SELECT COMMITTEE TO INVESTIGATE THE
JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JUSTIN CLARK

TUESDAY, MAY 17, 2022
Washington, D.C.

The interview in the above matter was held via Webex, commencing at 10:23 a.m.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

SENIOR INVESTIGATIVE COUNSEL
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For JUSTIN CLARK:

ROSS GARBER, ESQ.
We'll go on the record at 10:23.

Good morning. This is the transcribed interview of Justin Clark conducted by the House Select Committee to investigate the January 6th Attack on the United States Capitol pursuant to House Resolution 503.

At this time, I'd ask the witness to please state your full name and spell your last name for the record.

Mr. Clark. My name is Justin Clark. The last name is spelled C-L-A-R-K.

So this will be a staff-led interview. Members may choose to ask questions, and if the members join, I'll just note that they've joined and I'll note for the record when they leave.

My name is and I'm senior investigative counsel of the Select Committee and with me from the Select Committee staff are present on line, investigative counsel; my colleague, investigative counsel. Our professional staff member, is helping administer this; , a financial investigator, and -- oh, goodness. I'm sorry. I'm going to butcher this -- I believe. I may have gotten that close, but she's colleague, and we're all investigative staff.

Everybody that's on is with the investigative staff and we've confirmed that or they're the reporter. If somebody appears, we'll let you know if it's a member.

So at this time, I'd just like to ask that your counsel identify himself for the record.

Mr. Garber. Sure. This is Ross Garber and I represent Justin Clark.

EXAMINATION

BY
Mr. Clark, you're voluntarily here for this transcribed interview. Correct?

Yes.

I know you're an attorney. So please forgive me while I go over some ground rules that are probably quite familiar to you, but we do it for every witness, regardless.

So there is an official reporter transcribing the record of this interview and the reporter's transcription will be the official record of the proceeding. We have had to clarify with some folks that this will be the only recording. So we just want to make sure that neither you or your attorney are not recording the proceeding.

I'm not. Yes, correct.

Okay. So please wait until each question is completed before you begin to respond and we'll do our best to wait until your response is complete before we ask the next question.

As noted a moment ago, the reporter has a difficulty taking down when she can't see faces or when people give nonverbal responses, such as shaking or nodding their head. So it's really important that you respond to each question with an audible verbal response, and if your attorney wants to speak, please have him come on video so we know what's being said.

Please give complete answers to the best of your recollection. If a question is unclear, please ask for clarification. If there's a term that we're using that doesn't make sense, there's a few of us that has no campaign or political experience. So we may ask you to explain something that would seem very simple to you, but we very much appreciate your patience and clarification in those areas.

If you don't know the answer to our questions, please just say so. Sometimes it's really just a lack of clarity and we're happy to clarify if that's the case.
Logistically, just let us know if you need any breaks or if you'd like to discuss anything with your attorney, if you need a comfort break. We'll figure out lunch as we get closer, but we are happy to accommodate your schedule, your needs.

Just in terms of time, we anticipated this taking a bit, but I just want to check and see. Are there any hard stops or breaks that you know you need to take now?

A: No, there are not.

Q: Okay. Great.

I also want to note that our investigator, [redacted] entered the room and he is on the Select Committee staff.

So there may be several people asking questions and we'll try to keep it as organized as possible and, again, if you don't understand anyone's question, please just ask us to repeat it.

Do you have any questions before we begin?

A: I do not.

Q: Wonderful. So we will jump right in.

If you could just provide your full name and then any other names that you've used.

A: Justin Clark, Justin R. Clark, my middle initial.

Q: Does the "R" stand for something?

A: It stands for Reilly.

Q: Okay.

A: That's my grandmother's maiden name.

Q: R-I-L-E-Y?

A: No. R-E-I-L-L-Y.

Q: That's why we ask. Perfect.
And can you tell us your date of birth?

A

Q Can you provide us with your residence address, cellphone, and email address.

A Sure. The home address is in Arlington, Virginia. My phone number is. That's my cellphone number, and email address, the one I use for everything is my Gmail, which is.

Mr. Garber. Do you have a work email address.

Mr. Clark. I have work email addresses too that I try to not use.

Q So your attorney beat us to that. I just wanted to confirm, from December 2020 through January 2021, was that only cellphone number that you used, the number?

A From December 2020 through January 2021?

Q Um-hum.

A Yes. Yes. That would have been the only cellphone number I used.

Q And the that sounds like it was a personal email. Did you have a work email address?

A At that time, I would have either used my Donald Trump email, JClark@DonaldTrump.com, and that would have been for anything related to the campaign at that time, and then I had a few other work emails. The other one that I used a lot would have been Justin.Clark@electionlawllc.com.

During that time period, those would have been the two that I would have done the work through.

Q To the extent that you did, you mentioned that the DonaldTrump.com email
would have been campaign related. What would have been the bucket for
electionlawllc.com in terms of what delineated the use between the two work emails?

A What delineated the use between those two emails was, really, other clients I had with Election Law, LLC and Donald Trump emails. So if I had a client other than
Donald Trump that I was working on or helping at that period of time, I would have
gotten emailed on that email address.

Q Gotcha. Okay. And did you have any Instagram or Twitter accounts
during that time period?

A Yes.

Q Do you remember the --

A Yeah. I don’t know what my Instagram handle is and I rarely post on that.
I just kind of like monitor my kids on Instagram, but my Twitter account is @ChefJClark,
C-H-E-F-J-C-L-A-R-K.

Q And are those largely personal use or did you use those for work during that time period?

A Personal and work, you know, for commenting on political things or re-tweeting stuff for the campaign, I would have done that on Twitter. Instagram would have been completely personally, more than likely. I doubt I did anything political on there.

Q Okay. And can you just tell us your educational background going back to college.

I got a master’s degree in accounting from the University of Hartford and then I
1 graduated from the University of Connecticut Law School in 2004.
2
3 Q Then can we just go through -- in terms of your prior roles and
4 responsibilities, I know you had quite a few. How about we just go from most recent
5 back a few years.
6
7 I understand -- well, what is your current title now? Let's start with that.
8
9 A Well, I've got a couple different companies that I do work with. I'm a
10 partner at Michael Best & Friedrich, a law firm in D.C. I'm a partner with Elections, LLC,
11 which is a separate law firm that does political compliance work mostly, and then I am a
12 partner at National Public Affairs, which does public affairs work and political campaign
13 work on the consulting side, not the legal side.
14
15 Q Is that the company that you run with Bill Stepien?
16
17 A Yes.
18
19 Q Okay. And then Elections, LLC, that's a law firm, and who else is your
20 partner in that?
21
22 That's a small one. Right?
23
24 A It's very small. The other founder of it with me, partner who runs it with
25 me is Stefan Passantino, and then Alex Cannon works with us there and Nathan Groth is
26 an associate-level attorney there.
27
28 Q Okay. And I believe at some point, you were on a leave of absence from
29 Michael Best. That was probably while you were maybe with the campaign, but are you
30 back full time there?
31
32 A No. I'm not yet. I'm not yet.
33
34 Q Okay. And so before that, at some point, you -- well, let me back up for a
35 second.
36
37 Currently, do you work for a Trump entity or is your work for them through the
entities you just listed?

A Through the entities I just listed. I do work for Donald Trump's PACs through Elections, LLC.

Q Okay. So you are not currently employed by any of the Trump entities, but your entities do work for them?

A Yes. That's correct. National Public Affairs does some work for them too.

Q Okay. Prior to your work for these entities, did you have a role with the Trump Campaign?

A Yes, I did. I was -- so I believe I was paid through Elections, LLC, but I was the deputy campaign manager from July of 2020, end of July 2020, through, you know -- I don't know the time period. It would have been when I moved over to Save America, the PAC, doing work for them.

Then prior to that, I was a senior advisor on the campaign from December of 2018 through July 2020.

Q And at all times, would your pay have been through Elections, LLC for those roles?

A I think so. There were probably a couple of months where I got paid directly from them at the beginning before Elections, LLC was set up. I think it was set up in March of 2019. So I would have gotten paid -- I just don't remember. I probably got paid directly from them.

Q If we wanted to try to figure out the date when you transitioned over to Save America from the campaign, would the FEC dates of disbursement from Save America to Elections, LLC be the beginning of that that you know of?

A It's hard to say. I mean, it probably lines up pretty closely, but it's hard to say specifically. I don't remember a clear bright line on that.
Q Yeah. What I mean — and I apologize. What I mean by that is it would be a reasonable ballpark to use given the time frame?

A I think so, and I say that because post-January 20th, I did work on the impeachment. I don’t remember where I was getting paid from at the time, whether it was from Donald J. Trump for President, Inc. Or Save America, but to answer your question, ballpark, it’s probably pretty darn close.

Q And just out of curiosity while we’re on the topic — we’ll talk more about this later, but I don’t want to forget — who would determine where you were getting paid from, like the bucket that would pay you?

A Interesting question. So it’s was really a decision as people were transitioning from the campaign to the PACs or out of the campaign to somewhere else. When the PAC was formed, I probably — well, I did. I spoke to the President about joining the PAC and had conversations with him about that.

So I think that was the determination, but, mechanically, I don’t know like who set up the payroll that pays me and things like that, but he would have approved it.

Q Okay. We’ll definitely come back to that. So I’ll put a pin in that, but that’s helpful to know.

A Currently, Susie Wiles runs Save America and kind of that constellation. She doesn’t run them. I don’t think she’s an employee, but she would probably be approving expenditures now in terms of those recurring.

Q Is that somebody you — through Elections, LLC, is that somebody that you submit invoices to or is that —

A No, not — at this point, I send them into the accounts payable system at Save America, but I think Susie approves all payments.

So I don’t send her an invoice, but I think she receives all of the invoices for
approval in batches.

Q Do you know what her title is for Save America?
A I don’t know if she has a title.
Q Okay.
A But she’s in charge.
Q The person?
A The person, yeah.
Q Okay. So is it fair to say right now in terms of your current occupation, slash, means of employment, slash, sources of income, you’ve got National Public Affairs, Elections, LLC, and Michael Best. Am I missing any?
A No. I think that’s it.
Q And briefly, really quickly, I just want to ask, you were given document requests as part of your voluntary agreement to appear here today. Correct?
A Yes.
Q Did you have a chance to read those document requests?
A Yes. I reviewed them with my attorney.
Q And I don’t want get into the conversations that you had with your attorney and any of the counsel he provided for you. I just want to ask how did you search for responsive documents in response to those requests?
A I gave access to my hard drive and my email to my attorney, the document collection team that my attorney used, and they made searches based on that.
Q And was that @gmail.com account only?
A I don’t remember. It was probably the Election Law, LLC account.
Q Okay. I’m sorry. Go ahead. I didn’t mean to cut you off.
A No. I was done. I think it was just the Election Law, LLC account.
Q: Do you still have access to your DonaldTrump.com account?
A: No.

Q: And did you search your phone, the [redacted] number, for text messages?
A: Oh, yeah. We had discussed that. I had had a 30-day auto delete on all my text messages that I had set up a long time ago. So I did do a search of text messages. We did a search of text messages, but there weren't any that were responsive.

Q: You said you had set up the 30-day auto delete a while ago. Do you remember when you set that up?
A: The first time I learned about it, which was it was more than a year ago, a very long time ago.

Q: No. What I mean, when you say it was a very long time ago, we're not talking about 10 years; we're talking about sometime during the last two or three?
A: For sure, yes.

All right. Are there any other questions on Mr. Clark's background or the document retrieval process before we move on?

[No response.]

Okay. Mr. Clark, I'm going to turn it over to my colleague. [redacted] is going to ask you some questions.

Thank you, [redacted].

Q: Good morning, Mr. Clark. Can you hear me okay?
A: Yes.

Q: Okay. Great.

Thank you for your patience with this fully remote situation. We're having a
So I am doing this in isolation.

A  Sorry to hear that.

Q  Thank you.

So I just wanted to go over a couple of things, sort of basics, following up on some of the questions that [redacted] just asked you about your clients during the relevant time period, and then the bulk of my questioning today will really be about sort of a somewhat chronological walk through the time from the Election Day, November 3, 2020, through January 6, 2021 and to the extent there's possibly something a little bit relevant after that; but, generally speaking, that's the focus of the committee's investigation, obviously, and the focus of my questions for you today.

So I know you explained that you were employed as a partner at Elections, LLC during the entirety of that time period when you were serving as deputy campaign manager for the Trump Reelection Campaign; is that correct?

A  Correct.

Q  Okay. And did you have other clients in addition to the Donald Trump Reelection Campaign during that time period?

A  From July of 2020 through --

Q  [Gestures.]

A  The short answer is yes. The longer answer is I don't recall servicing any of those clients from July of 2020 through January of 2021, only because of time constraints. It's not to say I didn't help out, but my partner, Stefan, took on the laboring oar of anything that was not related to the reelection campaign.

Q  Okay. That's helpful and totally understandable in heat of a contested reelection campaign.

Just so that we're clear about where those privilege lines or relationships might
be, can you identify those other clients that you may have had an attorney-client relationship with even if you were not on a day-to-day basis providing legal services for them?

Mr. Garber. I think that, itself, is confidential, who his clients were.

Q Okay. Maybe -- I take your point, Mr. Garber, but, Mr. Clark, let me walk through some of the other -- the types of interactions that we’re going to ask you about today, and if as I’m asking you these questions, if any of those implicate other attorney-client relationships, you could flag them for me. Does that work?

A Sure.

Q Okay. Great. So I assume in your capacity as -- well, actually, let me back up.

So as deputy campaign manager, how would you describe the breakdown between your responsibilities as far as serving as a lawyer, providing advice for the campaign, versus your other duties?

A Sure. So my job as deputy campaign manager was broken up into a couple of different buckets. You have to remember July of 2020 is just months before the election. So there was a lot of work to do and a lot of triage.

So campaign leadership kind of broke up different roles and responsibilities for everybody. My main areas of focus were the budget, primarily the budget and getting our arms around the spend, not necessarily like directing what we should be spending money on, but getting my arms around the spend.

The convention was five weeks away and I was put in charge of making -- and it had just been cancelled in person. So I was put in charge of figuring out how to do that, and then I oversaw the General Counsel’s Office. Matt Morgan became general counsel
and I became deputy campaign manager and I oversaw his work.

So that's how I would break that up.

Q Okay. That's helpful, and what, if you could assign a percentage, sort of just a rough estimate, what portion of your efforts were dedicated towards overseeing the legal operation and the General Counsel's Office?

Mr. Garber. In which time period though.

Mr. Clark. Yeah. In which time period are you talking about?

BY

Q Let's talk before the election first, so from July 2020 through Election Day.

A Twenty percent, fifteen percent. Matt really, really ran it and I would -- I spent a lot of time working with him. That was mostly related to the other bucket, which was budget, but yeah. Fifteen to twenty percent is fair, I think.

Q Okay. And how did that change after the election?

A It changed pretty significantly from the period of time from Election Day until about November 15th or so or just before that. Obviously, there was a lot going on post-election, right after the election, related to the litigation and things of that nature.

Q Okay. So from Election Day, November 3rd, through roughly the 15th of November, is it fair to say that litigation was a significant portion of your time then?

A Yes. That's fair to say.

Q Okay. And what changed on November 15th?

A Well, thereabouts, the President decided to change legal strategy and teams and I no longer had a direct role in coming up with strategy, overseeing litigation, and doing work like that.

Q Okay. We'll have an opportunity to talk about that in more detail later. I assume that what you're referring to is a shift in leadership to Mayor Guiliani and a team
of lawyers that he was working with. Is that accurate?

A Yes.

Q So during the time period from the election through January 6th -- so this would encompass the time period before Mayor Guiliani took over the leaderships efforts for the campaign as well as after. Who did you view as your client?

If you were asked to provide legal advice, who is the human being that you would be conveying that to?

A One of two people. It would have either been the President, himself, or the campaign as a corporate entity.

Q Okay. And who would the representatives of the campaign be in kind of practical terms that you would be providing legal advice to?

A Well, there wasn't really a -- it's hard to say. Okay?

I don't remember and I don't mean that as not -- I don't know what the org chart said, but there was a lot of people involved in the campaign even before the election, but particularly after, that needed to know or purported to sign off on things or didn't. So there was kind of just a group, and it's hard to remember if anybody said, Okay -- you know, there wasn't like one decider that said we're going to do this, let's go. So there wasn't one person I kind of gave advice to.

Q Sure. That makes sense.

Who did you consider as part of that group that would have been, you know, sort of the representation of the campaign that you were providing advice to as an entity?

Mr. Garber. It's Ross. I think what you're sort of getting at is a legal issue in terms who, legally, was his -- the client representatives, and I think what he's saying is he represented the campaign, and so anybody involved in the campaign could have technically come into the umbrella of his client.
I think that was his point.

Okay. Thanks Mr. Garber. Understood.

Q I just want to make sure -- this is all sort of preliminary before we get into more factual questioning -- that I understand what your expectation was or understanding was about privileged relationships.

So, for instance, you've identified Matt Morgan, who was the general counsel of the campaign. So I assume you would have had attorney-client privileged conversations with Mr. Morgan; is that right?

A Yes. I presume I would have, yes.

Q What about Mr. Stepien?

A At various points, yes.

Q Okay. Another senior campaign official, Jason Miller, would you have been providing legal advice to Jason Miller at various times?

A Well, I wouldn't have been providing legal advice to him, but I would have been discussing campaign legal advice to him --

Q Would --

A -- at various points.

Q Sorry. I didn't mean to interrupt you.

A No. That's all right.

Q That's helpful, but you would have understood conversations with Jason Miller about campaign legal advice to be privileged communications, depending on circumstances and content?

A Sure. Yes.

Q Did you have any official role in the Trump Administration, a government
role?

A I did.

Q What was that?

A I had two jobs. From January 20, 2017 through March of 2018, I was the director of intergovernmental affairs at the White House, and from March of 2018 through December of 2019, I was the public liaison at the White House.

Q Great. So during the time period that you were serving as deputy campaign manager, you no longer had those official government roles; is that right?

A Yes. That's right.

Q Okay. Great.

I know you identified the President, obviously as the candidate, your client to whom you would have been providing legal advice during this relevant time period from November 3rd through January 6th. Looking at that first time period, the 3rd through the 15th, approximately, how frequently were you in touch with, speaking directly with the President?

A Pretty frequently. I can't -- I couldn't say for sure, but frequently is fair.

Q Okay. Did that change after the change in litigation strategy or leadership around November 15th?

A Yes. That changed.

Q Okay. Approximately, how often or how can you characterize for us the change in your level of contact or interaction with the President?

A It was far less frequent, but I can -- it's not like it went completely to nothing.

Q Okay. Understood.

What about in the context of providing legal advice or in your role as a lawyer for the Trump Reelection Campaign, how much interaction did you have with Vice President
Pence?

A As a fair -- a good amount. I interacted with him a good amount, especially when I -- in the White House, I certainly did, and when I became deputy campaign manager, I dealt with him frequently.

Q And would you deal with him directly or through a lawyer and other members of his staff?

A Both.

Q During the time period from November 3rd through the 15th of November, approximately, how often did you interact with Vice President Pence?

A I can't remember. Not as frequently as with the President, but I can't remember.

Q Okay. What about after the 15th through January 6th; did you have interactions with Vice President Pence?

A I don't remember, but I don't think I did.

Q Okay. What about outside counsel that were retained to provide legal advice or representation to the Trump Campaign; what was your role in either retaining or supervising those lawyers?

A So, again, before July 2020, I didn’t have a lot to do -- well, strike that. I think that’s -- I supervised Matt, who had like direct -- Matt Morgan, who had really direct interactions with lawyers representing the campaign. At times, I would interact with them, usually with Matt, but if he had the largest point of contact with them, I had some percentage subset with them, but I would say Matt was directly supervising them and I had less interaction than him, significantly less interaction than him.

Q Thank you. And did that change at all around the inflection point that you
identified for us earlier around November 15th?

A Yes.

Q How so?

A Many of the attorneys that we had brought on to represent the campaign on the outside either stopped representing the President or didn’t talk to us anymore because we weren't supervising their work.

Q Focusing on the first part of what you just said, why did they stop representing the President?

A I don’t remember specifically and I can only speculate, and I don’t want to do that, but they -- I think the change in strategy was a part of that.

Q What, in particular, about the change in strategy made you think that?

A It was just the different approach to litigation, the different approach to how to, you know, go about post-election. They had signed up to work with us, doing things a certain way and that changed, and I don’t think they were willing to stick around.

Q Okay. And, again, the change in strategy that you’re referring to, is this associated with the new strategy implemented by Mayor Guiliani after taking control of the litigation effort?

A Yes.

Q Did you have any direct communication with outside counsel about this change in strategy or were those through Mr. Morgan?

Mr. Garber. And I think that would be covered by privilege and the work product protection. I think he can characterize sort of what he thought, but in terms of his interactions with the client and outside counsel, I think that’s privileged.

Thanks, Mr. Garber.
Q For clarification, I'm not asking for the content of any of those communications, but just the existence of them, Mr. Clark. Did you have any interaction with outside counsel about the change in strategy?

A I don't remember specifically, but I may have. I just don't remember specifically.

Q Okay. If you're thinking of them, are there any outside counsel that you do remember having interactions with?

A Again, not off the top of my head. I don't remember.

Q Okay. So there are several other -- so I think we've covered my general understanding of the key people, going back to my earlier question about who the folks were that you would have been talking to kind of under the umbrella of your privileged relationship or advice that you may have been providing to the Trump Reelection campaign. Are there others that I have forgotten?

A I don't think so.

Mr. Garber. To be clear, it seems like you identified only, I think, three people, Matt Morgan, Stepien, and Jason Miller.

As well as the President and the Vice President, yes.

Mr. Garber. As well as the President and the Vice President, but were there other people involved with the campaign who you would consider your communications were privileged at the time?

Mr. Clark. Yeah. I mean, Matt had a pretty good-sized staff working for him. The names will escape me and I apologize for that, but they would have all been covered and I would have had conversations with them at times, I'm sure.

The whole communications team, Tim Murtaugh, Erin Perrine. Courtney Perella was a junior comms associate, Thia McDonald and others that I assume would be there,
but those are people that come to mind in terms of individuals that I probably would have had conversations that could be considered privileged.

Q Okay. That’s very helpful. Thank you.

As we talked about you didn’t have a formal government relationship at that time or a role, rather, but are there -- did you interact with the White House Counsel's Office at all during time period of November 3rd through January 6th?

A Yes.

Q In what capacity did you have interactions with the White House Counsel's Office?

A I’m not sure I follow. Like you mean as an attorney or like how do you mean?

Q I just mean the context. I assume that, as a lawyer for the campaign, that you were neither seeking or providing legal advice to the White House Counsel's Office. Is that correct?

A That's correct, yes.

Q So, generally speaking, what was the context of your interactions with the White House Counsel?

A Well, first, I had friends in the White House Counsel's Office when I worked there. So beyond getting lunch and just chatting, it would have been talking to Pat Cipollone and giving him updates on the campaign, updates on what was happening.

Yeah. I mean, it would have been that type of thing. I would have been in meetings with them when I was over at the White House at times, likely just Pat, but maybe Pat Philbin too, but other than those two and the kind of social component of friends from the White House Counsel's Office at the time, that would have been the extent of what I did with them.
Q Thank you. Setting aside the social component, having lunch and
everything, really just focusing on the time period from Election Day through January 6th
and more substantive interactions?
A Yeah. It would have been Pat Cipollone and probably Pat Philbin and it
would have been either giving them updates on the campaign, just chatting about things
generally, you know, White House campaign specific, or being in meetings with them at
the White House.
Q Thank you. What about Eric Herschmann; is that a person that is known to
you?
A Yes.
Q And what was his role during this time period after the election?
A Well, I don't think he was ever in the White House Counsel's Office, to be
clear; otherwise, I would have said his name. Eric was -- Eric is a friend. Eric was
involved in helping us kind of navigate post-election and what to do and how to do it.
He was on the inside, obviously, but he was very involved.
Q Okay. Thank you. You said "us". Who is the "us" that you're referring to with Mr. Herschmann
helping to navigate post-election?
A Matt Morgan and Jason Miller and, to a certain extent, Bill Stepien.
Q So you're referring to senior officials from the reelection campaign?
A Yes.
Q Did Mr. Herschmann have an official role, duties for the election campaign?
A Nothing that -- no, he did not.
Q So and he, at the time, was, actually -- I take your point. I should have
made ore clear my transition coming after the White House Counsel's Office. I also
share the understanding that he wasn’t actually in the White House Counsel’s Office, but was a lawyer working at the White House at the time. Is that fair?

A    That’s fair, yes.

Q    So there’s -- are there any -- well, another person who is in that category who I assume that you interacted with, generally speaking, during this time period, but did not have an official role with the campaign Mark Meadows, then the White House chief of staff; is that right?

A    Yes.

Q    So he was working as the White House chief of staff at that time. So, generally speaking, what were your interactions with him after Election Day?

A    After Election Day, again, it would be kind of updates on where we stood with things. He would be over at the campaign headquarters at times. I’d be at meetings at White House with him on various things. We spoke by phone. He may or may not have texted me.

Q    Okay. If it’s helpful to go back to the breakdown that you provided us from the beginning, so from November 3rd through the 15th, generally speaking, how frequent were your communications with Mark Meadows?

A    Probably, daily. I know he -- but a lot of those communications would be, you know, Jason or Bill would get a call from him and they’d talk and then they’d come into my office to ask me a question while he was on the phone or stuff like that. So I’m counting all of that, but probably daily.

Q    Sure. Okay. And did that change after November 15th as well?

A    Yeah. It became far less frequent.

Q    And to what did you attribute that change with respect to your
communications with Mark Meadows?

A  I just wasn't -- I didn't have the -- I wasn't running the strategy on
post-election work and I didn't have a lot of insight into it.  So that, I would attribute the
same as before.

Q  Okay.  In your interactions with Mr. Meadows during the entirety of the
post-election time period, they were with him in his capacity as White House Chief of
Staff; is that right?

A  I assume so.  I don't know the delineation between kind of -- he was doing
official work, I guess, as chief of staff, but, you know, the line, it's tough to draw between
someone -- especially an assistant to the President.  There's no real delineation between
political work and official work during the time of the day.

So yeah.  Official, he was kind always on the clock, I guess, is my impression.

Q  Help me to understand that a little better.  When you explain that because
he's an assistant to the President, there's no real delineation between political and official
work, is that -- I don't want to mischaracterize you.

A  No.  That's fair.  I should have been a little more clear.

So when you are a commissioned officer at the White House, you're either an
assistant to the President, a deputy assistant to the President, or special assistant to the
President.  You've got a different status with respect to political work during official
business hours.

So if you're not one of those three people, if you're not a commissioned officer,
you're limited to political activity during your time off time.  I forget what the hours of
the day they delineate are in the regs, but to your off time.  If you're a commissioned
officer, you're considered on duty 24 hours a day, seven days a week, and so you're
allowed to do political activity at any time.  You just can't use government resources for
So my impression of him, there wasn't a clean line of when he was being a political person and when he was being chief of staff consistent with kind of anybody else who was an assistant to the President or commissioned officer at the White House.

Q    Thank you for that.    That's very helpful.

For the times that you're thinking of, especially during the time period after the election through January 6th, when Mr. Meadows was acting in a political capacity, what function was he performing?

A    I mean, I didn't have a lot of context in terms of what he was doing on a day-to-day basis, but it would typically be a campaign update, you know, like how is this thing going, how is that thing going, what's new with this, what's new with that, I heard this, I talked to so and so, here's what they said, what do you think, that kind of political back and forth.

Q    Okay.    Did he have an official role with the campaign?

A    No.

Q    Was he a person who was providing you approvals or tasking the senior leadership of the campaign with work?

A    That's a really good question and I don't quite remember, because, well, it was a while ago; but, more importantly, like I worked mostly in White House side with approvals for things.    I worked mostly with Jared Kushner.    Okay?

And so even if Mark or somebody else would come to me and say we need to do X, Y, or Z, if they weren't Bill Stepien or Jason Miller, who also worked with Jared, I would probably have asked Jared if we should do it.

So I don't want to say he was directing traffic just with respect to me, because I would have checked with Jared before doing something, had he asked me to do
something, particularly, spending money or retaining a lawyer, whatever.

Q  Okay. That's very helpful.

During this time period after the election, did Mr. Meadows ever ask you for legal advice?

A  Personal legal advice?

Mr. Garber. Which time period are we talking about?

BY

Q  Post-election. We can break it up into the two pieces if you want, but my question was just, generally, after November 3rd. Did you have communications with Mr. Meadows in which he asked you for legal advice?

A  Personal legal advice?

Q  In any capacity, either personally or perhaps in another capacity.

A  I don't think so. I don't remember specifically, but I don't believe so.

Q  Okay.

A  He was never my client. So there wouldn't have been any personal legal advice I would have done. The only thing I can think of is I may have provided him or he may have been present during something where I was updating people on campaign strategy, but, again, I don't remember anything specific, but probably not, I guess is the right answer.

Sorry if I'm not super clear.

Q  No. No. That's very helpful.

The circumstance that you may be remembering where you may have provided him with a campaign update with other people present, can you think a little bit more about that?

Who would have been the group that would included Mr. Meadows, but also have
been privileged, you know, communications related to the campaign?

A  All of the aforementioned people. It could have been me and Matt
Morgan, the President, quite frankly. It could have been in meetings with them.

Mr. Garber. To be clear, he's saying he doesn't remember any such interaction.

Mr. Clark. Yeah. I don't remember any specific interaction with him, must to
be really clear, but I may have. He may have been present is my point.

Q  That's helpful, but if you're providing -- if you're talking to the President in
his capacity as a candidate and your capacity as a lawyer working for the reelection
campaign, the presence of Mr. Meadows in those communications, did you perceive that
to be a part of a privileged communication with your client, the President?

A  I would have, yeah.

Q  Okay. Help me to understand that when it comes to Mark Meadows and
his role as White House Chief of Staff or in a separate -- some separate kind of more
political role.

Mr. Garber. Again, I think we're talking about a legal issue now. So if there's a
particular meeting that you want to talk about, we can talk about it. We're both talking
about a legal issue and this hypothetical example, which he can't remember.

So maybe if we talk about it in the context of an actual thing, it will be more clear;
otherwise, it's just a legal issue, I think.

Yeah. I take your point, Mr. Garber.

Q  And, Mr. Clark, we will get through the kind of chronological, roughly
chronological, discussion about this post-election time period, but just so that my
expectations are set and we understand what the privileged relationships are, if they are
implicated by later conversations or meetings, documents that I may be able to show you, do you remember any meetings with the President where you were there in your capacity as a lawyer for the campaign where Mr. Meadows was also present?

A I don't remember that.

Q Okay. And what about any text messages?

A Just also to be really clear, he was often in and out of meetings with people. So, again, I just don't remember.

Q Sure. No problem. And to Mr. Garber's point, hopefully, when we go through this, we'll be able to jog your memory about specific meetings and who was there and that will be a little bit more helpful, I think, to remember the various participants.

What about, before we move though, text messages with Mr. Meadows; do you recall exchanging any text messages with Mark Meadows that you would have been providing legal advice?

A I don't recall any.

Q Okay. Thank you.

Then the other thing that may come up -- I don't think it's going to be a big factor, but did you have communications with other elected officials, in particular, member of Congress during the post-election time period?

A I'm sure I did, but I don't remember. I don't remember specifically who or when.

Q Would any of those have been any members of clients -- sorry. Let me rephrase.

Would any members of Congress have been clients of yours?

A Members of Congress been clients? No, not on the legal side. I can't say,
you know, one of my partners or someone I worked for did mail or something on the political consulting side, but certainly not on the legal side. I didn’t have an
attorney-client relationship with anyone in Congress that I would have spoken to.

Q    That’s very helpful. Thank you.

Let’s go back to Election Night, November 3, 2020, and like I said, I don’t want to
overpromise chronological, because I will jump around a little bit, but roughly speaking, we’re going to go from Election Night through January 6th.

So why don’t we start. Where were you for Election Day, November 3rd?

A    So on November 3rd, I did what I always do and I got to the office right
before the polls opened. It’s just more superstition than anything.

We had -- I met with Nick Trainer, who also got in there early and, you know, we just kind of gave our final take on how we thought things would come out. We were all wearing suits and ties, which is very odd on a campaign. It was a hoodie and jeans type of operation, which was great, but we were all wearing suits and ties because the President was coming over to give everyone -- basically, to say -- we were going to give him briefing and he was going to say thank you to everybody.

He came over in the morning at some point. We gave him a briefing in the conference room at the campaign. By we, it was me and Bill Stepien. Mr. Meadows was there. I believe Jared Kushner was there, I believe Nick Trainer, and we just gave him an update on where we thought the race was.

He then walked around the campaign office and gave remarks to everybody.

Nick and I then went down to the motorcade because we were going to the White House to set up the kind of war room operation to track votes, make sure everything was all set for that day.

So then we went down to the motorcade. We waited there, went back to the
White House, went in. The President again spoke to some of our campaign people that were at the White House. Nick and I accompanied him up there.

Then we went down to get COVID tested before going over to the residence, and Nick and I went over to the Map Room at the White House to make sure everything was set up, and then kind of the day -- I don’t think I left the White House that day.

Q Okay. Thank you for that overview.

Nick Trainer, what was his role with the campaign?

A Nick was originally head of delegates and party organization, which was something that Bill Stepien -- the only thing that Bill Stepien and I oversaw prior to taking over as the role as campaign manager and me as deputy, and that was in charge of what it sounds like, delegates, outreach to state party chairs, work with state party chairs, things like that, basically, setting up the convention and the actual operational voting of the convention, which is a lot more work than people hear about, and when you do hear about in the news, it usually means something went terribly wrong. We took great steps to make sure we didn’t do that.

Nick then took over as the battleground states director. So he was, basically, in charge of directing traffic on travel. He was coordinating data and polling for the campaign and, basically, tracking that piece of the operation. I mean, moving the President around, as you can imagine, is a monumental task. So he was the guy that coordinated everybody.

So I think he was at meetings or on calls with the Secret Service, President Advance, White House Military, everybody on an hour-by-hour basis. It was a lot of work and he was in charge of targeting.

When we got to the Map Room that day, which was just a gut
punch, because he knew all of it in terms of he was a real critical part of our Election Day operations team at the White House. So that was tough.

Q Understandably. So before that unfortunate event, taking Mr. Trainer out of Election Night, going back to the briefing that you said that you gave to the President and, actually, before that even, you said that you and Mr. Trainer had sort of touched base on the morning of Election Day, talking about how the day was going to go. Am I accurately recounting what you told us a few minutes ago?

A Yes.

Q That first conversation with Mr. Trainer, generally speaking, what was the conclusion or what were the conversations between the two or you of how you thought the day was going to go?

A Keeping in mind that our polling and our internal data -- and these were people who had gone through 2016 as well -- we were actually quite bullish on Election Day in terms of how we thought the results would be. Nick, I think he said to me it's going to be tight as a tick. It said that's probably about right.

We went through states of who we thought was going on win and who was going to lose, and we kind of had some -- we all had our lists of counties around the country that were kind of bellwethers that we really wanted to take a look at and make sure we did well in.

I remember thinking, you know, the early votes coming out of Florida was going to be really important. The votes were going to be counted in Florida very early. We thought that was going to be an important bellwether, Ohio, and they were going to dictate how we did elsewhere, we thought.

So we thought it was going to be a really tight, a really tight election.

Q What was the message, setting aside the part of the President’s arrival at the
headquarters thanking staff, but how was the day going to play out, predictions; how
much of that, what you just described, was shared in the briefing with the President?

A I don’t remember specifically what we briefed him on, but what we probably
did was what we always did, which was to go through the latest round the polling results
with him, and I am sure that one or all of us said this is going to be really close.

Q What was the President's reaction?

A I don’t remember specifically, but it was -- he understood.

Q Understood that it was going to be very close?

A He understood our take on it. I think he was much more optimistic, to be
really fair. He always was, but he understood where we were coming from.

Q Understood. So your point is he heard you and understood your
perspective even though he may have had a more optimistic approach; is that fair?

A Fair.

Q Did you speak with him again when you arrived at the White House at any
point on Election Day, like before polls closed?

A Yes. So I walked with him and Jared up into the EEOB, the Eisenhower
Executive Office Building, up to one of the conference rooms where he had a bunch of
campaign staff that he was going to speak with. I spoke to him on the walk up.

We may have talked about golf for all I know, but I don’t think there was any
substantive conversation with respect to Election Day at that point. It’s a quick walk.

Q Understood. What about after polls closed; did you speak to the President
again?

A I did. I would have spoken to him very late in the evening, not one on one,
in a large group of people upstairs in the residence. I mean, it was probably after
midnight, but before that, I was not one of the people having direct conversation with
Q. Okay. And I think I interrupted you with a couple of questions, but if you want to return to generally telling us what else occurred on Election Day Night, that would be helpful. So I know you told us that you got up to the White House, got everything set up in the Map Room. How did the rest of evening proceed, starting from when you started to get polls closing and returns in?

A. So Election Night is always kind of a blur for me and I for everybody, because things start happening fast and you make fast decisions. We were tracking results in the war room.

Florida came in great. I mean great. Ohio, my number was and over-under of 500,000 votes in terms of a margin and it was looking great.

You've got to remember that none of these states occur in a vacuum in terms of like the type of voter. So if I'm in Florida and I've got northern Florida voting one, I can impute certain things about southern Georgia voting that way, or if I'm in eastern Ohio, I can impute what western Ohio is going to look like, because they're communities of interest. They're all kind of the same in a lot of ways.

Anyway, that looked great. North Carolina looked great. We were picking up our votes. The way -- I'm going to just nerd out for a second here. The way states operate in terms of the way they count votes are 50 different ways of doing it. Okay?

And so, for instance, Florida counts -- well, wait. Let me give a better example that I'm a hundred percent sure of right now.

North Carolina counts Election Day votes last. So it's first in vote, first out vote. Other states count Election Day first and work backwards to the beginning of a mail-in period of time.
So depending on that, you can kind of get a sense of how it's going to go, and if you have the Election Day vote modeled correctly and the mail-in voting modeled correctly, you kind of know -- you can figure who's going to win. In a lot of these places, we didn't have models because they never voted by mail before or the volume was different.

Like in North Carolina and Florida, we had a pretty good sense of what it was going to look like and it was coming in over estimates. So we felt great until later than evening when Arizona came in.

I had stepped out of the war room for a few minutes, and when I came back, they had called Arizona. Fox News had called Arizona, and the mood changed in the count room, and even to this day, I think Fox called it prematurely, because they had no way of knowing at the time how the result was going to come out. It was exceedingly close at the end, but that changed the tone of the room.

Q: Okay. So that was about 11 p.m. Eastern Time when Fox called Arizona. Is that --

A: That sounds right, but, again, you lose track of time.

Q: Right. Yes.

A: I assume that's correct. That sounds right.

Q: And so before that time, were you -- did you go up to the residence and interact with the President at all before that?

A: No.

Q: Okay. And he wasn't down in the Map Room with you at all before Arizona was called?

A: I don't think so.

Q: Okay. So tell us a little bit more about the effect of the -- you just told us of
the mood changing after Arizona was called. What do you remember about what
happened then?

A Well, I just remember -- you know, I had always had concerns about Arizona
just from a political context. So did Nick Trainer. He and I were both concerned about
Arizona, and it wasn't necessary in our mind for that to have a pathway.

We always talked in the campaign a lot about optionality. The reality is like we
had multiple maps that could get the President reelected. Arizona wasn't a part of most
of them. We could do it without Arizona. We had other states. Other stuff had to
happen. Don't get me wrong, but I felt our whole job at that point was to tell everyone
to take a deep breath because, "A", I thought it was a premature call. They didn't have
nearly enough votes counted and, "B", there were other paths to winning at that time;
but it was a sour mood at that point in that room.

Q Okay. Were you with the President when he was told about Fox calling
Arizona?

A No. I don't think I was. I don't remember speaking to him except like well
after midnight that evening.

Q Okay. Did you ever come to learn from any of your colleagues how the
President was informed about Fox calling Arizona?

A I don't remember. There were so many books written about it and news
reports and everything. Like I don't remember where I heard that from.

Q Okay. Would it be consistent with your recollection and as has been
publicly reported that Mr. Kushner informed the President that Fox had called Arizona?

A It wouldn't be inconsistent with my understanding or what would happen,
but, again, I don't know.

Q Okay. Did you ever hear directly from the President or come to learn from
any of your colleagues about what the President's reaction was to learning that Fox had
called Arizona?

A Yes.

Q What was it?

A He was upset, is what I heard and was upset with Fox News calling it so soon,
is my understanding, and he had asked some members of the campaign to go and talk to
Fox about that early call, but I don't know who did what, but that's what I came to learn.

Q Okay. Were you involved any of those communications with Fox?

A I don't think so. I may have been on a call. I don't remember being
involved. I certainly wasn't asked to call anybody.

Q Sure. Okay. And if you do remember, who was asked to contact Fox
about their calling Arizona?

A Again, this isn't directly at the time. This is what I learned after, but Jared
Kushner and Jason Miller.

Q Okay. So what else do you remember about the Arizona call? What else
occurred before you said that you did talk to the President after midnight that evening?

What else happened in between the Arizona call and your seeing the President?

A There would have been multiple conversations with Bill Stepien, Eric
Herschmann. Ronna McDaniel, chair of the RNC, was in the room quite a bit.

I would have talking to Matt Oczkowski, our data person who was kind of running
the count at that point. Mr. Meadows was in quite a bit. We would have talked to
him.

There was a conversation. I think it was one of those rooms down there. I
think it was the China Room, to be honest with you. I can't remember who else was
there, but it would have been me and Mr. Meadows and either Bill Stepien and Jason
Miller or one of the two, and it was the first time I really spoke to Mayor Guilian, who
came in and had thoughts on the election so far.

Q Okay. Why don't you tell us more about that interaction. What was the
conversation about, generally?

A I mean, the conversation was generally about Mr. Meadows or Bill
Stepien -- I think Rudy had spoken to the President and Mr. Meadows or Bill wanted some
of us to go talk to Rudy so he could express his thoughts and concerns with respect to
Election Night, and he was talking about Pennsylvania. We had had issues, even
post-election issues, with access to observe the counting of ballots, and I think it was
about -- it all came down to like him having certain ideas about the count not going right,
and I think it was just Pennsylvania, but I can't be quite sure.

It was mostly there -- we were mostly there to like have a conversation with him
so he could kind of vent so he wouldn't go talk to the President more, not because we
necessarily cared what he was going to say, but like it just wasn't productive.

Q Understood. And what you remember Mr. Guilian kind of venting about
was primarily issues related to access by observers to counting the ballots in
Pennsylvania?

A Access for observers and kind of the number of mail-in ballots that were
coming in and that they weren't counting them in a timely manner. It was all kind of
related to that issue.

Q Okay. Did Mr. Guilian give you any indication of the basis for his concerns
or opinions about those issues?

A I don't remember any specific bases.

Q Did you ever come to understand what the basis was for him expressing
these concerns or where he was receiving this information?
A Well, to be fair, his concerns were we can’t see what they’re doing. They are correcting -- they’re curing ballots, meaning they’re taking a ballot that would otherwise be invalid and fixing it so it’s not. I believe that, I think and believe, that there was probably ballot curing going on there, which is why we were kept out, but I didn’t have any direct evidence of it and he certainly didn’t at that point either.

Q Help me understand. What do you mean by ballot curing?

A So every jurisdiction is different, again, in terms of counting. Some states allow for a curing period of ballots that come in that aren’t filled out. They don’t have a date on it or there’s a box checked that’s missing. Some states have rules that say as long as we can figure out voter intent, we’re going to count the ballot. Other states say we’re not going to count the ballot, but we’re going to allow for a curing period of time when an election worker can call the voter and say you have five days to come in and cure your ballot. Other states prohibit it. Pennsylvania, I don’t want to say it was a strict prohibition, but it was a pretty strict state in terms of ballot curing, and the operating thesis was with all these mail-in ballots that arrived in Philadelphia, there was a lot of ballot curing going on by people who were counting those votes and that’s why our election workers were kept at a distance or out of the room entirely, so we couldn’t see them doing it.

Q And --

A That was --

Q I’m sorry. I didn’t mean to interrupt you.

A I was just saying that was the theory I believe he was operating under at the time and it’s something I was sympathetic to, and I don’t think it didn’t happen, but he didn’t have any direct evidence at the time, certainly.
Q: Okay. And when you referred to mail-in ballots coming to Philadelphia in the context of this kind of concern, you're referring to absentee ballots that were submitted by mail?

A: Yes.

Q: And did you ever -- stepping outside of Election Night and this conversation with Mr. Guiliani, did you ever come to learn any evidence that would support Mr. Guiliani's fear that there was something improper or illegal going on with respect to the counting of ballots in Pennsylvania?

A: No. I was -- two things kind of happened. One, being kept out, once that ballot gets cured and counted, there's no way to kind of prove the negative, that it didn't happen, which is unfortunate frustrating. The other thing is when I got pushed out in the middle or early side of November, I wasn't in a position to really figure out that investigation anymore myself.

Q: Okay. Thank you.

So just going back to this conversation that you recall having in -- I think you said it might have in the China Room at the White House with Mr. Meadows, Mr. Stepien, Mr. Miller, and Mr. Guiliani --

A: Yeah. It might have been just Bill or just Jason. I just can't remember if they were both there.

Q: One or both. Okay. Great. Thanks for the clarification.

In addition to the theory or concern about the counting of ballots in Pennsylvania, do you remember anything else that Mr. Guiliani said?

A: I don't. I don't.

Q: Was there any discussion of the President's remarks to be given that evening during this conversation?
A I don’t remember. It wouldn’t shock me, because I think it was pretty close
to the time when he was going to give his remarks, but I don’t remember specifically.

Q Okay. And what do you remember about Mr. Guiliani’s demeanor during
this conversation?

A He was pretty passionate, like borderline belligerent.

Q Okay. We have received testimony and evidence in our investigation that
indicates that Mr. Guiliani may have had too much to drink, that he was visibly
intoxicated that evening. Is that consistent with your recollection?

A I want be charitable because I don’t know if he was drinking or not and his
personal circumstances, but that’s consistent with his demeanor.

Q So before your conversation with the President that you referred to earlier,
any other meetings or conversations about the status of the election that evening that
come to mind?

A It’s really quite a blur. It would have been conversations about results in
specific states, counties that were still outstanding. There was a lot of slow counting
going on because of the number of ballots.

So as a person who likes resolution to things fast, it was rather frustrating for me
and I can’t imagine what it was like for the candidate and family members, but it was just
going to take a long time. It became pretty clear that this count was going to take quite
a long time.

Q Understood. Did you have any update to your assessment about the
likelihood of success?

A No. I really still thought it was going to be tight as a tick. I tell you what.
At that point, I do believe Arizona was called entirely too early. I mean, the count didn’t
really get resolved until about 10 days later where we knew we were going to lose based
on our data and our modeling, and our data and our modeling was like pretty close.

Georgia, we had a lead that we thought was going to hold and our data analytics team told us that it would. Pennsylvania, there was like 700-, 900-, 800,000-vote lead and there were a ton of ballots to be counted that no one could quantify.

In Wisconsin, there were major concerns with respect to the handling of absentee ballots, an issue that was eventually brought all the way up to the Wisconsin Supreme Court. I think it was ruled on in December, I think a four-three vote. That was wide open.

So it was still wide open. It was still going to be tight as a tick was my assessment at that time.

Q  Understood. Okay. So tell us what happened when you did speak to the President that evening.

A  My conversations with the President were with a large group of people up at the main hall of the residence of the White House as he was preparing his remarks. I don't remember the specifics of what I said. I don't, but it would have been some kind of update with respect to the count, with voting, with mail-in ballots. That's why I was there, I presume, but when I say -- it was a full house. The kids were there. Mr. Stepien was there, Mr. Miller, Stephen Miller and his speech-writing team. The staff secretary was there, all like kind of working on remarks and pulling stuff together.

I don't remember the specifics. Again, it was a lot of blur, but mostly, it was working on remarks and trying to get an update on what was happening.

We got on the phone at one point. I don't remember if the President was there or not. We got on the phone with the team in Pennsylvania to provide an update at one point.

Yeah. That's -- those are kind of my memories of it, and then we all -- the
stairways and the elevators are really narrow and tight there, and I remember it was kind of a gong show, everybody trying to pile through to get downstairs so he could give his remarks. I remember that pretty specifically. I waited for a minute because it was just -- someone was going to trip and fall and it was going to be a comedy going down the stairs.

So I remember that, and then we all went to the Blue Room, kind of went to the back staircase of the Blue Room, the Green Room where he tightened up his remark, and then he went out and gave his remarks. I believe it was at that point when he started giving his remarks -- I mean, I usually never stuck around for his remarks. I would always go watch him on TV, because in my job, I cared way more what it looked on television.

So I walked down to the Map Room and watched his remarks on the TV there.

Q Okay. That's very helpful.

Just to go back and clarify a couple of things about what you just told us, so big crowd in the residence and thanks for those that you remembered being there. You said that the focus was really about preparing the remarks.

Did you have a sense of who was responsible for drafting the speech or remarks that the President would give?

A It would have been Stephen. So Stephen Miller was really the guy who drove a lot of the remarks for the President. Derrick Lyons was a staff secretary, would have assisted in that and then Gabe. I forget his last name. I didn't know him particularly well, but he was the teleprompter operator and he would -- he always played a role, but that was just more of like of a scrivener, like, Hey, we've got to load this thing in and it's got to look right and getting the cadence right, but Gabe would have been involved there as just kind of like typing.

Q Got it. Was Mr. Giuliani there in the residence?
A I don't think he was, but I don't remember. I mean, it was a big crowd. I say I don't think he was because I don't remember him saying anything.

I think there were other meetings up in the residence prior to me going up late that night and, again, I think that's based on press reports. I'm not sure anyone told me, but I have to imagine that because of our conversation in the China Room, he had been up talking to the President, because that's why I think I was there, to like have -- to be his person that he could vent to.

Q Understood. Okay. Were there any other lawyers associated with Mr. Guiliani present there?

A Of Mr. Guiliani?

Q Yes.

A I don't remember.

Q Okay.

A His son, Andrew, worked at the White House. Sorry to interrupt.

Q No, no?

A His son worked at the White House and I'm sure he was hanging around that night, but I just don't remember him being around, nobody else that I recall.

Q Are you familiar with Boris Epstein?

A Yes.

Q Was Boris there with Mayor Guiliani that evening?

A I don't know if he was with Mayor Guiliani that evening or not. I think he was there, yeah.

Q Do you remember him being in the residence when you were there?

A I don't remember him being there. That doesn't mean he wasn't, but I don't remember him being there.
Q Okay. Were you — did you participate in any conversations with the
President about whether he should declare victory, whether he should that say he won
the election versus some other outcome?
A What do you mean by participate? Like I say that because in that big
meeting, those conversations were happening when they were discussing his remarks.
We all know what his remarks were.
Q Right.
A And there were definitely conversations about that in that big meeting. I
don't think I ever weighed in other than giving an update on where we stood with respect
to the count.
I don't think I ever said you should say this or you should say that or you shouldn't
say this or shouldn't say that. I don't think I ever weighed with respect to those
remarks, but went I present there when those conversations were being had, the answer
is yes.
Q Just going back to, you know, I hear you saying you don't think you weighed
in about whether or not he should say that he had won the election, but in the course of
your providing an update on the status of counting and the status of the election, did you
tell the President that he had won?
A No. I wouldn't have said that.
Q Okay. What would you have said?
A I would have said we -- I would have told him the truth, which I always did,
which was at the time like, Hey, this still looks really good, like I don't know where this is
going to come out tomorrow, and I gave him the update that I just gave you: Georgia,
we had a lead. Pennsylvania, there was still way to many ballots outstanding. I
thought they called Arizona wrong. There were issues with the absentee ballots in
Wisconsin that we needed to deal and would deal with.

So it was still open. It was an open question.

Q Okay. Open question as to the outcome?

A What I would have said is, you know, I don't think this thing is over by a long shot. I would have said that to him, something along those lines. I don't remember the specific words that I used, but that's what I would have said.

Q Okay. So for the rest of the conversation, even if you weren't asked or didn't actually weigh in about what he should say, but in the rest of that group conversation, did anyone advocate for a different position than what would be the natural implication of what you just said, which is that -- like you just told us, that it's not over by a long shot yet?

Were there other voices advocating that it was over?

A I don't remember that. Everyone would have looked to me or to Bill. Frankly, they would have looked to Trainer if [REDACTED], but they would have looked to us to say what the status of the race was, and I don't think there was any daylight between what Bill and I thought about where the race was at that moment.

Q Got it. So is it fair to say that you don't remember anyone giving an assessment or advice to the President that was different than what you and your colleagues viewed, which was that it was still possible to win, but it was still tight and the election was not over yet?

A I don't think anyone -- no. No one would have said that. They would have gotten an earful from me and Bill, because nobody in that room was from the political department or the field department to count votes. No one had access. They could talk to them, but no one was talking on a regular basis our data analytics team.
So we were the ones everyone would have looked to, and if someone had said, Well, no, or they disagreed, it would have turned into some kind of argument, because we would have said, No, you're all wet, like what are you talking about. I don't remember that happening. So I don't think anyone gave a different assessment of the election at that point.

Q Okay. Thanks. So did you observe any other, even if you didn't participate, but did you observe any other conversation that night before the President's remarks about what he should say about the outcome of the election?

A So I'm sure I did observe it, okay, in terms of what was spoken, what was said. I also don't remember what that was and the likelihood is because my job at that moment was to give an assessment of the politics of it. I never weighed in on speeches. I rarely weighed in on speeches, because that wasn't my bailiwick.

Q So was I there? Was I present when they were talking about the wordsmithing of a document and what he should say? Yes. Do I remember what was said? No, and I probably don't remember because, "A", it was a long time ago and, "B", I was probably on my phone, looking at numbers, doing something else.

Q I just didn't -- that wasn't my area.

Q Understood. Do I remember who, if anyone, advocated for the President to say he had won the election?

A I don't remember specifically.

Q Okay. Did you later come to learn who had, if anyone?

A No. I don't remember, period, who, if anybody, advocated that the President say those things.

Q Okay. I did want to follow up on one other thing. You said that you got on the phone with the team in Pennsylvania. Who, in particular, did you speak to in
Pennsylvania?

A I think we called Mike Roman, who was on the ground in Philadelphia. Mike just -- and I think we called Mike even though he wasn't the state director or anything like that, because Mike has been doing Pennsylvania sick politics forever and he was working Election Day operations for the RNC and the campaign. So he had a good sense of what was going on on the ground there.

Q Okay. So we have received testimony that Mayor Guiliani did suggest to the President that he should go out and declare victory, saying that he won the election outright and that others, including Jason Miller, told the President that he should not declare victory until he had a better sense of the numbers.

We also got -- is that with your consistent with your understanding or any later conversations you had with Mayor Guiliani or Mr. Miller?

A Yeah. That's consistent with what I heard after the fact. I don't remember observing that conversation. I don't think I was in the room for it, but that's certainly consistent with what I came to understand what happened and consistent with like the overall context of those meetings.

Q Okay. Thank you.

We also received testimony that Mayor Guiliani had a sort of verbal altercation with either you or Mr. Stepien about this topic, that there were, you know, strong words exchanged, including expletives about the possibility that the President would go out and declare victory.

Is that consistent with your recollection of the evening?

A Yeah. I don't remember specifically, but it's consistent with my recollection of the evening. I don't believe I was present for that specific conversation.

Again, I think there was a conversation between the President and Rudy before I
spoke to Rudy and I think there were other conversations with campaign staff and Rudy that I was not privy to.

Okay. Okay.

It's totally consistent with my understanding of what happened after the fact.

So I think you told us that after, you know, making your way down from the residence with the group and the President beginning his remarks in the Blue Room that you went back to the Map Room and watched the President's remarks.

Yes. We went to the Blue Room. They went over his remarks a little bit. We went in the Green Room to wait for him and then he gave his remarks in the East Room.

Okay. Thanks for that clarification, but you made your way back to the map room where --

I went back to the map room.

That was the campaign war room for the evening; is that right?

Yes.

Okay. So as you referred to earlier, obviously, we do know what the President said that evening. It was, you know, there was -- he did mention that there had been a fraud on the American public, that this was an embarrassment to the country and then said that we were getting ready to win this election, frankly, we did win this election.

What was your reaction to hearing the President give those remarks on live television?

I don't remember my reaction at the time to those. Again, I was in a position of counting votes, figuring out whether we won this or not and making sure we
had the right resources in states to deal with any issues that came up post-election, just
reconfirming or confirming that we had people on the ground, talking to political
operatives on the ground in places to see what the count was and the vote was.

I don't recall any reaction I had to his remarks.

Q Okay. And who else was with you in the Map Room during the time that
the President was speaking?

A It wasn't super full, because most of the people were upstairs listening to
him, but I'm pretty sure Matt Oczkowski was there. Gary Coby might have been there.
Mike Hahn was probably there, because he was hanging out there most of the night.
That might have been it. I don't remember anybody else.

Q Okay. Did you talk with any of them about the President's remarks, either
while he was speaking or shortly after?

A I don't remember.

Q Okay. Do you remember any of them expressing surprise to hear the
President give those remarks in light of what you had been monitoring for the election
results that evening?

A I don't remember any reaction from anybody else either, like right after or as
it was going on.

Q Okay. I guess I'm trying to understand. Did you -- going into the Map
Room, did you know he was going to say that he had won the election?

A I didn't know what he was going to say that. I didn't know. He's always
one to deviate from scripts.

Again, I wasn't paying super close attention about the actual remarks in the room.

I know I weighed in with respect to what I thought the current state of affairs was at the
time.
It didn't surprise me that he said it, because it's like on brand for him, but I don't recall any specific reaction and I don't remember whether or not that was in the remarks ahead of time or not, because, again, I wasn't paying super close attention to the wordsmithing at the time.

Q Okay. What do you mean -- you just said that one of the reasons or maybe the reason why you weren't surprised was because it was kind of on brand for the President. What did you mean by that?

A Yeah. I mean, when giving remarks and doing things like that, he will go in directions that you don't expect, and I think he had a belief that he had won and I got that sense -- I don't know if it came from a conversation with Mr. Guiliani. I don't know what it came from. All I know is that it wasn't my assessment or the campaign data team's assessment.

So I wasn't surprised. "Surprise" wouldn't be the right word. It was just kind of neutral, kind of -- I just wasn't surprised.

Q Okay. And not only was it not consistent with what you and the political operations and data operations of the campaign and everyone else who was present other than Mayor Guiliani, it wasn't consistent with that, it was contrary to what you had told him about the status of the race; isn't that right?

A Yes.

Q Okay. But I guess I'm just trying to understand. You're saying that you weren't surprised notwithstanding all of the factors?

A If I had a dollar for every time a client of mine didn't take my advice or listen to my strategic advice, I would be a very wealthy person. I'm not surprised when anybody says anything usually.

I mean, clients go in a different direction quite often.
Q    Sure. Understood, and certainly all of the lawyers present, I think share
that experience when it comes to giving advice to your clients, but I guess this doesn't
strike me as legal advice. It struck me as a statement --

A    When I say I'd be a wealthy man, I'm talking about political advice too.
Believe me. I just don't get surprised anymore when people do things contrary to what I
believe to be correct information and the right advice.

Q    So even if it wasn't -- you know, you were clear that you didn't give advice
about what you should say, but, rather, were giving assessment about the fact of the
state of the race; but notwithstanding that, you still weren't surprised to hear the
President go out and say that he had won?

A    That's correct.

Okay. It may be time for a break here for a couple of minutes, but
maybe --

Actually --

I'll ask my colleagues, yeah or , if you have all have
any followup questions if you would like to ask.

Yeah, just a quick question on that.

BY:

Q    Mr. Clark, it's intriguing to me. If I understood you a moment ago, you said
that, you know, it sounded like at least you and some others were trying to tell the
President that he lost or that the data had gone a certain way or not that he had lost, but
that maybe he had not won; is that more accurate, that he had not won?

A    I don't think even that's accurate. I think the advice I was giving was
actually pretty bullish, which is like, Hey, this thing is a jump ball right now, this is great.
The public narrative leading up to it had been based on some like really tragic public
polling data work leading up to November and there had been a constant barrage and
drumbeat that he was going to lose, he's going to lose Wisconsin by 14 points, it's going
to be a blood bath and we're going to lose 15 House seats.

This was contrary to all of that. This was like -- my take, I think I said it before
with respect to Arizona getting called too early, I tried to really calm everybody down,
because it wasn't the only -- it wasn't the end all-be all in terms of race.

So I viewed it as kind of a positive statement, positive comment.

Q So a moment ago, maybe I misunderstood you, the issue that you had with
the speech or when you felt like your client didn't listen was when he came out and said
we did win this election, this is a major fraud in our nation, was that what was
inconsistent with the -- I don't want to say advice. Is that what was inconsistent with
the data and what you were telling him?

A Well, I wouldn't characterize my previous testimony as being surprised
or -- the advice, the data, and the analysis we had given him was that this was a jump
ball -- okay -- that there were issues in various places that we needed to look at and
address. So leaving the fraud part of the statement aside, that he won, saying that at
that time, I believe was premature; but, you know, again, in terms of political statements
and political statements that people make, this is the kind of rhetoric that comes in
political campaigns.

Again, not taking my advice or in the same way I propose calculating how it should
be crafted into a speech isn't shocking to me and a lot of this stuff is the rhetoric that
politicians use. So yeah. I wasn't surprised.

Q Is it fair to say that at that point in time when he was saying we did win this
election, we did win this election, this is major fraud in our nation, nobody at that point in
time was necessarily worried about the possible ramifications of that political rhetoric; is
that fair?

Mr. Garber. When you say nobody --

Q Just presumably like in terms of the conversation and the reactions, I got the impression that you were saying about what's pretty natural political rhetoric -- let me start with you. Did you at that time see any concerns with the ramifications of that level of political rhetoric, saying we won the election, this is a major fraud in our nation?

A The only ramification I would have thought of it was that if he was incorrect about it, if it was not proven incorrect. Like it was more a political calculation, like his own reputational analysis. It didn't strike me as anything out of the ordinary course at that moment.

Got it. Thank you.

I think is right. It's actually a really natural time to take a comfort break. If we could maybe just break and come back at 12:15, would that work for you?

Mr. Garber. Sounds good.

Let's go off the record now. Thank you.

[Recess.]

So we're coming back from recess at 12:11 p.m. and there was just a quick followup question that I wanted to ask you.

Q Before the break, we were briefly talking about the President's speech where he said, frankly, we did win this election, we did win this election, this is a major fraud in our nation. To your knowledge, had anybody on the staff informed the President that major fraud had been found during the course of the election?

A No, not to my knowledge.
Q So do you have any idea where he came up with that or was it your impression that he just made it up on the fly?

A Again, I don't remember the wordsmithing of the speech just prior to it. So I don't know if someone suggested that to him. I don't think they did. I think he probably came up with that on the fly.

Q But sitting here today, you're not aware of any staffer or employee who had actually told him that there had been major fraud in the election?

A No, I'm not aware.

Q And just to follow up with that, Mr. Clark, did you, yourself, believe at that time that there had been a major fraud in the election?

A I mean, it depends on the meaning of the word "fraud" and how you look at it. I mean, there had been issues. I think there were serious concerns about the volume of mail-in ballots. I shared them. I still do, but the switch to an all-mail voting system in a presidential election year, President election cycle is really problematic in terms of controls, in terms of concern over handling of ballots; but fraud in the traditional sense of the word, someone stealing something or hiding something with mal-intent, at that time, I didn't have -- I didn't share with anybody a belief that that was the case.

Q I guess like in the history of Presidents coming out the night of an election to come out and this is a fraud on the America public, this is an embarrassment to the country, this is a major fraud, was anyone concerned or do you remember hearing any conversations about the concern about the inflammatory nature of the President of the United States making statements like that the night of an election?

A I don't remember anything specifically. I'm not saying that nobody said
that to him. I just don’t remember the specifics in terms of the actual like wordsmithing of the speech.

Okay. Thank you. I’m going to turn it over to my co-counsel, Mr. Clark, just before we leave Election Day, I wanted to ask you do you remember any conversations before Election Day about the President’s speech, the remarks that he would give?

A Prior to Election Day?

Q Yes.

A I don’t remember any conversations about that.

Q Okay. And in the questions that just asked you, you referred to a transition to an all-mail voting system. What do you mean by that?

A So, obviously, 2020 was a year when COVID took over, but there were also some major changes to voting systems in the states. So in Pennsylvania, Pennsylvania traditionally did not have a high absentee ballot rate. I mean, it was low, single-digit, percentages of the votes cast were absentee. An overwhelming majority were election day because they had an excuse-based voting system.

In 2019, the legislature in Pennsylvania changed that system to allow for no excuse absentee voting. Combined with COVID, it led to an explosion of absentee ballots that were put into the system in Pennsylvania.

It wasn’t a particularly well-drafted law and it really left a lot to the imagination in terms of local election officials and the courts in terms of interpreting those, and those interpretations were kind of all over the map, and as I’m sure all of you on the call know, I
mean, if you’ve ever been into a Board of Elections meeting or been into a polling place
with people, you have a lot of people that have been doing this election administration
for a very long time that have been doing it one way that are daily workers, not really well
versed in election law and the mechanics of voting, and to make a monumental change
like that in a presidential election cycle just, first of all, it seemed insane to me because
it's not the right way to run a railroad, but it created a lot of concern about the handling
and the counting of absentee ballots.

Arizona -- not Arizona. Nevada. Nevada changed their law to all mail voting
system in August of 2020. August of 2020, and --

Q I'm sorry. I didn’t mean to interrupt you, but I think that's the point I was
hoping to get at. You referred earlier to an all-mail voting system, but then the example
you gave for Pennsylvania was about the expansion of access to absentee ballots through
no excuse balloting.

So are you -- I take it, then, you were not trying to say that the entire -- that all 50
states went to a mail-in ballot system, which is not accurate?

A No. The Presidential election is 50 separate elections in 50 different states.

Q Right, and most of them were -- the balloting, the change was to increase
the availability or the use of absentee ballots; is that right?

A Not necessarily. Pennsylvania was, but Pennsylvania’s turn to a no excuse
system coincided with the explosion of COVID, which led to an even greater explosion of
mail-in balloting than I think anyone would have anticipated, absentee voting that anyone
would have anticipated.

You know, Nevada is a great example. Nevada changed their system to an
all-mail system, not just absentee system, like mailing live ballots out to people on their
voting list in August of 2020. They just rammed it through, which is insane to me.
I mean, if you talk to election officials in Colorado, Oregon, Hawaii, that have switched to these things, it's a multi-cycle change in process, because you've got to get the security on it right and the handling of it right, because you're adding a chain of custody to a balloting procedure that had typically been done exclusively in person. So the changes and the temporal component of the changes in particular were a great concern.

Q Okay. Thank you for that.

So let's move forward from Election Day to the following week as ballots continued to be counted in the state and additional states are called over the next several days. So do you remember meeting with the President in the days after the election?

A I do. I couldn't tell you specific days that it occurred, but I do remember meeting with him in the days after the election.

Q I'm happy to prompt your recollection and see if this jogs your memory. So we've received testimony about a meeting with the President in the White House on November 6th. So this would have been the day before the major media outlets called the race entirely.

So on November 7th, AP, CNN, NBC, CBS, and Fox News called the election for President Biden after projecting that he would win Pennsylvania. Do you remember that?

A Not specifically, but I don't doubt that I was there the day before then. I just don't remember the topic of conversation.

Q I'm sorry. Let me be a little bit more precise. Do you remember that they called the race on November 7th after --

A Yes.

Q -- projecting that he would win Pennsylvania?
Yes.

Okay. Do you remember meeting with the President the day before that?

Not specifically, but I'm sure I met with him the day before that. I'm not trying to be coy. I just really don't remember the specifics of the day I met with him to talk about "X". The tick tock of the time period is really not the clearest in my memory.

Sure. Understood.

So I can tell you that we received testimony that the participants in this meeting that I'm referring to on November 6th include yourself, Mr. Kushner, Mr. Stepien, Mr. Miller, and then Matt Oczkowski participated by phone. Does that jog your memory about this meeting?

Yes.

Okay. So what can you tell us about the contents, the discussion during this meeting?

Again, it's not all super clear, but we would have talked about the data in the race, probably specifically Georgia and Arizona given that Matt was on the call and, actually, at that time period, Pennsylvania too, because Matt was really in charge of getting his arms around how many votes were outstanding, of those outstanding votes and those specific voters whose ballots were not yet counted, modeling them to make a determination as to how their votes would come up out.

So we would have been giving the President, presumably, an update in terms of how probably Georgia, Pennsylvania, and Arizona were going to come out.

And what did you tell the President, you meaning the campaign officials that participated in the meeting, about how those states were going to come out?

Honestly, I don't remember specifically on that Friday. Everything moved really fast, obviously. So Tuesday is the election. It rolls into Wednesday morning.
We still weren't clear on Arizona. We still weren't clear on Pennsylvania. We still wouldn't been clear on Georgia.

I presume -- there was a meeting. I don't remember the date, but there was a meeting where Matt kind of told everybody, and I don't remember if this was with the President, that we weren't going to win Georgia. I don't remember if it was this meeting or not. I don't think it was this meeting. I think it was the week after, but that's like my Matt Oczkowski meeting memory.

Q Okay. That's consistent. We received testimony that during a meeting -- I thought it was this one, the 6th -- that Matt Oczkowski told President Trump that he was likely to lose, that the numbers just weren't there. Is that consistent with your recollection?

A Yeah, at some point. I just can't put the 6th on it, but I remember that meeting and I remember it was like a switch. Matt was like we're good in Georgia, we're good in Georgia, we're good in Georgia, and then all of a sudden, we weren't. I just remember that specifically.

I just don't remember that it occurred on the 6th.

Q Got it. Okay. And when you're saying that there was a switch with Mr. Oczkowski and his assessment of the Georgia numbers, that wasn't just during the meeting, but, rather, you mean over a period of days as they were counting in Georgia?

A It wasn't at that meeting, but it was at a prior meeting where, I mean, it was a matter of hours. It was like, I think we're good in Georgia, and then all of a sudden, we weren't.

Q Got it. Okay.

A But it was in the same period, the same probably --

Q What else --
A -- but it wasn't at this meeting.

Q I'm sorry. I didn't mean to speak over you. What else do you remember about what Mr. Oczkowski said during the meeting that you're recalling where he gave the President his assessment?

A I don't remember a lot. He wouldn't have said anything about -- I think at that point in time, we were still pretty confident, based on our model, that Arizona was going to come out okay. We thought it was going to be super tight. I think we were like, Look, this is going to be really close, but like I think we're going to end Arizona up like 5,000 to 7,500 votes based on our model numbers.

So he would have still been saying that at this point. Pennsylvania, he probably would have given an update on the outstanding ballots in Pennsylvania, and on that following Saturday when the networks called it, I remember Matt's numbers hadn't really caught up to where the networks were at this point. So I don't know if he had given us a definitive answer on Pennsylvania.

Then Georgia was such a mess in terms of ballots and their curing period, and all of that was happening. I don't remember if he said with any definition on the 6th that that was case then, but I could be wrong. It's not -- it wouldn't surprise me if that other testimony you have is correct, because that meeting took place. I just can't pinpoint it on the 6th.

Q Well, setting aside the 6th of not, but the meeting that you remember, did you agree with Mr. Oczkowski's assessment at that time?

A In terms of his count, yeah. I would have no reason to disagree with him, because he was doing the data analytics. I didn't look at the algorithm. I didn't look at the numbers. I wasn't in the middle of it at that point. So I would have assumed his numbers were correct.
And did you express your assumption or your conclusion during the meeting?

I don't remember doing that, but I might have.

Do you remember others speaking in sort of support or in agreement with what Mr. Oczkowski was saying?

Not specifically, but no one would have disagreed with him. Let me put it that way. Nobody would have -- if it was me and Miller and Stepien and Jared, no one would have come in and said, No, he's all wet, he's wrong; but I don't know how full throated it was that someone jumped in. I don't remember.

Okay. What was President's reaction to Mr. Oczkowski’s assessment?

I don't remember his reaction that day, to be honest with you. I don’t recall. He was always -- he always post-election in a limited period of time when I was really interacting with him, he always took information in in a way that was pretty calm and absorbed it, but I don’t remember any specific reactions.

Okay. Did you have any question about whether he had actually heard and understood what Mr. Oczkowski was saying though?

I don't have any reason to believe he didn't hear and understand what he was saying.

Okay. We have received testimony that all present were for the meeting except for the President appeared to be in agreement about the conclusion. Is that fair?

That's fair. Yes.

We've also heard testimony about a meeting about a similar topic that included Mayor Guiliani. Do you recall whether he participated in the meeting that you're remembering with Mr. Oczkowski?

I don't recall if he participated in that meeting or not.
Q Okay. Around this time period, either before or just after the networks called the race, do you remember having another meeting at the White House where Mr. Giuliani participated, possibly by phone?

A Yes.

Q Okay. What do you remember about that?

A So there were two meetings, one where he was in person, and I don't know what when that occurred. It was post-election and before he kind of took over. It was a full house in the Oval Office. He was sitting next to me and we were talking about Pennsylvania and litigation with respect to Pennsylvania.

I think he was talking about lawsuits and affidavits. It was just kind of a conversation that was really going nowhere, and at one point, Matt Morgan and I excused ourselves, just because the conversation was going nowhere, and went to a different room and talked about kind of stuff we were working on and things like that.

Q Okay. What do you mean by the conversation was going nowhere?

A He was just -- it was a circular conversation about Rudy and affidavits and, you know, I've got an operating theory about how I approach issues like this in anything. Right?

But you have to look at what do you think, what do you know, and what can you prove. Rumors can be true or not true. So you should kind of chase down everything.

I just remember that in meeting, Rudy was just chasing ghosts from things that had happened, you know, 10 days before and it just was off, just off. I don't know how else to describe it, but it was a pointless conversation that wasn't leading to anything substantive, if that makes sense.

Q Okay. It's does, and I would like to ask you about it, but it looks like we've lost your video.
A Really.

Is that on my end or, in the conference, can you see Mr. Clark at this point?

We cannot.

[Pause.]

There we go. Great. Thank you.

Q So, Mr. Clark, I heard you before we had our little technical difficulty there. You were saying that your operating theory is sort of what you think, what do you know, and what can prove and that your interaction with Mayor Guiliani, in particular in the meeting that you're recalling in the post-election time period, that his statements were inconsistent with that; is that fair?

A Yes. That's fair.

Q What were the things that Mayor Guiliani was saying or asserting that you felt like didn't satisfy the last part of your operating theory, which is do you know it and can you prove it?

A I don't remember the specifics, but I just remember it was rumors that had been floating around about voting in the election and it was related to Pennsylvania and that we just didn't have any evidence for it at the time, and it was just a pointless conversation, because it wasn't leading us to anything down the road that we needed to like accomplish or were looking into.

So I don't remember the specifics at this point in my life, but I just remember it was completely a dead-end and it just pointless.

Q Understood.

A Look, I had had some frustrations with Mayor Guiliani, and I'm sure you'll
talk about it, in a subsequent meeting we had, but like it was a lot of that, and I didn't want to deal with it anymore, because we didn't have time.

Q. Was the President during this meeting you're recalling with Mayor Guiliani?

A. Yeah. He was.

Q. Did you make your assessment of Mayor Guiliani's statements clear in the meeting?

A. I'm sure -- well, I don't know how clear I was, but I'm sure I attempted to make it clear. I always tried to tell the truth to him and everybody and give honest advice.

So I don't know how clear it was, but I tried.

Q. But you did state your assessment during the meeting and it was -- you were hoping to make clear what you thought about --

A. I'm sure I did.

Q. What, specifically, do you remember saying at that point?

A. Oh, in terms of specifics, I just was probably saying what I said a lot, which was, All right, guys, do we have any evidence of this, do we have any affidavits, is there any -- like what do we have to show this is the case.

Q. But did the President respond?

A. No. I'm sure Rudy responded at that point. The President would just kind of observe these conversations, usually, more than engage in a meaningful way, with me anyway, not necessarily with others.

Q. Okay. But is it fair to say that it could not have escaped notice during this meeting that you and Mr. Morgan had a different assessment of what Mayor Guiliani was saying?

A. No. It wouldn't have escaped notice.
Q. I think you said that you remember two meetings. One was in person with Mayor Giuliani, but there was another one during this time period. What do you remember about that one?

A. And this was the week after the networks called the election, right before -- it must have been right before Rudy took over. I was at the White House for a meeting not related to Mr. Giuliani. It was a communications meeting, because I was -- we were waiting for the President. We were going to meet with the President. It was me, Bill Stepien, and Jason Miller. I think Erin Perrine was there, for some reason. I'm guessing it was some kind of press or communications meeting.

We were waiting in the cabinet room for the meeting to begin, and someone came into the cabinet room and said, Hey, the President wants to talk to you, can you come into this meeting. I said sure.

I grabbed my stuff, walked to the outer oval, into the Oval Office, and a big crowd was there. There was just a lot people there. Maybe it seemed bigger than it really was, but there was a lot of people there, and the President and everybody were on the phone with Rudy Giuliani and he was talking about -- they were talking about -- having a discussion about Georgia and Georgia legal challenges, and my first thought was, Well, this is odd that I wasn't invited to this meeting; and the second thought was the President let Rudy talk for a while and said, Hey, Rudy, Justin is here, what do you think of filing a lawsuit or doing something in Georgia.

He was doing something in Georgia and, again, everybody in the world was in that meeting, and my assessment was, Look, Georgia recount statutes are really weird. They're not -- they're all different, but theirs is particularly weird because you can't file for a recount until post-certification in Georgia. So the Governor certifies the election and then you file for a recount.
So it's like super late in the game. Okay? And but it's actually an administrative process and remedy that you can get to the bottom of some thing. It's not like a perfunctory count. There was currently a hand recount going on in Georgia, if you recall.

So, anyway, I walked through that statute and all of that and so I said I don't think we should do anything administratively or in Federal Court or anything like that because we're just going to get dismissed because our remedy is the State Court and the federal judge is just going to say, you know, look at the state statute to do that.

There was some back and forth about it. There was some back and forth about the hand count going on, and Mr. Guiliani and I, we've butted heads before. He said -- he told the President that I was lying to them about that, which I wasn't, and I just kind of lost it on Rudy and got into a shouting match with him on the phone that day.

He said, You're lying. I came back with, I'm not lying, just read the statute in Georgia. Then we started yelling at each other and the President broke up the conversation and the meeting broke up.

Q What was Mr. Guiliani's response to your telling him that what you were saying was just the reading the statute in Georgia?

A I don't remember. We were screaming at each other.

Q Okay. How long after that interaction did Mayor Guiliani take over litigation on behalf of the campaign?

A I remember it like immediately, but I don't think it was immediately. I think it was like the next day.

Q But within a period of a day or so after that interaction?

A That's my recollection anyway, yeah.

Q How did you learn that Mr. Guiliani would be taking over litigation for the
campaign?

A The President called me and told me.

Q And what did he tell you?

Mr. Garber. That would probably -- that would be a privileged conversation, I think.

Mr. Clark. Yeah. I'm not comfortable getting into that, but I was informed by him that Mr. Guiliani would be taking over the campaign or taking over the litigation on the campaign.

Q Okay.

A Then he subsequently tweeted about it, I believe later that day or the next day.

Q Did he give you a reason?

Mr. Garber. Again, I think that's a privileged conversation. It's just that's Justin and President about legal strategy.

Q Understood. I mean, even if not telling me the reason, but did you understand that there was a reason?

Mr. Garber. Again, I think that goes to the substance of the communication from the client to the lawyer, and that's just hardline privileged stuff.

I take your point.

BY

Q Mr. Clark, did you believe that the interaction that you had with Mayor Guiliani in the Oval Office with a crowd of people present, including the President himself, did you see those two things as connected, as one leading to the other?
In part, but it was kind of the culmination of a week of us disagreeing about stuff. That was kind of the, you know, capstone of it, but it was part of the puzzle, but it was probably the last -- I don't want to say last straw, but it was the last thing that happened.

Mr. Garber. "Us" is you and Rudy.

Mr. Clark. Between me and Rudy, yes.

BY [omitted]:

Q You and Rudy directly, but also just in general, you and Mr. Morgan, the sort of institutional or established campaign lawyers versus Mayor Guiliani and his associates; is that fair?

A Yes.

Q And if you can, can you distill for us what was the substance of the disagreement between you and Mayor Guiliani?

A I mean, it was -- the disagreements were like I always viewed them as opposition in nature. If I had said that it was noon, he would have said it was midnight. There was a lot of that going on. That was my hot take on it, but, substantively, you know, there's a process to challenge election results and I never got the impression that Rudy's team was interested in following that process.

I believe the process we had would have -- would have and could have uncovered some things with a lot more serious effort to determine -- I'll never know the answer to that because we weren't allowed to do it, but it was they believed a lot more in trial by P.R. They believed in not following the prescribed processes and didn't have a fundamental understanding, I didn't think, of election law or local election law that prevented them from going down that stratum.

There were also legal theories that I thought were fruitless. Dominion voting
machines and software changes and, you know, Venezuela, I thought it was -- regardless of the merits of it, which I didn’t think were correct, the path of going down that way, I just didn’t think was a good strategy, because it wasn’t something that was going to fundamentally change anything.

So we disagreed on a lot of stuff and a lot of it just became oppositional at the end, and that was that.

Q Okay. Thanks for that explanation, and I think you now have told us about two in-person meetings with the President where these issues came up. You haven’t told us the content, but you did tell us that you had a direct phone call with the President about this.

Through the course of all of those interactions and any others that you had with President, do you think that the differences between you and Mayor Guiliani were clear to the President?

A I don’t know, but I would think so. Again, I don’t know how clear I was or wasn’t, but I always attempted to be.

Q A better way I should have asked my question, but did you state your differences with Mayor Guiliani out loud as opposed to keeping them to yourself?

A Yes.

Q Okay. Let’s see. On the day -- going back to the timeline, November 7th, the day that the networks called the race, do you remember being in a meeting with the President in residence that day?

A Yes.

Q Okay. We received testimony that the meeting included Mr. Stepien, Jason Miller, David Bossie, and Eric Herschmann. Is that consistent with your recollection?

A Yes.
Q Were there any others present?
A Not that I remember. Mrs. Trump came in at the end of the meeting to say hello, but she wasn't like in the meeting.

Q Okay. We've also received testimony that the participants in the meeting, and in particular you, told the President that there was a likelihood of success in election challenges of overturning the race, the outcome of the election, was less than five percent. Is that consistent with your recollection?
A Sort of. I told him it was between five and ten percent, I think, and I laid out those percentages based on there still being outstanding votes to count in Arizona that, again, even at that late point, we thought there was -- we thought we were going to win by 5,000 to 7500 votes. The election challenge in Wisconsin was real and was being litigated in terms of the recount in Dane and Madison -- in Dane and Milwaukee County, and Georgia was still a mess at that point.

So at that point, those three states, if they had flipped to President Trump, it would have been a 269-269 vote and we would have had an contingent vote in the House. Not a contingent vote. I forget what they call it, but a vote in the House of Representatives for it.

I did tell him there was a five to ten percent chance of winning and every one of those things had to go right. Like it had to be a straight flush -- right -- all three. He said he understood.

Q Okay. Did anyone in that meeting on the 7th assert a different view of the likelihood of success?
A No. In fact, beforehand, we all went over and beforehand had met and discussed like what are we going to say to him, because we had been assigned the task of going over there and speaking to him, and it came to down to, yeah, everyone agreed
with that assessment, and it was agreed that I would be the one to tell him that, because I
was the only one that a real depth of knowledge in both the vote count and the legal
challenge in -- the challenges, the one in Wisconsin and Georgia.

Q  Okay. And what was the President's reaction when you told him that?
A  I think he said, Okay, I think it's a little bit higher, but okay, I understand.
Q  Okay. You said that you assigned a task, the group, of going over there.
Who assigned that task to you?
A  No. I think we just kind of all agreed that that was the right approach. I
don't think it was like, Justin, you get to -- you know, we didn't draw straws or anything.
I was happy to do it. It was fine.
Q  Got it. What about meeting itself; who set up the meet or asked for it to
occur?
A  Oh, I see what you're saying.
So earlier in day, we had had a meeting in the conference room at the campaign.
It was all those participants you just mentioned plus Jared Kushner was there. Matt
Morgan was there. Hope Hicks was there. Dan Scavino was there.
And when the networks called it, that meeting was occurring and the President
was golfing out in Loudoun County and it was decided at that moment, Hey, someone has
got to go back and talk to him and be there when he gets back to have a conversation
with him about the networks callings. It was a pretty monumental event.
So we kind of just picked who needed to go and who needed to be there. So
that's why we did that.
Q  I see. Okay. Thank you.
Was there any discussion either at this meeting at headquarters before or in the
meeting in the residence with the President about concession?
A I don't remember that. I don't remember that. There certainly wasn't with the President. I don't think we talked about concession at that point with him.

I'm not sure I ever spoke about it with him. I'm not sure. I don't think so, but I don't remember, but I don't think -- in that meeting at the campaign, it may have come up, but it certainly wasn't an in-depth discussion.

Again, I believed in that five to ten percent path and so I wasn't thinking concession at that point. That wasn't my job. Like a concession speech or whether you should concede is something that's like super personal and it's something that like family would discuss with him, and any speech he would give with respect to that would have been, you know, the Millers, Jason and Stephen coming together on that.

I was really about legal challenges and the numbers at that point. So I didn't have it in my head. That doesn't mean it wasn't discussed, but I don't think it was discussed with him in that meeting in that conference room. It may have been, but I don't remember.

Okay. Let me look at my notes here real quick.

BY [peruses notes.]

Q During this meeting when you're in the residence with the President, were there any states at that point that you told him there was no likelihood of changing the outcome through the litigation?

A I don't remember that, the path. We may have discussed a potential recount in Pennsylvania, which had just gotten called, but at that point, it looked as if the margin was just going to be too big for a recount.

The rule of thumb that I go by is for every million votes cast, for every million votes cast, if it's within a thousand votes, a recount can overturn the results of an election
for sure. If it's above that, the odds just start to plummet. It's just really hard to after the fact change outcomes.

So based on my rule of thumb, I don't remember the count at that point in time, but I think stuck to those three states because I think Pennsylvania was just going to be too hard to have a recount effectuate any kind of change in the outcome of the election in that state.

Q Understood. Did you ever share that rule of thumb with the President?

A I don't know if I shared it with him, but I certainly would have shared it with other people on the campaign.

Okay. Before -- I think I'm going to switch gears a little bit. So I'll pause here and see if my colleagues have any followup before I do.

No. We're good. Go ahead.

Great.

Let's pull up a document really quickly. It's about one of those states and the post-election strategy. So this is going to be Exhibit No. 26. With your patience, Mr. Clark, we'll do this for the first time. We'll pull the document up on the screen through a screen share, and please let us know if you need us scroll or focus in.

Mr. Clark. Sure.

Q So this is Exhibit 26. You can see the document on your screen?

A I can, yes.

Great. If you don't mind continue scrolling down to the bottom so that Mr. Clark can see where the email chain begins.

There we go. If we could just focus on that proposed press conference announcement.
Q. Do you remember this circumstance, Mr. Clark?

It looks like an email chain beginning November 8, 2020, discussing a potential press conference in Nevada?

A. I don’t remember this specifically, but I don’t doubt that it was sent.

Q. Do you remember, generally, what was your outlook or your strategy with respect to the outcome of the election in Nevada?

A. As I said before, Nevada, the change in their rules was really something. I didn’t -- it was ill advised, real problems with election administration in Nevada, just on its face, like per se election administration problems because of the recency in the change of the voting method.

We did pursue an election challenge in Nevada, if I’m recalling it right, and -- yeah. Adam and Matt Schlapp were kind of leading the effort out there.

Again, I wasn’t never super bullish on it, because the count had come in, but it was a real challenge to get a look at the ballots in Nevada.

Q. Okay. And if we could scroll up to the top, there’s an email exchange between Stephen Miller or -- sorry -- Jason Miller and Mr. Stepien. Let’s see. There we go.

So this is Mr. Stepien asks -- sort of adds Mr. Miller into the email chain and asks for his legal strategy. Mr. Miller responds at 3:50 p.m. on the 8th: "My understanding of our Nevada strategy is to cause as much chaos as possible."

Mr. Stepien then responds: "If that’s the Nevada play, then okay, but as for Pennsylvania, etc., no more Four Seasoning."

So the first thing I want to ask you about is just about the Nevada strategy. What did you understand Mr. Miller to mean by "cause as much chaos as possible"?
A: I don't remember this email. So I'm not sure what he meant by that.

Q: Looking at it now, what do you think it meant?

A: I think he's talking about a comms strategy there in terms of chaos, but I don't recall specifically what he was getting at there.

Q: Okay. What, generally speaking just from your experience in campaigns, what would a comms strategy aimed at creating chaos, what would that mean?

Mr. Garber: If you know. This sounds like the conjecture.

Mr. Clark: Yeah. I mean, the playbook from a regular campaign to this period of time in this campaign would have been thrown out the window. So I'm not sure.

Q: Okay. Were you aware of any strategies of the Trump Reelection Campaign during this time period aimed at creating chaos?

A: I don't remember.

Q: What do you understand Mr. Stepien's response to refer to, sort of contrasting --

Mr. Garber: Can we take -- I'm sorry. Can we take a minute to just look at the whole exchange.

Sure. Of course.

Mr. Garber: I think you control it. If you could start at the bottom and then scroll up.

Yes. So there's this portion that's the sort of draft press conference announcement, and then --

Mr. Clark: Hold right there.

[Witness peruses document.]

Mr. Clark: Okay. Go up.
[Witness further peruses document.]

Mr. Clark. All right. Stop right there for a second.

[Witness further peruses document.]

Mr. Clark. Go up.

[Witness further peruses document.]

Mr. Clark. So I don't even know if I was on the original email with Jason about chaos piece, but in terms of the "no more Four Seasoning", there had been a press conference. I'm actually pretty sure it happened on the day the networks called the where Mr. Guiliani had done a press conference and it was at like the Four Seasons Landscaping Company in Pennsylvania, and it was just like super embarrassing. So I'm assuming that's what Mr. Stepien is referencing.

BY:

Q Okay. What was -- beyond your characterizing the press conference as embarrassing, did you form any conclusions about the content about the statements that Mr. Guiliani and others made during that press conference?

A The only thing I remember about that press conference, his statements in the press conference, was where he was kind of mocking that the network called it. I don't remember a lot of content of what he was talking about.

Q Did you discuss that afterwards with senior campaign officials?

A No. I mean, that was -- don't forget that occurred -- like I think it was contemporaneously with the networks calling it. So I had much bigger fish to fry at that point.

Q Understood, and then I think this is around the same time as this meeting with Mayor Guiliani and the President that you previously told us about.

Did your assessment of -- did you repeat your assessment press conference at all
during your interactions with Mayor Guiliani and the President?

A I don’t know if I did. I’m not sure.

Okay. Let’s look at one other document. This will be Exhibit 27, please.

Mr. Garber. The same thing with this, if we could --

Yeah. We’ll start with -- it’s only two emails in this one. So there’s a first email from Jason Miller on November 8th forwarding a link to article on the Gateway Pundit.

Mr. Clark. Can you stop right there?

[Witness peruses exhibit.]

Mr. Clark. Okay.

BY	

Q Do you remember this email?

A I don’t remember it.

Q Okay. Looking at it now, you respond on, it looks like, very early in the morning on the 9th. You respond to the email about the Gateway Pundit article, characterizing it as a very misleading headline and making a point about NCOA flags and regarding 132,000 NCOA flags.

Does that jog your memory about what the content of this discussion is about?

Mr. Garber. Can you scroll down further just so he can see the precipitating email chain, please.

It’s just that with the link.

Mr. Garber. Oh, I see. Okay. Thank you.

Mr. Clark. It doesn’t jog my memory. There was just a lot of stuff flying around then, but there were a lot of headlines and information that was coming out that just
didn't tell the story.

So I have no doubt that this is true.

BY [REDACTED]

Q Okay. So it tells the story --

A I have no idea if it was true.

Q I'm sorry. I couldn't hear you.

A I have no idea. My assessment there was true to the best of my ability to understand it at the time.

Q This seems that the article had a headline about ballots being ineligible and you're pointing out, in fact, it just means that there is some entry on the national change of address database related to those voters; is that accurate?

A That appears to be correct.

Q Based on your experience in election law, this is something that you would known the headline to be misleading?

A Well, no. It might have been that. I also reference in that email that this is the same thing that Alex Cannon is working on and it may have been something that got flagged for him prior to. We had discussed it, for all I know. I don't know what the contents of the article were, but, again, I'm assuming that my assessment at the time was the understanding that I had at the time and it was accurate to the best of my knowledge and belief.

Q That's great. So what is it that you remember Alex Cannon working on relating to allegations of voter fraud?

A Very soon after the election, there were a lot of -- again, there was a lot of rumors going around, and you really have to investigate it, because sometimes rumor turns into something that's not just rumor.
So Dave -- Alex was tasked with engaging with like data analytics people to check out stuff like this, so rumor that dead voters voted or rumors that more ballots were received than were sent in mail balloting, national change of address flags. He was tasked with working with data analytics to figure out if those things were true, which was a blessing to us because it allowed us to operate with kind of our hands free so we could have somebody else give an opinion about this stuff without having to dig into it ourselves and go down holes that sometimes were fruitful and sometimes were fruitless.

Q And during what time period was Mr. Cannon doing this investigation vetting work?

A I mean, It was like -- I want to say it was like Wednesday or Thursday after the election is when he started engaging on this. I don’t know when he stopped. I don’t remember that, because I think he stopped after I was pushed aside.

Q Okay. And during that time period, was Mr. Cannon giving you his sort of readout or reporting what, if anything, the results of his investigation were?

A I mean, to the extent he had them, but, again, I don’t remember any specifics he told me and I’m not sure they were able to draw any conclusions prior to me being, you know, pushed aside in the middle of November. I’m not sure where that stood then.

Q Okay. Meaning he wasn’t able to draw any conclusions either way?

A I don’t remember. The bigger story is I don’t remember. I don’t remember any specific conversations with him about results of stuff. I knew what he was working on. I knew we would feed him headlines like this that would come in, like, Hey, look into this.

I don’t remember any specific conclusions he true, and when team Rudy came in, I was not getting -- not asking for it and not getting a ton of feedback from Alex on this
project he was working on.

Q    Okay. I guess I just wanted to clarify whether you're saying that you didn't receive any conclusions from Mr. Cannon or any assessment about his work or whether the conclusions were that he had not found anything that was able to substantiate.

A    I don't remember any conclusions from him about his work on specific projects, but it doesn't mean he didn't come to any conclusion with respect to this. I'm certain he did.

Okay. Let's look at one other email that's somewhat relevant to this, Exhibit 30, please.

So if you could scroll down just a little bit, this is just a two-email exchange. I'll let you look at both of them.

The first email is a November 16th email from Alex Cannon to -- the contact will show Jenna Ellis. Let me know once you've had a chance to read this one.

Mr. Garber. So there's no indication Justin is on this one here.

Mr. Garber. There will be up above, I believe.

Mr. Garber. Okay.

[Witness peruses exhibit.]

Mr. Clark. Okay.

BY:

Q    So Ms. Ellis responds on the 16th and it shows the full distribution list that includes you, Mr. Clark, as well as Mr. Morgan, Mr. Miller, Jason Miller, and Mr. Stepien.

A    Okay. I don't remember this email, but I have no doubt that Alex was correct in his assessment, because he's a pretty thorough guy and he would have been diligent and looking at whatever answers were coming up.

Q    I believe you mentioned earlier in the context of your communications with
Mayor Giuliani that your understanding of the issue or the rumors, the assertions related to Dominion, but specific to this time period, do you remember having any conversations with Mr. Cannon about it?

A Alex is a friend and I interacted with him a lot on the campaign. I don’t remember any specific conversations, but I’m sure we talked about it.

In terms of the data side of it and analytics with vote switching or whatever election like data manipulation component, he would have been tracking that, and if he told me that there was no evidence of it on that front, I would take his word for it, because he’s a thorough guy.

Yeah. I don't doubt -- this is also after I had kind of gotten pushed off and my oldest daughters' birthday. I have twins. So there's a better than zero percent chance that I did not really pay close attention to this email.

Q Understood. Well, separate from this exchange on the 16th, but just stepping back, did you ever come to understand whether Mr. Cannon's work had ever substantiated any of the allegations related to Dominion voting systems?

A I didn’t -- I was never -- I did not come to -- I don’t have -- he never communicated to me and I'm not in the position of any evidence that he was corroborating the Dominion voting stuff.

Q Have you ever seen any evidence that did corroborate the Dominion voting allegation?

A No.

Q So we received testimony that Mr. Cannon generally spoke with yourself, with Mr. Morgan, with Mr. Oczkowski and shared that these allegation that were coming were either difficult or impossible to verify, that the vast majority of them were not reliable at all, and we’ve also received testimony that you received that assessment and
were not surprised by it.

Does that all seem consistent with your recollection?

A That's fair. I don't remember it specifically in specific conversations, which is what I was getting at, but generally, yes. I remember that part for sure.

Q Okay. Did you share those -- well, let me rephrase.

Who else within the -- like on the email that we were just looking, Mr. Herschmann was someone who was added into that chain and, apparently, had an interaction with Ms. Ellis about this around this time period.

Did you share your understanding of these allegations with Mr. Herschmann?

A I want to -- the answer is probably, but he would have gotten them independently through Alex anyway. Alex and Eric and Matt and I spoke often. So if I heard something from Alex with respect to this, I could have very well heard it on a phone call with Eric on it.

So I'm not sure if I specifically shared those things or not, but we all kind of knew what each other was doing in that brief period of time before I got pushed aside by Team Rudy.

Q During this time period, I guess what I'm getting at is did you have conversations specifically about whether any of the allegations that were coming in were verifiable with Mr. Herschmann?

A I'm sure I did, but I don't remember any specific conversations.

Q Going back to our conversation earlier about Mr. Meadows, what about Mr. Meadows; did you have any conversations with him about whether the election fraud allegations were verifiable?

A I don't remember. I don't remember if I did or not.

Q Okay. What about the President; did you speak with the President about
whether the election fraud allegations that were coming in were verifiable?

A I don't remember having a conversation with him about that. Again, I didn't speak to him as regularly as I did prior to the 12th, 13th, 14th, 15th, and I'm not sure what conclusions had been drawn by that time for me to be able to communicate that.

So I don't remember, but it doesn't mean I didn't, and if I was asked at some point about them, I certainly would have told him my impression.

Q Okay. After the time when Mr. Giuliani took over sort of leading the litigation efforts, what was your understanding of the process for vetting or investigating election fraud allegations?

A I don't know what it was. I don't really remember if there was a process for vetting and doing those types of things. I didn't interact with him on that specific stuff at that point.

Q Okay. But you did say stay affiliated with the campaign through January 2021?

A Yeah, or later, whenever my pay switched over to the PAC, but yes. I did. I was the deputy campaign manager and what I did at that point was really help the campaign CFO, Sean Dollman, and my primary goal, job was helping him in terms of reconciling the budget, doing various wind-down stuff, you know, even like moved some stuff out of the office for him because the lease was up, and then I did -- so I was really focused on budgetary stuff and wind-down.

There's a lot of trailing litigation. There's a lot of trailing bills, which I would have either been able to verify or do or not.

You know, you do a lot of rallies and you've got a lot of vendors that are like giant vendors. So there's people who do staging in Johnstown, Pennsylvania. You know,
they’re not billing on a regular basis. So you’ve got to reconcile all of that stuff, and then
to the extent I was involved in any legal work, it was really with Matt kind of reviewing
and negotiating with the money, just on the money side for the most part -- for the most
part -- retainer or engagement letters for new attorneys that were coming on board with
Mr. Guiliani’s team.

Q Okay. Throughout this time period up to January 6, 2021 when you
remained deputy campaign manager, did you come to form an opinion or assessment of
whether the election fraud allegations that were being asserted by Mayor Guiliani’s team
were supported by fact?

A You’d have to go through individual claims that they had, because I actually
think there’s some serious concerns that never got addressed and I think their approach
was part of the problem that they never got addressed, but like take Dominion. I think
I’ve testified here today that they were all wet in their concerns about Dominion voting
machines. They just weren’t right.

I don’t remember the other specifics they had, but that’s a big one.

Okay. Let’s look at one other document, Exhibit 32, please.

Q So if we could just scroll down, just so you can see the beginning part. It
looks like an email that originates with -- go up a little bit. Right there.

It originates Stephen Miller, November 22nd, asking for some on the campaign to
send to speech-writing team top 20 examples of voter fraud. You respond adding in
Matt Morgan and referring to earlier having provided something to Vince and Ross, and
then Mr. Morgan responds to the group, providing an attachment that is titled "Best
Affidavits in Federal Litigation in Michigan and Pennsylvania".

In the substance of this email, as you can see here, he refers to something that he
did on November 13th, but says by that time, Rudy's team control of the evidence
process and then, essentially, says that anything after that point would need to go to
Rudy's team for questions. Is that fair?

Mr. Garber. Have you had a chance to read the whole thing?

Mr. Clark. Yeah. I've read it. That seems right. I don't remember this email,
but that's consistent with my memory.

Q Okay. My questions here are more so the President made several speeches
at the end of November and into December that discussed election fraud allegations. In
particular, there was one I'm thinking of that was posted -- a video address posted around
December 2nd.

Do you have any understanding of the fact checking or the fact checking process
that went into preparing those speeches?

A Those specific speeches, I don't remember being involved in that.

Q Just generally speaking, the President's remark about election fraud after the
election through January 6th, do you have an understanding of the fact checking process
that went into those?

A Well, I mean, this jogs my memory a little bit. Vince and Ross and/or
Steven Miller would email or call for examples of provable things or issues that popped
up; but, again, as Matt's email points out, you know, after the November 11th, 12th,
13th, we didn't have any additional information to add or the ability to vet or fact check
anything that was going into his speeches.

Q Did you come to understand whether Mayor Guiliani's team, Ms. Ellis or
anyone else, did provide fact checking or vetting for those speeches?

A I don't know if they did or not.
Q Okay.
A I don't remember if someone told me that.

Q About the election and about whether there had been any -- whether there was election fraud in connection with -- specifically, he said that the Justice Department had uncovered no evidence of widespread voter fraud that could change the outcome of the 2020 election. Is that consistent with your memory?
A I remember him saying that, yes.

Q Okay. What was your reaction when he made that statement?
A I remember thinking the President is going to be really mad and, you know, I actually didn't think it was the most responsible statement to make in the world, but I didn't have any point of reference at that point. I had been not doing -- really involved in any kind of investigation or work to find this stuff by that point for a couple of weeks and, you know, I assume what he said was an accurate representation of what was going on at the Department of Justice. I had reason to believe it wasn't. I didn't think he needed to say it in a press event, but yeah.

Q You said that your reaction was that the President would be really mad. Why was that? Why did you think he would be mad?
A Just knowing him and like someone -- I had assumed that he had gotten ahead of the President on that statement, meaning that he was pronouncing something on behalf of the Federal Government that the President didn't want him to say. So I was making an assumption there in terms of anger level of it, but that's just kind of how I thought he would react.

Q Okay. Were you aware of any evidence or anything that would contradict the conclusion that Mr. Barr stated?
A No.
Q Okay. Were you aware of the President having any information that would contradict the conclusion that Mr. Barr stated?

A I wasn't aware of anything at the time. Again, I had been out of this all for like two weeks. So I don't know what he was being told at the time by Mr. Guiliani, Ms. Ellis, anybody like that. So I don't know what he had.

Okay. I'll pause here and see if any of colleagues have any followup questions.

No. Thank you.

So let's look at another document, Exhibit 43, please.

Q While it's coming up on the screen, Mr. Clark, this is a quick one to read, not a lot of content.

It begins on December 20th, an email from Mr. Stephen Miller. The subject line, which you can't see on the screen right now, but it refers to Senator Tuberville in the subject and then he asked for a compendium on election fraud for the upcoming congressional certification.

So this is December 20th. Do you know whether that reference to the upcoming congressional certification would have been to the January 6th joint session?

A I assume so, but I don't remember this email exchange.

Q If we could scroll up a little bit, please, Mr. Miller responds, you know, with an attachment. We can see now that you're copied as well as Mr. Morgan.

Then up one more to see the top email on the thread, that's non-substantive. So that's more in connection with producing the document.

So this is something that Mr. Miller attaches. The document that was attached to this email, I think should hopefully be the next page. We can look at the first page,
please, Camisha.

It's a document called "Fraud Examples" and then it lists the six states and, perhaps, if we could zoom out a little bit just so that Mr. Clark could see the front page. It's the one that starts Arizona. If you could zoom out so that he could see the format, that would be great.

Do you recognize this document, Mr. Clark?

Mr. Garber. Do you need to see more of it?

Mr. Clark. Yeah. Here's my issue, is that there's so many of these documents that were floating around during the election in terms of state lists. Like this looks like a familiar document, but I don't remember this one specifically.

Do you have a specific question about it that I can --

Q I don't. My questions are just general. So there's no need to study it in detail.

Generally speaking, does this document look like something that was prepared by your team earlier in the process or would it have been something prepared by Mayor Giuliani's team?

A I couldn't say, but there are names on here that I don't recognize, like Olivia Jane Winters under the Pennsylvania section.

Q Okay.

A So it's hard to say. I don't think so, but I don't know for sure.

Q Do you have any understanding of why Mr. Miller would have been providing this information to Senator Tuberville related to the January 6th joint session?

A No.

Q Did you have any communication with members of Congress or Senators
regarding election fraud allegations in connection with the January 6th joint session?

A You know, I don’t remember. It doesn’t mean that I didn’t, and I say that because people would talk to me. Like I’ve spoken to Senator Lee before and Senator Langford, generally about election fraud in the election, but I don’t remember if there was anything January 6th related or if it was just kind of a generalized briefing, but I didn’t really engage with those guys ahead of January 6th on a basis with respect to that vote.

Q Okay. So do you remember when you spoke to Senator Lee about election fraud issues?

A Well, see, that’s what I don’t remember. So I don’t want be too specific, but I don’t remember when I spoke to him about it.

Q Do you think it was before the election or after?

A I think it was after, but I don’t remember.

Q Okay.

A And I don’t remember if I spoke to Senator Langford or not or if someone told me Senator Langford was looking for information and I referred them to somebody. I just don’t remember that. Those two names kind of pop out in my head, and there could have been other members of the House that I spoke to. I don’t remember specifically.

Q The conversation that you had with Senator Lee, do you remember whether the -- I think you said that you did remember it had something to do with election fraud allegations; is that right?

A Yeah. I don’t want to speculate, but I think I did. I just can’t remember if it was a generalized briefing right after the election or if it was after that, but I don’t recall the specifics of the conversation.

I wouldn’t have been the only one on the call, because I don’t know him that well.
So I'm not sure, but that memory is in my head.

Q Okay. That's helpful. Who else would have been on the call, if you remember, with Senator Lee?

A I think Eric Herschmann knows him really well. So I think he might have been, but, again, I don't think it was anything -- I just don't remember enough about it.

Q Okay. Just generally speaking or maybe if it does jog your memory regarding this call with Senator Lee, what was your understanding of the purpose of the members of Congress or Senators discussing election fraud allegations with respect to January 6th?

A My only understanding of it and, again, I wasn't really whipping votes. I wasn't lobbying. I think the members of the House and Senate were trying to get an understanding of what actually happened during the election beyond the news headlines. That was my only impression at the time.

Q And was it in connection with the potential objections to the certification?

A I suppose. I can't imagine it would have been related to anything else, because it was the only benchmark thing they had to with respect to the election. So I assume it was.

Q Okay.

A But yeah. I just don't remember the specifics of it.

Q Do you remember at all, your conversation with Senator Lee in specific, what sort of assessment you would have given him about the strength of the evidence for election fraud allegations?

A I would have just told him the truth as I understood it at the time, that there were concerns that I had with respect to the administration of the election and the handling of ballots in certain areas. I would have just told the truth, including like if
specific allegations came up that were alleged by Rudy's team. I probably would have
just referred him to Rudy's team, because I had no basis to say something was true or not
ture.
If I was asked about Dominion, I'm sure I would have told the truth and said I don't
think that was real. Other than that, I don't know the specifics of what I would have
said.
Q Okay. We've talked to a lot of people through the course of the
investigation about these issues, and I think a lot of people have explained to us a
difference between there being concerns about irregularities, some of the topics related
to changes of procedure regarding absentee ballots that you've raised earlier or even the
potential for an issue like the access to observers, creating the potential for some sort of
problem occurring contrasted with actual allegations of election fraud that would have
affected the outcome of the election.
Is that a fair kind of way to distinguish between the various issues, in your
opinion?
A Not quite, because those irregularities could lead to a change in the outcome
of the election.
Q Could lead to, but as opposed to evidence --
A But evidence of fraud could also not lead to. You know, if someone illegally
cast 10 ballots, but the margin in the election was 20, that fraud wouldn't lead to
changing the outcome of the election. That's just the -- changing the outcome of the
election is just a math problem. The means by which it can happen, whether it's fraud
or irregularity or mishandling of a ballot of flawed election administration, that kind of
doesn't matter. That's just how it happened.
So I don't take that characterization totally, but I get where people are coming
from. There's a distinction with to out and out fraud. I don't have the knowledge to know whether there was or not. I have not seen evidence of out and out fraud in the election.

Were there a lot of irregularities? Were there a lot of problems with changing voting methods and technology and everything ahead of the election combined with COVID? You bet. Were there signature matching issues, I think, in states? Yes there were; but, again, my job at that point in time -- the President chose a different path in terms of who to go with. So that wasn't my job anymore. So I didn't chase those down.

Q What wasn't your job anymore? Understanding whether there was any evidence to support allegations of fraud?

A Allegations of things that would happened that would have overturned the result of the election.

Q Understood. Okay. So going back to your conversation with Senator Lee, is that a distinction that you would have shared with him?

A I would have talked -- I would have shared my observations about the election and I would have said those things to anybody that asked.

Q Okay.

A I just don't have the knowledge from November 15th or whatever on to be able to do that.

Q Okay. That's because you would have referred them to Mayor Guiliani and his team after that point; is that fair?

A Yes. That's fair.

Q Did you ever --

Mr. Garber. I don't get the sense we're planning on wrapping up and my
Mr. Garber. Great.

Q Before we do and, hopefully, not trying the battery of your computer too much, but, Mr. Clark, you've told us that you would shared your assessment of these issues with anyone who asked you and you've given us some examples of some of the people that you did talk to about this. Did any of those people ever come back to you after having been referred to Mayor Guiliani and his team and express to you that they did learn that there was evidence that would support allegations of election fraud?

A It was a little bit of a hypothetical, because I don't know the universe of people that would come back to me, but yeah. I never got feedback that they had different proof.

Q Okay. So even after the time period that Mayor Guiliani and his team would have taken over and in the context of you referring people to them for questions about what the evidence showed regarding election fraud, you never came to learn or understand that Mayor Guiliani had produced evidence of election fraud; is that fair?

A That's fair.

Okay. I think unless my colleagues in the conference room have any other followup questions before we take our break --

No, we don't, and that's actually perfect timing.

So what we had hoped was to take a brief recess and come back on the record at
2 p.m. Does that work for you guys?

Mr. Clark. That’s great.

Mr. Garber. Yes.

Wonderful. All right. So you can turn off sound and video or you can leave and come back. It’s totally up to you and we’ll all come back on the record at 2 p.m.

Until then, we’ll stand in recess. Thank you.

[Whereupon, at 1:29 p.m., a lunch recess was taken, to reconvene at 2:00 p.m. this same day.]
Q  So, Mr. Clark, before our break here, we talked a fair bit about litigation strategy and litigation efforts in the post-election time period, both during the time when you were leading that effort and then after when Mr. Guiliani took over.

I want to switch gears a little bit to talk about a different avenue of post-election activity for the campaign and for President Trump, and that's related specifically to state legislature. So we've developed evidence. We've received testimony that the campaign was pursuing either challenging the outcome of the election through two tracks, one being litigation, cases filed in court, and another one being directed at state legislature.

Is that consistent with your understanding of the campaign's effort in the post-election time period?

A  It is. I would just delineate between when we talk about the campaign, there was really a different approach when Rudy and those guys came in versus the previous one, but yes. That's my understanding.

Q  Understood. Let's talk about that briefly. So before the time period where Mayor Guiliani took over, so before November 14-15, what was your understanding of the state legislature track or path?

A  I don't remember conversations about the state legislature path prior to Mr. Guiliani taking over. I'm not sure I was privy to any discussions about it.

We had done a lot of work earlier in the election with respect to nominating the
Trump electors in those states and paid particular attention to it and I'm sure there are memos and emails about it, because there was the faithless elector case before the U.S. Supreme Court that spring, in 2020, and it could have completely upended the way modern campaigns had been dealing with electors.

So there was a lot of analysis of like how the process works, but I don't remember -- I don't recall a track related to the state legislatures prior to Mr. Giuliani taking over.

Q Okay. That's helpful. So when did you first hear and from whom about a potential avenue to change the outcome of the election through state legislatures?

A I don't know who I heard it from or the exact timing, but he, he meaning Mr. Giuliani and his team, I started hearing about meetings with leadership and electors in various states. I may have even been asked for contact info to people in touch with the Speaker of the House or some various and sundry statements.

I started hearing about meetings, started hearing about his kind of road show where he went out to do quasi-hearings with state legislatures around the country, and it became apparent that that was the track. I don't remember if someone told me specifically or I drew my own conclusions or if I read about it in the press, but it became apparent by early December that that was a track he was pursuing.

Q Okay. So is it fair to assume from what you've told us that you were not involved in developing the strategy for this track?

A No. I wouldn't have been. I may have answered questions with respect to how the process works, my opinion on esoteric legal theories, you know, as one-off things, but I wouldn't have recommended that someone pursue this track, and I certainly wouldn't -- I certainly -- I wouldn't have recommended someone pursue this track if I was asked.
Q Okay. Why is that? Why wouldn't you have recommended someone to pursue this track?

A Well, mostly because I think while there is like an esoteric legal argument to it and I think the argument may have some validity like in the text of Constitution, I don't think it's something that can be done absent clear evidence of something really horrific going on in the campaign.

Without -- it's almost something that I think would have be done to support the will of voters, and that just didn't -- it seemed off to me to try to circumvent actual avenues of figuring out what went on during the election.

The first step would be actually litigating and doing an election contest and litigating the election contest and investigating and then that would be a next step. This was almost done, it seemed as if it was done, on a dual track with it, which just seemed off to me.

Q So it was your understanding that Mayor Guiliani's effort, the efforts led by him on behalf of the President, were either dual-tracking a state legislature campaign with an election contest litigation or potentially replacing in priority the state legislature avenue over the process litigation; is that fair?

A Yes. That's fair.

Q And you referred to an esoteric legal argument. Are you referring to a theory about what was asserted to be the plenary power of state legislatures to choose electors?

A Yes.

Q Okay. Generally speaking, what's your understanding -- and we don't have to get into too much detail about it, but what is your understanding of the theory?

A Well, it's rooted in the 12th Amendment, which, you know, state legislatures
are empowered with the authority to administer time, place, and manner of elections, and under the 12th Amendment, there are certain theories that exist that a state legislature could send its own certificate of ascertainment to the president of the Senate with respect to which electoral votes to count from that state.

To be honest, I don’t think that argument is without merit, but, again, I don’t need to argue the ins and outs of the constitutional principle here, but I think that that is the argument at its core.

Q So are you -- was it your understanding that the effort led by Mayor Guiliani on behalf of the President to attempt to effectuate a different outcome in the election, overturn the results of the election through state legislature was tied to the role the state legislature could potentially play under the 12th Amendment?

A Yeah. Again, without having been part of any strategy meeting with respect to this, that’s my assumption. I think it’s the only one way -- the only thing that would make sense from those meetings or from the actions he took; otherwise, it wouldn’t make sense to do at all.

Q So you mentioned earlier that you --

A I would also -- can I just add something really quickly?

Q Sure.

A I also at the time remember thinking it was completely fruitless, because there’s no way these legislative bodies had the votes or the will to do that, because they’re answerable to voters too. Beyond not thinking it was the right approach, I didn’t think it was going work. I didn’t know how it could work. There’s no way that people had majorities to do this stuff.

Q Understood. Yes. And just so we have the full picture of your understanding, you referred to there being a potential avenue, esoteric as the legal
theory behind it as it may be, for a state legislature to send a certificate of ascertainment
to the president of the Senate for the joint session to certify the results of the election.

Stepping back, what is your understanding of the normal electoral college process
and the role that a certificate of ascertainment plays in that process?

A   Well, a certificate of ascertainment -- I think this is from the Elector Count
Act, I think. The certificate of ascertainment directs the president of the Senate to
count -- to open a ballot with a certain set of electors on it. Right?

So the Vice President's office receives elector votes from lots of people, believe it
or not, is my understanding, but the certificate of ascertainment ascertains who won that
state and which electors should be counted when the votes are counted by Congress.

Q   And in the normal course, who provides the certificate of ascertainment?

A   I don't remember under the statute who it says they take the word of, but I
believe it's an election official or executive within the state that's determined by the
legislature. Then I think the legislature would have had some kind of authorizing statute
delineating who that is.

I don't know that for sure. You'd have to just -- you'd have to read the
statute on that, but whatever the normal -- that would be whatever the normal course is
on this stuff; but, again, the theory of this, which has some merit to it, is that 12th
Amendment supercedes that and would give the legislature inherent power to send its
own certificate of ascertainment.

I remember this argument coming up in the 2000 election at one point with
respect to Florida.

Q   Okay. But just to be clear, the normal course procedure is that the votes
are counted and certified by the senior-most election officials in each statement and the
governor sends a certificate of ascertainment determining who has the won state to the
various recipients, include the president of the Senate for certification; is that right?

A  Taking a step back, the state figures out how they're going to allocate their electoral votes, whether legislature is going to pick them, whether they're going to be a popular vote, whether the governor picks. I mean, they can, in theory, do anything they want.

So they decide how they're going to cast electoral votes. Once it's determined that there's a popular vote to determine who the electors are going to be, the legislature comes up with a process for certifying those election results. Right?

Like in North Carolina, it's a Board of Elections. In other states, it's the governor. In other states, the secretary of state just does it.

Ten they have to follow that process and then a certificate of ascertainment comes from the executive in charge of that and it's sent to the Vice President's office saying count these votes, not any other votes.

Q  Thank you. Just to be clear. Every state has determined that the popular vote is the manner by which they will select their electors. Correct?

A  Yeah. That's correct.

Q  Okay. Great.

You mentioned a little bit earlier when we started talking about state legislatures that you were potentially asked for contact information for the like Speaker of the House or another legislative leader. Do you remember which states and which legislative leaders you were asked for contact information for?

A  I don't, but I was asked for contact information a lot during the campaign from people, because as I mentioned before, we did the delegates and party organization thing which, necessarily, you're dealing with every local elected official, legislative official in the state. You're interacting with those people.
So me or Nick Trainer or Bill Stepien had the contact information for like everybody. So just I would have been asked. I don’t remember specifically if I was asked by one of Rudy’s team or anything like that, but I may have been.

Q Were you involved in any communications with legislative leaders or otherwise involved in setting up meetings for the President with state legislatures during the post-election time period?

A I don’t remember that, but, again, I could have been asked by somebody to call so and so and see if they’re available for a meeting and tried to set up something up. It wouldn’t have been of the ordinary. I just don’t remember.

Q Okay. What, generally, was your understanding of the purpose of those meetings?

A Well, again, I don’t remember the specifics of those meetings, but it at some point became apparent that when the President was meeting with state legislators from a state that it was about this dual path. That was me drawing -- making an assumption about that, but it was based on the news and, you know, it was widely reported a lot of times that these meetings were occurring.

Q Yes, absolutely. So, for instance, Michigan and Pennsylvania are two states in which the President took meetings with legislative leaders that were reported at the time or around the time that they occurred. Did you ever have communications with the President, himself, or with anyone at the White House about the content of those meetings?

A About the content of those meetings? I don’t remember. I’m not even sure I was advised those meetings were taking place. I just don’t remember.

Q Any communications, again, with the President or anyone else at the White House or connected with the campaign that gave you an understanding of what the goal
or purpose was of those meetings?

A I don't remember any conversation like that.

Q Okay. Did you ever come to learn about campaign staffers making phone
calls on behalf of the campaign to state legislators?

A Yeah, but it was -- I don't remember if it was after the fact, like from press
reporting. It's been a year and a half and I just -- I don't remember where I heard it
from.

Q Okay. What do you remember about the circumstances? How did those
staffers for the Trump Reelection Campaign come to make phone calls to state
legislators?

A I don't know how that came to be or why. I just learned that it had
occurred.

Q Okay. So it didn't occur at your direction, I assume.

A I don't think so, no. I don't believe I -- I would not have been -- I didn't
direct anybody to whip votes in the state legislature. I don't believe I asked anybody to
call anybody with respect to this track of things.

Q Okay. Do you remember having conversations with Mike Roman about
this?

A I might have. I think Mike was one of the people that was doing this on
behalf of the campaign.

Q Did you come to have an understanding of what the purpose was for these
calls?

A I don't remember. I may have talked to Mike about it. I may not have,
but it would have been after I had already learned like kind of this dual track thing, but I
don't remember the substance of any of those conversations.
Q Did Mr. Roman tell you who had directed him to make these phone calls or have his team make them?
A I don't remember the contents of any conversation I had with Mike, but from press reporting and possibly others -- I don't know who I heard it from -- it was at the behest of Mr. Giuliani's team.
Q Okay. Did you tell Mr. Roman to have these efforts cease?
A I don't remember having a specific conversation with him about these efforts. So I don't know if I told him that or not.
Q Okay.
A I wasn't in a position to make that call at that point, to tell someone to stop doing something. It wasn't my role on the campaign anymore.
Q Okay. Just stepping back a little bit, either to think about other conversations that you had during this time period and even just setting here now, do you have any concerns about the fact that members of the Trump Campaign were calling state legislators during this post-election time period and also conveying to them a request that they take some action to replace or to change the outcome of the election?
A Again, I don't remember any conversations, but I think I've told you I didn't agree with the approach for a variety of reasons, one, just from a basic concept, like it wasn't going to work; but, number two, I didn't agree with the approach because I don't think that remedy, if it exists and if it works, is appropriate without some indication of the will of the voters of the state wanting to take that particular action. Right?
But that's just kind of theoretically where my head is on that, but I also thought it was just an idea that wasn't going to work.
Q Okay. Understood.
Do you remember participating in a meeting at the White House -- this could have
been November 11th, I believe, so before the time that Mayor Guiliani took over litigation efforts -- with President Trump and Vice President Pence as well as other senior campaign officials and Eric Herschmann where the topic of state legislators was discussed?

A I don't remember that. I may very well have been there. I don't remember the specifics of the conversation.

Okay. Let's look at a document real quickly, if we can. This will be Exhibit 47, please.

I'm going to jump forward in time a little bit here, Mr. Clark.

Mr. Clark. Sure.

I'm sorry. Was there a question about the exhibit?

BY: Ok.

Q Okay. While we're calling up Exhibit 47, this is going to jump forward in time a little bit to January 1st and then we'll come back, but this is an email -- sorry. These headers, when then expand, take up a lot of screen space for us. If we could just scroll down so that Mr. Clark and his counsel can read the full email, that would be great.

Perfect. That's the bottom.

A Okay.

Q This is the first email. We'll read the substantive text content at the top, but I see from Team Trump Action Alert, Mr. Clark, it looks like a draft of what was to be a blast cellphone text message and tweet. Is that format consistent with your experience on the campaign?

A It's a little different from what we had done. We hadn't done anything quite like that, but it's not inconsistent with how we formatted stuff on the campaign.

Q Okay. Great. And it does say -- you know, it has sort of a call to action, call and email these two legislative leaders in Georgia, House Speaker David Ralston,
Majority Leader of the Senator Mike Dugan, demand they call a special session immediately. Then it has bullet points:

"Here's the evidence of a false statement, demand and vote on decertification with a final vote. You're either with President Trump or you're against him."

A Yes.

Q Do you remember -- sorry. Go ahead.

A No. I just said I see that.

Q Do you remember any discussion about this text message alert? And I'll preview for you there are ones for other states as well, but just generally the format around this time period.

A I don't remember this specifically, but I -- I just don't remember it specifically.

Q Okay. Great.

If we could just scroll up and let Mr. Clark read the content of that, that would be great.

There we go.

So the first email is from Jason Miller, December 31st. I'll let you take a minute read that text.

A Okay.

Q Scroll up a little bit more.

There's a response from Mr. Cannon: "I defer to Rudy -- there's some material redacted, obviously.

"I defer to Rudy and his legal team to determine whether there may be any other legal consideration."

And then I believe Mr. Miller at the top responds again saying: "Thank you, Alex.
The Mayor requested the push and approved of the specific language via text."

A  Okay.

Q  So my question for you, Mr. Clark, and like I said, I represented to you that there are a couple of others, for instance, a similar format of blasts going out encouraging Trump Campaign recipients of these messages to call or email the legislative leaders in Michigan and also in Arizona in addition to this Georgia one that we're looking at. So my question for you is just do you remember discussions around January 1, 2021 regarding these type of messages?

A  Not specifically, no, but I may have discussed Alex's answer with him, which would have been mine, like I don't have any input into this. You know, this isn't our show. We're not doing this. You know, Rudy and his team were part of -- were the legal team doing it.

So that's my only like vague recollection of this, but, you know, it wasn't -- I didn't agree with the approach. So I didn't weigh in, I don't believe, on this, and if I was asked, I would have told anybody on this thing that I didn't agree with the approach.

Q  Okay. Is there a -- can you elaborate on what you didn't agree with? Is it the same as what you were telling us before, you know, about the practicality and the likelihood of success as well as the potential sort of problem with the theory behind it?

A  Sure. Yes, a hundred percent right, and now that I'm reading this, I'm also -- it joggs my memory a little bit, because I either raised or Matt Morgan raised or Alex did -- I remember there being -- me talking to Jason at one point about state lobbying rules and how this could potentially run afoul of those, and I don't know enough about -- I only know enough about them to know it can be an issue and I didn't know about them to be able to articulate what they were in individual states, but I remember flagging that for either Jason or somebody at the some point. It was either me or Matt did, but I was on
some kind of conversation or -- I'm remember that now, because it had the same red flag
moment.

Q  Sorry. So you felt this was a red flag moment with respect to the potential
implication of state lobbying laws; is that right?

A  Correct, potentially. I didn't know. I just wanted everyone to be aware
that they should look into this before sending something like this out.

Q  Understood. What about your other concerns about this effort as a part of
the overall state legislature track campaign effort; did you raise concerns more generally
about that?

A  I'm sure I did with people that would listen or wanted to talk to me about it,
but, again, it was a small group of people that wanted to discuss things with me about
this approach, that I didn't have any influence over changing policy. So within that small
group of people that I would speak to, you know, Matt Morgan -- I'm sure I spoke to
Murtaugh about it, Jason Miller, this isn't a good idea and I would have articulated it's not
a good idea for the same reasons I discussed with you earlier.

Q  Okay. Would Mr. Herschmann have also been a part of that small group
that you would shared your assessment of the strategy?

A  Yes. Again, I don't know the specifics of those conversations when that
they occurred, but I would have articulated that.

Q  Okay. Did you have any communications with other lawyers at the White
House, including the White House Counsel, about state legislature theory or efforts?

A  I don't remember talking to Pat about it, but that doesn't mean I didn't. I
just don't remember.

Q  Okay.
Really briefly on that, Mr. Clark, a moment ago when [redacted] was talking with you about the concerns regarding the Georgia texts that were in that, you said there was something else that you kind of remembered weighing in on that might have been related. To the extent that it jobs your memory, was it the email conversations about the television ads that they wanted to place in Georgia regarding election fraud?

A No. In response to that question, I was actually referring to the lobbying disclosure law. I think I might have just said it twice, but that was what I was referring to when I was being asked a question before.

Q Okay. And I vaguely remember that state lobbying issue, you possibly raising when they were also talking about putting the same content in television ads.

A Oh, okay. I don't remember putting that same content in a TV ad, but, again, I know enough to be dangerous about state lobbying laws. I would have said, Hey, be careful. I'm sure I did.

And that makes sense. No worries.

Okay. I'll keep going. I think I may come back to some of those advertising-type questions a little bit later.

Okay. Mr. Clark, did you -- so what was your understanding of -- this is mere days before January 6th, the email that we just showed you for the Georgia blast, January 1st. Without trying your patience on our remote document system here, I will represent to you that there are emails from January 3rd and January 4th related to similar messages being sent for legislative leaders in Michigan and in Arizona in addition to Georgia.

So what was your understanding in this time period about the purpose of these calls going out on the days leading up to January 6th?

A My understanding was an assumption that it was based on what we
discussed before, which was an understanding that I had come to gain with respect to the dual track that Mr. Giuliani was on related to state legislatures.

Q And, specifically, what was the intended result?

A I believe the intended result was the legislatures in those states that he was pushing to vote and send a certificate of ascertainment to the president of the Senate to count a different slate of electors than they had received from the executive in that state.

Q Okay. And setting aside the concerns that you addressed for us earlier, you explained to us earlier, did you have any specific concerns about this happening in such close proximity of time leading up to January 6th?

A I didn’t actually think about it with respect to January 6th. That never even cross my mind in terms of proximity to it.

Q Okay. So let’s rewind in the chronologically going back to probably late November or early December, and I’d like to ask for you to think of the first time that you heard of a plan or the idea of having Trump-Pence electors to meet in states where the election had been certified for the other team, for President Biden. When do you recall hearing about this concept for the first time?

A It was in a memo and a subsequent phone call from a guy by the name of Jim Troupis, who was the President’s attorney in Wisconsin. This Wisconsin case that he was working on was -- I thought it was the real case. Like it was a case that had a remedy, that I believe we had the law right.

Actually, like I said, it ended up going to the Wisconsin Supreme Court and lost on a four-three vote. It was a real election challenge with respect to absentee ballot handling in Dane and Milwaukee County.

We were coming up on the date when electors would vote and I received from -- I either got a phone call or an email from Jim Troupis with a memo attached from a guy
named Ken Chesebro, and the memo outlined a concern that they had with respect to
electors and the electoral voting, being that if this case was still pending on the day the
electors vote and the Trump electors who had been duly nominated did not vote, the
case would be mooted because we wouldn't have electors votes to count.

The memo outlined certain precedent for this in 1960. It was actually a
pretty -- I thought a pretty thorough analysis and not an incorrect one to make sure that
there were contingent electors in the event that, you know, an election challenge that
was real, was proceeding, was mooted because they failed to vote. There was
precedent for it and it seemed right to me.

Q Okay.

A I don't remember the specific date. I'm sorry, but it was around that time, end of November, early December.

Q Okay. That's very helpful.

So there are two memos of which I'm aware and have been published, reported
and published, publicly in recently months authored by Mr. Chesebro. The first one fits
the description that you gave. It's dated November 18, 2020.

Does that sound correct as far as the date of the memo that you reviewed?

A It's close enough. Yeah.

Q Okay. There's a second one that's dated December 8th. I believe. Do you know whether you later campaign to receive a second memo by Mr. Chesebro?

A I think I did. I read the press reporting, just as you did, and I believe I did receive that on December 8th.

Q Okay. But the context that you remember this first coming to your attention through Judge Troupis was in connection with the first memo?

A Yeah. That's how it came to my attention.
Q And that --

A Either he called and sent the memo or he just sent the and then called, but it was all around that time.

Q Got it. That’s the memo that does deal with the 1960 election example and it focuses on Wisconsin as opposed to the later memo which addresses several states?

A Yes.

Q Is that your recollection?

A Yes.

Q Okay. So before I ask you more questions about the time period, just generally speaking, Judge Troupis, is this someone who had been retained by you and Mr. Morgan to represent the campaign in election litigation?

A So a really good question. I don’t know if he was retained by the RNC and paid by them or retained by the campaign and paid by the campaign.

We didn’t interview him. He came to the President directly. I don’t know who connected them, but either way, I respect Judge Troupis a lot. I thought he was actually a pretty good lawyer and he was doing the right thing, but I don’t know who paid him or, you know, who signed the -- no. You know, I think it was the campaign, but you’d have to check. I just don’t have all of those documents in front of me.

Q Sure. Yeah. And I think it’s not as important to us, you know, who was paying him, but, rather, the point -- we received testimony. I think you sort of told us a little bit about this yourself. We’ve had witnesses tell us that the lawyers that were retained by you and Mr. Morgan largely left the campaign at various points in late November and December because of disagreements with the Mayor Guiliani litigation strategy and other lawyers did come on board who were willing to work with Mayor Guiliani in that strategy.
I'm wondering whether Judge Troupis is someone who was there before that.

So I don't know if he was there before that, but I -- he did not come through Mr. Giuliani. I know that. I just can't remember how he did come about coming in.

The only reason I say that is because I still stayed in contact with Judge Troupis because I actually thought that case was real and he was doing it the right way, but he did not report directly up to Mr. Giuliani.

Okay. Thank you.

What about Mr. Chesebro; was he known to you before you received this communication from Judge Troupis?

No.

Okay. What did you understand to be his connection to the litigation and the campaign?

I thought he just worked for Jim, Judge Troupis. I didn't -- I don't even know if we had a separate engagement letter with him. He may have been working directly for him. I thought he was working directly for him. I actually came to find out he worked -- he was a separate attorney, like based in Massachusetts somewhere, but I don't know. He came to the campaign through Mr. Troupis.

Okay. And how did Mr. Troupis present his credentials or his background to you?

I don't remember. He just presented me with a legal memo and probably told me about Ken's background.

Okay. And do you remember what the background was?

No, I don’t. No.

Okay.

But I trusted Judge Troupis because, like I said, I thought he was a pretty
good lawyer and an honorable guy and I don't think he would have raised something -- he
wouldn't have brought someone to me, I wouldn't have expected he would have brought
someone to me, that was not good or raised an issue that was not a real issue.

Q Okay. So what did you do next after you received this communication or
couple of communications from Judge Troupis and received memo authored by Mr.
Chesebro in November?

A I don't remember the specifics, but I would have probably spoke to Matt
Morgan about it. In fact, Matt may have been on the call with me and Judge Troupis.
He may not have been.

I probably -- I think Matt tasked Josh Finley with looking into this stuff. Josh
worked on the campaign, worked for us in delegates and party organization and then
helped out in the campaign with EDO as the election drew to a close; and, like I said, the
idea of a contingent electoral vote, Matt was right, but at some point, it morphed into
something I didn't agree with, which was doing this like everywhere and doing it with not
necessarily duly nominated electors, and then I kind of tapped out and I think Matt did
too and I think Josh did too, because it turned into something that wasn't the original
intention of that email or that memo.

Q Okay. And the original intention of the memo was kind of specific to the
Wisconsin circumstance; is that fair?

A Sure. Wisconsin, but it would have applied anywhere where we had a real
election challenge going on. Don't forgot like at that point in November, like Georgia
was still kind of a mess on terms of what was happening. There had been this hand
recount. All this stuff was going on in that contest.

The election contest in Nevada, I believe was still going on. It went on for quite a
while.
So my point was in places where there’s a legitimate election contest going on, something real, it seemed appropriate to me.

Q And either based on your understanding from speaking to Judge Troupis and reading this memo by Mr. Chesebro or based on Mr. Morgan and Mr. Finley’s research, what was your understanding of the process for this idea of contingent electors? How would that have worked?

A Well, what would happen is the duly nominated electors, the people who were actually nominated to be electors by the Trump Campaign and were nominated by a state party convention or by the state chair or whatever the process was in that individual state would go to the Capitol and vote, cast their vote, fill out a form on a contingent basis casting a vote.

Then in the event that a -- and send it to the Vice President’s office. In the event that the litigation was won or, you know, Walla, you know, you win the Wisconsin case, Wisconsin goes for Donald Trump, the executive in that state would then send a different certificate of ascertainment to the vice president saying count these votes, not those votes.

Q Okay. Thank you.

And from your original concept where you understood it to be about contingent electors and connected to a legitimate election contest, litigation, was it your understanding that the votes not only would be cast, but would be sent to the Vice President?

A It was my understanding, yes. I’m not sure there’s any way around that in the statute. I don’t remember my specific belief at the time, but that’s the only thing that kind of makes sense to me; otherwise, you’d violate the statute by not getting them sent in time, presumably. So I think they would have to be sent.
Q Okay. So there was never, in your understanding, a plan or an idea that the electoral votes would be cast and held, not submitted to the Vice President?

A I don't think so. I'm not sure I got that far though, because by the time all the voting actually occurred, I was -- I had real problems with the process, like on the date they voted. So I don't know how it ended up or what people thought.

Q Okay. Let's talk about what you said was the process morphing into something different. So how did you come to understand that this was morphing?

A I think there was an email either from somebody on Rudy's team or Ken Chesebro about doing -- having contingent electors vote in other states, and I just remember I either replied or called somebody, saying unless we have litigation pending like in these states, like I don't think this is appropriate or, you know, this isn't the right thing to do. I don't remember how I phrased it, but I got into a little bit of a back and forth, and I think it was with Ken Chesebro where I said, All right, you know, you just get after it, like I'm out, and I believe I had a -- I probably told Matt and I probably told Josh like don't do anything more on this, this is like going down a road that just doesn't make any sense.

Q Okay. And make any sense because you have a problem with the sort of process, a legal issue with the process or --

A It wasn't a legal. It was more like why are we having contingent electors vote if there's no contingency whereby their votes are going to be the counted, like this is stupid, like why are we doing this.

Q What was the response that you received?

A I don't even know if there was a response.

Q Okay. Just rewinding a little bit, you said that you thought that you may have had this conversation directly with Mr. Chesebro?
I might have, yeah.

Approximately, on how many occasion did you speak to Mr. Chesebro?

Not many. That's why I don't quite remember the specifics of the conversations that I did have with him, but it was either a phone call or in some kind of email exchange, I'm sure.

Would that have been on your DonaldTrump.com email?

Yes.

Okay. And, again, do you remember Mr. Chesebro's response to your raising concerns about the appropriateness or whether this was the right thing to do?

I don't. All I remember is it wasn't satisfactory. So I kind of indicated I'm out.

Okay. What did you come to learn about what did happen, the process by which alternate electors were convened?

I mean, I learned it was kind of a haphazardly done project in a lot of ways. It sounds like -- again, a lot of this was from press reports. I really stayed out of it once I made my beliefs and understanding of the law known to people. It was just like kind of sloppily done.

It sounds like people who were not even nominated to be an elector voted. People were picking alternates to go and votes. You know, people raised concerns, it sounds like in press reports, that they didn't want to do it and I don't know if they were really pushed into it or not. Some states, I think did it the appropriate way and made it a contingent vote.

It just seemed sloppy and not particularly well done, and I never really tied it together with the legislative track we had discussed before until -- probably until after January 6th, but that was kind of the -- I don't know if they were done, you know,
contemporaneously or not for that purpose, but just it never sat right with me that there
was no contingent for having these people -- there was no contingency whereby these
votes would count. So I don't know if those two tracks were connected or not.

Q We can show you some examples, but I think it was publicly reported even
at the time and, certainly, subsequently that these -- the existence of these votes cast by
Trump-Pence electors was something that members of the legal team representing
President Trump were drawing to the attention of state legislators across the country,
telling them that they can take some action to recognize those electors and, thereby,
have some effect on the outcome of the election.

Do you remember coming to learn about those type of statements?

A Not specifically, but that's the type of thing I'm talking about that I would
have seen in the press after the fact.

Q Okay. And once you did make the connection between those two efforts,
what were your thought, your reaction?

A I don't really remember what my reaction was, but I'm sure it was a little bit
of an aha moment, but yeah. I don't remember.

Q What do you mean by -- what was the aha piece?

A Just figuring out what the purported contingency was for the vote. I really
couldn't draw together when there was no contingency by which an electoral vote was
going to be counted why you'd have a contingent electoral vote. The connection
between how that the math formula was going to work after the fact was kind of like,
Aha, now I get it.

Q I see. And you've identified Wisconsin, Nevada, and possibly Georgia as
states during which at various different points, I think during late November or early
December, there were legitimate election contests going on; is that right?
A I think that's right. Again, my timeline is not perfect on this. So I don't remember a lot of the details, but that sounds right.

Q What about the other states; did you think that there was a sort of valid election contest or a valid contingency in Arizona, for instance?

A At that point, no, because Arizona's process for overturning the results of an election -- not even overturn. Like their process by which you have a recount is really tight and that time period had already passed.

There was nothing legally, I didn't think, that could be done in Arizona to get a different result in that election at that point in time.

Q What about in Michigan?

A Michigan? I don't remember the specifics of Michigan. I don't know what federal cases were pending at the time. I don't know what issues were there.

Michigan is a little bit looser in terms of how to challenge what you think is an incorrect count. The margin in Michigan was very large and the odds of overturning that many votes just seemed almost impossible.

Mr. Garber. Do you mean overturning votes or --

Mr. Clark. No. I mean having a successful recount when there's an 150,000-vote margin just doesn't seem right. It didn't seem like it would work.

Q What about --

A I don't remember the merits of those cases or the timing.

Q Okay. Thank you.

What about in Pennsylvania?

A Again, similar issue. The margin was such in Pennsylvania that effectuating a successful recount would have been highly unlikely to succeed, and I believe -- I could
be wrong, but I believe the time had passed for an election contest if it wasn't already adjudicated, I think, but I don't remember the -- again, I don't remember the specific timeline, but you had to get a very large margin in Pennsylvania.

Q: Okay. And earlier, you told me that you came to understand that there were some concerns among the electors themselves who were being asked to convene and cast votes. Do you remember specifically what concerns you learned of?

A: I don't remember the specifics. I remember reading some press reports about it after the fact.

Q: Okay. And you did -- you also mentioned that you understood that at least a couple of the states, the electors there, made their votes contingent. Can you tell me what you remember about that.

A: Again, I believe it was from press reports, but I think Pennsylvania cast their votes and in their voting certificate put that it was a contingent vote.

Q: Do you remember any discussions at the time when you first learned about the possibility of this plan, about whether the votes shouldn't be -- should stay on the certificate itself that they're contingent?

A: I don't remember having a conversation about that.

Q: Okay. Did you ever learn or come to understand other concerns raised by the Trump-Pence electors, including potentially seeking indemnification from the campaign?

A: Indemnification? At the time, like somebody looking for an indemnification agreement from the campaign?

Q: Correct.

A: I don't remember that.

Q: Okay. There is some -- our investigation has developed evidence,
information that electors, particularly in Pennsylvania, were asking before, you know, December 14th before convening whether the campaign would indemnify them for their conduct. What does indicate to you about the process?

A I mean, I would let that, someone seeking an indemnity, speak for itself. I don't remember that and I can't get inside their minds about why they wanted it, but, typically, someone would want an indemnification on something because there was a concern about liability in some form or fashion.

Q So let's go back really quickly. I know you told me that the first time that you heard of this in the context of the 2020 -- after the 2020 election was in this communication with Judge Troupis. Had you heard of the concept of contingent or alternate electors at any other election or in 2020 before Election Day?

A Yeah. In 2016, there were -- I was the Electoral College whip for Trump in 2016, and there had been a news report about the Clinton Campaign deciding whether or not to have contingent electors vote.

Q Okay. What about in the 2020 cycle? There was a -- an article was published in "The Atlantic" in September of 2020 that suggested the possibility that the Trump Campaign might test the assumption that electors were to be chosen by the popular vote. Do you remember that article?

A No, I don't.

Q Okay. It also identified specific party officials and leaders in Pennsylvania who were aware of these types of communications and led to a press release, a formal statement, by the legislatives leader in Pennsylvania sort of disavowing the role for a state legislature in selecting electors. Do you remember that?

A I don't. I don't remember that, no.

Q Okay.
A I don't remember.

Q Did you speak with Mr. Miller in particular about that?

A It might have happened, but I don't remember that specifically.

Q Okay. So you sort told us you sort of originally understood the concept, the contingent and specifically tied to the State of Wisconsin and a legitimate election process, and then in the process of -- you said you saw a writing, an email or a memo of some kind that reflected this change to expand it to other states.

I don't mean to mischaracterize your testimony, but generally speaking, is that a fair summary of what you've told us?

A Generally speaking, that's fair summary.

Q I earlier referred to a second memo that was drafted by Mr. Chesebro dated December 8th. Do you know whether that is the document that you saw that changed your understanding of it?

A I don't. So I don't think it was. I think it was a communication with Mr. Chesebro, to be honest with you, with respect to coordinating electors to vote, contingent electors to vote, and then there were states listed there that were -- I didn't think there was a need for contingent electors. I couldn't imagine a situation where a contingent elector's vote would be counted. So there's no contingency.

Q Okay. December 8th was also the safe harbor deadline for the Electoral College after the 2020 election. Do you remember whether this document that you saw from Mr. Chesebro was before or after the safe harbor deadline?

A I don't remember.

Q Did the fact that each of the 50 states had sort certified and submitted a certificate of ascertainment determining the winner of that state, you know, vote by the safe harbor deadline, did that factor into your assessment of whether it was appropriate
to have contingent electors vote?

A No. I view the safe harbor date as a little bit of a false deadline. I just
don't think it matters as much as some people do. So it wouldn't have factored in my
thinking at all on that.

Q Okay. You were aware that each of the 50 states had submitted
certificates of ascertainment though?

A I don't know if I was aware at the time or not, but I could have been.

Q Okay. So if it wasn't the safe harbor deadline, you know, as a mile marker
to try to figure out when in the course of December you had this understanding that the
process had morphed, how far in advance of December 14th, the Electoral College
deadline, how far in advance do you estimate it was?

A I don't remember. I couldn't guess, but it was at some point after Mr.
Chesebro's first memo and sometime prior to the vote.

Q Okay. Closer in time to the vote than to the first memo?

A I couldn't say.

Q Okay. We have received other testimony that indicates that this shift was
perceived after the safe harbor deadline. Do you have any strong reaction? Would
that be inconsistent with your understanding?

A No. It wouldn't be inconsistent at all. I just don't remember.

Q Okay. Let's look at Exhibit 33, please.

This is going to be an example of an email that went out from Mr. Chesebro, Mr.
Clark, and in this case, it went out to the leaders of the electors in Georgia. It's not
going to be a memorization quiz, but certainly take a minute to go ahead and look at it
since you're not on this document.

Mr. Clark. Sure.
Let us know when you've had a minute to review.

[Witness peruses exhibit.]

Mr. Garber. While he's reviewing it, so when I said I didn't have a hard stop, I've got something at five-ish. So, presumably, we will be done about then; does that make sense?

We will definitely try to meet that. When you said it's not -- like is it a hard stop? Because at the break --

Mr. Garber. Yeah. The hard stop for me is 5:30. Yeah.

Is it a hard stop or would we be able to take a break and possibly come back?

Mr. Garber. No, no. It's a real hard stop. Plus by then, we'll have been going for many, many hours.

No. I realize that. What I would say is if you can give us a little bit of time, we may need to take a break and coordinate and move some things around in order to address that time frame.

Mr. Garber. Yeah. That's why I wanted to bring it up now.

Okay. Perfect. is going to kind of finish her line of questioning, and when we reach a stopping point, we'll deal with that.

Mr. Garber. All right. Thank you.

Thank you.

Thanks.

BY

Q Mr. Clark, have you had a chance to look at this email?

A Yes.

Q In particular, I want to draw your attention to the second paragraph. It
I spoke this evening Mayor Guiliani. We focused on doing everything possible to ensure that all the Trump-Pence electors vote on December 14th. He is hopeful that the Georgia electors will go along with this strategy.

Do you see that?

A I do.

Q What's your reaction to reading that statement?

A I mean, it's consistent with my understanding of who was driving the process. It was Mayor Guiliani and his team.

Q Okay. Did you ever hear directly from Mr. Chesebro about his communications with Mayor Guiliani?

A I don't remember if he told me about his communication with Mr. Guiliani or not.

Q Okay. In the interest of time, I will just describe to you another document, but I think it's a description that you provided earlier. There's an email from you to Mark Meadows providing contact information for the electors in six states. It's dated December 10th.

I think you did refer to earlier getting requests about contact information. Do you remember specifically Mr. Meadows reaching out to you to ask for contact information of electors?

A I don't remember that, actually. I don't.

Q Do you know why Mr. Meadows would have been involved with electors?

A I don't. I know he was very involved in a lot of things at the end, but I don't know why he was involved with electors specifically.

Q Did you ever come to learn that Mr. Meadows had a role in developing the plan for electors to meet in contested states?
A: Yes. I think I read that in a press report, actually, but I don't think I knew it at the time.

Q: Okay. Other than what you read that's been publicly reported, did you learn about that from any other place?

A: I don't think so. I might have, but I don't think so.

Q: Okay. What about a lawyer who was active in Georgia I don't think we've talk about yet by the name of Cleta Mitchell; were you aware of her involvement with the contingent or alternate electors?

A: No. I wasn't aware that she was involved with the contingent electors.

Q: Okay. There are couple of other individuals that we see on emails similar to this one affiliated with the campaign, including Nick Trainer. Do you know what his role was with respect to the electors?

A: Oh, Nick would have been someone to get -- again, Nick work with me in delegates and party organization. Nick would have had a ton of contact information. Nick probably connected people.

I don't think he had a role in electors per se, but I'm sure he had everybody's contact information, because as part of delegates and party organization, we were in charge of vetting and selecting the electors to be nominated in the state. I think he literally knew all of them.

Q: I see.

A: So he would have connected everybody.

Q: Did you share your concerns about the appropriateness of this process with Mr. Trainer?

A: I don't know if I did or not.

Q: Okay. What about with Boris Epstein; do you know what his role was?
A I mean, Boris worked for Mr. Giuliani. You had mentioned before when you were talking about being in the White House. Mr. Giuliani's associates would have -- before the election, I didn't consider him a Rudy Giuliani, but by then, he definitely was, and I have come to understand -- I guess I didn't know at the time, but I've come to understand that he was very involved in the elector process.

Q Okay. Anyone else who you know of in addition to Mr. Giuliani, Mr. Epstein, Mayor Giuliani, himself, who was involved in convening the electors?

A I don't remember anybody else. I don't remember anybody else.

Q Okay.

A Other than who I might have mentioned.

Q Okay. Who else did you speak to about your conclusions or your assessment about the appropriateness of this process?

A Again, it was an ever dwindling group of that would listen to me, but it would have included Matt Morgan. I'm sure it included Josh Finley.

Well, I'm not sure. With both of them, though, I think I cautioned them at some point. It could have been other people too that were not really in the decisionmaking authority component.

Like you mentioned Mr. Trainer. I don't know if I spoke to him about it or not, but I may have. Mr. Miller, Jason Miller, I don't know if I spoke to him or not, but I may have, that group that I kind of mentioned before that I still talk to.

Q Okay. Did you speak to White House Counsel, either Mr. Cipollone, himself, or the others in his office like Mr. Philbin about this?

A I don't remember that, but I may have. If we were having a conversation about something else and they asked me my opinion, I would have told them.

Q What level of detail? I know you shared with us your conclusions, but what
1 do you remember that you would have told someone like the White House Counsel if
2 they asked?
3    A I don’t remember telling them anything, but we talked enough that it could
4 have come up and I would shared with them my thinking on this at the time, I presume,
5 too.
6    Q We received testimony indicating that White House Counsel's Office, either
7 Mr. Cipollone or Mr. Philbin, individually or together, did not believe that there was a
8 legal basis for the meeting of the Trump-Pence electors as occurred on December 14th.
9 Is that consistent with your conversations with them?
10    A Well, I don’t remember talking to them about this, but it’s consistent with
11 my understanding of their abilities as lawyers, and if I did talk to them about that, we
12 would have shared the same opinion. I just don’t remember having that conversation.
13    Q Okay.
14    A That’s consistent. It’s consistent.
15    Q Okay. What about either the Vice President, himself, or members of his
16 staff in OVP; did you discuss the concept of alternate or contingent electors with them?
17    A I don’t think so. I don’t think I did, but I don’t remember specifically. I
18 would have only -- the only people I spoke to over there were either the Vice President or
19 Mark Short, and I don’t remember having a conversation with either of them about
20 alternate electors, contingent electors.
21    Q Are you aware of Mr. Morgan having communications -- I know he used to
22 be counsel to the Vice President and continued to represent him in a different capacity
23 during this time period. Are you aware of any communications between Mr. Morgan
24 and the Office of the Vice President about this?
25    A Specifically about this, I don’t. I don’t know. Matt didn’t share the
contents of any conversation with the Vice President's Office. I'd be shocked if he did not speak to them about, because I'm pretty sure he was in regular contact with them.

Q And was Mr. Morgan's assessment of this idea of contingent or alternate electors consistent with yours?

A Yes.

Q Okay. In particular, did Mr. Morgan have a view of this related to the Vice President's role on January 6th?

A I'm not sure we discussed it with respect to the Vice President's role on January 6th. I don't remember having the conversation.

Q Okay.

A Prior to January 6th anyway or even after. I'm not sure we talked about it, but I don't remember having that conversation with him.

Okay. Let's see.

All right. I'm just going to look at my notes really quickly in light of the time constraint and see if I can streamline this a little bit.

Actually, could we take a five-minute break briefly, just really quickly?

Mr. Clark. Sure.

Mr. Garber. We'll see you in five minutes.

Perfect. Thank you so much.

Thank you.

[Recess.]

We're back from recess at 3:20 p.m.

My colleague, has a couple more questions and we will try to keep it moving.

Thank you.
BY: Mr. Clark, just rounding out our discussion about this idea of alternate or contingent elector, did you speak with Mr. John Eastman about this topic?

A  I don't remember speaking to him about this.

Q  Okay.  We have seen some communications between you and Mr. Eastman in early December.  Do you remember what the context was for you speaking with him then?

A  I don't.  I'd need to see the communications.

Q  Okay.  I think it is just an email in which you provide your phone number to him, which, you know, indicates, perhaps that you were arranging to have a phone call.

A  Okay.  I don't remember having a phone call with him, but it doesn't mean I didn't, but I don't remember it.

Q  Okay.  Did you ever come to learn about a role that Professor Eastman played in either the practical steps or the concept of the meeting of Trump-Pence electors?

A  I don't remember learning about his role in that.  I've, obviously, seen the press reports with respect to the certification of the vote on January 6th and Mr. Eastman, but I don't remember a discussion.  I don't remember learning about his role in the electors piece of it.

Q  Okay.  And in your communications with Mr. Chesebro about this topic, did Professor Eastman's name come up?

A  I don't remember.

Q  Okay.  Thank you very much.  I'll hand you back off to my colleague.

A  All right.  Mr. Clark, we're going to change gears a little bit and ask
you about some seemingly related topics. Our focus may focus more on some of the financial aspect in your role, I believe you said earlier, as the deputy campaign manager on the budgeting process.

So I want to turn first to Exhibit 1.

Q: This is an email from Jason Miller to -- if you look at the bottom, this is an email dated November 12th from Jason Miller to Mr. Stepien, you, I believe Murtaugh, and this is regarding an individual named Ali Alexander. You can see him in the tweet that is listed there where he says: "This is one of the most important fights in our lifetime."

And the tweet is from November 14, 2020. I don't know if you see the individual's face. We might be able to zoom in a little or you may be able to zoom in, but do you recognize that individual, Ali Alexander?

A: I don't think we personally met, but I recognize his picture from the news.

Q: From the news, and prior to the news reporting on the events of January 6th, did you know who Ali Alexander were, either by face, reputation, name?

A: No.

Q: Were you aware of his organization, Stop the Steal?

A: I've heard of the organization Stop the Steal at some point in 2020, but I don't think I would have been able to affiliate Mr. Alexander with that organization.

Q: Do you remember where you heard of the organization Stop the Steal in 2020?

A: I think I heard about a Stop the Steal rally that was occurring in D.C. at some point after the election.

Q: Okay. Do you believe it was the November 14, 2020 rally that's listed there
at Freedom Plaza?

A  I don't remember.

Q  Okay.  But you think it was a rally in 2020?

A  I believe so.

Q  If you scroll up, the response at the top, after Jason says who from the team
should go speak at this, Mr. Murtaugh says "Jenna?".

Why do think he suggested Jenna, and to the extent that you remember the
context, did you think that was sarcastic?

A  I don't know why he would have suggested Jenna and it could very well have
been sarcastic.  It also could have been serious.

So I don't know how to characterize that.

Q  Just to give you some context, it's very difficult for us after the fact,
especially with the personalities involved.  We can see from communications, Mr.
Murtaugh has a very healthy sense of humor, especially sarcasm.  So as somebody who
knows him well, we don't want to read into something.  You're the better expert of the
tone.

So what we were trying to see is he objectively suggesting Jenna on November
12th or is there kind of like why don't we send one of the crazies out after the crazies kind
of tone to this?

A  It's a little bit of the latter, but the latter could be serious.  Right?

Q  That's fair.

A  I mean, he does have a healthy sense of humor.  He's super sarcastic.
I actually think it's a little bit of both.  I don't know what the response was to
sending Jenna, the answer to sending Jenna out to this, but I find it kind of funny.  I also
think it could be serious.
So I'm sorry. I can't really pick a side of the net it's on.

Q. That's a very helpful answer. Just out curiosity, sitting here today, can you remember hearing the name Ali Alexander after this November 12th email, but prior to the events on January 6th?

A. I don't remember if did or not. It certainly wouldn't have been a remarkable event if I did. So I can't remember.

Q. And you don't remember being a part of any discussions about whether Mr. Alexander would speak at the events on January 6th?

A. No. I don't think I -- I am -- I don't think I was involved in anything with respect to the events of January 6th.

Okay. If we could turn to Exhibit 13.

BY

Q. This is a series of emails, I believe, between Mr. Murtaugh, Mr. Stepien, Jason Miller, and Matt Morgan, and if you scroll to the bottom, there's discussions about columnists, I believe. We can just -- so there's is a campaign email, I believe, that Mr. Miller received, and then it looks like he may have forwarded that to you guys, saying: "Alexa, we need to know which weekend shows we can put lawyers on to talk affidavits. Chad needs to know which of our high-brow columnist we can get to sit down for a virtual one-on-one briefing tomorrow so they write up summaries. Singular goal, shift the narrative from, quote, where is the evidence to, quote, Wow, that's a lot of evidence."

So this is on November 12, 2020. If we scroll up a little bit, Chadwick asks Tim Murtaugh, and if you keep scrolling up -- there we go.

I think Ms. Henning responds. Now stop right there. If we could scroll up just a little bit.
When Miller responds here on November 12th, he says: "Excellent. Pitch away to all shows. Justin -- I believe he's addressing you. You're the only Justin on the email there, but correct me if I'm wrong.

He says: "Justin, please let us know when tomorrow you can do phoners with me, Tim, and columnists to brief them. Would like to knock out several."

Now if we scroll up just a little bit, Murtaugh says: "Justin, do you want to get on the phone with a handful of these columnists?"

He lists some columnist, and if we scroll up just a little more, you respond back minus Alexa and Chad. So now this is just Miller, Stepien, you, and Morgan: "What are we going to say to them?"

Now, this is November 13th. Can you explain what your concern was there in terms of what you would or would not have to say?"

A I don't remember a ton about this specific interaction, but the timeline, I believe this puts me right around the time when I got pushed out, and they're discussing affidavits, that we didn't really have any, and that was like a sore subject with Mayor Giuliani, who claimed to have affidavits on things and didn't at times.

So I think I'm not trying to be cheeky, but like what are we talking about with these people. I don't even know how this ended.

I actually talked to the press quite a bit for the campaign on various issue on background. I don't think I'm trying to be sarcastic at all there. I just literally didn't know what we were going to say to these reporters.

Q If I remember correctly from testimony earlier, this was right before you and Morgan kind of extricated yourselves and said you are not longer counsel and Mr. Giuliani would be taking over from there forward.

A Well, we didn't really say that. The President tweeted it, I believe that next
day or that day, right around that time, and when that happened, Matt and I extricated
ourselves, but the precipitating event was the President.

Q Got it. Okay. That's a very helpful clarification. I appreciate that.

So one of the things that we wanted to talk with you about, and we can take that
exhibit down, is the election litigation funding. So a couple of times when we've been
talking to you, you've mentioned some terms that we just wanted to kind of get some
clarity on, and from our perspective, let me be clear.

We spoke with your attorney about this. I'm not necessarily -- I'm not asking you
questions about privileged communications that you've had with your clients. What I'm
trying to get at is the non-privileged aspect of who was paying for the election-related
litigation. So to the extent that there were buckets for that, we're going to ask you, to
the best that you can remember, if you can explain that to us.

So, earlier, I believe you mentioned EDO, which my understanding is it's Election
Day Operations. Is that correct?

A Yes.

Q And this is, in my understanding, this is like boots on the ground out, out and
about, helping poll workers, volunteers, etc. It is not necessarily cases filed challenging
the ballots. Is that right?

A More or less. I mean, in terms of budgeting, I'm not sure there was a clear
delineation by the end between those two buckets of budget items.

Q Okay. That's very helpful. So anywhere where you can tell us where it's
not clear, that would explain a lot and is very helpful. If it's not clear and it's murky, just
tell us that.

A Okay.

Q To the extent that you know, for Election Day operations, do you know if
those were paid by the RNC or by the campaign?

A It would have been both at some point. Early on, we had come up with a -- I believe it was the first year that the RNC was not under a consent decree that barred them from doing Election Day operations.

So early on in the cycle, I had helped out Brad Parscale, who was the campaign manager, in coming up with a budget for the campaign with RNC Legal with EDO. That budget ended up getting thrown out the window, like VDOT 50. Do you know what I mean?

But it was -- what that recognized was that it was going to be -- we were going to kind of split the bill in some form or fashion. The RNC has a legal proceedings fund that under the law allows them to spend money on lots of stuff related to legal expenditures.

So as money was coming in -- and campaigns are, obviously, barred -- or not barred, but we have hard money limits that the RNC doesn't necessarily have. They have much higher limits. So as money was in and we needed to put on money TV and get -- you know, we were in our coordinated expenditure limit. The RNC would pick up more tabs.

So a long windup to say it was paid by both in some form or fashion.

Q And was there a negotiation about the split as to who would pay how much?

A There were several negotiations as to who would pay how much. Matt Morgan was the -- but after July 2020. Before July 2020, there really wasn't a great budget control process on the campaign, but after 2020 or after July 2020, Matt took the laboring oar in terms of negotiating with the RNC about who was going to pick up what, and then I was having broader conversations about different items in terms of what they were going to pay for versus what the campaign committee was going to pay for.

Q And were those broader conversations regarding like the broader legal
budget or just all?

A  Broader budget generally, so who's going to pay for this travel, who's going to pay for event, who's going to pay for this, how are going to hit the coordinated limit for television expenditures and digital, who's going to pay for digital, who's going to pay for this turnout stuff, who's going to pay for these staffers on the ground in Texas, in Florida. That's the broader conversation, like everything.

Q  And was that you having those negotiations with them or was Mr. Kushner, Jared Kushner, involved in those?

A  Jared was involved with it.

Q  Would you say he was heavily involved in the negotiations with the splits?

A  Yes.

Q  Okay. And did he and you directly negotiate with Ronna McDaniel? Richard Walters? Both?

A  Both.

Q  Who did you deal with the most, if you had to say, between Ronna and Richard?

A  Richard mostly.

Q  And was there always a written agreement?

My understanding is there was like a JFA. Was there always a written JFA that delineated the splits at different times?

A  Well, that JFA, though, was just about the fundraising. So that's on the revenue side, not on the expenditure side.

Q  Okay.

A  That JFA was constantly renegotiated, which is fine. That's kind of how it should work based on who needs the money and what bucket it's going to go in at any
So any expenditure discussion or change usually implicated the Joint Fundraising Agreement, because it would be like, Okay, RNC, we need you to pay more. They would say, Okay, we need to get more out the JFA then, a higher percentage.

Q So, frequently, the negotiations would start with the expenditures, but was the expenditure split in the JFA?

A No. No. The Joint Fundraising Agreements are only about the revenue side. I don't we ever memorialized any -- I don't remember memorializing any expenditure split to paper. Maybe we did. I don't remember doing it though.

Q What was the normal way that you remember? Was it just a verbal agreement of a percentage?

A Just verbal, we need you to pay these invoices. It was always expense specific.

Q Okay. So it was more --

A We're going to be pay for this staffer or you're going to pay for that staffer, you're going to pay for this event and we're going to pay for that event, we need you to pick up this tab.

It was never about a -- it was never really a percentage on the expenditure side. It was always a percentage on the Joint Fundraising Agreement. That's the only way you can make the waterfall work, really.

Q Okay. And we're going to come to that. So that makes sense.

Would Bradley Crate have been involved in the discussions given his relationship with the two parties?

A I don't remember him being involved, but he may have. He may have had a conversation, but it really -- it was really more of a political conversation as opposed
to -- it was about a budget, a campaign budget, and Brad would have, as a party to this, would have wanted to know it was happening and that everything agreed to it and that everything was above board, and as long as those three indicia were checked, he was usually fine with everything.

Q So I want to focus on the legal budget, specifically, the election litigation-related expenses. So I think, earlier, there were some names you mentioned, but to the extent that you can, can you walk us through how does the funding of election-related litigation happen in the sense that you mentioned Mr. Guiliani coming in? I believe we talked about Jenna Ellis.

When all of these folks start coming in in November, how are they being retained and who is paying them?

A Yeah. Good question. Well, Ms. Ellis was -- she was on the campaign months prior to November. So she was being paid anyway as a consultant. She was hired before my time. Well, not before my time, but before I was dealing with budgetary issues.

In November, after Matt and I stopped doing day-to-day litigation work on the campaign, one of the roles I kept on was budgetary in nature, and we would -- the way it would work is someone -- and I say someone, because I didn't necessarily know who it came from -- would say we need to hire this attorney or this law firm, and Matt and/or I would negotiate the terms of the engagement with them, and, you know, sometimes it worked. Sometimes it didn't and we couldn't come to an agreement.

Then I think the campaign largely paid for it, but the RNC may have picked up the tab on some of these legal expenditures at that point, but I think it was predominantly campaign.

Q How did it get decided, to the extent that you remember, whether
somebody was paid out of campaign funds or RNC funds? Who decide that?

A I don’t remember specifically, because it was always kind of a fluid situation in the sense of something comes in, here’s an expenditure, Hey, who would be -- the RNC should pay this or we should pick this up.

So any person could have called from the RNC or from the campaign and said, Hey, we think you guys should pay for this or we would call the RNC and they’d say, Hey, you guys should pay for this.

So it was really a case-by-case basis. I don’t think there was any hard and fast rule.

Q And I think, earlier, you said that you interviewed some of the attorneys. Were you and Mr. Morgan conducting kind of like an interview process of who was applying to conduct litigation for the campaign?

A If I said that, it was kind of a misstep or foot fault on there. What I mean by that is like in November, we didn’t interview anybody, but Matt would vet attorneys, and that would mean we would talk to them. Matt was doing most of it. Matt was interacting with the lawyers that we had retained. So there would be a vetting process with everybody.

After November, the vetting process was less about us being comfortable with them as an attorney and more about just making sure that they weren’t going to, you know, rip the campaign off, that they were like remotely competent, and that we had some kind of budget approval authority from somebody that was still making decisions.

Q Now, I’m assuming that this was particularly for the cases that were brought on behalf of the campaign, but for cases that weren’t brought for the campaign, how did you handle those, if they were kind of, let’s say, campaign adjacent, but other parties?

A You’d have to give me an example of a case. Unless the campaign or the
President were a party to the litigation, I'm not aware of us retaining anybody. I could be wrong, but I don't think we did.

Q No. That's super helpful, because off the top my head, I can't remember a name, although, that's probably a [redacted] question, because she knows that area much better than me, but my understanding is that there were cases that were brought on behalf of Mr. Trump and then there were cases that were brought on behalf of the campaign, but then there could have been cases brought by -- I believe there was a congressman or the State of Texas, the AG's case.

A Okay.

Q So where there were cases that could have impacted the outcome of the election --

A Sure.

Q -- but weren't the President or the campaign, did you and Mr. Morgan have any involvement in those cases or the attorneys who were retained on those cases?

A I don't remember who was retained on those cases to prosecute those. I don't remember who the campaign paid on those.

Yeah. I don't remember.

Q It sounds like you're saying it's possible.

A It is definitely possible. You're bringing up a good point, and those two might be it, to be honest with you, those two cases, but I don't remember us engaging anybody, but it's totally possible that we did.

Q So in the moment -- and I'm not being coy here. I'm trying to kind of like organize and use the best use of time -- we'll show an email where you kind of break down the legal spend, but do you know if anybody kept a tracker or a record anywhere of cases that were being brought where the attorneys were being paid by the campaign?
A: Prior to Election Day, Matt probably would have kept something like that. I don't know if it was being tracked.

Q: At all?

A: No. I don't know. It wasn't being tracked by me. I don't think Matt was tracking it.

Q: So it made have been the -- okay. I just want -- we've talked a lot about the recount process and, earlier, you said something along the lines of, normally, there are certain state rules about vote recounts, litigation, etc. I think said something about the safe harbor deadline in December and you said something along the lines of, Well, it's not a hard date, it could go past that.

In your experience politically, traditionally, how long does the recount process last?

A: Oh, I mean, it depends. Again, there are 50 -- these are dusty code, election codes, in different states that you take off the shelf once every couple of -- you know, 20 years.

Typically, I mean they're designed to resolve election issues as fast as possible, but, you know, typically, before the electors have to vote is usually when this happen.

Q: Well, let me ask you this: We can both definitively agree that it's definitely on or before January 20th. Right?

A: I guess in theory, though, these things could go on and on.

Q: Past the day after which a new President is installed, for lack of a better word?

A: Sure. I mean, that contingent elector memo on Hawaii, that recount went back past the electors voting date. Right?

These things can go and on and on and you don't necessarily need a state to have
an outcome by Inauguration Day. Right?

I mean, you can still swear in a President if those votes aren’t counted, but all the states now typically do have processes in place to resolve these issue prior to that stuff. So I can’t imagine an eventuality where something legitimately lasts longer than Inauguration Day, but in theory, sure. It could.

Q So let’s come back to that, because it was our understanding that recounts past Inauguration Day were pretty rare.

A Oh, agreed.

Q So we’ll come back to that. A moment ago, you said that there were hard limits on how the campaign funds could be spent. What happens to the DJTTP funds that are campaign funds in terms of funds that are raised for the campaign? What are you allowed to use those for once they’re in the campaign accounts?

A Sure. So I think I actually said there are hard campaign limits in terms of what you can raise for people. During the course of the campaign, the only limitation is going to be it can’t be for personal use of a candidate. There’s other limitations too, but when the money comes in to the DJTTP account, it really depends on when that occurs.

I mean, prior to Election Day, it’s going to for electioneering activities for the most part, which is a pretty broad category of stuff related to electing -- supporting a candidate for President, his or principal campaign committee.

After election day, you can -- I think -- check the regs, but you can raise money for a recount and to pay off debt.

Q Okay. That was our understanding as well, that those were the two things. So it’s our understanding that immediately after the election a few days, there was a discussion about setting up the Save America PAC. Are you aware of those discussions?
A: Yes.

Q: And were you involved in those?

A: To some extent, yes.

Q: Sitting here today, what is your understanding of why the Save America PAC was created?

A: Regardless of whether President Trump was ultimately elected President again in 2020 or not, he needed a successor organization, like all Presidents who after their second run for office need a successor organization through which to do political activity to support candidates and causes that they believe to be important. So that conversation, I actually think had started prior to the election. I thought it occurred before November 3rd.

Q: Do you remember having conversations with Jared Kushner about creation of the Save America PAC?

A: You know, I either had conversations directly with Jared or I had conversations with Alex Cannon who had conversations with Jared, but I actually think I talked to both of them. I just can't be sure.

Those conversations would have been related to giving options in terms of what the best type of entity to create was. There really is only one option that makes a lot of sense, and that's a multi-candidate PAC, which Save America ended up becoming; but I was involved in conversations and may have even prepared a document -- I don't think I did, but somebody ended up doing it -- laying out what the different types of entities that you can create are and what the pros and cons are for that, campaign finance limits, what you can spend, etc.

Q: Yeah, and we're definitely campaign finance experts, but the gist of what we understand is that while there's limitation on what would happen if money was raised
into DJTFP, Save America would not have those limitations. So you would not want a
bunch of money raised sitting in a campaign account. You would want it, to your point,
sitting in a multi-candidate PAC that would then be a leadership PAC that would allow for
more flexible spending.

Is that fair?

A Yeah. The money going into the campaign, principal campaign committee,
at that point was dead money. It couldn't be spent on things.

Q Yeah. So do you remember having conversations regarding fundraising
after the election?

A Yeah. We would have talked about that. I mean, the former President
had a robust list that wasn't -- when you stop emailing a list or soliciting from any kind of
fundraising list, it tends to get stagnant and subject to spam and all of this. I'm no
expert on this stuff, but that's what our digital team indicated to us.

So yeah. There was talk of needing to continue fundraising after the election to
keep those lists fresh.

Q And who was that talk with? Was Gary Coby present?

A Gary would have been involved in those conversations. Jared probably was
involved in those conversations, Alex.

Q Do you remember when it was?

A I mean, we talked about it before the election for sure, because it was one of
those things where you never liked talking about the election during election, but it was
one of those things that kind of had to be discussed because it needed to happen and
there some lead time to it, but I don't remember specifically when. I don't think it was
one conversation. I think it was just like a series of conversations.

Q I know this was before your time, but were you aware that there were
conversations after the 2016 election where they were actually told to stop fundraising after the election?

A Oh, I don't remember that. Who was having those conversations?

Q No. I'm saying I know that was before your time, but in the context of the conversations in 2020 when you were talking with Mr. Coby, it sounds -- other testimony seems to suggest that they would need approval to continue fundraising after the election. Gary Coby could not unilaterally decide to do that himself.

A Sure. That's correct.

Q Okay. And why is that?

Mr. Garber Approval by whom.

Mr. Clark Well, it would have been approval by the principal. So Mr. Trump would have had to do that.

Mr. Garber Okay.

Mr. Clark I'm sorry. Can you repeat your question?

Mr. Garber Is that what you meant?

It's a better question, frankly. So I'll take it.

BY

Q Understanding that Mr. Trump had to approve, can you tell us about the conversations that you had? It sounded like you said there were several, but just the gist of the conversations that you bout continuing fundraising after the 2020 election or leading up to and after the election.

A Just what I told you with respect to keeping the list fresh and the IPs fresh and kind of the technical components of continue to fundraise, you know, so it doesn't precipitously drop off and you lose the quality of the list. That was the conversation with Gary.
Q And do you remember during the course of those conversations, would you have talked about the need to warm up IPs or take the list out of Salesforce? Do you remember any conversations about DataPeer or any of that at those times or did that happen later?

A Oh, DataPeer happened during the campaign.

Q Okay.

A That was in the fall. That was a really -- I think it was a really smart idea at the time. I don't know what you know it, but DataPeer was concerned about ownership of the -- not ownership, but the custody of the President's list and the IP addresses that's sent from them which the RNC owned and Donald Trump didn't. Another party owning the IPs and sending from those IPs is great when you've got a Joint Fundraising Agreement with that person, but once the campaign has ended, that Joint Fundraising Agreement was going to go away and we'd be left without any IPs to send things from, and it takes a while to warm those up.

So Alex Cannon and Sean Dollman came to me in the fall of 2020 prior to the election with a plan that had apparently been in the works for a while on DataPeer, creating a company called DataPeer to create IPs or buy IPs to start doing initial sends from during the course of the campaign. So when the campaign ended, those IPs would be warmed up and you'd be ready send them out, and it sounded like a good idea to me.

They laid it all out for me and we did it.

Q If I can go back, when we talking about the general fundraising discussions that you were having before the election about continuing fundraising and keeping the list warm after the election, do you remember having any discussions about the themes or what you would be fundraising on?

A No. In terms of content, that was really in Gary Coby's wheelhouse, on
what worked and what didn’t. It always had been.

You know, I supervised Matt Morgan, who ran the Legal Department which approved legal disclaimers and stuff on email sends, but in terms of content, I never really messed with Gary other than occasionally getting an email blast from him and making fun of, you know, a statement or something, just ribbing him, but I never edited content and created content.

Q Actually, that’s a really great lead-in to my next question, which is let’s talk about the approval process for those fundraising emails, because there was a lot of people on there. I think you were on that list, and there were some inflammatory things that were said in those emails.

Aside from ribbing Mr. Coby about something that may have been extreme, did you have any conversations with anyone about what was in those fundraising emails versus maybe personal beliefs? I think you said earlier, you didn’t believe in the Dominion voting machines, but there were fundraising emails that talked about the voting machines.

Did you have any conversations with anyone about what was in the fundraising emails versus what Mr. Cannon was finding or what Mr. Parkinson was finding or what the research folks were seeing in terms of fraud?

A No. Again, my content approval, I wasn’t on a content approval chain. We were on the legal approval chain.

So I didn’t sign off on content and none of us were really in a position to call out Gary in terms of what that content should be.

Q Who was? Based on your understanding as deputy campaign manager, what was your understanding of who was in a position to call out Mr. Coby about the accuracy or truth or lack thereof of what was in those fundraising emails?
A I mean, Gary was the digital director. I mean, he ran it, and don't forget, I came in -- as deputy campaign manager, I came at the end of July of 2020, and one of things clearly not on my list was how to -- approval processes for systems for digital email sends.

I mean, we were not in a position to make any kind of wholesale change at that point in terms of approval processes. So yeah.

Q And I will say to support that point, we have heard testimony from other witnesses would have said that you and Mr. Stepien came in and inherited, quote, a well-oiled machine that Mr. Coby had built that required no tinkering, no modification, and just ran. Would you disagree with that?

A No. I wouldn't disagree with that at all.

Q So going back to the question of you and Mr. Stepien, what we're trying to figure out is is it your understanding that Mr. Coby had approval over the content of those emails?

When they went through the approval process, was it your understanding that it was Mr. Coby's job to verify the truth or accuracy of what was in those emails?

A I don't know if that's true, but he had ultimate approval over content in there. So whatever content was there, he was approving, but in terms of like verification of the accuracy of what was said in a fundraising email, I don't know who was doing that, if anybody.

Q So I guess that would be my next question, is do you know, actually, if anybody was doing that? Was that anybody's actual job that they were responsible for?

A I don't know.

Q Who would know?

A Mr. Coby.
Q If Mr. Coby said that it was Mr. Parkinson's job to research, Mr. Cannon's job to do legal, would you agree with those characterizations?

A I guess, yes. I would. I mean, I don't know to -- I know Alex was approving not copy, but disclaimers, reviewing stuff for legal accuracy. I assume Zach was doing the same in terms of verifying accuracy of emails; but, again, I don't know what Gary's actual internal process was in terms of, Hey, this email is good to send because we have signoff from these people.

Q But if I told you or if you found out that there was actually nobody verifying the accuracy or truth of the content of those emails regarding what they were warranting to the recipients, would that actually surprise you?

A I guess I don't know. I don't know. It's hard to say, because if those people were on a content approval chain, I assume there would be some kind of clearance.

Q You would assume that somebody was responsible for truth and accuracy?

A Well, no. What I'm saying is if research -- Legal was approving content as it was going out. The RNC -- and let's also keep in mind, too, like we're talking about sends that were broken down by a percentage between the RNC and the campaign. If Research Departments were on those email, I would presume that they signed off on whatever kind of content there was.

Okay. If we could put up Exhibit 4.

BY:

Q This is a document that we were hoping you might be able to explain a couple of buckets on. This is a November 18th screen shot that Mr. Dollman would send around every day to a pretty consistent list, usually to Mr. Kushner and then he would copy a number of you in leadership, and they were cash position updates. Are you
familiar with these?

A Yeah. I am.

Q So they're largely similar with some minor variations, but they generally track the three accounts of the campaign general account, the recount legal and then, once it was created, Save America. So if right here.

So do you see where it says recount legal, recount costs for Wisconsin was $3 million?

It was our understanding that was literally the amount that the campaign paid to the State of Wisconsin for the recount. Is that consistent with your understanding?

A That jogs my memory. We had to put down, I believe a large seven-figure deposit on the cost of the recount. You're jogging my memory right now. So forgive me if I don't have the details perfectly right.

Wisconsin requires the petitioning party to pay for the recount. So I believe we had to put down a deposit that close to $3 million.

Q Is it fair to say that would have come out of the recount legal bucket?

A Probably, yeah. I would suggested that it be paid out of there.

Q Okay. And you raised a very good point. Are you the person who would suggest where those things should come out of funding-wise?

A If asked, yeah. I mean, it was usually pretty obvious where an expenditure should come from. Sean did a pretty good -- not a pretty good job, did a very good job of tracking debt, and so splitting those buckets between recount and legal and like DJTFP general raising against debt was pretty important.

So wind down, there are other buckets you could kind of put these in the general account.

Q Do you see the second bullet point under notes where it says the Joint
Fundraising Agreement split is changing at midnight to 75-25?

A I do.

Q You don't happen to remember -- this is November 18th. You don't happen to remember being involved in those conversation over that split, do you?

A I don't remember that, but I very well could have been involved in those conversations.

Q And to the best of your recollection, given the format, does that mean it would have be 75-25, the campaign-RNC?

A I don't remember his numbering convention.

Q Okay. So sitting here, you can't tell which is which?

A I can't.

Q Okay. And is that something that Mr. Kushner would have negotiated?

You would have negotiated? Can you remember sitting here today?

A I don't remember negotiating that split, but I very well could have. Jared certainly would have been involved and I would have -- I don't think anyone would have changed the split on the JFA without letting him know or involving him in the conversation.

Q So the way that you said that, Mr. Kushner certainly would have been involved, it was our understanding that Mr. Kushman was brought in to really have an active role in the budgeting process and to kind of manage the -- understanding that you and Mr. Stepien were, in fact, the campaign manager and the deputy campaign manager and that you were responsible for the budget, it was our understanding Mr. Kushner had a very active role in that, working with the two of you; is that correct?

A Yes.

Q Oh --
After Bill --

I'm sorry. Go ahead.

After Bill was named campaign manager and I was named deputy campaign manager, as I mentioned earlier, one of the things I was put in charge of was budget, and Jared and I were attached at the hip.

There had been serious budget control questions prior to that from the previous campaign manager. So Sean Dollman and I worked really closely together on developing a budget and a budget control system, and I worked with Jared, I mean, a lot just to make sure that the money -- that everyone had their arms around what we were spending, where it was going and whether we had it and all that kind of stuff.

And I understand that there were issues with Mr. Parscale. That's kind of before our time in terms of relevance here, but starting during that July 2020 period when you and Mr. Stepien started, was it pretty consistent at that point that you and Mr. Kushner were regularly working on the budget issues?

Yes.

And how often do you think you met with Mr. Kushner about the budget?

We would meet in person once a week and often times more than that, spoke on the phone. Bill probably talked to Jared more than I did, but, you know, we would relay messages, and I was constantly working the budget with Sean.

So these updates were part of just keeping him informed, and yeah. I mean, it was a couple days a week, probably.

And Mr. Kushner was very active in the fundraising updates, wasn't he?

I'm sorry. I don't know what the fundraising updates are.

The amounts of -- do you see where it says fundraising, where it says funds in transit and the cost of fundraising?
A Yes. He was very involved in that. He worked pretty close with Gary, too, on these items.

Q Was it your understanding that Mr. Kushner regularly updated the President on the financial issues?

A I don't know if I had that understanding at the time, but I assume so, because somebody would have and I wasn't the one doing it.

Q Well, let me ask a better question. What was your understanding of Mr. Trump's interest in the funds raised, like the budget, the finances of the campaign, if you will?

A I would say pretty interested as far as candidates go. I've done this a lot, and some candidates are very interested. Some candidates, their eyes would glaze over when you start to talk to them about a budget.

I would say he was right in the middle.

Q So this email is, I believe on November 18th, and do you see under the DJTFP general column, it says outstanding payable and it's a little under $34 million?

A Yes.

Q So this is a couple of weeks after the election, and I'm not asking you to remember specifics, but generally, what was the $34 million in payable that the campaign had left two weeks after the election? What kind of things would be in that bucket?

A Oh, boy. So campaigns have a ton of trailing invoices. I mean a ton of trailing invoices. The smallest on campaigns has tons of trailing invoices, mean you do an event in the begin of October and a vendor who did work for you, a small mom and pop shop, they don't bill you until the end.

Porta-Potties come to mind. We had all these rallies, and the guy who did all the Porta-Potty vendors didn't send us his bill for like two and a half months, until October,
and it was like $8 million. That's just like a gut punch at end of a campaign.

So you had a lot of those trailing invoices coming in. I believe we paid

unlike -- so television, you pay up front. Okay? If you want to put a TV ad on the air,

you pay them and they put it up.

Digital, you do the digital buy. They put the digital ad up and you pay that after.

I presume a lot of 33 million is to Google for Google search for October. That's probably
due at the end of November.

Okay. That makes a lot of sense.

If we could put up Exhibit No. 5.

BY

Q The next day, a similar email, same cash position update. Again, this is

from Mr. Doi Iman out to the group, and it says: "Note: I met with Justin this morning

about the recount/legal budget and we should have something today that will display

where we are on spend and remaining budget."

So this is the next day. Do you happen to remember meeting with Mr. Dollman

that morning to discuss that recount legal budget?

A I don't remember that meeting, but I met with Sean multiple times a day.

So I don't doubt that we had it.

Q On November 19th, what would the concern with budget have been when so

much money is being raised post-election?

You guys had some of your biggest days, I think, in the days right after the

election. So Save America, at this point, already has 29 million cash position. What is

the budget concern right now post-election?

A Well, I can see the recount thing being an issue at that point. Don't forget,
at that point, you had a lot of new lawyers coming in. As I mentioned, Matt and I were
doing a lot of negotiating, and I think there was a concern that nobody had their arms around the spend side of the recount/legal budget.

You know, it wasn't an income concern. It was a spend concern. So don't forget like we have to spend that on recount and legal. If we didn't spend it all, that money can get transferred to the RNC legal proceedings fund.

So like it wasn't like, Oh, it's dead anyway, why not just spent it. It was like we needed to have our arms around what we're spending it on, making sure we're spending it on -- you know, not like wasting money so there's something left over.

Q So to be clear, that recount/legal fund, that is what you would have used for election-related litigation or recount and that's all you could use it on. Correct?

A That's my understanding, yes, but any surplus could be transferred to the RNC legal proceedings fund.

Q But it couldn't be transferred to, say, Save America or DJTFP General?

A Definitely not DJTFP General and I don't think Save America.

Q So is it fair to say it was kind of a use it or lose it or give it to RNC?

A That was -- yes. I think that's fair. That's a fair characterization.

Okay. If we look at email number -- Exhibit 6.

Q This is a November 27th email from Mr. Dallman to Mr. Kushner, and in the chain, I believe, there's -- if you scroll down a little bit, on November 29th -- right there. Yeah.

So Mr. Kushner email you guys and says: "I'm traveling for a few days. When I get back, let's discuss a new system for paying bill where we need DJT to sign off on them. I want to create a tighter process for going forward. We should have a budget we approve and it shouldn't go to him unless approved by Sean and Justin and maybe Alex."
I'm assuming that Sean Dollman, you, and Alex Cannon. Is that a fair assumption?

A That's fair.

Q And what was the point of this process, to the extent that you know, in terms of what Mr. Kushner wanted to accomplish with this?

A I think he just wanted to get an understanding of, again, like -- before Rudy and his team came in, Matt would have known to the penny what we owed lawyers, what we were paying lawyers, who they were. When Rudy and his team came in, as I mentioned, we were just getting engagement letters thrown at us from different directions and looking for approvals on whether we should do things or not.

So we wanted to create a budget, like here's what we're going to spend our money on. When I say "we", I mean Jared and I think he was right about that, because just things were moving so fast that if you didn't have a budget control on this stuff, you were just going to start setting money on fire and that just didn't make any sense.

Q And correct me if I'm wrong, but other testimony that we've gathered suggested that there might be things that would go to the President without anybody looking at it first or maybe there weren't the strictest controls before things went to the President for him to sign off on.

A In terms of expenditures from the campaign?

Q Yes.

A So there were a few engagement letters that I believe like -- that's hard to say. I don't know. Expenditure approval --

Q Well, and you actually hit on it, attorneys that may have come in that the President said okay, but that didn't get vetted or approved before expenditures were approved.
A Yeah, but that's a little different, because the campaign still had to sign an engagement letter. Right?

So if he had approved something, you know, we would get an engagement letter and review it and negotiate with these people, and it wouldn't necessarily get done. You're talking about a pretty tight time window here and, you know, all of these engagement letters came to me from someone other than directly through me or Matt.

So we were looking at them, and if the President approved it, I would call Jared.

I think Jared was looking for a process here that wasn't that, that was a little more organized.

Q That makes sense. Is it fair to say that he seems like a very organized gentleman and who likes processes and procedures?

A Yeah, and I shared that with him. Chaos is just hard to deal with on a budget.

I totally understand that.

If we could turn to Exhibit 8.

BY

Q This is an email the same day. I believe it's in response to the email where Mr. Dollman said that you guys were going to sit down and get your arms around a recount budget.

So this is from Mr. Dollman to Mr. Kushner and others up top, but it's not really as relevant. So this is Mr. Dollman writing: "Jared: Justin, Alex, and I updated this just now. We think it accurately reflects remaining expenses and total spend to date. The big drivers on spend to date were the three million to Wisconsin, cost of fundraising, and the data project.

The only item we can't estimate are the expenses for Team Rudy. We have yet
to receive anything from them. As you can see, after remaining expenses, we estimate
$9.87 million remaining."

So I just want to ask you clarify a couple of things for us. I'm assuming if you
scroll down a little bit, this is the cash position on December 8th. I'm assuming this is
recount/legal budget that we've been seeing that this would have come out of.

A Yes. That's what this is.

Q Okay. Then if you see the line that says Cost of Fundraising, I'm assuming
that's when you were talking about the cost of digital or actual fundraising costs.

A I don't know what that line item is. It must be. It must be the cost of
fundraising coming in, but I actually don't know what that is.

I remember this document getting created, because we actually settled on this,
because we needed something simple that we could update easily that could be
replicated from day to day compared to a prior day. So like the remaining expenses
column could go up or down. The spend to date would then be added based on that,
and then you'd be able to have -- those were the variables in addition to the cash position
on that day, the cash position at the end of day, and then the cash position at the end of
the day would match the cash position at the beginning of the day for the next
spreadsheet.

So I remember creating this and working on this with Sean and coming up with
like a decent estimate for what we have. I don't remember what fundraising is, though,
what that line item is for.

Q I'm assuming it's the cost of fundraising. Right?

Because it's an expense related to fundraising?

A I assume so too, but I don't know for sure.

Q Okay. And when it says the data project, in the email, it says data project,
but I believe on the line, it says national/data. Do you know what the data project was?

A I referring to it earlier, which was Alex Cannon's work verifying or, you know, finding out the answer to issues with respect to dead voters, national change of address, you know, real data sensitive things that were being brought up with respect to election contest.

Q And do you know what the Ops row meant?

We assumed operations, but we weren’t sure which operations.

A Ops is going to be short for operations in all of our budget. I just don’t know what our operational expenditure was on that.

I mean, we did have ongoing costs, but $725,000 seems high in terms of remaining expenses. Like we had -- there was staff at the campaign. You know, there are printing costs, I guess.

I don’t remember exactly what made up that number. To be really fair, I was a big believer in you never went to come in under on the expenditure side of a budget. It could very well have been a plug number that we just made bigger so we didn’t have to come back with a crazier number on something else and could just reallocate to there.

I don’t know. I’d have to look at it, going forward and back, and I just don’t remember the conversation we had about it.

Q And if you look at that row that says National, I’m assuming that’s just kind of like a bucket for national-related expenses that might come up.

A I don’t remember specifically.

Q The reason I ask is because if you scroll back up to the bottom of the email, he explicitly says that you couldn’t estimate expenses for Team Rudy. Did they ever submit anything budget-wise or how would you know how much that cost?

A We didn’t. They never did provide a budget in terms of their expenses for
Q: Do you know if they were ever paid for their work?

A: I don’t think -- I think their expenses were paid. I don’t know. I don’t believe they were paid for their work.

Q: Do you know how their expenses were paid, like through whom, through what entity?

A: I don’t remember.

Q: And to the extent that you know, the Spend to Date column appears to be funds that have already been spent in those states. Was that for law firms that were conducting litigation in those states or what was that spend for, to the extent that you can remember?

A: The largest expenses would have been for law firm expenses, but I don’t know specifically what made up those numbers.

Okay. If we could turn to Exhibit 18 on page 2.

Q: So this is an email -- actually, if we can just go up a little bit, I want to scroll a little bit slowly so we can go through the who, what, when. If we can go up a little bit to the top, this is an email dated December 22, 2020. If we go up a little bit, you can see this email.

It's from Mr. Dollman to Mr. Kushner and the team, and it's cash position update dated December 22nd. If you scroll down, Mr. Dollman adds the note above the standard chart.

He says: "Below is a screen shot of the current positions for the three accounts. Note: This includes the $4.975 million media buy invoice that we just received."

Now if you scroll down, would that have been in recount/legal under outstanding
payables?

A  Good question. I don’t know. Like I said, if we had a media buy and it

   television, you wouldn’t really record that as a payable at any point, because it would

   probably just be right out the door, but if it was in between the time when the invoice

   showed up and when it was paid, it could have been in the outstanding payables bucket.

Q  To the best of your knowledge -- so I don’t know if you’re aware. Do you

   remember the $4.975 million media buy invoice that came in on December 22nd?

A  I don’t remember the invoice specifically. I remember that there was a

   media buy component to this. I don’t remember that specifically or the number

   specifically.

Q  Well, sorry. Let me be clear. I’m not asking about the number. I’m

   saying do you remember the big $5 million media buy of election fraud-related

   commercials that the President and Rudy Guiliani wanted to put on TV?

A  I do.

Q  Do you remember seeing the commercials? I believe they went on OAN

   and Newsmax.

A  I did see them.

Q  Would you have qualified those as recount/legal?

A  I mean, yes. I can get there.

   We would -- we work a lot with -- we had a lot FEC compliance lawyers on our

   team, and if we were comfortable making that expenditure out of recount/legal, then I’m

   sure we were comfortable with it.

Mr. Garber. Is that something you in particular --

Mr. Clark. I don’t remember that. I don’t remember if I specifically approved it

   or not, but if I did, we would have done our diligence on it and had been pretty
comfortable with the outcome.

Q Okay. We'll come back to that, because the question of what qualifies recount/legal, I'll come back to that in a moment.

If we could go up to page 1, there's a line that I believe Mr. Kushner says is the -- oh, here.

He says: "Thanks, Sean. I'm assuming the reason why Save America has been stagnant is chargebacks."

What are chargebacks?

A Chargebacks are so if someone wants to not have their donation -- so you make a donation to a political campaign for a hundred dollars. Okay. You decide, you know what, I don't want to give that money anymore. There's two ways to effectuate doing that.

One is a chargeback, which is you call your credit card company and you say that I don't agree with that charge on my credit card and, presumably, the credit card company puts a hold on it. What happens then is they then go to the credit card person who made the charge, the company, who then says, No, no, no, they did pay for that, and then that dispute typically gets resolved in favor of the merchants.

I think we had a policy to not fight chargebacks. The other way to do it is a refund, call the campaign and give a refund. We were very open about doing both, which a lot of campaigns are not.

Q So if you scroll up, I believe Mr. Dollman responds to Mr. Kushner and says: "Correct. Chargeback have negatively impacted Save America by nearly $2 million since the 14th of this month. Another factor is that recurring has moved from weekly to monthly."
So let's just pick off that last piece. Do you know what that means, recurring has moved from weekly to monthly?

A Yeah. So when you make a -- when you give on line, there's an option to make it a recurring donation. So I give $10 to a political campaign. I then have a box I can check -- sometimes it's pre-checked -- which says I want to make this a recurring donation.

This indicates to me that we changed the recurring donation check box on Save America from a weekly, do you want to make this a recurring donation weekly, to one that was monthly.

Q And do you remember -- to the extent that you remember those -- it sounds like that was a discussion. Do you remember those discussions?

A Vaguely. I would always defer to Gary in terms of the best way to appropriately do that. I didn't -- at that point, I wouldn't have cared much. I don't remember why we did that.

Q Is it possible because it's now December 23rd -- it's been a month and half since the election and you're taking fundraising emails recurring weekly for people for what at this point?

A I'm sorry. I don't follow your question.

Q Well, if I understood you correctly, you're saying it was a recurring donation that was happening. The default was weekly and now you changed it to monthly, and you said I don't know why we would have changed at that point.

This is now December 23rd, over -- about a month and a half after the election. What would people need to be donating weekly to as opposed to monthly if the election was over?

A I mean, this was for Save America. So Save America is not a principal
campaign committee anyway. It's for a multi-candidate PAC, but I don't remember the reason we switched it from weekly to monthly.

Q And do you have any -- do you know why the chargebacks seemed to have increased by nearly $2 million since the 14th of that month, so about seven days, $2 million in chargebacks, it sounds like?

A I don't know why. I don't even remember why the -- what the theories were on it, but, I mean, it is -- it occurred.

Q So let me come back the theories on that in a second. In the email above, Mr. Coby says -- if you scroll up, he responds and says: "Pushing a lot as well. Average daily growth, 1.2 million."

Do you know what he's referring to when he says "pushing a lot less"?

A I assume that means fewer emails and text messages sent.

Q So pushing a lot less in terms of the things that would get people to donate?

A Yes.

Q And average daily growth, 1.2 million, is it your understanding that that was low or where does that fall? Is he saying that it's low now?

A I wouldn't characterize it as low or high. I don't remember the context of that number.

Q They may have just be just so you know, now this is the average daily gross?

A It could have been, yeah.

Q Okay. So the reason I asked about the recount issue is because since January 21, 2021 -- so that the day after Inauguration in 2021 -- to present day, the Make America Great Again PAC has PAC spent five and a half million dollars on recount expenditures. What are you spending on recount-wise, which is, my understanding, the money left over that was raised from the campaign that got moved over to MAGA PAC?
What is still being recounted? I think the most recent expense was $600,000 in March to a company called 2M Document Management and Imaging, and to the extent -- I don't know if you're still involved in this, but if you are, what is still being recount/legal in March 2022 of a 2020 election?

Mr. Garber. See, that might be -- I think now we're getting into substantively privileged things.

Q Generally, what kind of expenses are recount/legal nearly two years after the election?

Mr. Garber. Again, I think you're asking substantively what are legal funds being spent on, and I think that's privileged and work product.

No, no. I'm not asking specifically. Earlier, he said he had a lot of experience with campaigns. Let me rephrase it.

Q In the past, have you ever had recount/legal fund being spent two years after the election?

A I haven't had a lot of -- there's not a lot of campaigns that have recount/legal funds. Generally, you can spend recount/legal money on something that has significant nexus, significant enough nexus, to the recount and recount-related activities.

Q I guess this is where I don't do enough politics to understand, but after the election is over and there's a duly-elected President, what is the type of recurrent activities that are still happening in that bucket?

And you don't have to be specific about what you've actually spent it on, but just from you experience, a type of expense that's still happening in recount/legal two years later.
Mr. Garber. Well, have you had an experience where there’s been that kind of expenditure or is this unusual.

Mr. Clark. This is an unusual set of circumstances. It’s pretty unique.

Mr. Garber. I think the predicate of the question is an issue.

Q Well, I guess the predicate question would be do you need somebody continuously saying that an election is fraudulent in order to justify fraudulent -- excuse me -- in order to justify recount/legal expenses for an election that happened two years ago?

A No.

Q If President Trump said tomorrow the election wasn’t stolen, Biden was the duly-elected President, you could continue spending recount/legal expenses out of that account?

A You bet. The two are not related.

Q Okay. That’s helpful to know.

I wanted to turn to the email. So you’re not going to remember this and I don’t expect you to because we put them up so quickly, but when we showed you some of these cash position updates, the one on November 17th had the Save America cash position as 18 million and change. There’s others that we have that show that as of January 6th, the cash position is $76 million, and as of January 13th, the cash position is all the way up to $77 million.

Do you remember getting those emails?

A I’m sure -- if I’m on the distribution list, I’m sure I did.

Q Do you remember having conversations with people about how much money Save America was raising after the election leading up to the events on January
1 6th?
2 A I don’t remember specific conversations I had with people, but I would have
3 had conversations with people, I’m sure.
4 Q Do you remember reporters contacting you and Mr. Murtaugh, asking a lot
5 of questions about the disclaimers at the bottom of the emails where the funds were, in
6 fact, going to Save America as opposed to the Election Defense Fund that was in the body
7 of the emails?
8 A You know, vaguely. You’re jogging my memory on that. We got a lot of
9 reporter inquiries, and stuff about budget always came to me. I vaguely remember that.
10 Yeah, and trust me. I’m not doing this to try to brain tease you, but
11 at 4:30 with a hard stop, the value of putting up four or five reporter emails to try to jog
12 your memory, I’m just trying to truncate that.
13 So let me actually put up Exhibit 24 and I’ll see if -- while we’re putting up Exhibit
14 24, there are emails where Mr. Murtaugh is getting reach-outs from reporters who are
15 asking if the real purpose of Save America is to raise money for a war chest or to support
16 other candidates. They talk about the fundraising campaign being misleading because it
17 says for Election Defense Fund, but it’s going to the leadership PAC.
18 So I’m trying to put up an email that tries to explain all of that, and if you -- and,
19 actually, this is -- if we scroll down to the bottom, let’s start at the bottom.
20 BY [REDACTED]:
21 Q This is a reporter from "The Washington Post" and he’s talking about the
22 Trump operation raising more than $150 million since the election and he’s looking at the
23 breakdown of where the money went with the PAC, RNC, etc.
24 "Can you tell us where you plan on spending the money? Some outside critics
25 say it’s unfair to ask small-dollar donors to give so frequently to help the President when
a lot of it won't go toward legal expenses. What do you say to those concerns?"

I will proffer to you that there are a number of these communications from
reporters to Mr. Murtaugh. So this was, seemingly, a commonly-asked question when
people started noticing the change in disclaimers.

So if we scroll up this dated November 30, 2020, and Mr. Murtaugh writes: "Still
ignore?"

I will just say to you, a lot of the other emails are dated November 11th and
November 24th. So there are emails where he has been forwarding this you and to
others saying what is our position on this and they have been taking the position to
ignore, so just for context of why he's saying "still ignore".

Is that fair? Does that sound consistent with what you remember?

A  Sure. It does.

Q  If you scroll up, I believe that might be -- who is that responding?

Oh. It's you responding. So you respond to Mr. Murtaugh and you copy and
loop in Dollman, Jason Miller, I believe, and Bill Stepien, and you say: "I would still say
no comment, but I also don't know if that number is correct and whether it's something
we want to inform if the story is going to get written anyway."

Was there a concern that there would be a story coming out talking about where
the money was actually going as opposed to election litigation defense -- election
litigation expenses?

A  Excuse me.

I don't know if there was a concern or not. My default was usually no
comment on money. In campaigns, we don't talk about expenditures. We don't talk
about what we spend on TV, and my position was we don't need to talk about this.

I'm also indicating in there that I didn't know if the number was right or not. So I
wasn't able to really talk about it, which is probably why I added Sean, and I'm sure I added Jason and Bill for their insight into like whether we should talk to the press about it or not.

Q If you scroll up, I believe Mr. Murtaugh responds on December 1st: "Dallman agrees".

If we keep scrolling, there's a little bit of confusion, still no comment. Then actually stop for one second.

If you go back down a little bit, Mr. Murtaugh says: "I side with no comment. He's going to write about the split, and if we say stuff about legal expenses, it will serve to highlight the argument that the fundraising pitch is misleading."

Our reading of that, and I just want you to agree or disagree or tell us why we're wrong, is if you look at the previous charts we were looking at regarding how money was actually in that recount/legal bucket that would be used for recount/legal expenses, it was quite low. I think, if you remember, it was 10 or 13 million dollars; whereas, Save America, because of the change in the disclaimers and the split, got all the way up to -- I think you saw of them that said $70 million.

So when Mr. Murtaugh says "He's going to write about the split and if we say stuff about legal expenses, it will serve to highlight the argument that the fundraising pitch is misleading", it sounded like what he was saying there is if you look at these emails that say contribute to the official Election Defense Fund and we show them how much money is in the Election Defense Fund versus Save America, it will only highlight that the fundraising is misleading.

Is that an unfair read of Mr. Murtaugh's comments?

A With one exception. It will highlight the argument that the fundraising pitch is misleading. I don't think Mr. Murtaugh is saying the fundraising pitch is
misleading.

Q  Okay. And that's fair. I understand the modification there.

If you scroll up, I believe that's JM, Jason Miller’s initials. He asks Mr. Dollman what are the reporting deadlines, and he says: "If will be tougher to dodge such answers after reporters can find it themselves."

Understanding that you may remember that exact email, sitting here today, what do you think he thought you needed to dodge?

A  I think it sounds inquiries from a reporter, but I don't think that's a unique statement with respect to any inquiry that he would have received. It's not a weird statement from anybody.

Reporters were hounding us all the time about fundraising and money and digital fundraising, and we got closer to reporting deadlines, everyone wanted to break the story about what the number was, and so I think Jason was trying to get a sense of what the reporting deadline was so that we can, you know, have at it and make a determination.

Q  Do you think there was any concern that when the FEC reports came out and reporters could find where the funds had gone versus where the fundraising email had represented they were going, do you think there was concern about the questions -- dodging the answers to those questions then?

A  Well, there would haven't been questions then. I think that's what he's getting. Like the number would be the number. They wouldn't need a statement from the campaign at all. They could make their own -- draw their own conclusions with respect to money and where it was.

Q  If we scroll up one more, I believe there's an email at -- it's the top one. I think that's Mr. Miller. He responds on November 30th and says: "Welp, sounds like we have 72 hours to come up with the messaging game plan."
What do you think he meant there?

A Just what it says. I don’t --

Mr. Garber. Can we scroll up for context, if Justin is on these emails.

Mr. Clark. I think that might actually be the last. That may be the top. I think you just read the entire chain.

Mr. Garber. Okay.

Oh, no. There we go. That was my next question. So you’re skipping ahead a little bit. We’re going to keep going, actually. I’m just kind of asking him as we go. We just don’t have time -- I’m sorry -- kind of like sit and read everything, but we’re going to read it piece by piece.

BY [REDACTED]:

Q So it sounded like Mr. Miller was saying they needed time to come up with a messaging game plan. I interpret that in comms speak as, basically, like how to message it better than the reporters are asking it. Is that fair?

A I wouldn’t characterize it -- I would characterize it as what message does the campaign want to put out and what the game plan is to do that.

Q That’s fair.

If you scroll up one more email, it says -- I believe this is Mr. Murtaugh responding to Jason, Mr. Dollman, and he copies you and Stepien, and he says: "We should talk tomorrow about whether to just announce this by press release like we would any other fundraising announcement. If we have the numbers, we can discuss how the breakdown among entities needs to be messaged, also key, as Jason pointed, that POTUS is on board on how it will be described."

Do you remember having conversations with the former President about how you would describe the issues of the Save America fundraising?
A: I don’t know.

Mr. Garber. Is the last email? I think, in fairness, if Justin is on the email chain, we should look at the whole thing. Is this the last one on the chain.

I would have said yes, but a minute ago, I was. So let’s scroll up, because I did think this is the last one.

And it is.

Mr. Garber. Okay. Thank you.

Mr. Clark. I don’t remember having any conversations with the former President about this issue.

Q: Do you remember the press release that you issued and gave to Fox News about the funds raised by Save America?

A: I don’t remember that, no.

Q: It’s okay. I know that comms wasn’t your job. I was just curious if you sitting here could remember it and I’m trying to evaluate what’s worth putting up in front of you at this point.

So let’s do Exhibit 23, if we could.

Q: And if you see where Mr. Murtaugh, it says "FY again", and my guess is if you scroll down, it’s another reporter saying something about -- if you scroll down one more: "Save America has been added to the fundraising distribution. Why start fundraising for it now when the focused solicitations have been on legal challenges?"

If you scroll up, I think she re-ups email with Mr. Murtaugh and says: "There are some campaign finance folks who say this is a bait and switch given that the priority on the allocation is for the leadership PAC."
And Mr. Murtaugh, if you scroll up, forwards it to you and says "FYI again". Then if you scroll up, and I believe if you scroll up, this is the last email that you respond to. This is November 10th. So this is actually 20 days earlier than the email that we just looked at, but this November 10th, about a week after the election, and you say: "We, frankly, should have started a week ago. The President is committed to helping elect candidates that share his vision for America."

Can you give us some context for that to kind of understand what you were trying to communicate to Mr. Murtaugh, to the extent that you understand reading it now?

A Yeah. I don't remember this interaction, but it's consistent with what I told you all before, is that prior to the election, it was really incumbent for us to make sure that we had a vehicle for him to raise money into post-election. I think this is displaying my understanding of that.

He should have started it on Election Day, is when the committee should have started or the day after and started raising money into it then. I mean, it's really a post-second election for a President must in the digital fundraising era, because, again, all of those IPs get stale. You've got to have a plan to be able to do it.

So that's why I think I said that.

And if we could look at Exhibit 12.

Q There is a November 11th email from Politico reporter, who again says -- and this one is on November 11th. If you scroll down, the Politico reporters says: "I'm writing a story on the President's new leadership PAC and the fundraising solicitations that raise money for the PAC and the recount."

I'm wondering."

I'm not sure if that's cut off on our end. Oh, there it is.
"I'm wondering. Experts who I have spoken to say that President Trump can't spend money out of his PAC on the recounts or other post-election legal proceedings."

This is a spent question, but the last bullet says: "Some are saying it's misleading to raise money for a committee marked on the website as an Election Defense Fund if it's going to a leadership PAC."

And if you scroll up, Mr. Murtaugh again forwards this to you and says: "Still ignoring?"

And you wrote back "Do we care?" On November 11th.

I guess my question to you why wouldn't you care at this point?

Let me phrase it this way: When you say "do we care", what did you mean there?

A  I probably meant -- and I don't remember this specific interaction, but I probably meant, talking to Tim, like do you care if we don't get back to this particular reporter. Press people have relationships with reporters, and I wanted to make sure -- see if he needed to get an answer or not.

I, frankly, don't think that question deserved an answer. I think her understanding of what the PAC was that was being formed was incorrect and what it could do, but I think I was literally just asking like do we care if we get back to this person.

I'm going to put up one more email, Exhibit 14.

BY [redacted]:

Q  This is November 24th. It's an email from a CNN reporter to Mr. Murtaugh, and if you scroll down, the reporter says to Mr. Murtaugh in his original email: "I see that the Election Defense Fund is directing an increasingly large share of donations to the Save America PAC rather than toward the legal efforts advertised in large print to supporters. Seventy-five percent of contributions are now going to Save America, up
from the 60 percent that was being funneled to the PAC last week.

 Previously, 60 percent of contributions were going to retire campaign debt, and before that, 95 percent of contributions were going to the RNC's operating account. Why is the campaign telling its supporters they are contributing toward an Election Defense Fund if only a small percentage of those funds are actually going toward funding legal efforts?

 How can the campaign justify directing 75 percent of contributions intended for a 2020 legal fund toward the President's Political Action Committee? Is Save America funding any of these 2020 recount efforts or legal challenges?"

 Then if you scroll up, I believe this reporter emails November 24th and then he pings Mr. Murtaugh again, I think, an hour later. Mr. Murtaugh forwards this to you three minutes later and says: "FYI. Still not answering."

 If you scroll up, you respond back: "Good. Don't."

 Why did you think it was good to not respond to that reporter?

 A I mean, I generally think it's good to not respond to a lot of reporters. It probably had less to do with the content of his question and more to do with the reporter itself.

 If Tim wasn't answering, good. Don't do it.

 I don't know. I don't know why I said it in this particular instance, but my default is usually not to talk to the press, particularly about money.

 Q So there's a couple of other emails, but there's no point going through these. Did you ever have concerns when these were coming in about the fundraising emails that were going out to millions of people raising money for the official Election Defense Fund that was going to Save America PAC that, certainly at the time, I don't believe was paying any money towards election defense litigation efforts?
A I don't remember having -- what my concern level was at the time about these. I would have relied pretty heavily on Tim and Jason Miller to see what the press concern should be about this stuff, but my own independent judgment with respect to that wouldn't have been -- I wouldn't have -- I don't remember what it was, if anything.

Q Earlier during our conversation when Ms. Lucier was asking you a number of questions, I believe you made it, at least to me -- so correct me if I got the wrong impression. You made it clear that you did agree with some of the more extreme claims that Mr. Guiliani and his camp were making regarding Dominion voting machines or dead voters that were later were proven to be untrue.

A A number of those inflammatory claims were what was put in those fundraising emails day after day, to the point where at one point, they were sending 25 emails a day to individuals on the campaign list who would get 25 fundraising emails a day. Did you have any conversations with anyone on the campaign staff or did anyone on the campaign staff have conversations with you about their concerns about what was being sent out in the fundraising emails versus what was being seen in terms of the validity of the statements or the falsity of statements in the fundraising emails?

A I don't remember the volume going out. Again, it was not my area to deal with content or volume of sends or anything like that. Like I just wasn't.

In terms of approval on fundraising emails -- not approvals, but in terms of people raising concerns about it, Alex Cannon, at one point, came into my office and said something to the effect -- and he was just doing legal reviews. It was like, I can't believe we're sending this stuff out, or something to that effect. I said -- I told him he should go talk to Gary and speak to him about it, and I told him you don't need to do legal reviews on these anymore.

Mr. Garber. By legal review, you mean disclosure reviews.
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Mr. Clark. Just disclosures. All they're looking for is disclaimers and is the
disclaimer done the right way.

Q In the conversation that you had with Mr. Cannon, did Mr. Cannon express
concern about the inflammatory nature and claims that were being made in these emails
that were using information that he was debunking and disproving in his research?
A Well, I wouldn't say inflammatory. It was just about information that he
knew wasn't correct. I don't remember specific information.

Q Have you read any of those fundraising emails?
A Again, I didn't review for content ever and I don't read fundraising emails
that come in.

Q I'm not asking you if you reviewed for content, because I understand there's
like a whole list of people, but have you actually received and read any of the hundreds of
emails that people were receiving in the days leading up to the election and leading up to
January 6th from the Trump fundraising, the digital fundraising machine?
A I don't believe I have. I don't remember if I have or not.

Q When Alex Cannon came to you and raised his concerns about what was in
those fundraising emails, did you look at any of them?
A I don't remember.

Q Do you know if Mr. Cannon ever talked to Gary Coby about what was in
those fundraising emails?
A I don't know.

Q Did Mr. Cannon ever tell you about when he was warming up the IP
addresses for DataPeer, whether he was able to use the emails that were going out
through Salesforce or whether he, in fact, had to use the ones that were the most toned
down in order for them to pass through the other email company?

A  That rings a bell, but I don't remember the specifics of that.

Q  Did he ever mention to you working with a company called Iterable?

A  Yes.

Q  And did he ever mention to you that in order to get the emails passed
through Iterable, they had to take the most watered-down fundraising emails that were
being sent out from the RNC Salesforce account, because, otherwise, they would not pass
throughIterable's Legal and Deliverability Departments?

Do you remember him discussing that with you?

A  I remember him saying that Iterable had to review all emails for content.  I
don't remember your characterization of the conversation quite that way, but I vaguely
remember that conversation.  Yes.

Q  Did you ever speak with anyone, Gary Coby, Mr. Kushner, did you ever speak
with anyone about concerns of raising all the money for Save America while the
fundraising emails said that they were going to Election Defense Funds?

A  I'm not sure I -- I don't really accept the premise of your question, because
the disclaimers in those emails all said where the money was going.

Q  Actually, I think I worded my question poorly, but I think you managed to
answer it, because my question really did you ever have concerns about that fact, but it
sounds like you're saying no because the disclaimers at the bottom told them where the
money was actually going.

A  Well, that's only thing that I was concerned with, the only thing I had control
over.

Mr. Garber.  And he said he can't remember reading the actual emails.
Q Right, but when Mr. Murtaugh was raising all of these issues to you with reporters and people were using the word "misleading", was it your understanding or was it your feeling that as long as the disclaimer at the bottom was accurate, it didn't matter what the body of the email said?

A That was the only thing that I had any kind of input into, was the disclaimer on the bottom. I didn't have any input or control over content.

In terms of reporter questions, like I don't really worry about that in terms of their inquiries. I mean, we got a lot of inquiries from a lot of reporters that don't characterize things the right way.

My world and the thing that I had any kind of say in was the legal disclaimer at the bottom. As long as Matt's team that was reviewing content was getting the disclaimer right along with the -- you know, in accordance with the Joint Fundraising Agreement, I didn't have any other inputs that were going to have any impact, particularly before July and, you know, after I kind of got pushed out by the Rudy team.

Q And I see what you're saying. I guess I'm asking a more basic question, which is if I'm understanding you correctly, you're saying that the disclaimers in the email were accurate and the disclaimers complied with our legal obligation to tell them where the money was actually going, and you're saying I didn't review the content or the body of the email; I have no idea if the content or the body matched the disclaimer and it wasn't my job to know.

A And to be fair, I wasn't really -- I wasn't reviewing disclaimers either. Someone on the legal team was.

So my concern was with the disclaimers being correct. I was --

Q Right. I guess what I'm saying --
And I -- excuse me.

I'm sorry. I didn't mean to cut you off.

I did hear you say that you did not remember reading the fundraising emails, but my question is your -- I forget Mr. Murtaugh's official title. It was something-comms.

He was communications director.

Communications director. So your communications director emails you -- I think we have at least or six of them -- reporters contacting and saying is it misleading, like you're telling the world you're raising money for Election Defense Fund, but your disclaimer says Save America; and he's not sending you the disclaimer and sending you the content and saying, you know, I just want to make sure this is okay. He's send you reporters who are about to report that you're misleading people.

My question is, as the deputy campaign manager who could have gone Gary Coby, as his boss, and said --

That's not a fair description, but keep going.

Actually, if that's wrong, tell me. Did you not think that you have to ability to --

Gary didn't report to me.

Who did he report to?

I mean, he would have reported directly -- I'm not even sure he directly reported to Bill Stepien. Like you had mentioned, it was a really well-oiled machine, and he worked directly with Jared on a lot of approvals and a lot of things like.

I don't know if Jared was approving content, but he didn't report to me.

So when you're getting these emails that the content is misleading small-dollar donors the donate to an Election Defense Fund and that's not what it is and $2 million of chargebacks happen after December 14th, when there's nothing to -- fight
anymore and people are donating to an Election Defense Fund that is likely futile, is
nobody having conversations about the misrepresentations in the email saying this is for
Election Defense Funds when it's actually going to Save America?

Mr. Garber. That's not what the emails are saying. The emails were from
Murtaugh, saying I'm getting these press inquiries about fundraising communications,
should I respond to them. I think that's what the emails were saying.

Yes, and let me be clear.

BY:

Q The emails are saying should I respond to them, and your response is do we
care, don't, there's nothing to respond to.

I'm asking you a deeper question, which is you're seeing in the body of these
e-mails, presumably, a constant theme from reporters that you are misleading small-dollar
donors into donating money into an Election Defense Fund that is not, in fact, going to
that. It's largely going to a Save America PAC, which you knew was for his leadership
and future efforts; it was not going to be for litigation funds. Right?

A I didn't know what the money was going to be spent on.

Q Well, you said in your email a week afterwards we should have been saying
this a week ago, that the Save America Fund -- the Save America money was -- the
President is committed to helping elected candidates that share his vision for America.

What part of that is the official Election Defense Fund or election-related
litigation?

A To be fair, the money from Save America could be expended on litigation. I
didn't know at the time what it was going to be expended on.

The statement I gave is a definitional statement of what a multi-candidate PAC can
do, but there are very few restrictions on what a multi-candidate PAC can spend on. I
didn't know what the money was going to go to.

Q  I guess my question is, regardless of whether that $150 million number is right, there are daily updates going where you can see this hockey stick of money going to the Save America PAC form small-dollar donors in the emails, and nobody is having a conversation whether it's misleading to millions of people to take money from an official Election Defense Fund that is not going to be spent on election defense.

Is anybody having those conversations other than Alex Cannon coming to you and saying are we okay with it?

Because that's what it sounds like. It sound like you're saying only Alex Cannon came forward and had problems with that.

A  I don't know if that's true or not or if those are the only conversations that were happening about it. What I do know is that the digital department which is in charge of the content creation, sending it out, and didn't report to me had been pushing out emails for years before I was involved in the campaign, and me coming in months after, I had no say in the content that was being created and pushed out.

Q  When Alex Cannon came to you and raised concerns, what did you tell him?

A  I think I already answered that. I told him, you know, look, if you don't want to review this stuff, that's fine.

Q  To talk to Gary Coby?

A  Talk to Gary, yeah. You should talk to Gary.

Q  I'm sorry. As soon as you said it, I remembered what you said.

In order for the content to be changed, who would Gary have had to go to?

A  I don't know. I don't think he had -- I don't think anybody approving what his concepts were. I don't think he had to get approval from anyone in terms of fundraising.
Can we -- there's a technical aspect I was hoping you could answer, if
we could go to Exhibit 50 really quickly.

BY

Q There's a December 4th email from Mr. Stepien, and this another reporter
email, I believe. I think there was some question of whether there was a surplus at the
time that you guys finished the election, and if you scroll down, I forget what the reporter
says, something along the lines of finishing the -- he's writing about the Trump committee
finishing the election with tens of millions of dollars in the bank.

"Do you know how much was on hand unencumbered on November 4th? I
understand that some within the campaign requested $3 million, but that you turned it
down. The campaign sent out an email yesterday saying that committees had raised
$207 million post-Election Day? Can you tell the breakdown of which committee raised
what?"

If you scroll up, Mr. Stepien, I think, tries to correct him and says two is false, and
then reporter comes back and says something along the line of: "On number two, my
reporting is that you were very concerned about not ending the campaign in debt and
that drove many of your decisions, including not to invest more in Georgia. The bigger
question is one, what was the purpose of winding up on Election Day with tens of millions
of dollars in the bank. Other consultants are calling that malpractice."

Do you know, sitting here, if any of that is true?

Was Mr. Stepien concerned about not ending the campaign in debt?

And, actually, let me rephrase. Was Mr. Stepien or Mr. Kushner concerned
about not ending the campaign in debt?

A I don't remember that being the case.

Q Okay. And was it true, to the best of your knowledge, understanding,
earlier, you said there’s all those trailing invoices, but do you happen to know what the finances were at the time of the election in terms of cash on hand, whether it was positive or negative?

A It would have been positive. Well, I actually don’t know. My concern -- the campaign always had a ballot sheet that was just fine, meaning the value of President’s email and other fundraising lists and the rental of those or sale of those was always going to exceed any liabilities we had. Okay?

My concern when we took over the campaign, the issues of cash was a cash flow problem leading up to the end of the campaign to keep money on TV. So as I had mentioned, you had to pay for TV in advance, and paying for TV in advance, we needed cash to be able to do that.

I’ll be honest with you. From the time we made our last payment for television through the end of the campaign and we hit payroll, I breathed a big sigh of relief, and I wasn’t super concerned with our cash position through Election Day, because, again, I knew that the value of the assets of the campaign would exceed its liabilities, because after the campaign, it can only raise money for recount-related activities or to pay off debt and wind-down.

We wanted to make sure we had our arms around what the debt was. So I actually don’t know what the cash -- I couldn’t tell you right now what the cash position was with respect to the campaign and the debt on Election Day, but we were all in a very comfortable position that our assets exceeded our liabilities, and we trying to make sure that we accounted for everything that was any so in the event we needed to raise toward that, we could.

Q And that’s also why the DataPeer issue was so important. Right? To make sure that you had control of that list if, post-JFA or Joint -- post-relationship RNC, it
wouldn't all be sitting in their Salesforce account?

A Well, yeah, and we would be able to use it for something. So, again, it wouldn't like start losing users as you stopped sending emails. We want to make sure we didn't do that.

Q And if you scroll up, I think Mr. Stepien responds: "I don't want to engage with this guy unless you think it's wise."

If you scroll up, at some point, Mr. Murtaugh says: "I think it's important to knock that one down if it's untrue about leaving money in the bank."

And Mr. Stepien responds and says: "Justin can speak best to how we spend down to the nubs."

I think I know what that means, but I just want to make sure. So I'm asking what does that mean?

A I mean, I was the guy who was like -- I wasn't approving every budget item, but I was the person who told everyone if we had the cash to be able to do it. So we spent down -- like that meant we spent down to the complete bottom of the barrel. We were, you know, going through couch cushions for money, spending money.

So we spent all the cash we could on electioneering activity that we had, and so that inquiry was off base from that reporter. I don't remember if I spoke to Mr. Murtaugh or not, but it was -- that's accurate.

And if we could just go to Exhibit 11 really quickly.

BY:

Q I think, earlier, you were talking about the -- you said something about -- I can't remember if it was the true-up or the relationship with the RNC, but if you scroll down, this is an email chain, but if we start at the beginning, I think it will make sense; otherwise, it will be in reverse date order.
So the original email is -- this is from Mr. Dollman and this is early. I think this is the day of the election, and it looks like his digital daily tracker was not that good, and it's a little basic compared to what comes later. I think he improved it, but you've got gross delta, net delta, aggregate delta, conduit, net from RNC.

Sitting here right now, do you remember what any of that meant or what he was tracking there?

A No.

Q And that's okay, because it gets better, but if you scroll up, so Mr. Dollman writes this email, and I'm sorry. It spreads on multiple pages. So we kind of have to start at the top and go down, but he writes to -- later on, you can see. It's just the general group. I believe it's you, Stepien, Murtaugh, and Kushner.

Mr. Dollman says: "Based on today's fundraising numbers, we should surpass the amount to make us whole with the RNC at some point tomorrow morning."

Now, this is November 4th, the day of the election. Do you know what he's talk about, making you guys whole with the RNC?

A Yeah. We had come up with some deal on expenditures with the RNC with respect to -- I think it was with respect to rallies. Don't hold me to that, but it was -- they agreed to take on some expenditure that they were allowed to take on, and in exchange, we changed the funding formula on the JFA to make them whole to the amount that they expended.

So Sean, I think there, is tracking what we -- when they would be made whole based on that JFA splits.

Q Okay. And that makes sense, and at this point in time, this is the percentage split where there's no Save America yet. It's just DJTFP and RNC, but you scroll up, Mr. Kushner responds and says: "Can we huddle on this tomorrow? We also
need to balance our books and then make sure that we've dealt with 11 million overage."

Sitting here, do you know what he was talking about, the 11 million overage the
day after the election?

A Yeah. I believe that was -- I think we had undershot our expenses in terms
of what certain items were going cost, and so our payables were higher than we thought
they were, if I'm recalling this correctly. That $11 million was an overage in payables.

Q Okay.

A Overage meaning over what we had thought we had in terms of payables.

Okay. And if we could go to Exhibit 16, page 2.

BY

Q There's an email. This is 12 days later. There is an email from Mr.
Dollman to Mr. Kushner, and he says: "The majority of fundraising is going straight to
Save America and not the recount/legal account. We should change the JFA to 80-20.
Since are taking on more legal costs, our 80 percent should have a portion that's allocated
to the recount/legal fund."

Can you explain what he means there?

Mr. Garber. Is Justin on this email?

Yeah. If you scroll up, you can see the grouping that he sends it to.

It's the same group every time, although, sometimes Mr. Coby is added, but it's pretty
standard. It's usually Alex, Justin. The consistent ones are Mr. Clark and, often times,
Mr. Cannon.

Mr. Clark. Okay.

Mr. Garber. What was the question?

Mr. Clark. Yeah. Could you repeat your question? I'm sorry.
Q. Actually, I'm going to back up, because I think you just addressed this a moment ago when I was asking you about the making you whole. I think you said that was in relation to an RNC agreement for events, but this is, apparently, responding to that.

"The RNC has reached their agreed-to $10 million for events, and since they've reached their agreed-to amount, we've received nearly four million in event costs that would have been allocated to the RNC."

So it looks like this is what you were talking about, maybe the dispute about event costs with the RNC.

A. That seems right.

Q. Okay. And the part I was asking you about, the majority of fundraising is going straight to Save America and not the recount/legal account, this email now is November 16th. So you've already created Save America, and I can't remember the split at this point. It might have been 60 percent. I can't remember, but now Mr. Dollman, I believe, is suggesting we should change the JFA to 80-10.

"Since we are taking on more legal costs, our 80 percent should have a portion that's allocated to the recount/legal fund."

Do you know what he means there?

A. I don't remember. I'm sure I did at the time.

Q. I was going to say I understand it's been a while. I just was curious if it was in political lingo speak that you could understand what he was getting at there.

A. No. I'm sorry.

Q. Do you remember being involved in those discussions about the 80-20 split or whether a decision was reached?

A. I don't remember this conversation, really. So I don't know.
Q And later on in the email, I think you get into the loop because, I think, Mr. Kushner actually says can we loop Justin in on this, lot of moving parts.

"Are you saying we are $4 million over budget on events?"

So that would have been like actual rally events held with RNC?

A I think so, yeah.

Okay. Then if we could look at Exhibit 17.

Then if we could look at Exhibit 17.

Q This is, I believe, the next day, and it's kind of same chain, but there's a email -- if you scroll down a little bit, you can see where it's -- so this is the same thing. If you scroll up, this is same chain, but this time, Jared says: "Also, I would like to compare the legal bucket to our budget so that things don't deviate."

I'm assuming that's the discussion about legal spend and getting a handle on that.

A They seem related. I don't remember specifically.

Q Then he says: "I also would like to go back to RNC on the split going forward, dot, dot, dot."

Then if you scroll up, you respond.

He says that at 12:26, and if you scroll up, I believe on the same day, November 16th, you write back a couple of hours later: "Gary, I'll ring you on the split shortly."

So would you have talked with Gary Coby about negotiating the RNC split?

A Yeah. He was very involved, because he did digital -- I believe he did digital for the RNC and for us, and he was very close to Richard and Ronna and they listened to him. So he was useful in doing work on splits.

Mr. Garber. Are you asking him if he remembers.

Mr. Clark. I don't remember that conversation specifically, but Gary was -- it wasn't weird that he would be involved in these.
Q. Okay. And I understood you to be saying no necessarily for that one, that was why you rang him, but that, generally, you would think you would have rung him because he was really involved in the splits for the reasons you stated?

A. Yeah. I think he would be helpful when we were trying to negotiate a change, because he knew the numbers better than anybody.

Okay. So it's 5:15 and I know Ross has a 5:30 hard stop. What I'd like to do, if you guys are okay with it, is a very strict five minutes. If you could just give a chance to assess and regroup and we are back here at no later than 5:20.

Is that okay? We'll have 10 minutes left to get done everything we need.

Mr. Garber. Yeah. We will be on in five minutes.

Okay. Perfect. Thank you.

[Recess.]

We'll go back on the record at 5:22.

We will try to go as quickly as possible. I promise you this is the last of line of questioning. We really don't want to go into another day. We're hoping to get it all done today, but I'm hoping that the 5:30 is maybe flexible to 5:40, 5:45, because we really do not want to do another day. If we can just get a few extra minutes today, we should be able to cover it.

Mr. Garber. I can do 4:40. I've just got to be on something at six. So yes.

Okay.

Great. Thank you.

Thanks, Mr. Clark. So there's just one last document that I wanted to show to you and get your comment on. It's a bit of a long email chain. What you're seeing here is Exhibit 45 and it's an email thread that begins on December 24, so

I want to give you a few minutes to read it, and if you could let us know after you've been able to read the portion of you, we'll scroll up so you can see each subsequent reply.

Mr. Clark. Okay.

Mr. Garber. Can you go down to the participant list so we can see that?

There it is. Yes.

I believe it's pretty stationary until the very last email, which drops some of the outside lawyers and it's just among internal campaign folks, but this is a list that includes some individuals that we've discuss earlier as well some others that are known to us from other contexts as lawyers representing the campaign or the President in election-related litigation.

Mr. Garber. Thank you.

Mr. Clark. Okay.

Okay.

[Witness peruses exhibit.]

Mr. Clark. Okay.

[Witness further peruses exhibit.]

Mr. Garber. Can you scroll just so we can who -- yeah. There we go.

This is Mr. Clark writing, if that's helpful. It's hard to see the header and the content at the same time.

[Witness peruses exhibit.]

Mr. Clark. Okay.

[Witness further peruses exhibit.]

Mr. Clark. All right.
Mr. Clark. Okay.

Mr. Garber. Is there any more to that email or was that it?

It was those maybe three paragraph or two.

Mr. Garber. All right. Thanks.

I think there is only one more. We've almost made it to the end.

So this is the last email where I noted that the rest of the distribution list drops off.
Q You've had a chance to review this?

A Yes.

Q Okay. Mr. Clark, do you remember this exchange?

A I don't remember the contents of the exchange, but I remember it happening.

Q Okay. So before I ask you some specific questions about some of the comments in the email thread from you and also from others, but I'll give you the opportunity to just say, generally, any reactions to reading this?

A Yeah. It's kind of bringing me back to that day, which was Christmas Eve and, you know, these guys were at the end of the line. I was kind of the person who people would go to to get paid for stuff, and I was trying to, you know, get them to a spot where they would just admit that the odds of success on their theory was close to zero. You know, I was frustrated that these guys were just looking for more money and handouts on stuff that was -- even if their legal theories were correct, I mean, the timing of these, it just brings me back to that day. I'll just put it that way.

Q Okay. I take your point that you recall this exchange being frustrating, it sounds like. Certainly, that was because you perceived that they were looking to get paid for work that you didn't perceive had a likelihood of success; is that fair?

A Yeah. It had no chance of success.

Q Okay. Did you have other concerns relating to the fact that they were still pursuing these avenues to change the outcome of the election in light of your assessment of their lack of likelihood of success?

A I mean, at that time, I had not really been deeply involved with these folks in terms of their litigation like through that point. When I say deeply, yeah. I mean, we'd get engagement letters and we would discuss things, but they were you know, it was kind
I don't remember why I was engaged on this email to begin with, but I know it was about -- it had to be about money and somebody didn't get paid a bill.

Q Okay.

A But I didn't really know the legal arguments. I was trying to be a little bit good cop here and box them in on the odds of success of their thing so I could go back and say we shouldn't pay these guys because they're not going to win and it's waste of time and money.

Q Okay. I guess what I'm just wondering is whether your frustration was related to the concept of we shouldn't pay these guys for the work or whether it was broader to we shouldn't be pursuing this work, this litigation strategy?

A Well, I didn't think we should be, for sure, pursuing it. You know, obviously, I didn't -- reading this on December 24th and reading it now is very different with January 6th occurring in between, but those considerations weren't front of mind at the time.

At the time, it was really why are we even talking about this. It's Christmas Eve. This is done and why are still having -- why do they all have their hand out looking for money.

That's where I was at the time.

Q Understood. That makes perfect sense.

You just brought up January 6th. So in hindsight, when you're reading this now, as you mentioned, with January 6th having happened between the time you exchanged these emails with these lawyers and today when I'm asking the questions, do you see a connection between the discussion in this email and January 6th?

A Well, I mean, a real connection? I couldn't characterize a real connection,
but the talk about, you know, violence or whatever it was is -- I didn't like reading that. I didn't remember it at the time.

Chaos, it talks about chaos, but I'm not sure if there's a direct connection between these lawsuits that they were, you know, trying to throw up there and that at the time, but, you know, I certainly don't like the language.

Q Okay. I noted that Mayor Guiliani isn't on this email thread. What was your understanding of his role with respect to this group of lawyers at this time period?

A I don't know. It's really weird. I don't know what the email chains were like prior to this, but there were not a lot of these with this group of people on it with me, I don't believe or at least that I remember.

What I make of it is that I think these guys were reporting directly to Mr. Guiliani, and when it came time to get paid, they were looking to me to get money, and I was never in the position to be prepared to just write checks to people regardless of what the money was -- you know, we're not just going to like set money on fire to do stuff.

So I think they were coming in with their hand out for money, which is probably why Mr. Guiliani is not on this email.

Q Okay. It's been widely reported, in particular to Mr. Eastman, that he was meeting -- was providing memos first about January 6th directly to the President and that in the days leading up to January 6th that he was meeting directly with the President.

Going back to the time period, were you aware of any of these lawyers, including Mr. Eastman, getting direction directly from President Trump?

A I don't -- no, not during this time period. I don't believe I made the connection.

Q Okay. Did you later learn any of those -- about any of those lawyers getting direction directly from the President from anything other than public reporting?
A From other than public reporting, I don’t know where I learned of it first. I don’t really remember.

Q Okay. So there were a couple of points here. I won’t pull the document back up unless you would like see it again just to refresh your recollection, for speed sake here, but there was one comment that you added in one of your emails that said: "If you guys win this thing, there will be plenty money to go around, but want to make sure I articulate the financial risks on your end."

I wanted to ask what you meant by that.

A Basically what I meant by that is we're not paying you. Okay?

I was trying to relay to them that, Hey, if you guys win, everything is going to be great, boxing them in again, because their odds of success were zero at this point, like zero, and so I was just boxing them in that, Hey, look, if you guys want to take on the risk of this litigation, we'll be able to pay you after for the work you did, but I'm not guaranteeing you'll get paid for stuff right now.

Q And the if you guys win this thing, that outcome would have been, essentially, changing the outcome of the election; is that right?

A And the odds of success there, again, were zero, and so I knew that when I was writing that email.

Q Got it. Okay. Understood.

I think after that, Mr. Chesebro, who we discussed earlier, conceded that he thought that the chances of the Supreme Court granting effective relief before January 6th were one percent, which is quite close to zero which was your assessment, I understand, but then he introduces the concept of other political considerations for filing a cert petition separate and apart from whether there was any likelihood of success on the merits.
So either thinking back to your understanding at the time or having reread that
discussion today, what is your assessment or reaction to reading that recitation about
other sort of non-legal political considerations?

A I didn't really -- I don't think I read anything into it, which is why in my
response email, I kind of punted on that. I was like I'll convey all your assessments
regarding the politics of it to the team.

I don't even know if I forwarded anything to any team. I forwarded that email
chain to Jason Miller and Bill Stepien, but like me, neither of them were in a position to
really do anything political at that point in time. So I didn't really know what they were
getting at, because I wasn't privy to conversations before that about these things.

Q Okay. Understanding that you were included on this email thread primarily
for the purpose of somebody requesting that you approve them getting paid for
something, but at that time, end of December, leading up to January 6th, did you feel like
you had any ability to stop or tell any of the lawyers to cease efforts that you felt were
either unlikely to succeed or inappropriate for various reasons?

A I had no authority to be able to do that. The only thing I could control was
money and to talk to people about how we shouldn't spend it on these things; but,
fundamentally, I didn't even have control over that, because if someone had directed the
money to go, we would spent it, but I didn't have authority to tell them to stop doing
what they were doing.

Q Who did have the authority to tell someone to stop doing what they were
doing?

A Probably, Mr. Giuliani and/or the President. I mean, I'm not sure who else
anybody would have spoken to about it, but, definitely, Mr. Giuliani was involved.

Q Okay. Did you raise any concerns or share anything with either Mr. Giuliani
or the President about your assessment of these legal and political efforts?

A  I don't think I spoke to either of them about that. I mean, like I said, it was Christmas Eve. So I think I put that email down and I probably didn't discuss it again until a few days later, if at all, and I don't think I raised it with either of them.

I wasn't really talking to the President a lot at that point and I certainly wasn't talking to Mr. Guiliani.

Q  Do you recall having any conversations with Mr. Guiliani or to President Trump, himself, between Christmas Eve and January 6th?

A  I don't remember any specifics. I may have spoken to the President briefly after New Year's, but I don't -- it would have been about, you know, non-election legal things, I believe. I don't recall, but I think I spoke to him once.

Q  Did the topic of January 6th, the joint session, come up at all?

A  I don't remember. I just remember it because I was driving home from Michigan with my family and he called, and of course the car picked it up. Everyone was like, What?

You know, so I put my ear pods in. We talked for like three minutes, four minutes. I don't remember the contents of the conversation.

Q  Understood. Okay. Do you think that the President understood your assessment at that time about whether there was anything that would change the outcome of the election?

A  To the extent I said it to him at that very time, he probably -- he would have understood. He understood where I was coming from on the election, I believe, every time I spoke to him.

Q  Yeah. I guess that's the better -- that's more my point. Not the conversation you had with him after New Year's, but, rather, leading up to and then
throughout this time period leading up to January 6th, do you believe that the President understood your assessment of whether there was anything that was likely to change the outcome of the election?

A. To the extent that we talked about it, I'm sure he did.

Q. Okay. There was one other point in this email that you -- let's see.

Mr. Chesbro writes that one part of the political chaos that he described is, quote, the public should come away from this believing that the election in Wisconsin was likely rigged and stolen by Biden and Harris, who were not legitimately elected.

Do you remember any communications with either lawyers or other representatives of the campaign during this time period about creating a perception with the public about the election being stolen?

A. I don't remember any specific conversations about that or generalized. I just don't remember at the time.

Q. Okay. And did you understand that to be a consideration for those who were pursuing election litigation on behalf the Trump Campaign during this time period?

A. I'm sorry. I'm not following. I'm not tracking your question.

Q. Sure. Mr. Chesebro, a lawyer for the President who we've talked about today, was saying that one of the political kind of objectives for filing the cert petition was to create the public perception that the election was stolen. That's my paraphrase, but do you remember that being a consideration connected with the litigation, those who were pursuing it under Mayor Guiliani?

A. I don't remember that. The email I just read is the first time. It doesn't even jog my memory.

So I don't remember that, those conversations.

Q. Okay. That's great, and there's one email that you wrote that you sort of,
as you just referred to, kind of summed up the political judgment related to January 6th, and you listed several items. You said that you knew and also that it was publicly reported at that time that alternate slates had been submitted, votes were being whipped, and the arguments were in place and the not-insignificant ad buy was made, highlighting the issues in the election.

How did you come to understand all of those things as connected to the political considerations regarding January 6th?

A For purposes of that email, I was probably just listing those things out to lay out to them that, Hey, guys, like you're making political judgments and there's all this other political stuff that had happened. Like I think it was just more of a recitation of the facts of things that had happened as opposed to like coming to connect them all.

By that point, I mean, all of that stuff had happened and it was -- you know, it was -- they were related, obviously, but I think I was just reciting those facts to them as part of that email.

Q Okay. And more than just having happened, these were all things that the campaign had done or those representing the President had done with an eye towards January 6th; is that fair?

A In retrospect, yeah. Again, I put the January 6th connection together really late, but yeah.

Q Those were all part of the political plan to -- targeted towards changing the outcome of the election on January 6th. Is that fair?

A Well, I assume -- I presume so. I say that because say I'm not sure there was any coordinated plan.

"Coordinated" is a really strong word. All of those things happened and then January 6th happened. So I don't know how to characterize your question in the exact
right way, but I was reciting what people had done to date who were representing either
the President or doing it in the name of the campaign.

Okay. That is very helpful.

So thank you very much for your patience. I think -- let me just check my notes.

I have one last question if you're done.

Perfect. I am. Yes.

Thank you for your patience, Mr. Clark.

Mr. Garber. And we're quite a bit past the stopping time, but ask that last
question, please.

I promise it will be the last one, because he said something earlier and
I just wanted to clarify.

Q Mr. Clark, sitting here today, are you aware of any fraud that was actually
dispositive in the 2020 Presidential Election?

A Fraud, so fraudulent activity by somebody to like defraud voters that
changed the outcome of an election?

I'm not aware of fraud by an individual or an entity that would have done that. I
do think there were serious questions. I think to this day, the Wisconsin absentee ballot
stuff was correct. I think the Georgia signature verification things were really
problematic. I think the Pennsylvania stuff was problematic and troubling; but actual
fraudulent activity, I haven't seen like physical evidence of fraudulent activity, like
nongovernmental issues that were happening.

Thank you for that, and we really appreciate your patience. I'm
sorry this ran over. We didn't realize you had a hard stop, but when we did, we did best
the best of what we could with what he had left. So we appreciate that.
Ross, I think will be in touch.

If you don’t have any questions left for us, we will recess at 5:49 and subject to further call of the chair.

Thank you so much.

[Whereupon, at 5:49 p.m., the interview concluded.]
Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

________________________
Witness Name

________________________
Date