

**Congress of the United States**  
**House of Representatives**

SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Majority (202) 225-5074  
Minority (202) 225-5051

December 11, 2023

Ms. Melissa DeRosa  
Former Secretary to the Governor  
State of New York  
C/O Mr. Gregory Morvillo, Esq.  
Owner  
Morvillo, PLLC

Dear Ms. DeRosa:

On December 1, 2023, the Select Subcommittee on the Coronavirus Pandemic (Select Subcommittee) requested your testimony and documents related to your role in the March 25, 2020 New York Department of Health (NYDOH) order [hereinafter “Order”] that directed COVID-19 positive patients into New York nursing homes and your alleged efforts—with former Governor Andrew Cuomo—to cover-up and conceal the actual number of nursing home fatalities that occurred as a result.<sup>1</sup>

That same day, we received a letter from your attorney responding on your behalf. This letter asserted that you “ha[ve] no documents that are responsive to [the Select Subcommittee’s] request.”<sup>2</sup> The letter also asserted that you do not “ha[ve] anything to contribute to [the Select Subcommittee’s] inquiry on this subject matter” because you “w[ere] not involved in the drafting and implementation of the March 25, 2020 admissions ‘guidance’ issued by the New York State Department of Health...”<sup>3</sup>

First, it is not your nor your attorney’s right to determine whether you can contribute to our inquiry, that rests solely with the Select Subcommittee. Second, we contest the factual basis of your assertions.

**I. Your assertion that you do not possess any documents responsive to the Select Subcommittee’s request is seemingly contradicted by your own book.**

In your book, you dedicate an entire chapter to the nursing home issue and acknowledge Jane Rosenthal “[f]or the encouragement and handholding necessary to turn a *journal* into

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<sup>1</sup> Letter from Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight & Reform, to Melissa DeRosa, former Secretary, Gov. of N.Y. (Dec. 1, 2023).

<sup>2</sup> Letter from Gregory Morvillo, to Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight & Reform (Dec. 1, 2023).

<sup>3</sup> *Id.*

*What's Left Unsaid.*<sup>4</sup> Further, it was reported that you took “copious notes” during the pandemic.<sup>5</sup>

Since you used these documents to inform the drafting of your book and you began to draft the book after your resignation from the Cuomo Administration, it is safe to assume you have personal custody and control of these documents.

**II. Your assertion that you were not involved in the drafting or implementation of the March 25 order is seemingly contradicted by your own public actions.**

As you described in your book, you were “the most senior member of New York Governor Andrew Cuomo’s team leading the nation through a once-in-a-century pandemic, making life-or-death decisions, projecting our administration’s competence to an admiring world.”<sup>6</sup> You publicly discussed and defended the Cuomo Administration’s nursing home Order—arguing that it was consistent with Centers for Disease Control and Prevention (CDC) and Centers for Medicare and Medicaid Services (CMS) guidelines.<sup>7</sup> Of course, despite your statements, the Order was not consistent with federal guidance. During a transcribed interview, former White House Coronavirus Coordinator, Dr. Deborah Birx, testified to the following when asked about the Order:

Q:	So, would [New York state’s] guidance have violated CMS guidance?
A:	Yes. <sup>8</sup>

Presumably, your assertion would also mean that you were not involved in the July 6, 2020 NYDOH report, that conveniently blamed the nursing home staff—not the ***Cuomo Administration’s*** Order—for the resulting deaths occurring to nursing home residents.<sup>9</sup> However, as we are sure you are aware, after thoroughly reviewing this exact issue, it was widely reported that you “had significant input” on the allegedly independent report to fit the

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<sup>4</sup> Melissa DeRosa, *What’s Left Unsaid: My Life at the Center of Power, Politics & Crisis*, 421 (Oct. 24, 2023).

<sup>5</sup> Judy Kurtz, *Melissa DeRosa opens up in new book on Cuomo, the pandemic and the prank Trump wanted to pull in the Oval Office*, THE HILL (Oct. 24, 2023), available at <https://thehill.com/blogs/in-the-know/4272279-melissa-derosa-new-book-cuomo-pandemic-prank-trump-oval-office/>.

<sup>6</sup> *Supra* n. 4 at 15.

<sup>7</sup> *New York Governor Cuomo Coronavirus News Conference*, C-SPAN (May 23, 2020), available at <https://www.c-span.org/video/?472451-1/york-governor-cuomo-coronavirus-news-conference>; *NY Governor Andrew Cuomo May 27 Press Conference Transcript*, REV (May 27, 2020), available at <https://www.rev.com/blog/transcripts/ny-governor-andrew-cuomo-may-27-press-conference-transcript>; Melissa DeRosa, (@melissadderosa) Twitter (May 28, 2020), available at <https://twitter.com/melissadderosa/status/1266095776129789953>; See also Bill Hammond, ‘Like fire through dry grass’, EMPIRE CTR. (Aug. 17, 2021), available at <https://www.empirecenter.org/publications/like-fire-through-dry-grass/>.

<sup>8</sup> Oct. 13 Birx TI at 119-121 (emphasis added).

<sup>9</sup> New York State Department of Health, *Factors Associated with Nursing Home Infections and Fatalities in New York State During the COVID-19 Global Health Crisis*, (July 6, 2020), available at [https://health.ny.gov/press/releases/2020/docs/nh\\_factors\\_report.pdf](https://health.ny.gov/press/releases/2020/docs/nh_factors_report.pdf).

Governor’s narrative.<sup>10</sup> For your reference, this fact was subsequently confirmed by the report issued in conjunction with the impeachment investigation into former Governor Cuomo.<sup>11</sup> Allowing the impeachment report to speak for itself, it found:

Evidence obtained during our investigation demonstrates that while the DOH Report was released under the auspices of DOH, it was substantially revised by the Executive Chamber and largely intended to combat criticisms regarding former Governor Cuomo’s directive that nursing homes should readmit residents that had been diagnosed with COVID-19.<sup>12</sup>

Further, your office heavily edited—or at the very least, filtered—the truth in the NYDOH Report to only account for 6,432 nursing home deaths, instead of the 9,844 that were initially included in the NYDOH’s earlier drafts.<sup>13</sup>

The impeachment report also highlighted concerns from NYDOH staff about the edits made by the Cuomo Administration—including edits from the Governor himself—that “included statements of causality and drew oversimplified conclusions.”<sup>14</sup> NYDOH staff believed “that [the NYDOH Report] was *no longer a true scientific report, but feared for their jobs if they did not go along.*”<sup>15</sup>

According to a report by New York Attorney General Letitia James, COVID-19-related nursing home deaths in New York were undercounted by as much as 50 percent—resulting in thousands of nursing home deaths not being reported properly.<sup>16</sup> Presumably your assertion would also mean that you were not involved in the Attorney General’s report. However, you reportedly accosted and attempted to intimidate the then-chief of staff to the Attorney General in response to the report as follows:

How the fuck can you do this to us without a conversation? Are you crazy? By the way, who the fuck...If you actually gave a damn about the substance and the facts, you would have these conversations and you would sit with our commission and you would go through the goddamn numbers. And you wouldn’t fucking blindside us with something where I don’t even know where the fuck you’re

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<sup>10</sup> See J. David Goodman & Danny Hakim, *Cuomo Aides Rewrote Nursing Home Report to Hide Higher Death Toll*, THE N.Y. TIMES (Mar. 4, 2021); Jesse McKinley, *et al.*, *As Cuomo Sought \$4 Million Book Deal, Aides Hid Damaging Death Toll*, THE N.Y. TIMES (Mar. 31, 2021); J. David Goodman, *et al.*, *Cuomo Aides Spent Months Hiding Nursing Home Death Toll*, THE N.Y. TIMES (Apr. 28, 2021).

<sup>11</sup> Davis Polk & Wardwell LLP, *Impeachment Investigation Report to Judiciary Committee Chair Charles Lavine and the New York State Assembly Judiciary Committee*, (Nov. 22, 2021), available at [https://nyassembly.gov/write/upload/postings/2021/pdfs/20211122\\_99809a.pdf](https://nyassembly.gov/write/upload/postings/2021/pdfs/20211122_99809a.pdf).

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Supra* n. 10.

<sup>14</sup> *Supra* n. 11 at 40.

<sup>15</sup> J. David Goodman & Danny Hakim, *Cuomo Aides Rewrote Nursing Home Report to Hide Higher Death Toll*, THE N.Y. TIMES (Mar. 4, 2021).

<sup>16</sup> Report of New York Attorney General Letitia James, *Nursing Home Response to COVID-19 Pandemic (updated Jan. 30, 2021)*, available at <https://ag.ny.gov/sites/default/files/2021-nursinghomesreport.pdf>.

getting your information...And no, I don't trust your fucking pencil pushers who did this because I used to work with them when I worked in the attorney general's office...Don't tell me that you can't do it right now and your hands are fucking tied. You're a fucking liar. And you fucking think I'm not going to remember this, you and Tish?...Are you out of your fucking mind?<sup>17</sup>

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You owe answers to the thousands of families who lost loved ones in New York nursing homes. Any assertion that you were not involved in issues regarding the Order grossly mischaracterizes publicly available information and your own representations. In fact, you were in a position to understand the Cuomo Administration's policy regarding nursing homes from the very beginning.

We reiterate our request for to testify in-person at a transcribed interview on **January 19, 2024**. If you truly were not involved in the Order, we invite you to testify to that fact under penalty of criminal prosecution.

Regarding the document requests, if you are willing to attest that (1) you did not retain a journal or any notes you took during your time in the Cuomo Administration and (2) that these documents contain no responsive information, we are willing to withdraw our requests for documents. We therefore request you produce the attestation or the previously requested responsive documents by **December 15, 2023**.

Accordingly, as you may be aware, pursuant to 18 U.S.C. 1001, it is a crime to "knowingly and willfully" make any materially false, fictitious, or fraudulent statement or representation to Congress, including congressional staff.

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The Select Subcommittee is authorized to investigate "the implementation or effectiveness of any Federal law or regulation applied, enacted, or under consideration to address the coronavirus pandemic and prepare for future pandemics" under H. Res. 5.

Further, House Rule XI clause 2(m)(1)(B) grants Committees of the House of Representatives with the authority "to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary."

If you have any questions about this request, please contact Select Subcommittee Staff at 202-225-5074. Thank you for your attention to this very important matter.

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<sup>17</sup> Rebecca Traister, *Melissa DeRosa's Revenge Campaign*, N.Y. MAG. (Oct. 24, 2023), available at <https://nymag.com/intelligencer/article/melissa-derosa-book-andrew-cuomo.html>.

Ms. Melissa DeRosa  
December 11, 2023  
Page 5

Sincerely,



Brad Wenstrup, D.P.M.  
Chairman  
Select Subcommittee on the  
Coronavirus Pandemic



Nicole Malliotakis  
Member of Congress

cc: The Honorable Raul Ruiz, M.D., Ranking Member  
Select Subcommittee on the Coronavirus Pandemic