the statute or maybe your constitutional or common law right to bring is how you get there, but I want to kind of have that ability to seek monetary damages explained to me under the law, because I just didn't see it immediately offhand as I was researching in advance of this hearing.

MS. SECOY: Sure.

THE COURT: And then I saw in that *State ex rel. Fitch v. Yazaki North America* opinion from Mississippi Supreme

Court from 2020, and this is kind of also on the liability issues, it talked about wholly intrastate conduct, wholly intrastate conduct of antitrust law under Mississippi antitrust issues. And I know that what y'all are seeking for -- related to antitrust violations are for engrossing or forestalling, not for monopolies necessarily. That's not really -- it's really for engrossing or forestalling a commodity, but that case, that *Yazaki North America* case, it did kind of talk about intrastate conduct. So to the extent that you believe that case is not applicable to your situation because you're arguing for a different type of violation under the Mississippi antitrust laws related to engrossing or forestalling, or to the extent that your argument is, We are pointing to intrastate conduct violations or that are wholly intrastate, I am curious what the State of Mississippi's position is.

And I will say all of this is under the big picture of not only do we have the Foreign Sovereign Immunities Act where I -- it looks like to me I have to have -- I have to be satisfied from an evidentiary standpoint on a number of issues. I think there is an undercurrent in any default judgment proceeding that I have to be satisfied that the law, the law, provides a basis, provides a basis for recovery outside of the evidence itself that is presented.

And then we also -- y'all mentioned joint and several

liability for all defendants related to all -- kind of related to all conduct, but certainly related to all violations of the Mississippi Consumer Protection Act and Mississippi antitrust laws, and I would like that to be briefed, joint and several liability for all of those. And not, obviously, just joint and several liability from a tort perspective, but joint and several liability from a Consumer Protection and an antitrust perspective.

And then it was also raised today that any other funds that were injected into Mississippi's economy or that were used for wages or anything else in Mississippi's economy, whether as PPE loans or other CARES Act relief, that that was a collateral source, and I would just like to see that in your brief as well, why I'm not supposed to consider that at all, why that is a collateral source.

And feel free to request a transcript, just to make sure. It may be easier. It may be easier.

MS. SECOY: Yes, please.

THE COURT: Now, that being said, I want to go ahead and kind of point out these issues, because unfortunately for y'all, y'all are not done. I want to -- we're going to have a supplemental brief that's going to be filed, and then I'm going need to get to work. And I'll be working in the meantime, but I'm going to need to get to work on a fairly detailed opinion.

So how much time do you all need? Do you want to confer and see?

MS. BEALE: Do you know how long it would take to get the transcript?

COURT REPORTER: I would say hopefully seven days.

THE COURT: And I'm not rushing you. I know there's some -- you know, I know this is a big case for all of you. I know that you want to put a lot of time and effort into it, and I know that there are some unique issues that you don't see in your daily practice. I get that. So I want you to have as much time as you'd like.

MS. SECOY: I mean, I -- and I know we're all ready to put this to bed as well. Does three months sound reasonable?

THE COURT: It's fine with me if you would like that much time to fully research the issues and fully brief them.

MS. SECOY: I think so. And we'll get it to you sooner if we can, but considering our other workload, as director, wearing kind of multiple hats, it would be helpful.

THE COURT: Yes. Okay. So we'll do three months from today's date. We'll enter a text order today that will recognize that that was the request of the government -- of the State of Mississippi to file that brief three months from today's date, and that will be the deadline. We'll put that in the record as well.

Okay. Anything else from the parties before we conclude today's hearings? Or not from the parties. From the State of Mississippi.

MR. RANKIN: Your Honor, I want to thank you for providing the clarity that you have with respect to what's required for a supplemental brief as well, the same you did in the pretrial conference. It's very helpful -- especially in a case where there's no party on the other side litigating, it's very helpful to focus on what are the most relevant issues. Thank you.

MS. SECOY: Yes, thank you for taking your time with us today.

THE COURT: All right. Anything else?

MS. SECOY: No, Your Honor.

THE COURT: All right. That will conclude today's hearing. Court will stand adjourned. Thank you.

(Hearing concluded.)

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CERTIFICATE OF COURT REPORTER

I, Kati Vogt, RPR, RMR, RDR, CRR, Official Court Reporter for the United States District Court for the Southern District of Mississippi, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings reported by me using the stenographic reporting method in conjunction with computer-aided transcription, and that same is a true and correct transcript to the best of my ability and understanding.

I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

S/ Kati Vogt
KATI VOGT, RPR, RMR, RDR, CRR
OFFICIAL COURT REPORTER