

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
By the U.S. Department of Justice
1100 L Street NW
Washington, D.C., 20001

Plaintiff,

–v.–

PETER K. NAVARRO,
801 Pennsylvania Avenue NW
Unit 1021
Washington, D.C., 20004

Defendant.

Case No. 1:22-cv-2292

COMPLAINT

INTRODUCTION

1. Defendant Peter K. Navarro was employed by the White House Office in the Executive Office of the President from January 20, 2017, until January 20, 2021. He was Deputy Assistant to the President and Director of the National Trade Council from his hiring until April 29, 2017, when he was appointed Assistant to the President and Director of the Office of Trade and Manufacturing Policy. In addition to those responsibilities, in March 2020, then-President Donald J. Trump appointed Mr. Navarro to coordinate the government’s use of the Defense Production Act, 50 U.S.C. § 4501 *et seq.*, to respond to the COVID-19 pandemic.

2. The Presidential Records Act (PRA), 44 U.S.C. § 2201 *et seq.*, creates a framework for the preservation of certain records, termed “Presidential records” (Presidential records) by the statute, *id.* § 2201(2), created or received by the President, Vice President, and persons who advise and assist them, like Mr. Navarro (Covered Individuals).

3. Subject to conditions and exceptions not relevant here, the PRA defines a Presidential record as a record generated or received by a Covered Individual in the course of assisting with the discharge of the President’s official duties. *See* 44 U.S.C. § 2201(2). The United States “retain[s] complete ownership, possession, and control of Presidential records.” *Id.* § 2202.

4. The PRA continues to apply when non-official electronic accounts are used to perform official duties. *See, e.g.*, 44 U.S.C § 2209. Among other responsibilities, a Covered Individual must copy any Presidential record sent on a “non-official electronic message account” to his official government email account within 20 days, and to otherwise transfer Presidential records received on a non-official account to the National Archives and Records Administration (NARA) at the end of each presidential administration. *See id.; id.* §§ 2202-03.

5. At the end of a presidential administration, the Archivist of the United States is, under the PRA, required to “assume responsibility for the custody, control, and preservation” of Presidential records and to “make such records available to the public as rapidly and completely as possible consistent with the provisions of this chapter.” *Id.* § 2203.

6. While serving in the White House, Mr. Navarro used at least one non-official email account—an account hosted by the non-official service ProtonMail—to send and receive messages constituting Presidential records.

7. Mr. Navarro did not copy each email or message constituting Presidential records that was sent or received on his non-official account or accounts to his official government email account.

8. Following the end of the Trump Administration, the Archivist, through the General Counsel of the NARA, attempted to contact Mr. Navarro to secure the Presidential records that

Mr. Navarro had not copied to his government email account. Mr. Navarro did not respond to NARA's communications.

9. Prior to filing this suit, in an effort to avoid litigation, Department of Justice counsel contacted Mr. Navarro by email and United States mail to secure the Presidential records that Mr. Navarro had not copied to his government email account. Discussions with Mr. Navarro's counsel to secure the return of Presidential records ultimately proved unsuccessful. Mr. Navarro has refused to return any Presidential records that he retained absent a grant of immunity for the act of returning such documents.

10. Mr. Navarro is wrongfully retaining Presidential records that are the property of the United States, and which constitute part of the permanent historical record of the prior administration.

11. Mr. Navarro's wrongful retention of Presidential records violates District of Columbia law, federal common law, and the PRA.

12. Plaintiff asks that the Court (i) order Mr. Navarro to transmit forthwith the wrongfully withheld Presidential records to the United States, and (ii) award all other relief that the Court deems appropriate.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction under 28 U.S.C. § 1345 because this is a "civil action[] commenced by the United States" that involves the application of one or more federal statutes, namely, the PRA. The Court also has subject matter jurisdiction under 28 U.S.C. § 1331 because this suit includes claims that arise under the laws of the United States.

14. This Court has personal jurisdiction over Mr. Navarro because he is domiciled in this judicial district and/or because this suit arises out of or relates to Mr. Navarro's contacts with this district.

15. Venue is appropriate in this judicial district under both 28 U.S.C. § 1391(b)(1) and § 1391(b)(2).

PARTIES

16. Plaintiff, the United States, preserves Presidential records to “assure that the activities, deliberations, decisions, and policies that reflect the performance of the President's constitutional, statutory, or other official or ceremonial duties are adequately documented.” 44 U.S.C. § 2203. The United States has a right to sue to protect its property interest in Presidential records. *See, e.g., Wyandotte v. Transp. Co. v. United States*, 389 U.S. 191, 201 (1967) (noting the “general rule that the United States may sue to protect its interests”).

17. Defendant, Mr. Navarro, served as Assistant to the President and Director of the White House Office of Trade and Manufacturing Policy, as well as Deputy Assistant to the President and Director of the White House National Trade Council. *See* Trump White House, People, Peter Navarro, <https://trumpwhitehouse.archives.gov/people/peter-navarro/>. Also, in March 2020, former President Trump appointed Mr. Navarro to be the National Defense Production Act Policy Coordinator. Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing, March 28, 2020, <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-13/>.

THE PRESIDENTIAL RECORDS ACT

18. According to the PRA, the term “Presidential records” means, with certain conditions and exceptions, “documentary materials, or any reasonably segregable portion thereof, created or received by the President, the President's immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise or assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.” 44 U.S.C. § 2201.

19. The PRA also states that “[t]he United States shall reserve and retain complete ownership, possession, and control of Presidential records; and such records shall be administered in accordance with the provisions of this chapter.” *Id.* § 2202.

20. Under the PRA, at the end of a presidential administration, the Archivist of the United States is required to “assume responsibility for the custody, control, and preservation” of Presidential records and “make such records available to the public as rapidly and completely as possible consistent with the provisions of this chapter.” *Id.* § 2203. A President can designate his Presidential records as restricted for up to 12 years. *Id.* § 2204. During the restricted period, however, courts, Congress, and the incumbent President may request “special access” to the Presidential records. *Id.* §§ 2205(2)(A)-(C).

21. E-mail and other electronic messages, including electronic messages sent and received on non-official electronic message accounts, constitute Presidential records to the same extent as hard copy documents. *Id.* §§ 2201, 2209.

22. The PRA provides explicit direction regarding the proper handling of Presidential records sent using non-official electronic accounts: It requires Covered Individuals to “cop[y] their “official electronic messaging account” when sending a communication using a non-official account or to “forward[] a complete copy” of an email sent on their non-official account to their

“official electronic messaging account . . . not later than 20 days after the original creation or transmission” of the record. *Id.* §§ 2209(a)(1), (a)(2).

23. The PRA does not separately address the handling of Presidential records received—as opposed to sent—on a non-official electronic account. *Id.* § 2209. But Presidential records received on a non-official account do not lose their status as Presidential records merely because they exist on a non-official electronic account. *See id.* § 2201 (defining Presidential records as including records “*received* by the President, the President’s immediate staff, or a unit or individual of the Executive Office of the President . . . (emphasis added))). And like all other Presidential records, they are the property of the United States, *id.* § 2202, and are required to be turned over to the Archivist upon the end of the administration, *id.* § 2203.

FACTUAL BACKGROUND

24. In February 2017, the White House Counsel’s Office issued a memorandum to White House personnel regarding the use of non-official email accounts to conduct official business, writing: “If you ever send or receive email that qualifies as a presidential record using any other account [i.e., other than the official government account], you must preserve that email by copying it to your official EOP email account or by forwarding it to your official email account within twenty (20) days.” Memorandum for All Personnel, through White House Counsel Donald F. McGahn II, Feb. 22, 2017 (WHCO Memorandum), at 2 (attached as Exhibit 1). In 2019, after a new White House Counsel was appointed, substantively identical guidance was re-issued under the new Counsel’s name.

25. The WHCO Memorandum states “that presidential records are the property of the United States When you leave EOP employment, you may not take any presidential records with you.” *Id.* at 3.

26. Mr. Navarro served first as the Deputy Assistant to the President and Director of the National Trade Council, and later as the Assistant to the President and Director of the Office of Trade and Manufacturing Policy. In these roles, as well as in his role as policy coordinator of the government's use of the Defense Production Act, Mr. Navarro was on "the President's immediate staff" and/or "in a unit or individual of the Executive Office of the President whose function is to advise or assist the President." 44 U.S.C. § 2201. As such, Mr. Navarro was a Covered Individual.

27. While serving in the White House, Mr. Navarro used at least one non-official email account to send and receive messages that constitute Presidential records. The House Select Subcommittee on the Coronavirus Crisis (the Subcommittee) obtained copies of electronic messages from individuals, other than Mr. Navarro, as part of its investigation into the government's response to the coronavirus pandemic, and those messages reflect that Mr. Navarro used a non-official email account, namely, a ProtonMail account, to send and receive Presidential records. *See* Records Released by Subcommittee (Exhibit 2).

28. Through the Subcommittee's work, NARA became aware of Mr. Navarro's use of a non-official email account to send and receive Presidential records. *See* Letter from Gary M. Stern, General Counsel, NARA, to Navarro, Dec. 16, 2021, at 1 (Stern Letter) (Exhibit 3).

29. NARA's General Counsel wrote a letter to Mr. Navarro. *Id.* The letter was sent to the University of California, Irvine, where Mr. Navarro is a professor emeritus in the Paul Merage School of Business. *See id.*; UCI Faculty Profile System, Peter Navarro (available online at https://www.faculty.uci.edu/profile.cfm?faculty_id=2709).

30. In the letter, Mr. Stern explained that NARA had "conducted a search of the White House emails that [it] received at the end of the Trump Administration and ha[d] no record" of Mr.

Navarro forwarding to his official account any emails he received on his ProtonMail account. *Id.* at 1. Mr. Stern noted that, “[t]here are also multiple instances where you sent emails from your personal account to other White House employees but did not copy or forward them to your official account.” *Id.*

31. After recounting the White House’s reminders to its employees about their obligations under the PRA in the WHCO Memorandum, the letter stated that, “it is necessary that you now provide NARA with any Presidential records that reside on your personal electronic messaging accounts.” *Id.* at 2. Mr. Stern closed the letter by offering to work with Mr. Navarro to facilitate the transfer of Presidential records to NARA. *Id.*

32. Mr. Navarro did not respond to the Stern Letter. Declaration of William J. Bosanko, Chief Operating Officer, National Archives and Records Admin., August 3, 2022, ¶ 6 (Bosanko Decl.) (attached as Ex. 4). Nor did he respond to multiple voice messages that Mr. Stern left for him regarding the matter. *Id.*

33. On June 1, 2022, Department of Justice counsel wrote Mr. Navarro a letter, in an effort to secure the return of the Presidential records without litigation. The letter was emailed to Mr. Navarro, and sent to him via Priority Mail, through the U.S. Postal Service, with delivery completed on June 2, 2022.

34. The June 1, 2022, letter states, in relevant part:

Since determining that you conducted official government business as an advisor to President Trump using a private email account, the National Archives and Records Administration (NARA) has repeatedly requested that you provide all electronic mail messages related to your official duties that you created or received using a private email account. To date, you have declined to provide the records.

The Presidential Records Act, 44 U.S.C. § 2201 et seq., establishes that the United States owns records related to the President's official duties, whether or not the records were created or stored on an official

government server. The United States is entitled to recover property that belongs to it, including official government records.

We have been authorized to file a civil action against you in United States District Court to pursue claims for the recovery of wrongfully withheld records. We intend to file the action on or about June 21, 2022. But as is our practice in civil actions of this nature, we are willing to give you an opportunity to resolve this matter without litigation by turning the wrongfully withheld records over to NARA prior to June 21.

See Letter from Elizabeth J. Shapiro to Peter K. Navarro, June 1, 2022 (attached as Exhibit 5).

35. On June 16, 2022, counsel for Mr. Navarro contacted the Department of Justice to advise that they had just been retained by Mr. Navarro as counsel. Mr. Navarro's counsel represented that they had retained a document review and analysis firm to aid them in evaluating the extent to which Mr. Navarro had PRA records in his possession, custody, or control. Bosanko Decl. ¶ 8.

36. Over the next several weeks, Mr. Navarro's counsel provided periodic updates on the status of their search and analysis process. In order to assist and expedite the search, on July 18, 2022, NARA's General Counsel provided Mr. Navarro's counsel with a list of search terms. NARA requested that Mr. Navarro prioritize the return of any PRA records responsive to those search terms. Bosanko Decl. ¶ 8.

37. By email dated July 22, 2022, Mr. Navarro's counsel represented that their application of the search parameters that NARA provided had generated over 1,700 documents. Thereafter, on July 25, 2022, Mr. Navarro's counsel estimated that, based on their review of these documents, between 200 and 250 of these 1,700 documents were PRA records. Bosanko Decl. ¶ 9.

38. By letter dated July 29, 2022, Mr. Navarro’s counsel refused to produce any PRA records to NARA in Mr. Navarro’s possession, custody, or control absent a grant of immunity for the act of returning such records. Bosanko Decl. ¶ 9.

COUNT I

Mr. Navarro Has Possession, Custody, and/or Control of Presidential Records, Which Belong to the United States, and, Under District of Columbia Law, Including the Law of Replevin, Should Be Recovered and Delivered to the United States

39. The paragraphs above are incorporated and reasserted as if fully set forth here.

40. Mr. Navarro created and received Presidential records on one or more non-official email and/or electronic messaging accounts, including his ProtonMail account. Mr. Navarro was a Covered Individual, and he created and/or received emails and/or other electronic messages “in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.” 44 U.S.C. § 2201

41. The Presidential records on Mr. Navarro’s non-official email account or accounts are the property of the United States. *Id.* § 2202.

42. Mr. Navarro did not ensure that his official electronic email account included copies of all Presidential records created or received on one or more non-official email accounts. *See id.* § 2209. Mr. Navarro has not otherwise provided the Presidential records on his non-official email account and/or electronic messaging accounts to the United States.

43. Accordingly, Mr. Navarro has unjustly retained property of the United States in the form of Presidential records. *See* Bosanko Decl. ¶¶ 10-13. The monetary value of the documents cannot currently be determined because Defendant is the only one with access to the contents of all of the Presidential records on his non-official email and/or electronic messaging accounts. And

in any event, the primary interest of the United States is in recovering the records and preserving them as required by statute, not in recovering money.¹

44. Under the law of the District of Columbia, including the law of replevin, any Presidential records retained by Mr. Navarro should be taken from him and delivered to the United States. *See, e.g.*, D.C. Code 16-3702; *Hunt v. DePuy Orthopaedics, Inc.*, 729 F. Supp. 2d 231, 232 (D.D.C. 2010) (explaining that “[r]eplevin is an action “brought to recover personal property to which the plaintiff is entitled, that is alleged to have been wrongfully taken or to be in the possession of and wrongfully detained by the defendant,” and “concluding that, under D.C. law, “[t]he essence of [] a replevin action . . . is the wrongful withholding of the property in question”) (cleaned up).

COUNT II

Mr. Navarro Has Possession, Custody, and/or Control of Presidential Records Which Belong to the United States and, Under Federal Common Law, Should Be Recovered and Provided to the United States, and the United States Should Be Awarded Damages

45. The paragraphs above are incorporated and reasserted as if fully set forth here.

46. Mr. Navarro was a Covered Individual subject to the requirements of the PRA. 44 U.S.C. § 2201.

47. Mr. Navarro created and received Presidential records on one or more non-official email and/or electronic messaging accounts, including his ProtonMail account. The Presidential records on Mr. Navarro’s non-official email accounts and/or electronic messaging accounts are the property of the United States. *Id.* § 2202.

¹ Relatedly, the United States cannot estimate the amount of mesne profits and damages, if any, because Defendant is the only one with access to all of the Presidential records on his non-official email and/or electronic message accounts.

48. Mr. Navarro did not ensure that his official email account included copies of all Presidential records created or received on one or more non-official email accounts. *See id.* § 2209. Mr. Navarro has not otherwise provided the Presidential records on his non-official email account and/or electronic messaging accounts to the United States.

49. Accordingly, Mr. Navarro has unjustly retained property of the United States in the form of Presidential records.

50. Under federal common law, any Presidential records retained by Mr. Navarro should be taken from him and delivered to the United States, and the United States should be awarded damages in an amount to be determined at trial.

REQUEST FOR RELIEF

51. Wherefore, Plaintiff requests that this Court:

(a) issue a writ of replevin authorizing the recovery of any Presidential records in the possession, custody, and/or control of Mr. Navarro;

(b) issue an order requiring Mr. Navarro to cooperate with (i) the official serving and implementing the writ of replevin, or (ii) other similar order, to ensure the return of the Presidential records to the United States;

(c) award damages to the United States as appropriate;

(d) award Plaintiff costs and reasonable attorneys' fees incurred in this action; and

(e) award other relief as the Court deems just.

Dated: August 3, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney
General

BRIAN D. NETTER
Deputy Assistant Attorney General

ELIZABETH J. SHAPIRO
Deputy Branch Director
Federal Programs Branch

/s/ Lee Reeves
LEE REEVES
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs
Branch
1100 L Street NW
Washington, DC 20005
Tel: (202) 616-0773
Email: lee.reeves2@usdoj.gov
Counsel for Plaintiff

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

| <p>I. (a) PLAINTIFFS UNITED STATES OF AMERICA, By the U.S. Department of Justice 1100 L Street NW Washington, D.C.. 20001</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> | <p>DEFENDANTS PETER K. NAVARRO, 801 Pennsylvania Avenue NW Unit 1021 Washington, D.C.. 20004</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|-------------------------|---|-------------------------|-------------------------|-----|-----|-----------------------|-------------------------|-------------------------|---|-------------------------|-------------------------|--------------------------|-------------------------|-------------------------|---|-------------------------|-------------------------|---|-------------------------|-------------------------|----------------|-------------------------|-------------------------|
| <p>(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>LEE REEVES</p> <p>U.S. Department of Justice Civil Division, Federal Programs Branch 1100 L Street NW</p> | <p>ATTORNEYS (IF KNOWN)</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p> | <p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table> | | PTF | DFT | | PTF | DFT | Citizen of this State | <input type="radio"/> 1 | <input type="radio"/> 1 | Incorporated or Principal Place of Business in This State | <input type="radio"/> 4 | <input type="radio"/> 4 | Citizen of Another State | <input type="radio"/> 2 | <input type="radio"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="radio"/> 5 | <input type="radio"/> 5 | Citizen or Subject of a Foreign Country | <input type="radio"/> 3 | <input type="radio"/> 3 | Foreign Nation | <input type="radio"/> 6 | <input type="radio"/> 6 |
| | PTF | DFT | | PTF | DFT | | | | | | | | | | | | | | | | | | | | |
| Citizen of this State | <input type="radio"/> 1 | <input type="radio"/> 1 | Incorporated or Principal Place of Business in This State | <input type="radio"/> 4 | <input type="radio"/> 4 | | | | | | | | | | | | | | | | | | | | |
| Citizen of Another State | <input type="radio"/> 2 | <input type="radio"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="radio"/> 5 | <input type="radio"/> 5 | | | | | | | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="radio"/> 3 | <input type="radio"/> 3 | Foreign Nation | <input type="radio"/> 6 | <input type="radio"/> 6 | | | | | | | | | | | | | | | | | | | | |

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

| | | | |
|--|---|---|--|
| <p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p> | <p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p> | <p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p> | <p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p> |
| <p><input checked="" type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil</p> | | | |
| <p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p> | <p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)</p> | <p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 462 Naturalization Application</p> | <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p> |

| | | | |
|--|--|---|--|
| <input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee | <input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)* | <input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)* | <input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans) |
| <input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education | <input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | <input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act) |

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Presidential Records Act (PRA), 44 U.S.C. § 2201 et seq.

| | | | |
|------------------------------------|--|---|--|
| VII. REQUESTED IN COMPLAINT | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | DEMAND \$ JURY DEMAND: | Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> |
|------------------------------------|--|---|--|

| | | | | |
|-------------------------------------|-------------------|------------------------------|--|---|
| VIII. RELATED CASE(S) IF ANY | (See instruction) | YES <input type="checkbox"/> | NO <input checked="" type="checkbox"/> | If yes, please complete related case form |
|-------------------------------------|-------------------|------------------------------|--|---|

| | |
|----------------------|--|
| DATE: August 3, 2022 | SIGNATURE OF ATTORNEY OF RECORD /s/ Lee Reeves |
|----------------------|--|

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

Exhibit 1

THE WHITE HOUSE

WASHINGTON

February 22, 2017

MEMORANDUM FOR ALL PERSONNEL

THROUGH: DONALD F. McGAHN II
Counsel to the President

FROM: STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance and Ethics

SCOTT F. GAST
Senior Associate Counsel to the President

JAMES D. SCHULTZ
Senior Associate Counsel to the President

SUBJECT: Presidential Records Act Obligations

Purpose

To remind all personnel of their obligation to preserve and maintain presidential records, as required by the Presidential Records Act (“PRA”).

Discussion

The PRA requires that the Administration take steps “to assure that the activities, deliberations, decisions, and policies that reflect the performance of the President’s constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are preserved and maintained.” This memorandum outlines what materials constitute “presidential records” and what steps you must take to ensure their preservation.

What Are Presidential Records?

“Presidential records” are broadly defined as “documentary materials . . . created or received by the President, the President’s immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise or assist the President,¹ in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.” Presidential records include material in both paper and electronic form.

¹ The PRA applies to the following Executive Office of the President (“EOP”) entities: White House Office, Office of the Vice President, Council of Economic Advisors, Executive Residence, Office of Administration, Office of Policy Development (DPC and NEC), National Security Council, President’s Commission on White House Fellows, and President’s Intelligence Advisory Board.

Some materials that are considered presidential records include:

- Memos, letters, notes, emails, faxes, reports, and other written communications sent to or received from others, including materials sent to or received from persons outside government;
- Drafts, marked-up edits, or comments that are circulated or shown to others;
- Notes or minutes of meetings that are circulated or shown to others;
- Meeting minutes, memos to file, notes, drafts, and similar documents that are created or saved for the purpose of accurately documenting the activities or deliberations of the Administration, even if such materials are not circulated or shown to others;
- PowerPoint presentations, audio recordings, photos, and video footage;
- Emails, chats, and other electronic communications that are created or received in the course of conducting activities related to the performance of the President's duties, but that are sent from or received on non-official accounts; and
- Transition materials, but only if they are used in the course of official government business.

Purely personal records that do not relate to or have an effect upon the carrying out of the President's official duties do not need to be preserved. Similarly, political records need not be preserved unless they relate to or have a direct effect upon the President's official duties. Finally, certain materials that lack historic value are not covered by the PRA – for example, notes, drafts, and similar documents that are not circulated or that are not created or saved for the purpose of documenting the activities or deliberations of the Administration.

What Steps Should Be Taken to Preserve Presidential Records?

Paper Records. You should preserve hard-copy presidential records in organized files. To the extent practicable, you should categorize materials as presidential records when they are created or received. You should file presidential records separately from other material. Paper records are typically collected at the end of your White House service, but may be collected at an earlier point by contacting the White House Office of Records Management (“WHORM”). Any records collected by WHORM remain available to the staff member who provided them.

Electronic Records. You must preserve electronic communications that are presidential records. **You are required to conduct all work-related communications on your official EOP email account**, except in emergency circumstances when you cannot access the EOP system and must accomplish time sensitive work. Emails and attachments sent to and from your EOP account are automatically archived.

*If you ever send or receive email that qualifies as a presidential record using any other account, you **must** preserve that email by copying it to your official EOP email account or by forwarding it to your official email account within twenty (20) days. After preserving the email, you must delete it from the non-EOP account. **Any employee who intentionally fails to take these actions may be subject to administrative or even criminal penalties.***

The same rules apply to other forms of electronic communication, including text messages. ***You should not use instant messaging systems, social networks, or other internet-based means of electronic communication to conduct official business without the approval of the Office of the White House Counsel.*** If you ever generate or receive presidential records on such platforms, you must preserve them by sending them to your EOP email account via a screenshot or other means. After preserving the communications, you must delete them from the non-EOP platform.

Electronic documents that qualify as presidential records and only exist in electronic format must be saved on your network drive or regularly synchronized to it. You must archive files that you are no longer using; you must not delete them. Your network drive will be captured upon your departure from the EOP, which will secure any presidential records you have saved.

At all times, please keep in mind that presidential records are the property of the United States. You may not dispose of presidential records. When you leave EOP employment, you may not take any presidential records with you. You also may not take copies of any presidential records without prior authorization from the Counsel's office. The willful destruction or concealment of federal records is a federal crime punishable by fines and imprisonment.

Any questions about compliance with the Presidential Records Act may be directed to Stefan Passantino (b) (6), Scott Gast (b) (6), or Jim Schultz (b) (6).

Exhibit 2

Message

From: Steven Hatfill [REDACTED]
on behalf of Steven Hatfill <[REDACTED]> [REDACTED]
Sent: 2/29/2020 4:26:07 PM
To: [REDACTED] Peter Navarro [REDACTED]@protonmail.com]
Subject: Re: Urgent Things to Buy

[REDACTED] Cell number

Steve Hatfill

On Sat, Feb 29, 2020 at 9:29 AM [REDACTED] Peter Navarro [REDACTED]@protonmail.com> wrote:
What is your cell number ?

Sent from ProtonMail Mobile

On Sat, Feb 29, 2020 at 3:54 AM, Steven Hatfill <[REDACTED]> wrote:

Problem; The CDC has made a series of critical mistakes in implementing the most basic measure in infectious disease control, when it distributed ineffective test kits for coronavirus diagnosis. This served to limit our ability to screen individuals for COVID-19 infection and containment. In truth we do not have a clue how many infected are in the USA. We are expecting the first wave of spread in the US within the next 7 days.

This will be accompanied by a massive loss of credibility and the Democratic accusations are just now beginning. **This must be countered with frank honesty about the situation and decisive direct actions that are being taken and can be seen in the broadcast news.**

The following measures need to be taken at once.

From now on, the Government must be honest about the situation and show it is undertaking major decisive actions.

1. Imminent FDA evaluation of data and adoption of Chest CT scans as sufficient alternate diagnostic criteria for Coronavirus infection

Correlation of Chest CT and RT-PCR Testing in Coronavirus Disease 2019 (COVID-19)
In China: A Report of 1014 Cases Tao Ai, Zhenlu Yang, [et.al.](#)

2. Immediately provide funding for Rapid IgM and IgG Antibody ELISA Testing Kit development. Evaluate NYC developed PCR Test Kit and install new team at CDC for PCR rapid test kit manufacture and distribution through the National Laboratory Response Network.

2. Imminently task NORTHCOM CBRN Response Enterprise to be prepared to provide Civil Support to California and Oregon for pandemic preparedness assistance.

Areas for special attention are the poor, low-resource communities.

3. Task the National Guard Bureau to assign CST Teams to assist overstretched state Public Health teams with additional rapid PCR diagnostic testing.

There are multiple people per CST team trained and certified to use PCR in the CST mobile labs. Recommend getting each CST some RT-PCR test kits so they can work with the LRN/CDC as a quick reaction force. There's already a backlog, so this just makes sense.

There is a serious shortage of N95 fit test machines and a lot of people do not know how to use them. This is an urgent matter for nearly every federal agency. CST Teams will also use their advanced communications capability to inform the CDC EOC of testing numbers and results.

Steve Hatfill

Message

From: Steven Hatfill [REDACTED]
on behalf of Steven Hatfill [REDACTED]
Sent: 3/16/2020 8:27:40 AM
To: [REDACTED] Peter Navarro [REDACTED]@protonmail.com]
Subject: memo 3 2/16/2020

3.16.2020

~~MEMO THREE TO COVID-19 TASK FORCE THROUGH COS, NSA~~

FROM PETER NAVARRO
RE: ~~URGENT DMRO INVENTORY AND REFURBISHMENT OF ALL RESPIRATORY VENTILATORS OF ANY TYPE RECLASSIFICATION OF N-95 SURGICAL MASKS (RESPIRATORS)~~

~~Recent data suggests the imminent need for intensive care beds with ventilation support may be 5% higher than previously estimated for some areas.¹ We therefore face an urgent and immediate need to ensure an adequate supply of mechanical ventilators and their tubing accessories, the most basic medical equipment such as the normal N-95 HEPA (High Efficiency Particulate Air) (HEPA) surgical-type mask. This N-95 mask is necessary for all individuals working with a coronavirus-infected patient at any stage of the patient's infection. Somehow, these simple devices have been formally classified as a "Respirator". This means that under Occupational Safety and Health Administration (OSHA) standards, these simple devices must now be Fit-Tested for maximum protection under OSHA standards.~~

~~The Defense Logistics Agency - Defense Reutilization Management Office, maintains large warehouses containing older, but still functional equipment. This equipment can be rapidly refurbished, tested and returned to service.~~

~~Fit-Testing requires a \$300 (-/-) Test Kit which is nothing more than a plastic bag and a few cheap plastic atomizers (probably most likely with components or component parts made in China). In addition, the test kits contain several small bottles with a sweet and bitter test solution. Refills of these simple solutions are around \$19 Dollars.~~

~~OSHA has gone to maximum lengths to complicate a pandemic response by requiring that institutions using these simple face masks must have their employees Fit-Tested by a Certified "Fit-Tester". A paper or electronic record must then be filled out and signed by the Tester and then this form must be retained by the institution to prove the employee has been tested. This process but must be repeated every year.~~

~~There is a more complicated Electronic Fit Testing machine that can be used, but installing the probe into the mask destroys the mask for use once it has been tested. So there tested, meaning that there is no way to know that the mask the employee is actually using, is actually working, using is actually working. These Electronic Testers cost \$335 to \$2000 Dollars each, plus the costs of the Tester performing the tests.~~

~~Fit-Testing was originally designed for working with dangerous chemical agents for industry and the military, not for simple surgical masks with an advanced filtration area. This is a prime example of over-regulation, and these masks should never have been classified as respirators in the first place.~~

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Justified

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt, Italic, Font color: Auto, Complex Script Font: Times New Roman, 12 pt, Italic

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Recommendations

1. The President, through the SecDef, should immediately task the Defense Logistics Agency Defense Reutilization Management Office, to conduct an immediate inventory of all mechanical respiratory ventilators of all makes and models located in DRMO and other federal agency warehouses. 1 (of 1). Have the FDA urgently reclassify the N-95 type surgical masks as "Enhanced Surgical

2. All still serviceable items should be refurbished and tested as quickly as possible and added to the Strategic National Stockpile as a backup inventory.

3. This needs to be a crash program.

Masks". They are not respirators.

- Formatted: Justified
- Formatted: Font: (Default) Times New Roman, 8 pt, Bold, Complex Script Font: Times New Roman, 8 pt
- Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman
- Formatted: Justified, Indent: Before: 0", Hanging: 0.19"
- Formatted: Font: (Default) Times New Roman, 12 pt, Complex Script Font: Times New Roman, 12 pt
- Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman
- Formatted: Font: (Default) Times New Roman, 12 pt, Complex Script Font: Times New Roman, 12 pt
- Formatted: Indent: Before: 0", Hanging: 0.19"
- Formatted: Font: (Default) Times New Roman, 12 pt, Complex Script Font: Times New Roman, 12 pt
- Formatted: Indent: Before: 0", Hanging: 0.19", Space After: 8 pt, Line spacing: Multiple 1.08 li
- Formatted: Font: (Default) Times New Roman, 12 pt, Complex Script Font: Times New Roman, 12 pt
- Formatted: Left, Space After: 8 pt, Line spacing: Multiple 1.08 li
- Formatted: Justified

Message

From: Steven Hatfill [REDACTED]
on behalf of Steven Hatfill <[REDACTED]>
Sent: 3/16/2020 1:31:01 AM
To: Peter Navarro [REDACTED]@protonmail.com]
Subject: Rapid ICU AUGMENTATION

Scaleable ICU Support for High Risk Inland Areas

Ship utilization to follow

**RAPID CIVIL SUPPORT OF INTENSIVE CARE UNITS BY TITLE-10 RAPID,
AIRMOBILE, MILITARY *INTENSIVE CARE ASSISTANCE TEAMS***

Successful management of the CoV-19 pandemic requires local authorities to have a surge medical personnel and surge Intensive Care Unit (ICU) capability. However, many hospitals remain deficient in both these areas. In addition, recent data suggests the imminent need for intensive care beds with ventilation support may be 5% higher than previously estimated for some areas.¹

One solution is to rapidly create and prepare to deploy small airmobile, National Guard quick-reaction medical teams to those cities projected to experience the worst numbers of severe COVID-19 cases. This recent projection is based on the now recognized risk factors of advanced age demographics and community hypertension.¹ APPENDIX A.

On arrival, each deployed, airmobile 24-person medical ICU assistance team will be supported by a local National Guard unit. Each team will bring 50 ventilators and assist select medical facilities in the management of 50 extra ICU cases requiring ventilator support. APPENDIX B

The ventilators will be drawn from the National Strategic Stockpile well before team deployment along with the necessary drugs and other equipment. Upon the impending failure of an existing Healthcare Coalition area, these teams will fly directly to developing ICU overflow situations.

When the intensive care situation is stabilized in this area, these medical teams will restock and redeploy to another designated Civil Support area under threat.

Recommendations

1. The President via the SecDef should task the National Guard Bureau to immediately assemble 10 teams of 24-personel each (outlined in Appendix B).
2. Each team will be issued 50 ventilators, drugs and accessories from the Strategic National Stockpile or near-expired drugs from the Veteran's Administration system.
3. These teams will be based at a central location with an attached rapid military airlift capability and their deployment coordinated through the National Guard Bureau.
4. Pre-planning should be made to create 30 additional teams (each with 50 ventilators, drugs, and equipment).
5. As the current pandemic progresses through the U.S. there will likely be a need to quickly assemble and activate these additional units for Civil Support. The proposed ability to assemble 40 teams would provide a total of 2000 ICU beds to local authorities accompanied by a medical surge of 960 medical personnel.

Appendix A

Areas With Projected 3.0-4.0 ICU Patients per 10,000 Adults During the COVID-19 Event Based on Wuhan, Chinese Data

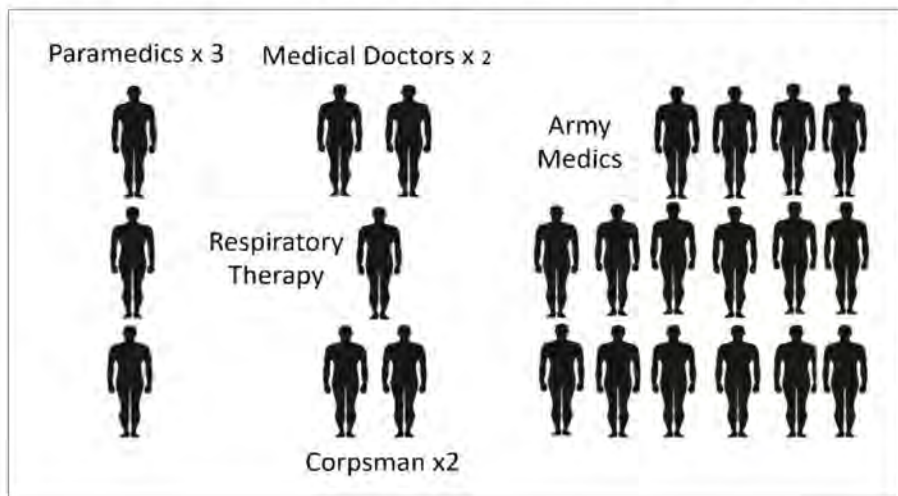


Based on Age Census and Regional Hypertension Incidence.

¹Li., C. Rivers, *The demand for inpatient and ICU beds for COVID-19: Lessons from Chinese cities. Pre-print*

Appendix B

Airmobile Quick-Reaction ICU Assistance Team / 50 Ventilators



1 Team would consist of 24 personnel and 50 ventilators

10 Teams would consist of 240 personnel and 500 ventilators

40 Teams would consist of 960 personnel and 2000 ventilators

The number of teams can be quickly scaled to the developing pandemic

Ships

Hospital ships - claim within 5 day departure timeline, if the full medical staff is available the vessel is a hospital with over 1000 patient capacity with 300 of those beds being capable of supporting more severe patients and roughly 80 beds for severe patients (the vessel and her medical department was designed for trauma and not infectious patient treatment).

Roughly 100 intensive care and 300 of total intermediate-? I am not sure about ventilator support aboard total patients 1000 (in their wildest dreams, if all beds are being used) they don't have the staffing- I'll get the real numbers in a bit

Medical staff will require enough training and equipment to seal and operate in proper ppe (MOPP gear is not currently maintained aboard for all).

Camp PENDLETON, Calif. (NNS) -- The Naval Expeditionary Medical Training Institute (NEMTI) on Camp Pendleton, California, Expeditionary Medical Facility (EMF) basically a Tent hospital - once manned up and constructed, can handle scalable patient load similar to the hospital ships. These facilities compete for manning with the hospital ships, other military hospitals and various civilian hospitals since most of the crews are drawn from the reserves. There are three that are available but would have to be built and manned. There are additional storage locations, but these are at various levels of equipment needs. Army has similar.

There are a number of medical items (unknown number and type) at DRMO lots around the nation that should be put back in service ASAP.

The military morbidity will be same as civilian numbers, this is due to most service people now having families and living off base. On base housing and barracks are no longer adequate to house a full base of troops. Tents would have to suffice. Housing barges are available at most Navy ports and harbors these can house several hundred people in relative isolation in shared cabin spaces.

Recommendation from me,
Military medicine suffered a large number reduction due to consolidation of service medical departments, immediate re assignment of basic trainees to be re ordered to the medical programs instead of their selected fields ie. infantry etc. this would train a number of basic technicians in the 16 weeks it takes a hospital corpsmen to be a corpsman. Army medics are not trained as broadly, but could be re targeted for hospital duty asap.

Immediate mobilization of US vacuum cleaner manufacturing to support PAPR production.

The big one is the immediate training of All recruits in bootcamp as Hospital Corpsmen, corpsmen should still be getting nursing in corpschool, and medics as LVN LPN etc. but we will need medical bodies and that'll buy you immediate several thousand good quality folks FAST corpschool used be 16 weeks before they dumbed it down. I still think the old navy model HM was best for this work.

pa

Message

From: Steven Hatfill [REDACTED]
on behalf of Steven Hatfill <[REDACTED]>
Sent: 5/19/2020 12:21:34 PM
To: Peter Navarro [REDACTED]@protonmail.com]
Subject: Re: Fw: Re: Fwd: HCQ

Morning Peter

- Hassett is correct in his assessments. Dr O'Neill tried to take account of the younger age of patients in his statistics as well as the racial preponderance of the patients. These were detailed to as much as possible and did not seem to be a major factor in this study.
- The same factors were present in Fauci's study but were never once mentioned by anyone.
- Hydroxychloroquine is safe and cheap and suitable for mass production and dissemination by Doctor's prescription.
- It has a major positive clinical effect if given early and from what can be discerned from South Korea and Detroit data-it is useful for prophylaxis.

I would be interested in Mr Hassett's thoughts on the accidentally released remdisavir trial. Remedesivir shows little effect and Fauci moved the goalpost for his study when he saw that the drug was not working. That is against the rules and it is evidence of outrageous bias, yet no one says anything about this. In addition, some patients had to be taken off the drug because of severe side effects. Fauci has publically counted his trial as successful with a significant finding that it shortens hospital stay by 4 days. The same reduction in hospital stay has been shown with hydroxychloroquine in some studies but this is ignored. Remdesivir **must be given IV and it is not** suitable for general physician use in patients.

Peter

i've been working tracking down some Irsaeli data indicating that this Coronavirus thing may have now essentially run its 8 week course in most of the US.

Genetic bottlenecking of the virus may be underway now.

Mbx

On Tue, May 19, 2020 at 9:07 AM Peter Navarro [REDACTED]@protonmail.com> wrote:
HASSETT FEEDBACK. THOUGHTS?

only bone one could pick is that the hcq arm was younger patients, but stats can account for that at the margin. assume stay is longer because the other stays end with death.

only thing the nay sayers can say is that its not a controlled trial. but its very compelling.

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Tuesday, May 19, 2020 7:51 AM, Peter Navarro [REDACTED]@protonmail.com> wrote:

Thoughts?

----- Forwarded message -----

From: Peter Navarro [REDACTED]@protonmail.com>
Date: On Sat, May 16, 2020 at 3:27 PM
Subject: Fwd: HCQ
To: joanna.miller [REDACTED]
<joanna.miller [REDACTED]>
Cc:

Sent from ProtonMail Mobile

----- Forwarded message -----

From: Steven Hatfill <[REDACTED]>
Date: On Sat, May 16, 2020 at 12:07 AM
Subject: Fwd: HCQ
To: Peter Navarro [REDACTED]@protonmail.com>
Cc:

The New England Journal of Medicine is very strict on press announcements before publication. This must be kept quiet until the paper is published.

This is what Dr O'Niel says can be said;

1. The Henry Ford Hospital System which encompasses 5 hospitals, has completed a Hydroxychloroquine patient treatment study involving 2662 patients.
2. **This study demonstrated significantly improved survival in patients placed on Hydroxychloroquine measured against patients that did not receive the drug.**
3. A separate large scale prophylactic trial of Hydroxychloroquine involving 1700 individuals shows **no unfavorable outcome** as a result of taking HCQ.
4. **This is a safe drug.**

As per our discussions, If Fauci, Rick Bright, and Hann had done their jobs, 30,000 less people would have died and it is likely we could have been back to work and not have had to spend billions on ventilators. These 3 have blood on their hands.

Message

From: Peter Navarro [mailto:Peter.Navarro@protonmail.com]
on behalf of Peter Navarro [mailto:Peter.Navarro@protonmail.com] <Peter.Navarro@protonmail.com>
Sent: 5/27/2020 10:05:57 AM
To: shatfill([REDACTED])
Subject: edit

Play with this:

Now here's the most important thing I'm going to tell you in this presentation: To best evaluate the possible therapeutic benefits of QQ, it is critical to understand the importance of distinguishing between "early treatment" and "late treatment" use of the drug.

Now here's the most important thing I'm going to tell you in this presentation: Much of the confusion over the possible therapeutic benefits of QQ both within the media and elements of the medical profession stems from the failure to clearly distinguish "early treatment" and "late treatment" use of the drug. This failure is evident both in many of the studies that have been conducted as well as in much of the media's reporting of the scientific evidence.

As a rough rule of thumb, "early treatment" means that a patient who becomes infected with the virus is treated within the first seven days of exhibiting symptoms. During this initial phase of the disease, the patient may experience xx, xx, xx,. However, during this critical early treatment phase, at least xx lobes of the lungs remain fully functional, xx, and xx.

In contrast, "late treatment" means that the patient is treated after the seven day period; and during this late treatment phase, the patient typically experiences xx, xx, or xx.

Importantly, during this phase, the patient may also be subject to what is called a "cytokine storm." In effect, a cytokine storm is a condition in which a patient's immune reaction to a disease like the China virus is so strong that it not only attacks the virus itself but also the body. During a cytokine storm, the benefits of QQ will simply be overpowered.

To understand why this early vs. late treatment distinction is so important in evaluating and interpreting the flood of scientific studies that have come onto the market, one needs to clearly understand just how QQ is

thought to work in combatting the China virus.

Now here's the most important thing I'm going to tell you in this presentation: To best evaluate the possible therapeutic benefits of QQ, it is critical to understand the importance of distinguishing between "early treatment" and "late treatment" use of the drug.

Now here's the most important thing I'm going to tell you in this presentation: Much of the confusion over the possible therapeutic benefits of QQ both within the media and elements of the medical profession stems from the failure to clearly distinguish "early treatment" and "late treatment" use of the drug. This failure is evident both in many of the studies that have been conducted as well as in much of the media's reporting of the scientific evidence.

As a rough rule of thumb, "early treatment" means that a patient who becomes infected with the virus is treated within the first seven days of exhibiting symptoms. During this initial phase of the disease, the patient may experience xx, xx, xx,. However, during this critical early treatment phase, at least xx lobes of the lungs remain fully functional, xx, and xx.

In contrast, "late treatment" means that the patient is treated after the seven day period; and during this late treatment phase, the patient typically experiences xx, xx, or xx. Importantly, during this phase, the patient may also be subject to what is called a "cytokine storm." In effect, a cytokine storm is a condition in which a patient's immune reaction to a disease like the China virus is so strong that it not only attacks the virus itself but also the body. During a cytokine storm, the benefits of QQ will simply be overpowered.

To understand why this early vs. late treatment distinction is so important in evaluating and interpreting the flood of scientific studies that have come onto the market, one needs to clearly understand just how QQ is thought to work in combatting the China virus.

Message

From: Steven Hatfill [REDACTED]
on behalf of Steven Hatfill [REDACTED]
Sent: 5/28/2020 9:33:11 AM
To: Peter Navarro [REDACTED]@protonmail.com]
Subject: Re: talk with diagram

On my way in
Will write the anti-inflammatory stuff in about 30 min.
Here is Word Doc
Figures were moving out of place when I sent it so went to PDF
HBX

On Thu, May 28, 2020 at 9:02 AM Peter Navarro [REDACTED]@protonmail.com> wrote:
great stuff. always send as word doc files, not pdf

Also, can you write up a few paragraphs on the importance of hcq as an antiinflammatory in the therapeutic process?

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Thursday, May 28, 2020 12:37 AM, Steven Hatfill <[REDACTED]> wrote:

Message

From: Peter Navarro [redacted]@protonmail.com]
on behalf of Peter Navarro [redacted]@protonmail.com >Peter Navarro [redacted]@protonmail.com]
Sent: 5/29/2020 11:16:36 AM
To: shatfill [redacted]
Subject: read and edit

Here are the topline points:

QQ is on the World Health Organization's list of essential medicines and the Center for Disease Control describes it as a "relatively well tolerated medicine." It has been used with generally mild side effects for more than six decades for diseases that began with malaria and now include Lupus and rheumatoid arthritis.

QQ works through at least two biological pathways as both a prophylactic and therapeutic antiviral.

QQ helps block the entry of the virus into your cells by decreasing the sugar content of the ACE-2 receptors.

If the virus penetrates your cells, QQ also helps kill the virus or slow down its replication by raising the alkalinity within your cells.

Here are the two most important points to understand:

One: QQ is likely to work as a therapeutic only if it is administered as an "early treatment" medicine within the first seven days of the onset of COVID-19 when symptoms such as fever, cough, and fatigue are relatively mild.

Two: QQ is likely to fail as a "late treatment" therapeutic if its administration begins only after local inflammation develops inside the lungs, at least three of the five lobes of the lungs develop lesions, and/or the body suffers from an over-reaction of the immune system known as a "cytokine storm." In this late treatment phase of the disease, QQ simply does not have the medicinal strength to overcome the virus.

The most common mistake of medical researchers, as well as the mainstream media reporting the results of their studies, is a failure to properly distinguish between early versus late treatment use of QQ.

Here's a third important key point:

Studies that find negative effects associated with late treatment use of QQ do not rule out safety or efficacy for QQ's use in early treatment and their results should be appropriately discounted or dismissed.

Another common mistake by researchers is to ignore, or under-report, and thereby confound the possible negative effects of other drugs such as azithromycin or xx that may be tested in combination with QQ. Each of these so-called macroclides have known cardiac side effects that may inadvertently be blamed on QQ.

What does the research show to date?

Xx of the xx studies conducted between xx and xx find possible positive therapeutic effects from the use of QQ to treat COVID-19 without negative safety effects.

Of the xx studies that purport to find no therapeutic value or an increased mortality rate, none fail to properly distinguish between early and late treatment use and each is seriously flawed. These flaws range from dangerous overdosing and skewed or biased sampling to use primarily as a "late treatment" medicine without proper acknowledgement of that fact.

By failing to accurately report the scientific evidence and by using scare tactic headlines and cable news rhetoric to instill fear in the public, the mainstream media has created an “hydroxi hysteria.” The resultant culture of fear has significantly reduced the use of QQ in hospitals in America and around the world.

Hyroxi hysteria is also crippling the ability of the scientific ability to conduct blind, randomized, xx clinical trials that might settle the question of QQ’s safety and efficacy as a prophylactic and therapeutic once and fall.

To the extent doctors and nurses at the front lines and others exposed to the China virus are reluctant to use QQ as a prophylactic because of hydroxi hysteria, this may lead to higher infection and mortality rates.

To the extent patients that develop symptoms are not prescribed QQ as an early treatment as a result of hydroxi hysteria and a range of new restrictions placed on QQ’s use by the World Health Organization, the French government, and America’s own FDA, this, too, may lead to higher mortality rates.

It has only been after President Donald J. Trump endorsed the use of QQ to combat the China virus that the medicine has come under attack by both the mainstream media and partisan elements within the medical community.

This politicization of QQ in the media and ostensibly objective medical journals like Lancet – in truth, a highly partisan publication -- may well turn out to be one of the great tragedies of the China virus pandemic.

The nature of this tragedy should be clear: If studies ultimately show that QQ does indeed have prophylactic and/or therapeutic value, the media’s hydroxi hysteria will have cost the world tens of thousands of lives by stunting the use and study of this potential life-saving drug.

Two of the latest, and most scientifically rigorous, studies on QQ – one from xx, the other from xx -- provide clear, compelling and statistically significant evidence of the possible prophylactic and therapeutic uses of QQ.

If the results of these studies hold in subsequent studies, blood will indeed be on the hands of those in the mainstream media and medical profession that have contributed to hydroxi hysteria with bad journalism, poor research designs, and partisan reporting.

QQ is a medicine that has been used for more than xx decades for diseases that include Lupus, malaria, and rheumatoid arthritis. It is on the World Health Organization’s list of essential medicines, the Center for Disease Control’s XX, and it is endorsed by xx.

As demonstrated in tissue culture studies, QQ works through at least two biological pathways to combat the China virus. It helps block the entry of the virus into your cells by decreasing the sugar content of the ACE-2 receptors. If the virus penetrates your cells, QQ also helps kill the virus or slow down its replication by raising the alkalinity within your cells.

QQ is likely to work only as an “early treatment” medicine when symptoms are mild. It must be administered within the first seven days of the onset of symptoms.

QQ is likely to fail as a “late treatment” medicine. Once a patient suffers a high viral load, lung damage, and xx, QQ simply does not have the strength to overcome the virus.

The results of studies that fail to clearly distinguish between patients using QQ as an “early treatment” medicine versus a “late treatment” therapy should be discounted appropriately.

Here are the topline points:

QQ is on the World Health Organization’s list of essential medicines and the Center for Disease Control describes it as a “relatively well tolerated medicine.” It has been used with generally mild side effects for more than six decades for diseases that began with malaria and now include Lupus and rheumatoid arthritis.

QQ works through at least two biological pathways as both a prophylactic and therapeutic antiviral.

QQ helps block the entry of the virus into your cells by decreasing the sugar content of the ACE-2 receptors.

If the virus penetrates your cells, QQ also helps kill the virus or slow down its replication by raising the alkalinity within your cells.

Here are the two most important points to understand:

One: QQ is likely to work as a therapeutic only if it is administered as an “early treatment” medicine within the first seven days of the onset of COVID-19 when symptoms such as fever, cough, and fatigue are relatively mild.

Two: QQ is likely to fail as a “late treatment” therapeutic if its administration begins only after local inflammation develops inside the lungs, at least three of the five lobes of the lungs develop lesions, and/or the body suffers from an over-reaction of the immune system known as a “cytokine storm.” In this late treatment phase of the disease, QQ simply does not have the medicinal strength to overcome the virus.

The most common mistake of medical researchers, as well as the mainstream media reporting the results of their studies, is a failure to properly distinguish between early versus late treatment use of QQ.

Here’s a third important key point:

Studies that find negative effects associated with late treatment use of QQ do not rule out safety or efficacy for QQ’s use in early treatment and their results should be appropriately discounted or dismissed.

Another common mistake by researchers is to ignore, or under-report, and thereby confound the possible negative effects of other drugs such as azithromycin or xx that may be tested in combination with QQ. Each of these so-called macroclides have known cardiac side effects that may inadvertently be blamed on QQ.

What does the research show to date?

Xx of the xx studies conducted between xx and xx find possible positive therapeutic effects from the use of QQ to treat COVID-19 without negative safety effects.

Of the xx studies that purport to find no therapeutic value or an increased mortality rate, none fail to properly distinguish between early and late treatment use and each is seriously flawed. These flaws range from dangerous overdosing and skewed or biased sampling to use primarily as a “late treatment” medicine without proper acknowledgement of that fact.

By failing to accurately report the scientific evidence and by using scare tactic headlines and cable news rhetoric to instill fear in the public, the mainstream media has created an “hydroxi

Message

From: Steven Hatfill [REDACTED]
on behalf of Steven Hatfill [REDACTED]
Sent: 7/13/2020 8:12:11 PM
To: Miller, Joanna R. EOP/WHO [REDACTED]@who.eop.gov]
Subject: Fwd: Info from [REDACTED] re PPE

----- Forwarded message -----

From: Greg Autry <[REDACTED]>
Date: Sun, Jul 12, 2020 at 10:44 PM
Subject: Info from [REDACTED] re PPE
To: Peter Navarro <[REDACTED]@protonmail.com>, Steven Hatfill <[REDACTED]>

Peter, Steve,

I know you get lots of these but this one is from [REDACTED] who Chairs the Committee on the Present Danger - China (I'm a member) a stand up guy who backs your efforts. His message below. I suspect he will email you direct as well.

Peter:

[REDACTED] here. Because of your good offices, and a contract with HHS, there is a PPE manufacturer, VPL Labs, that has been built here in Southern California. It is the largest, or second largest, manufacturer of three ply surgical face masks now in the USA. The have just begun production for the national stockpile and now the FTC is trying to kill it. This looks to be political in nature.

I just heard this story from one of the owners.

Do you have a minute to discuss? Now or tomorrow?

Best,

[REDACTED]

Greg Autry, PhD
[REDACTED]

Exhibit 3



December 16, 2021

Mr. Peter K. Navarro
Professor Emeritus
Paul Merage School of Business
University of California, Irvine
4293 Pereira Drive
338 GSM, Mail Code: 3125
Irvine, CA 92697
By EMAIL

Dear Mr. Navarro:

I write on behalf of the Archivist of the United States, who heads the National Archives and Records Administration (NARA). Under the Presidential Records Act (PRA), at the end of each Presidential Administration, NARA assumes complete custody and control of all Presidential records created and received by the President, the Vice President, and all White House employees during the course the Administration. The PRA also requires that whenever a White House employee creates or receives a Presidential record using a non-official electronic message account, they must copy or forward a complete copy of the records to their official electronic messaging account within 20 days. 44 U.S.C. 2209(a).

It has come to our attention that while you were a White House employee of the Trump Administration, you sometimes carried out official business using a non-official email account, pknavarro@protonmail.com. (See September 14, 2021, Letter to you from Chairman James E. Clyburn, House Select Subcommittee on the Coronavirus Crisis.) The select subcommittee posted multiple examples of emails that meet the definition of Presidential records and were sent to and from your protonmail.com email account, dating from as early as February 2020. We have conducted a search of the White House emails that NARA received at the end of the Trump Administration and have no record of you forwarding any emails from your protonmail.com account to your who.eop.gov account before June 2020. There are also multiple instances where you sent emails from your personal account to other White House employees but did not copy or forward them to your official account.

NATIONAL ARCHIVES *and*
RECORDS ADMINISTRATION

8601 ADELPHI ROAD
COLLEGE PARK, MD 20740-6001
www.archives.gov

GARY M. STERN
GENERAL COUNSEL

Suite 3110
t. 301.837.3026
garym.stern@nara.gov

The Counsel to President Trump issued a [memo on Presidential Records Act Obligations](#) to all White House Personal, which stated the following (emphasis in original):

You are required to conduct all work-related communications on your official EOP email account, except in emergency circumstances when you cannot access the EOP system and must accomplish time sensitive work. Emails and attachments sent to and from your EOP account are automatically archived.

If you ever send or receive email that qualifies as a presidential record using any other account, you must preserve that email by copying it to your official EOP email account or by forwarding it to your official email account within twenty (20) days. After preserving the email, you must delete it from the non-EOP account. Any employee who intentionally fails to take these actions may be subject to administrative or even criminal penalties.

The same rules apply to other forms of electronic communication, including text messages. ***You should not use instant messaging systems, social networks, or other internet-based means of electronic communication to conduct official business without the approval of the Office of the White House Counsel.*** If you ever generate or receive presidential records on such platforms, you must preserve them by sending them to your EOP email account via a screenshot or other means. After preserving the communications, you must delete them from the non-EOP platform.

The requirements of the PRA continue to apply even after the President and his staff leave office. Accordingly, it is necessary that you now provide NARA with any Presidential records that reside on your personal electronic messaging accounts.

Please contact me as soon as possible so that we can make appropriate arrangements to transfer the Presidential records that remain in your custody. I would be happy to discuss this issue with you directly. You can reach me on my cellphone at 240-475-2816.

Sincerely,

Gary M. Stern
General Counsel

Exhibit 4

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

-v.-

PETER K. NAVARRO,

Defendant.

Case No. 1:22-cv-_____

DECLARATION OF WILLIAM J. BOSANKO

I, William J. Bosanko, pursuant to 28 U.S.C. § 1746, and based upon my personal knowledge and information made known to me in the course of my employment, hereby make the following declaration with respect to the above-captioned matter:

1. I am currently the Chief Operating Officer at the National Archives and Records Administration (NARA). I have held this position since January 1, 2013.

2. In this position, I oversee the NARA program office that assumes “responsibility for the custody, control, and preservation,” 44 U.S.C. § 2203, of Presidential records at the end of each Presidential Administration.

3. Presidential records are the property of the United States, as established by the Presidential Records Act of 1978, as amended, 44 U.S.C. § 2202.

4. In December 2021, NARA became aware of Peter K. Navarro’s use of a non-official email account, provided by ProtonMail, to send and receive Presidential records during his tenure as presidential advisor.

5. In December 2021, NARA conducted a search of the White House emails that it had received at the end of the Trump Administration and had no record of Mr. Navarro forwarding to his official government email account the emails that he had sent or received on his ProtonMail account.

6. On December 16, 2021, NARA's General Counsel, Gary M. Stern, wrote a letter to Mr. Navarro requesting that he turn over to NARA any Presidential records that remain in his custody. Mr. Stern also telephoned Mr. Navarro and left several voice messages regarding the same request. Mr. Navarro did not respond to the letter or phone calls.

7. After unsuccessfully attempting to obtain Mr. Navarro's cooperation in returning the Presidential records, NARA referred the matter to the Department of Justice (DOJ). On June 1, 2022, DOJ counsel wrote Mr. Navarro a letter in an effort to secure the return of the Presidential records without litigation. The letter advised that DOJ was authorized to file suit to obtain the Presidential records, but was willing to work with Mr. Navarro to transfer the Presidential records to NARA voluntarily.

8. On June 16, 2022, counsel for Mr. Navarro contacted DOJ to advise that they had recently been retained by Mr. Navarro as counsel and that they had hired a document review and analysis firm to aid them in evaluating the extent to which Mr. Navarro had Presidential records in his possession, custody, or control. On June 17, 2022, DOJ put counsel for Mr. Navarro in touch with Mr. Stern to discuss the return of Presidential records held by Mr. Navarro. Over the next several weeks, Mr. Navarro's counsel provided periodic updates on the status of their search and analysis process. To assist and expedite this process, on July 18, 2022, Mr. Stern provided Mr. Navarro's counsel with a list of initial search terms. NARA requested that Mr. Navarro prioritize the return of any Presidential records responsive to these search terms.

9. By email dated July 22, 2022, Mr. Navarro's counsel represented that their application of the search parameters provided by NARA had generated over 1,700 documents. On July 25, 2022, Mr. Navarro's counsel estimated that, based on their review of these documents, between 200 and 250 of these 1,700 documents were Presidential records. By letter dated July 29, 2022, addressed to Mr. Stern, Mr. Navarro's counsel stated that, "in advance of any production of materials responsive to your request, we ask that the Department of Justice provide Mr. Navarro with act-of-production immunity with respect to any such production." (Letter of John Irving to Gary M. Stern, attached as Att. A.)

10. To date, Mr. Navarro has not turned over to NARA any Presidential records.

11. According to the affiant's information and belief, the Plaintiff is entitled to recover possession of chattels proposed to be replevied, being the same described in the complaint.

12. The Defendant has seized and detained or detains the chattels.

13. The chattels were not subject to the seizure or detention and were not taken upon a writ of replevin between the parties.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 3, 2022

Signature: 
WILLIAM J. BOSANKO

Attachment A



John S. Irving
E&W Law
1455 Pennsylvania Ave., N.W., Suite 400
Washington, D.C. 20004
301-807-55670
John.Irving@earthandwatergroup.com

July 29, 2022

Gary M. Stern, Esq.
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, Maryland 20740-6001
Via Email: garym.stern@nara.gov

Re: Peter K. Navarro

Dear Mr. Stern:

As discussed on Monday, July 25, we have been actively working to identify records within Mr. Navarro's possession, custody, and/or control that are potentially responsive to NARA's request. As you know, this effort has already involved a substantial investment of time and resources. Specifically, we have now completed the process of creating a forensic image of Mr. Navarro's cell phones and have also completed an extraction of records from Mr. Navarro's personal Protonmail account, all of which we will continue to preserve consistent with our ethical obligations.

During this process, the occurrence of several events causes us to question whether Mr. Navarro's procedural due process rights may be at risk of infringement. As you are aware, Mr. Navarro was first contacted by NARA on or about December 16, 2021, concerning your belief that Mr. Navarro may be in possession, custody, or control of records the subject of the Presidential Records Act, 44 U.S.C. § 2201 *et seq.*

In the meantime, as you are no doubt aware, Mr. Navarro has now been indicted for allegedly having failed to comply with a subpoena issued by the U.S. House Select Committee to Investigate the January 6th Attack on the United States Capitol. Mr. Navarro's response to that subpoena was informed by his interaction with the U.S. House Select Subcommittee on the Coronavirus Crisis, which apparently accepted Mr. Navarro's assertion of executive privilege in that he received no response to his last correspondence with the Subcommittee on December 14, 2021, in which he advised he could not comply with the subpoena due to his obligation to invoke executive privilege.

Several circumstances appear unlikely to be coincidental and give us concern about coordination between various government investigations and the protection of Mr. Navarro's constitutional rights. To start, NARA's initial letter to Mr. Navarro on December 16, 2021, came just one day after the return date for the Coronavirus Select Subcommittee's subpoena for records. We now believe NARA's initial request was precipitated by that Select Subcommittee. Then, on June 1, 2022, just one day prior to the return of the Department's indictment and after more than six months of inaction, Mr. Navarro received correspondence from Elizabeth Shapiro, Deputy

Office Locations: Washington, DC • Atlanta, GA • Oklahoma City, OK • Tallahassee, FL

Page 2

Director of DOJ's Civil Division Federal Programs Branch, informing him of the Department's intent to file suit "for the recovery of wrongfully withheld documents."

Thereafter, on June 26, 2022, Mr. Navarro, though counsel, wrote the Department to request all discoverable materials in his criminal action pursuant to Rule 16 of the Federal Rules of Criminal Procedure and *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. Among other things, Mr. Navarro requested any communications as between the Department and the Coronavirus Select Subcommittee advising that all such communications were both exculpatory and material to Mr. Navarro's defense in that they support his understanding that executive privilege precluded his compliance with the subpoenas of both the Coronavirus Select Subcommittee and the January 6th Select Committee. Then, *later that day*, the Coronavirus Select Subcommittee renewed its demand that Mr. Navarro comply with its subpoena – the first contact that Mr. Navarro (or his counsel) had had with the Subcommittee since a letter Mr. Navarro sent to the Subcommittee on December 14, 2021. Further exacerbating our concerns is the fact that the Coronavirus Subcommittee's request was that Mr. Navarro comply with *NARA's* request that Mr. Navarro provide any records in his possession, custody, or control covered by the PRA. In combination, any suggestion that this series of events is merely coincidental defies reason.

Put simply, we are concerned that the government is using the Presidential Records Act as a discovery tool, not only with respect to Mr. Navarro's ongoing criminal case, but with respect to broader investigations being conducted by both Congress and the Executive Branch. While we acknowledge Mr. Navarro's obligations under the Presidential Records Act we also must acknowledge the conflict as between the Act and his rights under the Constitution, including the Fifth Amendment.

As you may be aware, the Supreme Court has recognized that the act of producing materials in response to a subpoena or other request implicates an individual's privilege against being compelled to incriminate themselves through testimony. *See Fisher v. United States*, 425 U.S. 391, 410-11 (1976). The so-called "act of production privilege" thus precludes the government from compelling the production of records which, by implication both acknowledges "the existence of the papers demanded and their possession or control." *Id.* Moreover, Mr. Navarro is not a custodian of any responsive records such that his production of the same could not be used against him in a criminal proceeding. *See United States v. Dean*, 989 F.2d 1205, 1208-11 (D.C. 1993).

Accordingly, in advance of any production of materials responsive to your request, we ask that the Department of Justice provide Mr. Navarro with act-of-production immunity with respect to any such production. We reiterate our willingness to work with you to ensure Mr. Navarro's compliance with the Presidential Records Act, and we appreciate your prior assistance in providing search parameters to better target relevant information. We also confirm that we have forensically preserved Mr. Navarro's records, and they will be available for production when we receive assurances from the government that any such production does not infringe on his fundamental Constitutional procedural rights.

Page 3

Very truly yours,

E&W Law

By: /s/ John S. Irving
John S. Irving

cc:

Justin Sandberg, Esq.
U.S. Department of Justice
Federal Programs Branch, Civil Division
Washington, D.C. 20530
Via Email: justin.sandberg@usdoj.gov

Lee Reeves, Esq.
U.S. Department of Justice
Federal Programs Branch, Civil Division
Washington, D.C. 20530
Via Email: lee.reeves2@usdoj.gov

John P. Rowley III, Esq.
SECIL Law
Via Email: jrowley@secillaw.com

Exhibit 5



U.S. Department of Justice
Civil Division

Washington, D.C. 20530

EJS:JMS

Telephone:
(202) 514-5838

June 1, 2022

VIA ELECTRONIC AND U.S. MAIL

Peter K. Navarro
801 Pennsylvania Ave., NW
Unit 1021
Washington, D.C. 20004
pknavarro@protonmail.com

Dear Mr. Navarro:

Since determining that you conducted official government business as an advisor to President Trump using a private email account, the National Archives and Records Administration (NARA) has repeatedly requested that you provide all electronic mail messages related to your official duties that you created or received using a private email account. To date, you have declined to provide the records.

The Presidential Records Act, 44 U.S.C. § 2201 *et seq.*, establishes that the United States owns records related to the President's official duties, whether or not the records were created or stored on an official government server. The United States is entitled to recover property that belongs to it, including official government records.

We have been authorized to file a civil action against you in United States District Court to pursue claims for the recovery of wrongfully withheld records. We intend to file the action on or about June 21, 2022. But as is our practice in civil actions of this nature, we are willing to give you an opportunity to resolve this matter without litigation by turning the wrongfully withheld records over to NARA prior to June 21. In the meantime, you have a continuing obligation to preserve electronic or hard copies of Presidential records in your possession, custody, or control.

If you would like to discuss this matter, you or your legal representative should contact Justin Sandberg, the Civil Division attorney assigned to this case, at justin.sandberg@usdoj.gov.

Sincerely,

Elizabeth J. Shapiro
Deputy Director
Federal Programs Branch, Civil Division