

# EXHIBIT 1

# Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

January 17<sup>th</sup> 2016

Nora Constance Marino, Esq.  
Law Office of Nora Constance Marino  
175 East Shore Road Suite #230  
Great Neck, NY 11023

Re: The Alliance to End Chickens as Kaporos Rina Deych et al.

Dear Attorney Marino:

On Monday September 21<sup>st</sup> 2015, I conducted an investigation of Kaporos activities taking place at five separate representative sites in the Borough Park and Crown Heights districts of Brooklyn, New York. The five sites were located in the vicinity of the following addresses:

- 1) 1725 43<sup>rd</sup> St. near the corner of Dahill Rd.
- 2) 1417 50<sup>th</sup> St. near the corner of 14<sup>th</sup> Ave.
- 3) 1413 45<sup>th</sup> St. between 14<sup>th</sup> Ave. and 15<sup>th</sup> Ave.
- 4) 298 -338 Crown St. (parking lot behind Associated Beth Rivkah Schools on Montgomery St.)
- 5) 1414 President St. near the corner of Kingston Ave.

The purpose of my investigation was to observe first-hand and photo document (see Appendix A) the Kaporos activities and aftermath of Kaporos activities at these sites and to obtain environmental samples for microbial testing.

The Hasidic Jewish communities at these locations as well as others throughout Brooklyn practice Kaporos, which involves the sacrificing of live chickens as part of a religious ritual during Yom Kippur – the Jewish Day of Atonement. Notwithstanding the religious intent of Kaporos, the colossal and chaotic slaughtering of thousands of chickens, which I observed firsthand, occurs on public property in what constitute open-aired and unrestricted access makeshift slaughterhouses. I was retained to determine if the operation of these large-scale, open-aired and unrestricted access makeshift slaughterhouses in the middle of a major urban population center pose a public health hazard. My September 21<sup>st</sup> 2015 investigation and this report supplement my May 6<sup>th</sup> 2015 Expert Report and May 26<sup>th</sup> 2015 Affidavit in this matter.

My opinions in this matter, as stated in the May 26<sup>th</sup> 2015 Affidavit, were and remain as follows:

- The event known as Kaporos involves inadequate and unsafe means of harboring, slaughtering, and disposing of chickens on public streets and sidewalks. There are inadequate methods in place to accommodate the level of unsanitary conditions that result from this practice, and it is my opinion that it would be difficult, if not impossible, due to the uncontrolled nature of the event and its activities, to accommodate these conditions even if regulations were to be put into effect.

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- The fact that this event takes place on public streets and sidewalks is concerning<sup>1</sup>. Pedestrians, people on bicycles, people wheeling strollers, and motor vehicles track through the ground and surfaces that are covered in and contaminated with blood, feces, urine, and feathers. Contaminants can become attached to the bottom of shoes and wheels and are then transported to other areas. The fact that Brooklyn is a borough in the country's largest metropolis that has major mass transportation systems in place and the open-air construct of the makeshift slaughterhouses and the activities of Kaporos increase the likelihood of the threat of a significant transmission of illnesses well outside the immediate area of the Kaporos events. For example, the feathers from the chickens can be blown through the air, further carrying pathogens, toxins, and allergens throughout the community, potentially impacting the health of millions of people.
- It is my opinion, within a reasonable degree of toxicology, immunology and environmental health sciences certainty, based on the evidence set forth in the May 26<sup>th</sup> Affidavit, and my own research (and now first-hand observation and inspection), that the Kaporos activities taking place in the subject locations as described constitute a dangerous condition and thereby pose a significant public health hazard.

My September 21<sup>st</sup> 2015 investigation and first-hand observation of the Kaporos activities taking place at the five sites listed above strengthens the opinions outlined in my May 26<sup>th</sup> 2015 Affidavit.

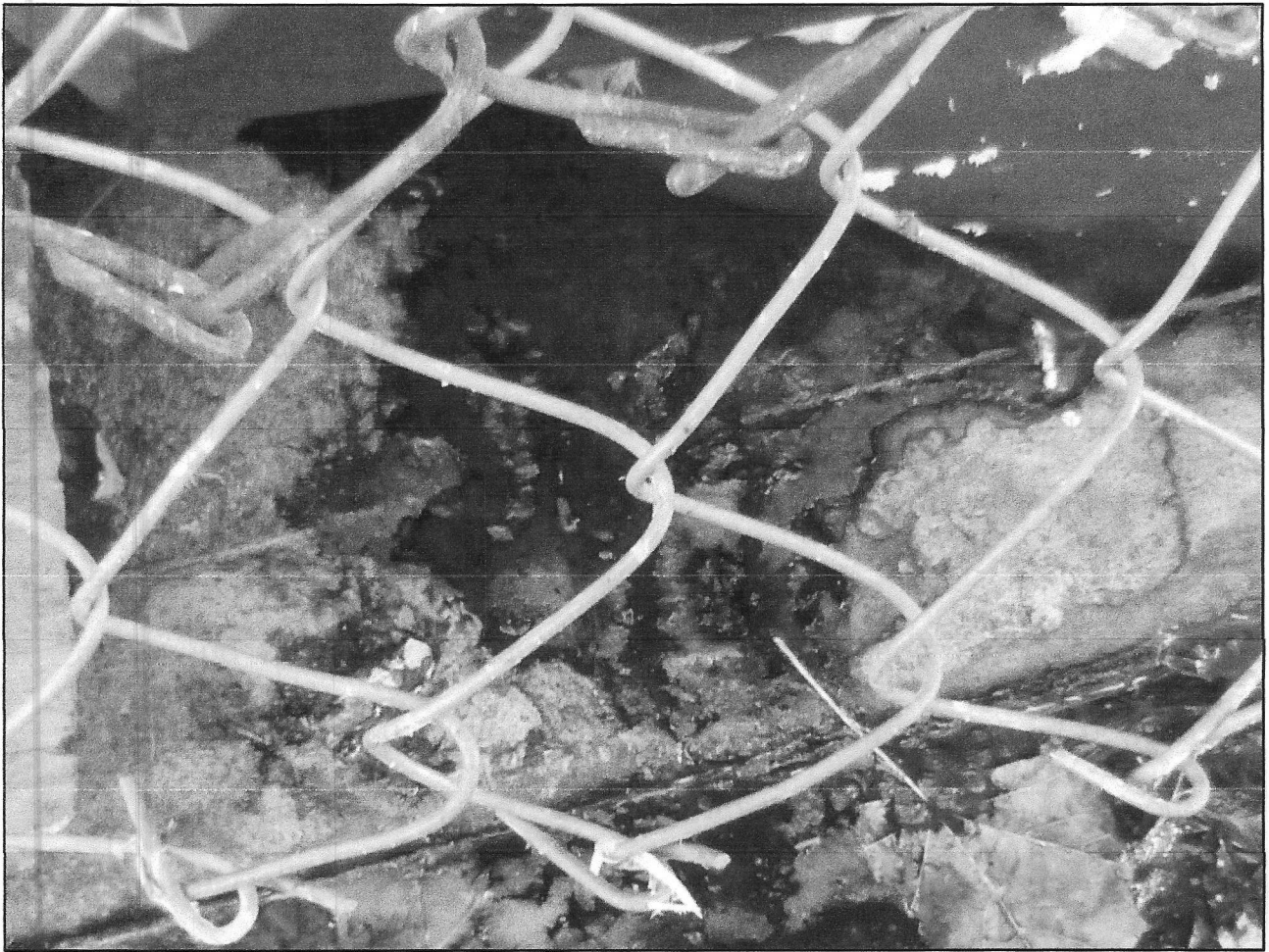
**Site #1 - 1725 43<sup>rd</sup> St. near the corner of Dahill Rd.**

I arrived at this site at approximately 11:30 AM on September 21<sup>st</sup> 2015. It is my understanding that Kaporos activities (e.g., chicken slaughtering) had taken place at this location during the evening hours prior to my arrival. The aftermath of the chicken slaughter activities was evidenced by extensive environmental contamination that included chicken carcasses, feathers, blood mixed with bird excrement and a pungent ammonia-like smell.

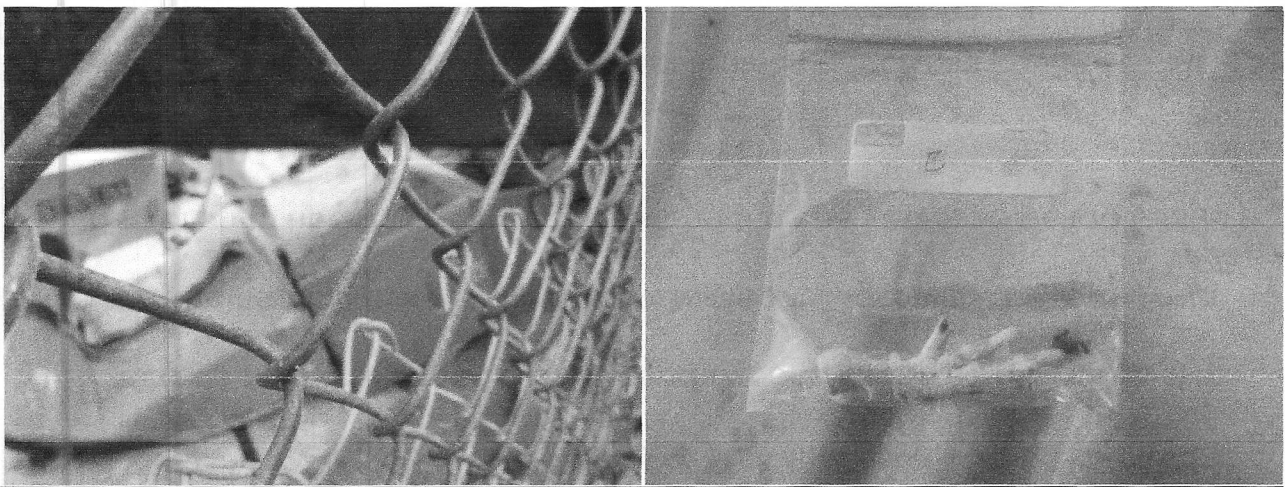


**Figure 1. Left, Sidewalk on northeast side of 43rd street looking toward Dahill Rd. Note presence of copious amount of feathers on sidewalk. Kaporos site was behind (i.e., to the left of) the fenced area. Right, Garbage bags piled behind fenced area seen in Figure 1. Note presence of dead chicken underneath garbage bags.**

<sup>1</sup> Having now witnessed Kaporos activities myself first-hand, it also is concerning that the obvious public health threat associated with mass harboring, slaughtering and disposing of thousands of chickens is being ignored by public health officials.



**Figure 2. Bloody fluid oozing from garbage bags behind the fence onto the public sidewalk. This fluid was swab sampled (i.e., specimen A) and submitted for microbial analysis. See results below.**



**Figure 3. Left, Refuse piled behind the fence. Notice blood spatter on boxes. Right, a chicken foot collected from the sidewalk on 43<sup>rd</sup> street.**

**Site #2 - 1417 50<sup>th</sup> St. near the corner of 14<sup>th</sup> Ave.**

I arrived at this site at approximately 12:00 PM on September 21<sup>st</sup> 2015. It is my understanding that Kaporos activities (i.e., chicken slaughtering) also had taken place at this location during the evening hours prior to my arrival. As a result of these activities, environmental contamination, as evidenced by the presence of blood runoff into the street and storm drains, was observed. The following photographs document what I observed.



**Figure 4. Bloody runoff into the street at site #2. Note that a delivery truck (tires) is parked in the contaminated substance that is pooled against the curb. Also, note the presence of improperly discarded disposable gloves in the pooled bloody runoff. A sample of this bloody runoff was collected (i.e., specimen D) and submitted for microbial analysis. See results below.**



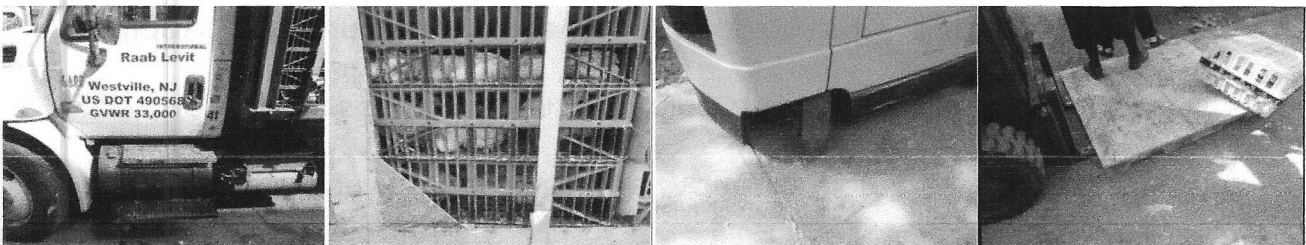
**Figure 5. Additional photographs of the bloody runoff into the street and other evidence of environmental contamination observed at Site #2.**



**Figure 6. A storm drain was located a few yards away from the location where the truck was parked. The bloody fluid flowed toward and into this drain. The foreground of the picture on the left evidences the presence of chicken feathers.**

**Site #3 - 1413 45<sup>th</sup> St. between 14<sup>th</sup> Ave. and 15<sup>th</sup> Ave.**

When I arrived at this site, it was evident that members of the Hasidic Jewish Community were making preparations for a Kaporos event. There was a bustle of activity involving the logistics of receiving crates of chickens, offloading them from trucks, and stockpiling them for sacrifice. As a consequence of these activities together with a light breeze, the air was dense with chicken feathers and other particulates resulting from the Kaporos preparation activities. Such airborne contaminants constitute a hazard for inhalation exposure to toxic, infectious or allergenic agents.



**Figure 7. Kaporos preparation at Site #3.**



**Figure 8. There was an abundance of white feathers (like those seen in this photograph) and particulates in the air at Site #3.**

Also at site #3, there were garbage bags stacked along the sidewalk that smelled of the stench of rotting chicken carcasses and other debris attributable to Kaporos activities. Some of the garbage bags were leaking fluid onto the public sidewalk. A sample (i.e., specimen #4 below) of one of these leaking garbage bags was taken and submitted for microbial analysis.

**Site #4 298 - 338 Crown St. (parking lot behind Associated Beth Rivkah Schools)**

This location was the site of a children's Kaporos event that had recently taken place. The site was a parking lot located behind a yeshiva school located in the Crown Heights district of Brooklyn. A public school (P.S. 161) was located next door to the east of the Beth Rivkah yeshiva school. When I arrived at the parking lot site, children were playing at recess in the P.S. 161 school yard. There was extensive environmental contamination of the yeshiva school parking lot as evidenced by the prominent presence of chicken feathers on the ground.



**Figure 9. Chicken feather contamination of yeshiva school parking lot at site #4.**



**Site #5 - 1414 President St. near the corner of Kingston Ave.**

Much of my May 26<sup>th</sup> 2015 Affidavit was based on accounts of Kaporos activities that had taken place at this location (site #5) during previous years. During my September 21<sup>st</sup> 2015 inspection, I visited this site on two occasions; in the afternoon at approximately 1:45 to 2:15 PM and then during the evening hours (i.e., 6 to 10 PM) to witness Kaporos activities firsthand. I can be seen walking through the crowd of participants and protestors in news footage of the Kaporos activities at site #5 from that date (<http://abc7ny.com/pets/demonstrators-protest-jewish-ritual-involving-chickens-in-brooklyn/995717/>).

While I was at site #5 in the afternoon, it was evident that preparations were being made for Kaporos activities planned for later that evening at this site. As described in my May 26<sup>th</sup> 2015 affidavit, the Kaporos event requires that numerous chickens are shipped into the practicing neighborhoods and left in semi-truck trailers. I observed this to be the case first-hand during my September 21<sup>st</sup> inspection. As was the case at site #3, there was a bustle of activity on President St. involving the logistics of receiving crates of chickens, offloading them from trucks, and stockpiling them for sacrifice. As a consequence of these activities together with a light breeze, the air was dense with chicken feathers and other particulates resulting from the Kaporos preparation activities. Some of the feathers and particulates were settling on foodstuffs that had been delivered to a market located across the street from a make-shift slaughtering booth.



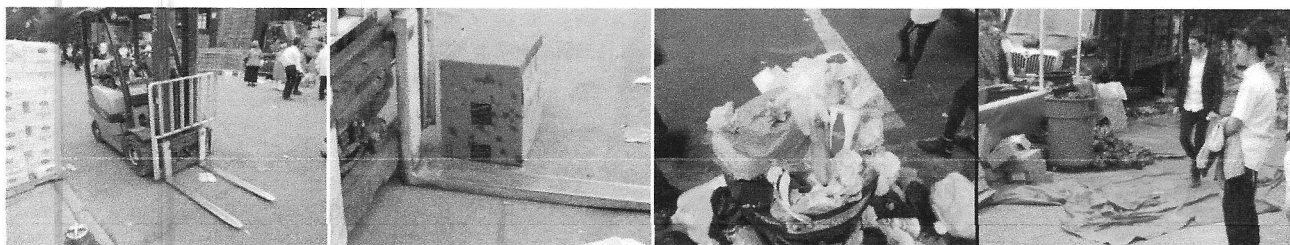
**Figure 10. Left, Semi-truck trailer parked on President Street at site #5 loaded with hundreds of chickens designated for Kaporos slaughter. Right, Located across the street from the Kaporos preparation site was a food market that was in the process of receiving produce.**

Some of the things that were mentioned in my May 26<sup>th</sup> 2015 affidavit that I observed first-hand during my September 21<sup>st</sup> 2015 inspection are as follows:

- The event takes place on public streets and sidewalks in multiple locations in Brooklyn, New York (i.e., it is extensive in scope).
- The large Hasidic Jewish community that resides in Brooklyn practices the ritual of Kaporos in a carnival like atmosphere (i.e., with inadequate attention to controlling exposure to bio-hazardous materials and preventing cross contamination of other public areas).



- As a consequence of Kaporos activities, chicken blood, feces, urine, and feathers contaminate the public streets and sidewalks.
- There is a strong and pungent ammonia-like stench in the air due to the presence of copious amounts of chicken urine, feces, blood and decaying carcasses.
- There are inadequate clean up and containment measures.



- The event is in actuality an open-aired and unrestricted access makeshift slaughterhouse that is chaotic and large in scale (i.e., high volume) in the middle of a major urban population center.
- The activities of Kaporos subject the public to bio-hazardous materials associated with and including but not limited to chicken blood, feces, urine, feathers and animal carcasses.
- The community is affected by the activities and events of Kaporos in that unsanitary conditions arise involving, but not limited to, feces, urine, blood, feathers, garbage, trash and debris being strewn all over the streets that are accessed by the public at large.
- Potential inhalation exposure to toxic or infectious agents due to these bio-hazardous unsanitary conditions is a public health concern, which should be obvious to City public health officials.

My presence at site #5 during the evening of September 21<sup>st</sup> 2015 was for the purpose of furthering my investigation of whether Kaporos activities posed a public health hazard and to take environmental samples for microbial testing. The President Street Kaporos site was a crowded, chaotic and emotionally charged area during this time period in that, while Hasidic Jewish families practiced their ritual, there were many protestors on the perimeter vehemently voicing their opposition. In turn many of the Hasidic Jewish participants fervently argued back at the protestors. These were not ideal conditions to be taking environmental samples. I also felt that I had to maintain neutrality (despite having been retained by Counsel representing the protestors) and respectful, in

principal, that the Hasidic Jews believed that they were practicing a religious ritual. I managed to collect two samples of feces from the ground area in front of the slaughter booth where for several hours prior I had observed numerous participants holding chickens aloft (see picture that follows as an example) with no consideration of the environmental fecal contamination introduced by their doing so. Throughout the night participants strolled through such contamination. Additionally, children paraded through on scooters, rollerblades and skateboards. Mothers pushed strollers. Other non-participants (e.g., postal workers, deliverymen) travelled through the area pushing other wheeled equipment (see pictures that follow).



### **Specimens collected and submitted for microbial analysis**

Five specimens were collected from the various sites that I inspected and observed on September 21<sup>st</sup> 2015. These samples were submitted to EMSL, Analytical for testing for microbes. Testing included the analysis for the presence of total coliform bacteria, E. coli, yeast, mold, staphylococcus aureus, salmonella, campylobacter and total aerobic plate count (see Appendix B for complete test results). Description of samples and positive test results is as follows:

#### **Sample A – Gauze swipe sample of leaking garbage bags present at site 1 (see Figure 2)**

- > 20 million aerobic plate count
- Total coliforms low

#### **Sample D – fluid; bloody runoff into gutter and drain at site #2 (see Figures 4 – 6)**

- 5.5 million total plate count
- 370,000 total coliform colonies
- 26,000 E. coli colonies

#### **Sample #4 – Gauze swipe sample of leaking garbage bag from site #3**

- 3.8 million total plate count
- 16,000 total coliform colonies
- 9,800 E. coli colonies

#### **Sample #7 – Gauze swipe of fecal sample on President Street**

- 6 million total plate count
- > 12 million total coliform
- > 12 million E. coli

#### **Sample #9 – Gauze swipe of fecal sample on President Street**

- 4.7 million total plate count
- 180,000 total coliform
- 110,000 E. coli

### **Interpretation of Results**

The test results above indicate that there were high levels of bacteria present in these samples. The high levels of total coliform bacteria and E. coli present confirm that the Kaporos activities produce unsanitary conditions in the public spaces from which these samples were collected. The presence of coliform bacteria is a bacterial indicator of unsanitary conditions. Certain coliform bacteria (e.g., E. coli) can be pathogenic for humans.

### **Conclusion**

Consistent with the findings from my May 26<sup>th</sup> 2015 affidavit, the first-hand observations that I made during my September 21<sup>st</sup> 2015 Kaporos inspection as well as the photographs that I took and test results confirming high bacterial contamination and unsanitary conditions confirm and strengthen my opinion that within a reasonable degree of professional certainty the Kaporos activities taking place in the subject locations constitute a dangerous condition and pose a significant public health hazard.



Michael J. McCabe, Jr., Ph.D., DABT, ATS