

1 **APPEARANCES VIA TELEPHONE:**

2 FOR THE PLAINTIFF, THE UNITED STATES OF AMERICA:

3 MATTHEW SCHUTZER, ESQ.

 DEENA FOX, ESQ.

4 MITZI DEASE PAIGE, ESQ

 PATRICK HOLKINS, ESQ.

5 REGAN RUSH, ESQ.

 SARAH T. RUSSO, ESQ.

6

 FOR THE DEFENDANT, THE STATE OF MISSISSIPPI:

7

 JAMES SHELSON, ESQ.

8 HAROLD PIZZETTA, ESQ.

 WILLIAM ROSAMOND, ESQ.

9

 ALSO PRESENT:

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 DR. MICHAEL F. HOGAN, SPECIAL MASTER

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 KEITHFER ROBINSON

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1 **PROCEEDINGS VIA TELEPHONE, APRIL 27, 2020**

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3 THE COURT: Good morning. I know we're all trying to

4 navigate this situation that we all are in with COVID-19.

5 I'll just ask when you -- because the court reporter actually

6 is in the courtroom, when you're speaking, please be

7 deliberate about your tone, your modulation, and all of that,

8 the speed at which you're speaking, because the court reporter

9 is taking the transcript as best as she can and any sort of

10 lapse that might occur in communication might be a little bit

11 difficult. Try to pause between the time you might speak and

12 someone else might speak, so that the two people -- two or

13 three people will not be speaking at the same time.

14 Finally before speaking, please identify yourself,

15 because although we are in the courtroom, we cannot see each

16 other. I do recognize most people's voices so -- but the

17 court reporter does not have the benefit of that, because

18 y'all just have not been before her as much as you've been

19 before me. So I say all of that.

20 Also, this hearing is made available to the public. The

21 public is on the line, I believe. I don't know who. They

22 cannot be seen nor can they be heard, because we have it

23 designed where they can only hear. If I ask a question that

24 might require counsel to divulge confidential information, I

25 apologize, but please let me know, so that we can for -- so

1 that we can have -- so you can approach the bench and speak
2 about anything that we might have to talk about outside of the
3 presence of the public just like in any other court
4 proceedings.

5 So I guess first of all, after those preliminary
6 instructions, I wanted to thank each of you for your diligence
7 for attending this hearing, and I want to make sure that we've
8 gotten started, on a foot at least, to see how -- basically,
9 to hear from the special master. So -- and I know he's done
10 me -- done us a written report that we've seen. But I think
11 because of the magnitude of this case, and I know this case is
12 being followed by the public. In fact, I have a couple of
13 questions with respect to that of the state at some point in
14 time. I know that the public has been following, including
15 public officials, because they may be taking steps to try to
16 do things to address some of the issues that the Court
17 identified in its order. And we may see if any -- what, if
18 any, steps have been taken in that regard.

19 But I do want to hear from Mr. Hogan, who I've appointed
20 as the special master in this case. Just to hear from him
21 briefly about what he believes his charge is and how he
22 intends to accomplish those goals.

23 One of the things that I did point out in my order, the
24 initial order finding that there needs to be some sort of
25 remedy in place, I think there's a line in that order about

1 the parties and everyone else might be forgiven for throwing
2 up their hands in exasperation at the complexity of this
3 situation. And I said that because I know this is an awesome
4 task for anyone, and I believe the parties are going to work
5 collectively to not only identify what the problems are, but
6 to address those problems.

7 I also mentioned that one of the witnesses testified
8 during the court -- or during the proceeding that she
9 recognized that Mississippi, you know, was doing some things,
10 and that there were people within the Department of Mental
11 Health who wanted to see the change. It's just that change
12 has not been coming soon enough, basically, and so we do want
13 to make sure that we get to the right result at the end of the
14 day. And in that regard, I realize the end of the day
15 projection might have to be further down the road a little bit
16 because of the unique situation that the country is in right
17 now.

18 But I do want to hear from you, Mr. Hogan, so that you
19 could tell us what you believe your charge is, and how do you
20 intend to tackle that charge?

21 MS. FOX: Your Honor, this is Deena Fox. Before
22 Mr. Hogan -- Dr. Hogan begins, I wanted to let you know we've
23 heard from someone who is trying to call in to the public
24 line, and they've only heard elevator music and that the host
25 has not arrived. So I'm not sure if anyone from the court

1 system needs to open the conference line for the public line,
2 but I just wanted to let you know about that issue.

3 THE COURT: Okay. Thank you, Ms. Fox. Hold on for one
4 second then. Thank you.

5 MR. ROBINSON: Judge, I think they may be in now. I
6 just checked and tested, so...

7 THE COURT: Okay. All right. We believe the line is
8 open, Ms. Fox. We believe it is. So I'll -- if -- our
9 chambers e-mail is being monitored, so if anyone in the public
10 has any difficulty, you can contact the Court's chambers'
11 e-mail or either the clerk's office and let us know if you
12 cannot get in.

13 MS. FOX: Thank you very much.

14 THE COURT: All right. All right. Thank you, Ms. Fox.
15 Mr. Hogan, I turn to you.

16 SPECIAL MASTER HOGAN: Yes, Mike Hogan for the reporter.
17 Thank you, Your Honor, for the opportunity to work on this
18 problem. As you say, it is exceedingly complicated, but the
19 parties are very well informed. And I know my way around the
20 territory generally, although I wish -- I wish I understood
21 more about the circumstances in Mississippi.

22 Your charge to me was to review the record, confer with
23 counsel, and to propose a plan to remedy the ADA violations
24 you identified in your September 2019 order. I must begin
25 with --

1 THE COURT: Mr. Hogan --

2 SPECIAL MASTER HOGAN: Yes, sir.

3 THE COURT: -- Mr. Hogan, I'm sorry to come across you.
4 I think my public line might not be available. If you'll just
5 hold for a second?

6 SPECIAL MASTER HOGAN: Yes, sir.

7 THE COURT: Hold on for just one second, please.

8 MR. ROBINSON: Hey, Judge, I just got a text, and I
9 think it's open now.

10 THE COURT: Okay. Thank you. I got that same text.
11 Thank you. Okay. Thank you. Thank you. I'm sorry,
12 Mr. Hogan. Again, we're operating under unique circumstances
13 here. It may be -- it may not be so unique in a few weeks or
14 a few months. We may be operating like this for some period
15 of time, but I apologize for cutting across you. I want to
16 make sure that, again, this issue is -- this issue, this case,
17 as many of the cases that the Court has, has some public
18 relevance, and I want to make sure that the public is always
19 involved. So if you will, Mr. Hogan; I'm sorry. If you will
20 repeat what you were saying.

21 SPECIAL MASTER HOGAN: Yes. Thank you, Your Honor. So
22 your charge to me is to review the record, which is
23 voluminous, to confer with the parties, and ultimately to
24 propose a plan to remedy the violations of the Americans with
25 Disabilities Act that you identified in your September 2019

1 order.

2 I guess I must begin with two comments. One is to
3 appreciate, as you've already noted, the diligence and
4 forbearance of the parties with me to help get me up to speed
5 and also to participate in a number of phone calls and
6 especially, too, conversations or negotiating sessions that we
7 have conducted.

8 I will note that doing this in this fashion is
9 challenging, and at my age and possible ineptitude at working
10 with a media like this was already apparent in one of those
11 negotiating sessions when I couldn't make the computer work;
12 but we have pressed on. I do particularly want to appreciate
13 the participation of the state officials whose day-to-day
14 duties have gotten much more demanding and onerous with people
15 in their care who are vulnerable. But they've been present
16 and accounted for also when we have -- when we have met.

17 So the first task, far from complete for me, is to try
18 and learn the record. The parties did provide it to me, and
19 thankfully also the parties agreed on key aspects or exhibits
20 in that record, including some testimony in the court and
21 reports and data and documents from the Department of Mental
22 Health. And so I've been studying them quite a bit.

23 The second task, I guess for me, was to review the
24 preliminary offers or initial proposals that both the state
25 and the Department of Justice prepared as, in effect, offers

1 to become a -- become a plan. And I guess without going into
2 too much detail there, I will just say that both of those
3 proposals were substantive. Neither is going to settle the
4 case in and of itself. The -- I guess I would say that the
5 positions that are apparent in those proposals are not
6 inconsistent with the -- the approaches that the parties took
7 at trial. Although, they go beyond that in a way to try to
8 settle the case.

9 So I would say the -- the third task has been to
10 commence conversations to try to explore where there might be
11 space that could be agreed between or among the proposals of
12 the parties to become a remedial plan, and we have had to date
13 two substantive conversations to explore that. These have not
14 yet gone to concrete proposals, but they've illuminated some
15 of the issues and concerns that the parties have.

16 And so now I would say the task becomes to pivot from
17 this initial studying and a collaborative definition of
18 directions and to get into planning and negotiations, and that
19 will be a challenging task. But, again, I want to note the
20 collaborative spirit that the parties have brought to the task
21 and the deep knowledge they have of -- of things on the ground
22 in Mississippi.

23 I guess the only other issue that I would mention -- and
24 I can do that now, or we can put it off, as you wish -- has to
25 do with the question to which I, as special master, can engage

1 with people on the ground in Mississippi to try to understand
2 better how things work and to explore from their perspective
3 solutions to the case. So I talk about that some more now, or
4 do we want to put that off?

5 THE COURT: You may talk about that now because one of
6 the -- I think in your report, I think you ask that specific
7 question based on your reading of my order. I believe it
8 probably was not clear as to whether or not you should engage
9 outside of the record, but on reflection, I do think that it
10 might be worthy for you to have, I assume, some contact with
11 stakeholders or advocates or people who care about this
12 system. And it might require that you do -- you know, it
13 might require that you do have at least some minimal
14 conversations.

15 I would like to hear from the parties on that issue if
16 that's -- if this is appropriate time in your mind to discuss
17 that. Any -- I mean, are there -- to the state of
18 Mississippi, I mean, would this be something -- should the
19 master, for example, notify the parties whom he -- notify the
20 individuals or the entities that he seeks to talk to prior to
21 engaging in conversation? Should he let you-all know either
22 beforehand, or after the fact or allow you, if you needed to
23 be, to be a part of those conversations? I think this is
24 something we need to talk about.

25 SPECIAL MASTER HOGAN: This is Mike Hogan again. I

1 think you've framed it well, Your Honor. I do believe those
2 conversations would be -- would be helpful. They would need
3 to be candid. I would like to understand more about how the
4 hospitals and the community mental health centers actually
5 work. And so -- but I think you've -- you've covered the
6 territory. And I believe counsel for both parties has some
7 concerns or suggestions about this, so I will be quiet for
8 now.

9 THE COURT: Okay. And I understand. Again, I want to
10 make sure because we do have the public -- I mean, it's one
11 thing having the public present. It's another thing having
12 the public present, and they cannot hear. I understand
13 there's a lot of static, Mr. Robinson, on that public line,
14 and I'm going to see if I get another text. It says difficult
15 to understand because of all the static. So I want to make
16 sure that the people actually can hear and not just be
17 present. I'll wait on a text to tell me if they can hear now.

18 MR. ROBINSON: Hey, Judge, this is Keithfer --

19 SPECIAL MASTER HOGAN: Thank you, Your Honor. Sometimes
20 we know that people have to mute their phone, even if they're
21 not speaking, to reduce the background noise.

22 MR. ROBINSON: Hey, Judge, this is Keithfer. If you'll
23 give me just a few minutes, I may disconnect that public line
24 real quick and re-join it, and we'll see if that helps.

25 THE COURT: Okay. Okay. Let's go off the record.

1 (A brief recess was taken.)

2 THE COURT: Again, parties, you know, I apologize for
3 these technical mishaps. So where we stopped was, I was
4 asking Mr. Hogan one of the questions that has arisen is if
5 the master can or should seek information that may not be part
6 of the current record that we have, but in doing his due
7 diligence, might he have to speak to certain stakeholders or
8 advocates or persons who have a peculiar interest in our
9 mental health system to sort of just seek out information
10 about the operations, if you will, of our mental health system
11 that might not be clear from the particular record.

12 And if he is permitted to do that, should he let the
13 parties know with whom he may be speaking either before he
14 goes to talk to them or afterwards or even invite the parties
15 to go along with him while he does that additional work of
16 trying to figure out what might be useful to him to help him
17 prepare his record. And I do know one of the things that we
18 all would be concerned about is the cost in doing that. We
19 don't want to -- I'm pretty sure the parties -- I'm pretty
20 sure the parties, not just the state, does not want to incur
21 unnecessary costs, and if there are things that can be pointed
22 to in the record that could address or answer a particular
23 question, then, yes, it's there in the record and no need to
24 invest too much time, too much energy, too much expenses in
25 trying to get to an issue that we already know.

1 But I understand from the special master there are
2 certain other things that might not be clear from the record
3 or that might -- him knowing the background might help
4 expedite what he's doing, so I do want to talk to the parties
5 about that. And I'll start with -- I guess I initially said
6 I'll start with the state, so I will start with the state.
7 What might be your position on that?

8 MR. SHELSON: Your Honor, this is Jim Shelson. The
9 state opposes that request for a number of reasons. If Your
10 Honor wants me to launch into them, I'll be glad to do that.

11 The state would also separately request we be able to
12 file written objections just so that's -- that's a part of
13 that, the file record, too.

14 But the first reason, Your Honor, is the process is
15 working. I don't think anybody disputes that. As the special
16 master already said, the parties are cooperating. The state
17 is engaging with senior-level people. We know of no instance
18 where the special master asked for something from the state,
19 and the state refused to give it to him. If somebody were
20 stonewalling the special master, this might be a different
21 conversation, but that's just not happening.

22 The second reason, Your Honor, is engaging outside the
23 record untethers the remedy from the record. We respectfully
24 submit that untethering the remedy from the record invites
25 error. In our view, the special master is not working on a

1 blank canvas. The canvas is the record, and the special
2 master should stay on that canvas. We're in no way saying
3 he's not doing that, but we think it would be a mistake for
4 him -- to allow him to depart from the record.

5 The special master's mandate is clear from Your Honor's
6 order appointing him. We -- we disagree a little bit with how
7 the special master stated his charge at the beginning of this
8 call, and we can get into that in more depth if Your Honor
9 would like to. But the Court specifically -- the Court first
10 made clear that the mental health needs are well known.
11 Services to expand have already been defined, and we do not
12 additional discovery or consultants.

13 The Court then identified two specific things that the
14 Court's looking for from the special master. One is a
15 timeline, and two is how to measure success. And opening up
16 the record in -- in unlimited and in undefined ways we don't
17 think advances the ball on either of those.

18 The third reason, Your Honor, is as we understand the
19 special master's charge, he is not a factfinder, and we
20 respectfully submit -- "we" being the state -- to put him in
21 that role in any respect.

22 The problem with talking to staff and stakeholders is
23 that the parties have had an opportunity to present whatever
24 they wanted to present at trial from both those sources, and
25 they both did that to some extent and they both rested. So

1 opening this back up, in an unlimited way especially, to talk
2 to staff and stakeholders is, in some respect, starting over.
3 And not just for cost reasons, but for a number of other
4 reasons, that's certainly not an attractive idea to the state,
5 and we hope its not an attractive idea to the United States.

6 But, again, Your Honor, the parties had the opportunity
7 to call the special master, call staff, and stakeholders as
8 witnesses at trial; they did that, they rested, and that part
9 of the process should be over.

10 The fourth reason, Your Honor, is -- is, again, and this
11 is no negative reflection on the special master. He's got a
12 tough job. He's doing it thoroughly and diligently, and we
13 appreciate his efforts. But the proposal to talk to staff,
14 stakeholders is a form of discovery without the safeguards
15 of -- of the Federal Rules of Civil Procedure discovery and
16 with no evidentiary safeguards whatsoever. As proposed by the
17 special master, the parties would not even be participants,
18 and they would effectively deprive the state of its counsel,
19 especially when -- when the special master were talking to
20 individuals who work with the state.

21 Again, there's no evidentiary safeguards whatsoever.
22 The parties will not know who the information comes from, will
23 not know what the special master used it for, would not know
24 whether the information is anecdotal, hearsay, or based on
25 personal knowledge. And none of the special master's extra

1 record discussions will be subject to cross-examination.

2 The fifth reason, Your Honor, is the special master's
3 proposal is unlimited, and DOJ is separately making its own
4 substantial requests for additional information. And it -- at
5 some point, Your Honor, especially in the middle of a
6 pandemic, it's just too much. And, again, we don't need to
7 start over. We don't need to do discovery over. The Court
8 has already ruled on that in appointing the special master,
9 and we respectfully submit it would be a mistake to reopen
10 discovery. But if discovery is reopened, it should have
11 all -- it should have the Federal Rule of Civil Procedure
12 safeguards and the evidentiary safeguards that are available
13 in litigation because we're still -- unfortunately, still at
14 this stage of this, should be available. And that was long,
15 Your Honor, but that is a summary of the state's position.

16 THE COURT: Well, it's clear that you came prepared to
17 answer that question, Mr. Shelson. Let me ask you this. The
18 record has not remained static, I don't believe, to the degree
19 at which -- obviously, I assume the state has attempted to do
20 some things or has fulfilled some of their things that they
21 might have said that they would do at the trial or, you
22 know -- you know, maybe since the trial record was closed,
23 maybe there have been some more paths open up, maybe there
24 have been some that were closed, maybe they've been moved
25 around.

1 But what if that information -- if those things were to
2 have occurred since last September when the record was closed,
3 is that something that the state needs to let the special
4 master know about as he prepares his report? And would that
5 be information that generally the -- under the state's theory
6 would be unavailable to the special master?

7 MR. SHELSON: Your Honor, the fact cutoff date was
8 December 31st, 2018, and that was a long time ago and the
9 state recognizes that. The state doesn't think anybody had
10 any expectation, including the Court, that the state system
11 would be frozen in place as of December 31st, 2018, and it has
12 not been. The state has continued to attempt to make
13 improvements to its mental health system.

14 So if there's a combined way so -- so we're not getting
15 over time multiple and overlapping requests from both the
16 special master and the DOJ, the state is willing to have that
17 discussion with both DOJ and the special master. And
18 hopefully it can be a unitary discussion, so, again, there's
19 not competing requests.

20 But to the extent that DOJ or the special master feels
21 that the state's expansion of its system since the trial fact
22 cutoff of December 31st, 2018, that that information is needed
23 to get done what we're trying to get done here, the state's
24 willing to have that discussion. But that's a much more
25 narrow -- and it's a defined subject matter than I think what

1 is being proposed.

2 THE COURT: Okay. Let me hear -- let me hear from DOJ
3 on that -- on those particular issues.

4 MS. FOX: Thank you, Your Honor. This is Deena Fox.
5 The -- we think that there are a few different buckets of
6 information that would be appropriate to update that are
7 outside of the trial record or that might be useful to the
8 special master at this time during the process of mediation,
9 and we think they fall into a few different categories that I
10 want to address separately.

11 First, I'll go through the last subject that you and
12 Mr. Shelson were discussing, which is updates to facts that
13 were in the record as of the time of trial. We have proposed
14 to the state a set of specific facts that we -- we did engage
15 the special master before we shared our proposal with the
16 state to try and ensure that it covers information that the
17 special master would find useful. Specific targeted requests,
18 like, you know, where the task teams are and how many people
19 are being served by those, more recent data than what was
20 included in, you know, the stipulations and the trial record
21 given that time has passed and the importance of ensuring that
22 any remedy that the Court ultimately orders is based on
23 knowledge of a continuing and ongoing violation of
24 individuals' rights. So we think that would be an important
25 piece of the puzzle, and that would be information that we

1 would hope the parties can agree would be submitted to the
2 Court and added to the record of this case.

3 Second is information that Mr. Shelson referred to that
4 is being shared informally by the parties during negotiations.
5 As Mr. Shelson alluded to, the state has been including the
6 leadership of the state agencies that are involved in those
7 conversations. One point we'd like to clarify in the order
8 appointing Dr. Hogan is that it referred only to
9 communications with counsel of record and with the court. We
10 interpreted that, the parties did, and informed the Court we
11 were interpreting that to include the party representatives.
12 And we have been including those individuals in these
13 conversations. We want to clarify on the record that that is
14 what was intended, and in any updated order appointing the
15 special master, modifying the appointment.

16 We think that that is useful and important as far as
17 enabling Dr. Hogan to assess the parties' proposals and what
18 will be feasible for the state in fulfilling the duties that
19 the Court has laid out, and we would ask that those continue
20 to go forward.

21 The information being shared during that, we think it's
22 appropriate for Dr. Hogan to be able to make requests of the
23 state for information and for the state to respond. Again, we
24 would ask that the appointment order reflect that he has that
25 ability to seek that information, again, all directed

1 specifically at assessing and planning for a remedial order.
2 So not, you know, as Mr. Shelson said, unlimited and about any
3 subject matter, but really specifically targeted at the remedy
4 and assessing the parties' proposals.

5 The final bucket of information that I think Dr. Hogan
6 started us off with is the question of people outside of the
7 party representatives and information shared there, but third
8 parties. Again, United States doesn't object to those
9 communications to the extent that they are focused on this
10 question of assessing what is feasible as Dr. Hogan is
11 developing his plan and working with the parties. To the
12 extent that those communications, though, are permitted to
13 proceed, we would ask that the counsel for the parties be
14 present or invited to participate in those communications and
15 be given at -- you know, warning in advance of the
16 conversations so that we can ensure, as Mr. Shelson mentioned,
17 that the parties are aware of what information is being
18 shared. And, again, we would expect that that information
19 would be used only for the purpose of assessing what is
20 feasible and whether some of the suggestions or proposals made
21 by the parties are actually practicable going forward.

22 We do believe that we've provided a significant amount
23 of information through the record that addresses many of the
24 background facts. But, of course, any -- you know, all of us
25 have had the benefit of learning about this system for many

1 years through the course of this litigation and beyond, and so
2 it's a very different perspective for someone coming in and
3 trying to learn it all through a cold record. And we
4 understand the desire to really quickly get us to speed and
5 figure out what is possible given the way that the system
6 works on the ground.

7 So to the extent that any of those pieces of information
8 are going to be permitted, we would ask that the Court's
9 appointment order be modified and clarified to address that
10 and also address the recordkeeping that Dr. Hogan will conduct
11 during -- you know, to ensure that everyone is aware
12 throughout the process about any contact that he does have.

13 THE COURT: Okay. Well, Mr. Shelson, you did
14 specifically ask to be able to make certain written objections
15 or put your objections in writing, and the Court will allow
16 you to do that. You know, the record, though -- I will say to
17 the parties and to the master, the record is the record, and
18 whatever information we need to know about how things worked
19 up until December the 18th or December 2018 is there in the
20 record. And I -- you know, to the extent the master, if it's
21 not clear, can consult with the parties and they can agree on
22 things that this is the way things worked up until that point.
23 It may be clear from the record. It may be clear from the
24 judge's order, then that should frame that. But to the extent
25 I do believe -- to the extent we're looking at -- to the

1 extent we're trying to sort of craft a remedy that takes us
2 through 2019, 2020, 2021, and beyond, I do think -- and,
3 again, I'll take the state's written objections, but I think
4 it might make some sense to have some conversations or some
5 communications with folk who can help with that information on
6 a going-forward basis, I would think. Again, I'm going to
7 accept the state's -- I'm going to allow the state to file its
8 written objections. But off the top of my head, I think that
9 there might have to be at least some communications with
10 individuals, because the system is not static.

11 In fact, one of the questions that I wanted to raise
12 with the state is, I know since the legislature has come into
13 session, for example, I do know from what I've read in the
14 paper that there is a new chairman of the committee that deals
15 with mental health. Obviously, there's new leadership.
16 There's a new lieutenant governor in the senate, and that
17 lieutenant governor, I believe, has appointed Hob Bryan,
18 Senator Hob Bryan, as the chairman, I believe, of the
19 committee that oversees the Department of Mental Health. And
20 I think I read in the paper that he has at least -- I'm not
21 sure if there's a bill that's out there that is -- you know,
22 because the legislative session was interrupted. But I think
23 I read in the paper where he at least voted some proposal out
24 there. Again, in trying to move forward and trying to craft a
25 remedy that the -- a remedy for the mental health program, you

1 know, would some information about what has happened since
2 2018 be -- I mean, I'm assuming the state would not contend
3 that information that comes out of this legislative session,
4 for example, would not be information that would be helpful to
5 the master.

6 The state is not taking that position; correct?

7 MR. SHELSON: This is Jim Shelson, Your Honor, and, Your
8 Honor, you are correct.

9 THE COURT: Okay. All right. So but I'll take the
10 state's written objections, and I'll consider any response
11 that the United States makes. But I do -- I do not -- now,
12 this is my conversation to the parties and the special master.
13 I do not want to retread things that are in the record. It
14 seems to me that we can -- if the special master needs to get
15 information that's "outside of the record" from particular
16 individuals, it can be narrowly focused, and that the parties
17 can be "present" at the time through some way. I mean, either
18 present through written communications or present physically
19 or present through Zoom or whatever might be -- it seems to me
20 we can -- we can craft an approach where the parties interests
21 are still protected, but I don't think the parties ought to be
22 spending a lot of money into re-creating the wheel in this
23 case. And I do think that, again, the monies that are
24 expended should be -- the monies going into developing or
25 refining or making this system that we have work better.

1 But I'll take the state's written objections, and I know
2 you've already, I think to some degree -- I'm not sure if
3 you've put all those objections in writing, but I know I've
4 heard these objections before. But I do think it's
5 appropriate to allow you to put them in writing, Mr. Shelson.
6 So that, you know, our record will be complete on this. So --
7 yeah, so that our record will be complete, and then the
8 Government would have an opportunity to respond, and we will
9 act accordingly.

10 In the meantime, however, I do want the special master
11 to move forward with his work. No need to delay, you know,
12 significant -- I mean, no need to really delay what he needs
13 to do, because we need to find the best way to get to the end
14 result as quickly as possible through this pandemic that we're
15 in. And I'm -- you know, the initial timeline that the Court
16 had in mind, obviously, is probably going to have to be
17 adjusted to some degree.

18 Mr. Hogan, have you thought about the types of
19 stakeholders or the -- or, you know, Mr. Shelson mentioned
20 being concerned about talking to staff and other
21 representatives within the state. Have you thought about,
22 Mr. Hogan, what individuals or institutions or anything that
23 you think you might need to speak with to help you understand
24 where you might have to go?

25 SPECIAL MASTER HOGAN: Thank you, Your Honor. I have in

1 a preliminary way, and I'll just illustrate a couple of
2 examples. The community mental health centers are obviously
3 pivotal in this. They operate most of the programs that the
4 department, as well as the Division of Medicaid fund or
5 reimburse. As the trial record makes clear, the state's rules
6 regarding those services are quite extensive.

7 My observation from years in this business is that a
8 community mental health program, like any other institution,
9 the whole is somewhat more than the sum of its parts. And --
10 but things -- things work differently based on leadership and
11 so on, so I'm interested in how these organizations work with
12 respect to the requirements of the ADA. And a subplot, if you
13 will, of that is that the state funds mental health services
14 both through Department of Mental Health grants and through
15 Medicaid. These are very different mechanisms and suffice it
16 to say they -- it appears that they may not work that well
17 together. Some things that Medicaid pays for don't seem to
18 happen that much, and some areas where grants are provided, it
19 looks as if Medicaid might enhance those programs
20 substantially. But it's not clear that it -- that it does.

21 There are -- the state has in effect hired managed care
22 organizations to manage the Medicaid program, and it's not
23 clear how they work in relation to what's at issue in this --
24 in this case. So that would be an example of something that
25 I'm trying to explore. I guess another -- so I would want to

1 talk to some community mental health center people, and not a
2 lot of them, not necessarily in every center, but enough to
3 know how things work. I haven't seen, for example -- maybe
4 there's something in the voluminous record that I've missed.
5 But I haven't seen budgets or annual reports from the mental
6 health centers, so I see there's a lot of information about
7 X-grant works, and there's some information about how this
8 Medicaid program works. But I don't know how those things
9 work together. And for this to be resolved substantially,
10 whatever ultimately emerges from the case is going to have to
11 be executed by those -- by those parties.

12 I think I'll stop there. I guess one other -- one other
13 comment, and to say my kid sister developed schizophrenia
14 about the same time that I started working in mental health.
15 And my observation is that her career and my career look quite
16 different, and things look a little different from the corner
17 office than they do from the street. And neither party has
18 the whole truth, and I guess based on that, I think it would
19 be very helpful to talk to a limited number of advocates who
20 would have their own view of how things work and what works
21 and what doesn't and what might help shape a remedial order
22 that would be effective when implemented.

23 So before I go on and on, I think I'll just stop there.
24 Those might be some examples.

25 THE COURT: Okay. Thank you, Mr. Hogan. Let me ask

1 you, Mr. Shelson, how much time do you think you need to --
2 I'm willing to give you as much time as you need to submit any
3 written objections.

4 MR. SHELSON: Your Honor, this is Jim Shelson. If
5 its -- one week, if the Court thinks that's reasonable.

6 THE COURT: I was thinking -- I was thinking actually
7 14 days simply because of where we are and how we're doing
8 things. And I realize on one end, I'm talking about the
9 special master trying to do his thing as quickly as possible.
10 But you won't -- I'll give you the option seven, ten, or
11 14 days?

12 MR. SHELSON: Thank you, Your Honor. Jim Shelson again.
13 I would take ten days, Your Honor. Thank you.

14 THE COURT: Okay. All right. I'll give you ten days.
15 The government, the United States, then should respond in
16 seven days to what -- to those objections.

17 MS. FOX: Thank you, Your Honor.

18 THE COURT: All right. And, you know -- and then, you
19 know, it may be that the Court will consider them on the
20 papers, or if I need to hear from the master and the parties,
21 we may do that through a subsequent call to see if we can
22 reach an agreement on how to resolve that particular -- or how
23 to best resolve any of those objections, if possible.

24 The -- you know, the -- my overall thing is I do want,
25 obviously, the cooperation of the parties. And I don't -- and

1 I expect that the parties have been cooperating with the
2 master and we are doing -- when I say "we," the parties, the
3 master, they're doing the best that they can do to address the
4 issues that came forward during the trial.

5 Obviously, I think the main thing in the case was the
6 Court's belief that the State of Mississippi is overutilizing
7 hospitalization and underutilizing community-based resources,
8 and so the state, in the Court's view, needed to expand their
9 use of these community-based resources.

10 I am glad that the Division of Medicaid, I believe, has
11 been a part of the conversations since September and since the
12 time that Mr. Hogan has been involved. I think there have
13 been conversations at least with the Department of Mental
14 health and the Division of Medicaid, as I appreciate it, and
15 that's going to be helpful, I think, to everyone in trying to
16 find a path at which we can move forward.

17 Now, one of the issues that, you know, did not come up
18 or that this Court might not even be tasked with or that the
19 special master might not even be concerned with, but -- and
20 nobody knows where I'm going with this, because I just learned
21 of it on Friday, again, from the newspaper. And I'm not even
22 sure if -- even if we look at the grand scope of all the
23 things that we were talking about during the course of the
24 trial, whether this ought to be a concern for the special
25 master or the parties or anyone else. In light of the

1 pandemic, the COVID-19 stuff, I understand, again, from
2 reading the newspaper on Friday that there were a significant
3 number of positive tests within the Department of Mental
4 Health facilities, particularly over in Lauderdale County, I
5 believe.

6 Is that something that this Court ought to be concerned
7 with, that the special master ought to be concerned with, that
8 the parties ought to be concerned with? And maybe, you know,
9 again, nobody knew I would bring this up, because nobody knew
10 that I was reading the paper the other day. So I -- is
11 this -- is that something that has come to the attention of
12 the parties? I guess that's the first question. And should
13 we be concerned, alarmed, or should we just put that in the
14 category of that should stay where it is and no need for
15 anybody to be worried about that in this case?

16 SPECIAL MASTER HOGAN: Your Honor, this is Mike Hogan.
17 The -- this is a substantial concern and the -- many of the
18 individuals that the department is taking care of are
19 vulnerable. This is a -- it's a little bit of a digression,
20 but some of the people that are most vulnerable are
21 individuals with developmental disabilities who are not really
22 the focus of this case. But many live in group settings, and
23 the nature of their care is face-to-face.

24 But there are also concerns for many people in the
25 mental health systems, and those concerns are probably most

1 intense for those people who are in congregant settings like
2 hospitals. Their movement is restricted. Many of them have
3 other health conditions, and this is a really significant
4 national problem. There have been a number of deaths in
5 hospitals, as well as other facilities like board-and-care
6 homes all over the country.

7 I did get through other sources, and I just took the
8 liberty of sharing with Diana Mikula, the executive director,
9 some information about -- about this problem. There is a lot
10 of conversation going on among people in the field, for
11 example, the National Community Mental Health Centers Group is
12 working on it. I think the Association of State Mental Health
13 Directors is working on it, so it's a really big problem. I
14 am not -- I don't know what I have to say beyond that, other
15 than having just provided this little information that came
16 across my desk, I'm not sure how to be helpful.

17 And I do think that the staff, and particularly the
18 medical staff, are working under great pressure, so I think
19 its for our purposes respecting that and giving them the space
20 to do their work is important. And I guess that's about the
21 extent of my thoughts about this.

22 THE COURT: Any comment from --

23 MS. FOX: Your Honor, this is --

24 THE COURT: Oh, I'm sorry. Go ahead. It sounded like
25 that was Ms. Fox?

1 MS. FOX: Yes, Your Honor. I wanted to share that our
2 office, as you know, works with institutions around the
3 country and has certainly been engaging with a number of other
4 institutions of all types about this issue, and we do have
5 concerns, of course, about individuals who are currently
6 institutionalized in Mississippi. As -- as we have been
7 working toward throughout the course of this case, one
8 solution to reduce risk for those individuals is of course to
9 discharge to community-based services as soon as possible.
10 And we would be happy to engage with the state on, you know,
11 weekly updates, brief weekly updates, or other calls both to
12 provide any information that we are learning from our work
13 nationally and to learn about the steps that the state is
14 taking with that population now at risk due to COVID.

15 THE COURT: Okay. I guess I'll hear from the state. I
16 guess what, if any, does this at all -- should this at all be
17 sort of -- again, this is -- this obviously is all new
18 information. I mean, but should information such as this,
19 that is the number of positive findings over there in the
20 facilities among the individuals, should I guess -- obviously,
21 it's a concern. I mean, outside of this litigation or not,
22 it's a concern. But should information like that be useful to
23 the parties in seeking how we -- how the state provides these
24 services in a remedial sort of manner down the road? I mean,
25 should this -- should we be concerned, or should this

1 information be helpful? Because it is of concern. I think
2 that would be an under -- I mean, you know, it's -- I think
3 everybody agrees it's a concern. The question becomes for the
4 Court is whether it should be part of the framework that the
5 special master or anyone else ought to be looking at in this
6 particular case?

7 MR. SHELSON: Your Honor, this is Jim Shelson. It's
8 clearly a concern. The state is addressing it. It's on top
9 of it, but it should not be a part of this case. You know,
10 the record -- I'm not -- I don't want to get into a back and
11 forth about if the problem is more pronounced in congregant
12 settings and other settings.

13 But let me just say this. The record is clear that
14 virtually all the community-based services that we're talking
15 about now and we talked about at trial are face-to-face.
16 *pact is face-to-face. Mobile crisis response is
17 face-to-face. So a congregant setting, everybody in the state
18 gets that it's a concern. It's happened, and it's being
19 addressed appropriately. But to suggest that that's the only
20 setting in the context of mental health that this pandemic is
21 an issue in is just not so.

22 Not to make excuses, Your Honor, and we've tried not to.
23 We've soldiered on in the middle of a pandemic, and I think
24 we've done so cooperatively and well. And I think we're doing
25 what the Court expects us to do under the spirit and intent of

1 its orders.

2 But this, I would circle back to discovery. The state's
3 running a mental health system. It's running it in the middle
4 of a pandemic and we -- we -- that's another reason why we
5 have to be very careful about what we do regarding further --
6 further discovery or further opening the record.

7 I will just share this with the Court, when we got --
8 and I don't want to debate this in detail either. When we got
9 DOJ's request for supplemental information, it included 110
10 items, many with subparts. And the initial reaction we got to
11 that is, look, at some point, someone is going to have to tell
12 us whether you want us treating patients or gathering more
13 data and more documents.

14 So, to us, the pandemic is a huge concern, and the folks
15 in the mental health system who have COVID-19 are being
16 appropriately segregated and treated. And this really needs
17 to be in the context of why we need to be extra careful about
18 adding extra discovery demands onto the state mental health
19 workers.

20 THE COURT: Okay. Well, I mean, I think I heard from
21 the United States the obvious position would be if the
22 state -- I assume, I think this is what I heard. If the state
23 was confining less people who are otherwise qualified for
24 community-based services, then you would reduce the number of
25 people who might ultimately test positive. It's just -- and

1 this is a -- this may be a crass analogy, I guess, but it's
2 like our prison system. If you reduce the number of people
3 who are actually incarcerated who might not need to be
4 incarcerated, that is on the detention side of things, those
5 persons who maybe have not been convicted of anything yet.
6 But the way you possibly reduce the number of people who might
7 get a positive finding is to get them out of the system
8 that -- that gets them out of the place where they cannot use
9 the tools that the CDC says could help them prevent getting
10 the positive findings; i.e., being more than six feet apart,
11 being able to utilize the necessary hygiene information, and
12 things of that sort.

13 So what I think I heard from the United States was, you
14 know, if these patients who are otherwise qualified for
15 community-based services are institutionalized, then you
16 increase the risk of them being susceptible to getting a
17 positive finding of COVID-19, which would then have to result
18 in them being quarantined and, et cetera, et cetera, et
19 cetera.

20 So while -- you know, while the state is taking efforts
21 to protect those individuals and not -- I hear what you're
22 saying. I guess one of the concerns would be what if -- what
23 steps is the state taking, again, to reduce the population of
24 those people who it believes -- or who should not otherwise be
25 institutionalized?

1 MR. SHELSON: Your Honor, this is Jim Shelson again.
2 And -- and, Your Honor, that's the merits question, and Your
3 Honor has decided that, and Your Honor found against the
4 state. And the state -- the state agrees with the basic
5 proposition that fewer hospitalizations are better. The state
6 made its record of what its tried to do over time to reduce
7 that, and the Court has found what its found, that it wasn't
8 fast enough and enough. And since trial, the state has
9 continued to expand its community-based services. And as part
10 of its proposal at this stage of the litigation has proposed
11 further expansion.

12 But I'm not sure what to say, other than the state gets
13 that fewer hospitalizations are better, and that's the state's
14 goal and it continues to work towards that goal.

15 THE COURT: Okay.

16 SPECIAL MASTER HOGAN: Your Honor, if I might, this is
17 Mike Hogan.

18 THE COURT: Yes, Mr. Hogan.

19 SPECIAL MASTER HOGAN: Just on this -- on this question,
20 as I'm listening it occurs to me that this matter is -- it's a
21 different and scarier version of a problem that is much
22 broader than in psychiatric hospitals, and the problem is that
23 it's dangerous to go to a hospital, period. It's dangerous to
24 go to a hospital for anything. The best estimate these days
25 is 20,000 people die because of one kind or another of

1 medical -- medical error. And so its a -- you want to go
2 there, and now, ironically, people are staying out of
3 hospitals when they've got problems that might be treated
4 there, in part because of this, and we don't know what those
5 consequences are.

6 I guess my take on this is that, first, yes, this is
7 another reason to not be in a congregant setting. But number
8 two, as Mr. Shelson points out, there are a lot of things
9 going on and indeed our planning is to try to refine that, and
10 to the extent it's feasible and appropriate, to accelerate it.

11 I think that the medical and the psychiatric people are
12 going to have to be thinking about and learning about this as
13 we go forward, and I think we're going to know some things in
14 six months or a year from now that we don't know now. And I
15 guess my thought or my recommendation would be that we all
16 stay mindful of this; that we continue to monitor it; that we
17 consider on an ongoing basis whether the course of what we're
18 doing needs to be changed.

19 But I guess my take is that we don't know enough today
20 to do that, and that the medical personnel should be given the
21 space to do the work that they have to do. That would be my
22 thought, Your Honor.

23 THE COURT: Okay. Thank you, Mr. Hogan.

24 We're getting ready to wrap this up, I believe. But I
25 wanted to just make sure that the parties, again, continue to

1 work cooperatively as best as you can through the special
2 master. I think it was important to let the public know what
3 was going on, or what is going on, and I wanted to just make
4 sure that we're moving forward.

5 And I realize that our state of the world right now
6 might complicate how quickly we ought to get things done, but
7 I certainly don't think we ought to stop moving toward getting
8 things done. So with all of that being said, is there
9 anything else from the special master?

10 SPECIAL MASTER HOGAN: No, Your Honor.

11 THE COURT: Thank you so much for your attention,
12 Mr. Hogan. We appreciate your service.

13 Is there anything from the United States?

14 MS. FOX: Yes, Your Honor. This is Deena Fox. Just two
15 clarifications, or one clarification and one request. While
16 we definitely do want to continue pressing forward as quickly
17 as possible with the special master, I wanted to clarify that
18 the communications with third parties would not commence
19 unless there was a clarified -- unless and until there's a
20 new, clarified order from the Court; is that correct?

21 THE COURT: That's right. I'll take that up after I
22 receive the written objections.

23 MS. FOX: Okay. Thank you, Your Honor. And we would
24 like to file with any response to the objections a proposed
25 order to clarify those points, if that is acceptable?

1 THE COURT: That would be acceptable.

2 MS. FOX: Thank you, Your Honor. Final point was just
3 on the issue of timing that I know has come up a few times
4 this morning. We think that the status conference today has
5 been very useful. As I think we all know, deadlines are
6 useful at focusing the mind, and I think that they did focus
7 the parties on some productive conversations over the last few
8 weeks. And we think that it would be very useful to continue
9 having monthly status conferences to keep the public made
10 aware of what's going on in these -- in this process and to
11 ensure that the process moves forward and ensure we can
12 resolve any issues that arise, like this issue of third-party
13 communications, as quickly as possible.

14 We would also hope that while we don't have a deadline
15 for this process at this time, and I know the special master
16 is just, I think, considering what next steps and timelines
17 should be in light of the pivot to the next phase of the
18 process, we would hope that at the next status conference that
19 we could have a clearer idea of the process overall. As we
20 think that that would be very useful in ensuring that we get
21 to implementation of the necessary remedial order as soon as
22 practicable given the concerns about the harm to individuals
23 during this phase.

24 THE COURT: Okay. Well, I'll just say this, and I'm not
25 sure -- I'll just say this. I'm not sure if we will have

1 monthly meetings. We may. But I don't want to assure the
2 parties that we'll have monthly status conferences. It may
3 be -- you know, it may be every other month. It may be every
4 six weeks, or, again, it may be monthly. I mean, but I don't
5 want to say that right now. I do want to have the opportunity
6 to receive the state's written objections and the United
7 States' response to that.

8 And as I think about how we move forward from that
9 point, again, that would take us through mid to late May.
10 Obviously, this Court's original order came down, and I didn't
11 appoint the master until later on. But the original order was
12 in September, and I think the order appointing the master was
13 in February. And, again, this is going to be a huge
14 undertaking, particularly if there's a lot of resistance from
15 both ends, and there's not an agreeable point or there's not
16 much cooperation. And I think that there has been so far.
17 I'm not suggesting that there has not been.

18 But I think if we lose focus on fighting through issues
19 rather than trying to be conciliatory, then we delay whatever
20 remedy the master could propose and hopefully -- well -- and
21 whatever remedy he proposes, I hope can be implemented
22 expeditiously for the benefit of the public, and, you know,
23 for the benefit of the citizens of Mississippi.

24 So I'll take that, Ms. Fox, under consideration. The
25 state -- as I indicated, I do know at least from the newspaper

1 that Senator Hob Bryan has alluded to the fact that -- has at
2 least intimated, or at least taken some sort of steps, and I
3 think that's beneficial. I'm not sure how things -- I think
4 there was testimony during the trial, or if not, there was
5 something in the record about the state not having acted over
6 years when confronted with this, when confronting these
7 issues.

8 But I do get the impression at least, again, from that
9 article and those articles related to the senator's
10 appointment that there may be some movement from the state,
11 and I certainly appreciate the state if it is seeking to
12 address this issue, along with so many others that have come
13 forward, and particularly that might come forward as a result
14 of where we are in the world today.

15 But now I turn to the state, is there anything else we
16 need to discuss at this point, Mr. Shelson or Mr. Pizzetta or
17 Mr. Rosamond?

18 MR. SHELSON: Your Honor, this is Jim Shelson. Just a
19 few things, first, just about the charge of the special
20 master. The special master stated, as he understood it,
21 review the record, confer with the parties, and ultimately
22 propose a remedial plan. We would just -- we see that
23 slightly differently, and, again, this is no criticism of the
24 special master. He -- we think he's doing exactly what the
25 Court wanted him to as far as trying to get his arms around

1 this and getting the parties talking. But -- and we recognize
2 the special master can't do everything at once.

3 But as we understand what the Court wants the special
4 master to do is before we get to the stage of the special
5 master proposing a plan, it seems to us that we only get there
6 if the parties are not able to agree. And so that should be
7 the first focus is the negotiation aspect of this, where the
8 mediator's role is -- is akin to the -- the special master's
9 role is akin to a mediator. And we know the special master is
10 getting his arms around all this, and that that's coming, he
11 alluded to that.

12 But from the state's perspective, negotiations should be
13 the primary next focus going forward, and that dovetails with
14 what Your Honor talked about about the parties being
15 conciliatory to the extent that they can. And in short, you
16 know, more negotiations and less litigation or litigation-like
17 activities the state believes would be a good thing.

18 If we get to the stage where the special master feels an
19 agreement cannot be reached, then, yes, he is charged with
20 proposal a remedial plan. But we think the parameters of that
21 are the -- are within the scope of the trial record, and at
22 least generally speaking, within the parties' proposal.

23 The second thing, Your Honor, is if we get to the
24 special master having to propose a plan, we may need some
25 clarification on the standard the special master is suppose to

1 apply in that regard. Because, you know, you could get into
2 questions of law and fact about that, and ultimately, the
3 Court's the decider of those issue.

4 The third thing, Your Honor, is if we get to the stage
5 where the special master has to propose a plan, the state
6 would request, at least to the extent feasible, the special
7 master addressing his plan, the cost of whatever remedy he
8 proposes.

9 And the final point, Your Honor, is -- is we agree with
10 Ms. Fox's point about maybe the next telephonic hearing, or
11 whatever form of hearing we have, to develop a more clear
12 understanding on the path forward based on where all this is
13 on that time -- at that time.

14 And, Your Honor, I don't know if Mr. Pizzetta or
15 Mr. Rosamond have anything else to add, but that's all I had.

16 MR. PIZZETTA: This is -- this is Mr. Pizzetta. No, I
17 think we're in agreement, Jim. Thank you very much.

18 THE COURT: Yeah. Thank you. Thank you, Mr. Shelson.

19 I think the way I envision this matter to work, I think
20 it is set forth in the order appointing the special master at
21 docket entry -- I think its 241. I do expect the parties
22 initially -- and I think the parties' use of the special
23 master is best utilized through sort of a mediation sort of
24 function initially. I mean, not just initially, but broadly
25 speaking.

1 I do think the parties are going to have to have some
2 give and take that should be useful in come -- the best plan
3 is one that is agreed upon. I mean, because that's just --
4 that just takes away so much of everything if -- the best plan
5 is one that is agreed upon by the parties.

6 And to the extent we cannot get something that's agreed
7 upon as to every detail, obviously a plan that incorporates
8 all the things that the parties can agree to, along with
9 something else that the master might propose, would be
10 beneficial. But for the parties to not work together, I think
11 that's completely unacceptable, so I would encourage you-all
12 to continue to work with each other as you have so far.

13 And, again, I'll take up the state's objections and the
14 United States' response to how the process moves forward with
15 the master being able to collect additional information that
16 might be outside of the record.

17 So, you know, again, I do thank the parties for engaging
18 in this preliminary discussion. I did note, I think in one of
19 my earlier orders, that there are entities that have stepped
20 forward and at least offered to make themselves available. I
21 think one of them was the Mississippi Psychiatric Association,
22 for example. I think they submitted something that the
23 parties are aware of.

24 But I do, you know, thank those persons, those entities
25 for trying to make sure that our mental health system is one

1 that we can all be proud of, and I do want to encourage the
2 State of Mississippi, the Mississippi legislature, the
3 Department of Mental Health, the Department of Medicaid, I do
4 want you-all to be intimately involved with the lawyers for
5 the state on this issue, because it's going to take the
6 cooperation of all those bodies, including the governor's
7 office because I imagine -- well, we know the governor is over
8 the Division of Medicaid. We do know the Medicaid Division
9 reports to the governor. And that ultimately, any bills that
10 might have to be passed to sort of restructure things to sort
11 of get funding for will all have to come through the
12 legislature through these -- well, start out in these
13 committees through the legislature, and ultimately, on the
14 desk of the governor.

15 I know Mississippi has many, many competing concerns,
16 but this is a concern that's been around for decades. And we
17 need to make sure that we put this front and center along with
18 everything else, and when I say "this," I mean repairing our
19 mental health system.

20 Again, I thank the parties for your involvement. I look
21 forward to receiving those written objections. I look forward
22 to hearing about how the parties are working together on a
23 path forward. So thank you so very much. Please continue to
24 be safe and be vigilant, and we'll get back and set up another
25 call at a time that's convenient for the Court and the

1 parties. Thank you so much.

2 MS. FOX: Thank you, Your Honor.

3 MR. SHELSON: Thank you, Your Honor.

4 THE COURT: All right. That concludes it.

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