

EXHIBIT M

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 SANDRA DELA CRUZ, Administratrix of the
4 Estate of ANDY HENRIQUEZ,

5 Plaintiff,

6 -against-

7 THE CITY OF NEW YORK, NYC DOCS C O
8 NY STATE POLICE, ACOSTA POLYGRAPHICS, INC.,
9 NY STATE POLICE, JERRETT AND ASSOCIATES, NYC
10 CAPTAIN WINSTON CH. DEPLET, NYC DOCS, CAPTAIN
11 JAMES PHILIP PA. DONOVAN, NY STATE
12 POLICE, GUYTON, NORTON, STEHLER,
13 M.D., DANIEL LEWIS WIN MOUK, RACHEL ZINNS,
14 HEALTH, INC.,

15 Defendants.

16 Riker's Island
17 Bronx, New York

18 March 28, 2014
19 4:18 p.m.

20 DEPOSITION BEFORE TRIAL OF JESUS RAMOS,

21 a Non-party Witness in the above-entitled action, held
22 at the above time and place, taken before Laurie
23 Miller, a Notary Public within and for the State of New
24 York, pursuant to Order.

25 MILLER REPORTING, INC.
(800) 948-7948

3 APPEARANCES:

4 LAW OFFICES OF GABRIEL GIORDANO
5 Attorney for Plaintiff
6 228 LEXINGTON AVENUE
7 New York, New York 10027
8 BY: GABRIEL GIORDANO, Esq.

9 SACHSEY CASNER, Esq.
10 NEW YORK CITY LAW DEPARTMENT
11 Attorneys for Defendants
12 700 Church Street
13 New York, New York 10007
14 BY: ANSHUL DAVID, Esq.

1 IT IS HEREBY STIPULATED AND AGREED by and between
2 the attorneys for the respective parties hereto that:

3
4 The filing and sealing here and the same
5 are hereby waived;

6
7 All objections, except as to the form of
8 the questions shall be reserved to the time of the
9 trial;

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11 The within deposition may be signed and
12 sworn to before any officer authorized to administer an
13 oath with the same force and effect as if signed and
14 sworn to before the Court.

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2 JESUS RAMOS, a Non-party Witness
3 herein, having been first duly sworn by
4 a Notary public of the State of New
5 York, was examined and testified as
6 follows:

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9

10 Q Mr. Ramos, thank you for taking the time to
11 see us today. My name is Attorney Gamen Giordano. I
12 represent the family of Andy Henriquez, the De La Cruz
13 family, his mom Sandra De La Cruz, who is the
14 Administrator of his Estate. I represent his Estate.

15 This young man died in the Bing on April 7,
16 2013, last year. We filed a Federal Civil Rights
17 lawsuit on behalf of the family. We have taken the
18 depositions of inmates that were detainees that were
19 lodged in the Bing at the time, and you at that time
20 were listed as being in Cell #6, so we're going to ask
21 you some questions about what happened at that time.

22 First of all, I want to show you what has
23 previously been marked as Plaintiff's 2 today. It's a
24 CD or DVD rather, which depicts a certain area within
25 GBCC. Do you recognize the area?

A Yes, this is my cell, this is the next cell.

6
1 Q Your cell was right next to Mr. Henriquez's
2 cell?

3 A Yes. I used to speak to him every day.

4 Q You spoke to him every day, okay, and do you
5 remember what happened at that time back in April 2013?

6 A I remember clearly, I can never forget.

7 Q Tell us everything you know?

8 A He used to scream every day, like I need
9 medical attention, for two days straight, they was
10 refusing medical attention. We used to refuse chow for
11 him to get medical attention. They refused to give
12 him—

13 Q You guys refused food in order to try to get
14 him medical attention?

15 A Yes.

16 Q And that happened for a two-day period?

17 A Two-day period.

18 Q Now, did you and the other detainees that
19 were there with him make any noise or demand that he get
20 medical attention?

21 A We was all screaming, a lot of us was kicking
22 our doors, me especially, I was kicking my door. He let
23 me know, he's like — he used to say "I don't feel
24 right, my chest hurts, I feel like I can't breathe." I
25 used to scream — bend down from under my door and

7
1 scream under my door, "CO, CO, 5 cell needs medical
2 attention. He has asthma. Something is wrong."

3 Q Did they listen to you?

4 A Not at all.

5 Q Do you remember the time when they found him
6 then in his cell dead?

7 A I can't tell you like—

8 Q Not the exact time. My question is do you
9 remember when he was found in his cell dead?

10 A To be honest, I can't — I wouldn't know
11 that. We was in the box. I wouldn't know the time.

12 Q Okay. I'm not asking you the time but what
13 I'm asking you—

14 A The time period. It was sometime after
15 lunchtime.

16 Q Sometime after lunch?

17 A Yes, when they found him, it was nighttime,
18 like going towards dinner.

19 Q What I want to ask, if you remember, I
20 understand it was a while ago, but if you remember, do
21 you remember how long before you found out that they
22 found him in his cell dead, how long before was the last
23 time you heard him saying anything or talking to him or
24 anything?

25 A About an hour and a half before we was

8
1 talking, we was talking about our family. I was telling
2 him about my kids, he was telling me about his family.
3 He had been there since adolescence, and hopefully he
4 was going home real soon, the time served.

5 After that I told him "I will talk to you
6 later. I'll get some rest. Bang on my wall if you need
7 anything, if anything is wrong", and then I didn't hear
8 from him. Then the next thing I see CO's, a lot of CO's
9 by his thing, telling him they was coming through the
10 count, which they rarely do, but when they was doing the
11 count, like the CO— "Henriquez, Henriquez, 5 cell, 5
12 cell." He banged on the door—"Yo, open up, 5 cell."
13 They opened 5 cell. He just — I guess he just saw it,
14 he's like "Yo, yo, call medical attention, call medical
15 attention." Medical attention got there a little while
16 after.

17 Q Was this a male CO at that time?

18 A I think it was a male CO. I'm not too sure.
19 I know I heard — yes, a male CO.

20 Q Do you recall earlier in the day that there
21 were two female CO's on?

22 A Yes, but the tours change.

23 Q Then after the tour changed do you remember
24 any of you guys or Mr. Henriquez making any noise and
25 asking for medical attention?

JESUS RAMOS

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 1 A Yes. We was actually cursing out the female
 2 officers, telling that we was going to write it up and
 3 get her fired for refusing medical attention, because he
 4 needed - I could see, I could hear that he needed
 5 medical attention. He actually was crying to me like "I
 6 need medical attention."
 7 Q What did the female CO's say?
 8 A They didn't reply to us.
 9 Q Was that earlier in the day when the females
 10 were on?
 11 A Yes.
 12 Q After the shift changed and the two male CO's
 13 came on, do you remember anyone still asking for medical
 14 attention during their shift?
 15 A Yes.
 16 Q I'm going to go to another part of Exhibit 2
 17 which is at 1:10. I want you to listen to 1:10:40, on
 18 Plaintiff's Exhibit 2. I want to ask you if you
 19 recognize the voice. There's a crime scene that was
 20 established after the death, and there's some audio on
 21 here. It's going to be -
 22 MR. GIORDANO: Off the record.
 23 A That's us screaming.
 24 Q Where, at 1:08 seconds do you recognize the
 25 voices?

10
 1 A No, I don't recognize exactly whose voice it
 2 was because it's been, you know-- some of them people I
 3 didn't really know, but I know for a fact that we was
 4 screaming.
 5 Q What were you screaming at that time?
 6 A A lot of us was screaming "You're messed up,
 7 now you messed up. We told you, we told you he needs
 8 medical attention."
 9 Q I want you to listen carefully of what's at
 10 1:10:40. It's coming up. Is that another detainee
 11 screaming?
 12 A Yes.
 13 Q It's coming up.
 14 A That's my friend Sean Gillard, G-I-L-L-A-R-D.
 15 He was laughing, he was laughing, I think that's his
 16 laugh if I'm not mistaken, at the CO.
 17 Q Why was he laughing at the CO, do you know
 18 why he was laughing at the CO?
 19 A I remember - I know there's Desi Hilario
 20 (ph) He was another one of my friends who was in the
 21 box.
 22 Q Desi Hilario?
 23 A Yes.
 24 Q Who was the other guy who was in there?
 25 Listen --

11
 1 A There was like a nickname or a street name or
 2 that was-- Tayson Abreu (ph), maybe, I can't say for
 3 sure but--
 4 Q That's okay, that's okay. Now I want you to
 5 listen carefully to this next selection and see if you
 6 recognize the voice.
 7 A Yes, that was--
 8 Q Do you hear the detainee saying "I'll tell
 9 you everything you need to know, come to 6A"?
 10 A That was telling them to come to me if I'm
 11 not mistaken, telling them to come to me. I used to
 12 talk to him every day.
 13 Q What did you guys used to talk about, you and
 14 Andy?
 15 A Everything from girls to what we're going to
 16 do when we get out, how much time are we looking to
 17 take, what are our charges, what was we doing, like we
 18 like was acknowledging a lot of stuff we messed up on.
 19 Q Did he seem to be in pain during that time he
 20 was in the Bing?
 21 A He stopped talking a lot and like we be
 22 talking about girls, and he was like "my chest hurts,
 23 man, I feel like I can't breathe too much. They are not
 24 listening". I told him "Just breath, take deep breaths.
 25 I'm going to kick the door again" and I tell him like to

12
 1 chill for a little while. I start kicking and screaming
 2 and kicking the door.
 3 Q How did you feel after you found out that he
 4 died?
 5 A How did I feel, I felt bad.
 6 MR. DAVID: Note my objection to the
 7 question and answer.
 8 Q You can answer.
 9 A I feel bad because, you know, it could happen
 10 to any of us. I guess they think oh, we're criminals,
 11 that we're not human beings. That's how they treat us
 12 there, we're not human beings. Even here they treat us,
 13 just because we incarcerated, they don't treat us like
 14 human beings. Whether it's against the law or not,
 15 against me personally, I'm being honest, man, with my
 16 case, they don't care here, and they don't care about
 17 this.
 18 This is just the beginning to many more
 19 things that you have seen in the news that's going on,
 20 more people coming up, more things is happening, a lot
 21 of people are getting hurt behind what the CO's do, they
 22 don't care.
 23 Q What's it like to be in the Bing?
 24 MR. DAVID: Note my objection to the
 25 question.

JESUS RAMOS

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1 Q You can answer.

2 A It was, you know, it was -- in a way it was

3 hard because we wouldn't try to eat because of that

4 situation, but in the beginning it was alright, but it's

5 just you can't get no attention there, you know, you

6 gotta--if you need medical attention, if you need

7 medication or you need something and you want to get --

8 it's no way for you to get it there, like if you have a

9 problem, heart problems or something, there's no

10 response there.

11 Q During the time that you were in the Bing

12 with Andy did he cause any problems for anybody?

13 A For anybody, no, he was actually a calm

14 person. We was in the bus and we was going wild in the

15 bus, you know, we was going wild in the bus. He was the

16 only one that just stand there handcuffed to his back.

17 Everybody had their cuffs in the front. He was the only

18 one that stood calm.

19 Q This is when you were being transferred in

20 the bus to the Bing?

21 A Yes.

22 Q And just for the record, these were marked

23 earlier today as Exhibits 4 and 3. Do you recognize the

24 person in these photos depicted as the young man who

25 died on April 7, 2013 in the Bing?

14

1 A I know this one for a fact, this is him here.

2 Q Number 4?

3 A His face, but his face here looks--

4 Q Where he is dead?

5 A Yes, like --

6 Q You can't tell from the dead photo?

7 A I could tell it's him, but it don't look--

8 Q He looks different?

9 A From the way I saw him.

10 Q I got it, but you can tell from #4 that

11 that's him?

12 A Yes.

13 Q The lawyer for the City is going to want to

14 ask you a few questions. I may ask you a few questions

15 in follow-up. Thank you very much, sir.

16 EXAMINATION BY:

17 MR. DAVID:

18 Q Mr. Ramos, my name is Anshel David. I'm an

19 attorney for the City of New York. I'm going to ask you

20 a couple of questions. If you don't understand the

21 question call it to my attention and I'll be happy to

22 ask it again.

23 When you were asking for help from the two

24 female CO's did the CO's say anything to you or to Mr.

25 Henriquez?

15

1 A No, they wouldn't respond. When I used to

2 call out they wouldn't respond.

3 Q Do you know their names?

4 A No, I don't, honestly I don't know their

5 names.

6 Q These were the two female CO's that were on

7 duty the day Mr. Henriquez died, is that correct?

8 A Yes.

9 Q And what time of day did they remain on duty,

10 before lunch, after lunch?

11 A Tour changes around 3:00 o'clock, that's the

12 tour change.

13 Q Do you remember whether they were on duty

14 till about 3:00 o'clock that day?

15 A 3, 3:30, yes.

16 Q After the tour change did you and Mr.

17 Henriquez still continue to call for medical help?

18 A Yes.

19 Q And who were the CO's on duty after the tour

20 change?

21 A I don't know because when you're in the box

22 it's just a little window, you can't really get to read

23 their badge, their name, their number.

24 Q Can you describe, male, female?

25 A You get a little window that you wouldn't be

16

1 able to see, you just see somebody there, you don't

2 really get to see too much.

3 Q Did they respond in any way to your request

4 for medical attention?

5 A No, until -- the only time they decided to

6 respond at that time was when he did the count, when he

7 did the count, that he started--they started banging on

8 the door and I guess Mr. Henriquez wasn't moving.

9 Q Do you know what an SPA is?

10 A Yes, Suicide Prevention Agent.

11 Q Was there one on duty that day?

12 A No.

13 Q Do you know if there was supposed to be an

14 SPA on duty?

15 A I don't know because that house we was in,

16 right, that's like a holding area till they find you

17 another house where you going to do your box time.

18 Q Why were you in the box?

19 A Why? For a fight.

20 Q Why were you in Riker's, what were the

21 charges against you?

22 A Me, attempted murder, home invasion, armed

23 robbery.

24 Q Were you ever tried for those offenses?

25 MR. GIORDANO: Just time out for a

JESUS RAMOS

17

second. Off the record.

(Whereupon an off the record discussion was held.)

MR. DAVID: Let the record show that I started to ask Mr. Ramos details about his case. Mr. Giordano objected and I'm reserving my rights to call him back and re-question him about that.

MR. GIORDANO: Note for the record, the witness is here to testify with regards to an incident that occurred on April 7, 2013 and it would not be correct to ask this individual about personal criminal matters without his attorney being present, and he has a Fifth Amendment right not to talk about any of those aspects of his own personal case.

If you want to talk to the Judge about that or submit a Motion, that's your -

MR. DAVID: I'm reserving my rights.

MR. GIORDANO: Absolutely.

RECORDED BY:

MR. DAVID: (cont.)

Q On the day Andy died was there a sick call that morning?

18

told his mom and he told his girlfriend that they were refusing medical attention, to keep calling Riker's to find out what's going on.

Q He told you his mom and girlfriend, he told you that he told his mom and girlfriend on the telephone to keep calling Riker's to get him medical attention?

A Yes.

Q And he told the CO on the day -- he told this to you on the day he died, he told you?

A No, it was the day before, the day before, the day he died I couldn't be sure to tell you if he made a phone call. I know the day before, yes, I remember him telling me that.

Q On the day he died, he did not tell you on that day that he made a phone call?

A No, he didn't tell me.

Q Did he have a visit on the day he died?

A Not that I know of, no.

Q How about the day before?

A The day before, that I know of, no.

Q Andy never said anything to you about having a visit the day before he died?

MR. GIORDANO: If you remember.

A No, I don't remember.

MR. DAVID: Of course if he remembers.

18

A That I can remember, no.

Q On the day Andy died did he have any telephone conversations?

A I think he did call somebody, but I remember him telling me -- he gave me his mother's number and he said if anything happened, to call his mother and let her know, and a couple of us would call, you know, and I called, even when they put me in another house for me to do my Bing time, I would call my wife, I would call my mother and tell them they are refusing medical attention. The kid died. They were refusing medical attention, so we continued, a lot of us continued to call asking for help.

Q Did you call Andy's mother?

A I didn't get the opportunity to, no.

Q My question was on the day he died did Andy make a phone call?

A I can't honestly--I can't tell you that because I don't know. I remember I got the phone that day so I'm pretty sure I did make a phone call, if anything.

Q What are you sure, he did make a phone call?

A I think I'm actually sure, to be honest, yes.

Q Why are you sure that he made a phone call?

A Because I remember him telling me that he

20

Q Were you ever interviewed by a Corrections Department Investigator in connection with the matter of Andy's death?

A Yes, IG came around.

Q And you spoke to the IG?

A I told them they refused --

Q What did you tell IG?

A They refused medical attention. A couple of other people felt they didn't want to stand up and speak, but I felt once she decided she wanted to record, I wasn't going to do that.

MR. DAVID: Mark this Defendant's A for identification.

(Whereupon the aforementioned document was marked Defendant's Exhibit A for identification.)

MR. GIORDANO: Did you say IG tried to take a taperecording of your statement?

THE WITNESS: Yes.

Q Were you ever interviewed by a male investigator?

A A male had first came around, yes, I remember a male coming around and I refused to talk to him because I didn't feel he was going to do the right thing, and at that time I just felt like I don't want to

JESUS RAMOS

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CERTIFICATE

STATE OF NEW YORK
COUNTY OF NEW YORK

I, LAUREN MILLER, a Notary Public within
and for the State of New York do hereby certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and that such an
examination is a true record of the testimony given by
such a witness.

I further certify that I am not related
to any of the parties to this action by blood or
marriage, and that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 9th day of April 2014.

LAUREN MILLER

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INFORMATION REQUESTED

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EXHIBITS

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