

**From:** Eastman, John  
**Sent:** Wednesday, December 23, 2020 10:16 AM MST  
**To:** Boris Epshteyn <bepshteyn@donaldtrump.com>  
**CC:** Kenneth Chesebro [REDACTED]  
**Subject:** FW: Draft 2, with edits  
**Attachment(s):** "PRIVILEGED AND CONFIDENTIAL -- Dec 23 memo on Jan 6 scenario.docx"

Boris,

I'm fine with all of Ken's edits. They had not come through to me on the last round. Here's the final.

As for hearings, I think both are unnecessary. The fact that we have multiple slates of electors demonstrates the uncertainty of either. That should be enough. And I agree with Ken that Judiciary Committee hearings on the constitutionality of the Electoral Count Act could invite counter views that we do not believe should constrain Pence (or Grassley) in the exercise of power they have under the 12<sup>th</sup> Amendment. Better for them just to act boldly and be challenged, since the challenge would likely lead to the Court denying review on nonjusticiable political question grounds.

John

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**From:** Kenneth Chesebro [REDACTED]  
**Sent:** Wednesday, December 23, 2020 9:36 AM  
**To:** Eastman, John [REDACTED]  
**Subject:** Draft 2, with edits

External Message

Really awesome.

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