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

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11 DEPOSITION OF: KEN KLUKOWSKI

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Friday, June 10, 2022

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Washington, D.C.

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20 The deposition in the above matter was held in room 5480, O'Neill House Office  
21 Building, commencing at 10:27 a.m.

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2 Appearances:

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5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

7

8 [REDACTED] SENIOR ADMINISTRATIVE ASSISTANT

9 [REDACTED] SENIOR INVESTIGATIVE COUNSEL

10 [REDACTED] PROFESSIONAL STAFF MEMBER

11

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13 For the WITNESS:

14

15 PAUL BROTHERS

16 EDDIE GREIM

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██████████ Let's go on the record.

3

All right. This is a resumed deposition of Mr. Ken Klukowski, conducted by the

4

House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

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pursuant to House Resolution 503.

6

At this time, Mr. Klukowski, could you please reintroduce yourself?

7

The Witness. My name is Kenneth Allen Klukowski.

8

██████████ And, Counsel, first in the room, why don't you introduce yourself.

9

Mr. Brothers. Yeah. Paul Brothers with Graves Garrett.

10

██████████ Excellent. And we do have counsel joining on the Webex platform as well. If you could please introduce yourself.

11

12

Mr. Greim. Eddie Greim from Graves Garrett, dialing in from Kansas City,

13

Missouri.

14

██████████ Great. I'd like to just thank you all for being here in person and virtually.

15

16

So we have met before, and the same rules are going to govern, but I do want to go over some of them again just to remind you.

17

18

This is going to be a staff-led interview like before. Members do have the opportunity to join, and if they do, we'll try to announce their presence so you know that they're there.

19

20

21

My name is ██████████ I'm a senior investigative counsel for the select committee. And with me in the room today is ██████████ a professional staff member for the committee.

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23

24

Under the House deposition rules, neither committee members nor staff can

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discuss the substance of the testimony you provide today unless the committee approves

1 its release. And you and your attorney will have an opportunity to review the transcript  
2 afterwards.

3 I understand that you have reviewed the existing transcript from last time. So  
4 we'll make that opportunity available for the future transcript from today.

5 There is an official reporter transcribing the record of the deposition. Please  
6 wait until each question is completed before you begin your response, and we'll try to  
7 wait until your response is complete before we ask our next question. And, of course,  
8 the stenographer can't record nonverbal responses, such as shaking your head, so please  
9 do answer with an audible, verbal response.

10 Like before, we ask that you provide complete answers based on your best  
11 recollection. And if the question is not clear, please ask for clarification. If you don't  
12 know the answer, please simply say so, but you may only refuse to answer a question to  
13 preserve a privilege recognized by the select committee.

14 And if you do refuse to answer a question based on a privilege, then staff can  
15 either proceed with the deposition or seek a ruling from the chairman on the objection.  
16 And if the chairman overrules such an objection, you would be required to answer the  
17 question.

18 I do want to remind you that it's unlawful to deliberately provide false information  
19 to Congress. And since this deposition is under oath, providing false information could  
20 result in criminal penalties for perjury or providing false statements.

21 Do you understand all of that that we went over?

22 The Witness. Yes, sir.

23 [REDACTED] All right. Very good. Thank you.

24 At this time, I'd ask that you stand and raise your right hand to be resworn.

25 The Reporter. Mr. Klukowski, do you swear or affirm under the penalty of

1 perjury that the testimony you're about to give in this deposition shall be the truth, the  
2 whole truth, and nothing but the truth?

3 The Witness. I do.

4 The Reporter. Thank you.

5 [REDACTED] Thank you, sir. And then, if at any time you need any breaks or  
6 would like to consult with your counsel, please just let us know, we're happy to do so.

7 And just as a reminder, this is being recorded through the Webex platform and  
8 also this camera. So if you do need to consult, we'll figure out a way to do that, because  
9 this doesn't stop recording.

10 All right. At this point, I understand that either you, Mr. Greim, or you,  
11 Mr. Brothers, would like to make preliminary remarks.

12 Mr. Brothers. Yes. We'd just like to note for the record before we begin the  
13 resumed deposition, at the beginning of this deposition some months ago, Mr. Klukowski  
14 raised numerous objections. I will not recite them for the record again, but the  
15 objections include, but aren't limited to, matters dealing with the composition of the  
16 committee, the authorization of the committee to issue a subpoena for Mr. Klukowski's  
17 deposition testimony based on the composition issues, whether the subpoena is  
18 supported by a legislative purpose and a pertinent committee function.

19 There were also numerous objections raised in Mr. Klukowski's document  
20 production. And we preserve all of those objections and are not waiving any of them by  
21 appearing to resume the deposition today. And we also continue to preserve all  
22 constitutional and common law privileges.

23 [REDACTED] Thank you for that. Your objections are noted. And I'll just, for  
24 the record, and simplicity, hopefully, also incorporate, in addition to what you said, the  
25 objections that are reflected in the transcript from December 15th, which is the first time

1 we met.

2 Mr. Brothers. That would be great.

3 [REDACTED] Excellent.

4 EXAMINATION

5

BY [REDACTED]

6 Q Okay. So this is going to be a more targeted deposition than last time.

7 There's a few issues we wanted to bring you back to discuss.

8 The first I'll start with is going back to Mr. Jeffrey Bossert Clark. And we  
9 understand that you began working for him on December 15th at the Department of  
10 Justice.

11 A That is my recollection.

12 Q Okay. Do you know whether Mr. Clark ever communicated with Rudy  
13 Giuliani?

14 A I do not recall ever being told one way or the other on that. So I have no  
15 recollection of anything responsive to that.

16 Q Did he ever tell you anything that suggested he was in touch with  
17 Mr. Giuliani or anybody from his legal team?

18 A Not that I recall.

19 Q Did Mr. Clark ever tell you about communications or meetings he had with  
20 Sidney Powell?

21 A Not that I recall.

22 Q Did Mr. Clark ever tell you about any communications or meetings he had  
23 with Jenna Ellis?

24 A Not that I recall.

25 Q Did he tell you about any communications or meetings he had with Bernie

1 Kerik, Katherine Friess, or Cleta Mitchell, any of those?

2 A What were those names again?

3 Q Yeah, sure. Bernie Kerik?

4 A Not that I recall.

5 Q Katherine Friess or Friess?

6 A Not that I recall.

7 Q Cleta Mitchell?

8 A Not that I recall.

9 Q Okay. Did Mr. Clark ever tell you he had meetings or communications with  
10 anybody associated with the President's campaign? Or what was left over from the  
11 campaign at that December through January period?

12 A Could you clarify? It's -- that's -- that's -- you say anyone affiliated with the  
13 campaign?

14 Q That's correct. Who was representing the President in his personal  
15 capacity or on behalf of the campaign in the period from December 15th up and through  
16 January the 20th. Do you remember Mr. Clark saying that he had been in touch with  
17 anybody like that?

18 A I do not recall any conversation in which he mentioned a name that I either  
19 knew or that he represented to me was someone representing the campaign.

20 Q Did he say -- did Mr. Clark say to you that he had been in touch with  
21 representatives from the President's campaign or his individual counsel -- the President's  
22 individual counsel?

23 A I do not recall any conversation that was characterized in words similar to  
24 what you just said.

25 Q Okay. Other than the President or White House staff, do you remember

1 Mr. Clark saying anything to you indicating that he had been in touch with -- well, I'll  
2 rephrase that later as we go through some of this.

3 Did Mr. Clark ever tell you about communications or meetings he had with Mark  
4 Meadows?

5 A Not that I recall.

6 Q Okay. And when we last met, we asked you about communications or  
7 meetings that you had with those people, but it was limited to January. Did you have  
8 any meetings or communications with Rudy Giuliani between the election, November  
9 3rd, and January 20th?

10 A Not that I recall.

11 Q How about Sidney Powell?

12 A Not that I recall.

13 Q Jenna Ellis? Same period.

14 A Not that I recall.

15 Q Cleta Mitchell? That same period.

16 A And, again, we're asking conversations, or can you repeat the question in  
17 full?

18 Q Yeah, sure. And I'm looking for communications.

19 A Right.

20 Q So whether in person, over the phone, over email, text message, any  
21 communications with those people I've listed. And I'm happy to do so again.

22 A Not that I recall.

23 Q Okay. Did you ever have any conversations, communications, meetings  
24 with Jeff Clark about John Eastman?

25 A Not that I recall.



1 Q You're pausing there. Is there --

2 A No. I'm just -- I'm trying to think through carefully each -- you know, each  
3 aspect of what you're saying.

4 Q Okay.

5 A I'm being deliberative and careful to try and be precise in my answers.

6 Q Very good. I appreciate that.

7 A And this is all -- this is all in the distant past, and I'm trying -- so there are  
8 names I have not thought about in a long time, and I want to take a moment to think if I  
9 could recall anything.

10 Q Okay. Understood. And take all the time you need, and we appreciate  
11 your being deliberate and careful.

12 Did Mr. Clark ever tell you that he spoke with John Eastman at any point during  
13 the post-election period, so between November 3rd and January 20th?

14 A It's -- before we go that to my previous answers regarding those individuals,  
15 if I was in like a large group setting, it might've have been in the same room with  
16 someone and might have said hi to them. I might not recall that exchange, but it's -- so I  
17 wanted to make clear, I'm not saying that -- I can't say I was never in the same place as  
18 any of them. I just -- I don't recall any conversations with those individuals.

19 Q Okay.

20 A With each -- with each of those individuals.

21 Q That we just listed?

22 A That's right. I mean, there were large campaign-related events and  
23 whatnot, and I don't know necessarily who was in the room each time or whether I  
24 might've said hello to someone as I passed by them. I do not recall any conversations.

25 Q Understood. So to --

1 A So can you repeat the question we're on now?

2 Q Yes, of course. So my question now is, did Mr. Clark ever tell you that he  
3 spoke with John Eastman in the post-election periods? And when I say spoke,  
4 electronically, in person, over the phone, or otherwise.

5 A Not that I recall.

6 Q When we last met, we did discuss with you your interactions with John  
7 Eastman. I will say that you withheld, as your counsel has represented last time, and  
8 this time again, and throughout the period, that you withheld a number of documents on  
9 attorney-client, First Amendment privilege claims.

10 Did you, Mr. Klukowski, review those claims before asserting them to the  
11 committee?

12 Mr. Greim. I'm going to -- I'm going to object here. I mean, I think it's  
13 inappropriate to ask a witness about, you know, his interaction with counsel and the  
14 preparation that went into positions that we take.

15 [REDACTED] Okay. And to be clear, I'm not going to ask about any  
16 communications with counsel that he had.

17 I just want to make sure, Mr. Klukowski, did you review your documents and  
18 ultimately decide and agree with the decisions to produce or withhold certain documents  
19 on objection grounds?

20 Mr. Greim. You know, I think I -- I understand the -- I understand the question,  
21 but I don't think it's appropriate to try to tease out -- I mean, I think the relevance would  
22 be to show that there was a difference between the witness and counsel, and I just don't  
23 think that's an appropriate question here.

24 I mean, I think we will just stipulate that the positions that we took are the  
25 positions we took.

1           ██████████ Understood. And to the extent they're any different, that's what I  
2 want to understand. Some of these objections, I just want to make sure that  
3 Mr. Klukowski -- ultimately, his production to the committee is his, and so I want to make  
4 sure that he looked at what was provided and understands the nature of what was in his  
5 possession.

6           And ultimately, again, the First Amendment objection, in particular, is something  
7 that is uniquely situated to Mr. Klukowski.

8           Mr. Greim. Okay. I'm just -- I'm not sure that answers -- I'm not sure that  
9 answers our concern, though. I mean, you know, it's one thing at a deposition when  
10 counsel, you know, instructs someone not to answer as privileged, and then you turn to  
11 the witness and say, you know, do you agree with that, that it's privileged.

12           But I just don't -- I mean, ██████████ maybe there's a different way, you know, to say,  
13 you know, did he review the entire set of materials that were given to counsel. I'm just  
14 trying to think -- I'm just trying to think how to get to the -- I'll step back. Maybe  
15 I'll -- maybe just ask the question again. I'm sorry.

16           ██████████ Yeah, sure. And I'll ask it again, and we can work through this as  
17 we move along.

18           But we received privilege logs based on First Amendment objections as well as  
19 attorney-client objections, and so I just want to know, Mr. Klukowski, did you review  
20 those objections before the documents were provided to the select committee?

21           Mr. Greim. Yeah. And I think, guys -- ██████████ I think I will object, because this is  
22 going to the means by which we -- I mean, you know, whether he reviewed it or not is  
23 going to reveal the way that we communicate with our client and sort of the process we  
24 go through in making the production.

25           ██████████ Okay.

1           Mr. Greim. I think you could ask him whether he stands by those, but I think to  
2 then probe where he reviewed them himself or not is going too far.

3           [REDACTED] Okay. I'm fine with that.

4           Do you stand by the objections that you have submitted to the select committee  
5 in the First Amendment privilege logs and attorney-client privilege logs?

6           The Witness. Yes, I do.

7           [REDACTED] Okay. And we're going to go through some of those. The logs,  
8 for your benefit, are included in the binder as exhibit No. 22 and 23.

9           And, Eddie -- Mr. Greim, for your purposes, exhibit No. 22 is the attorney-client  
10 privilege log. Exhibit No. 23 is the First Amendment privilege log that you provided to  
11 us.

12           Mr. Greim. Okay. I didn't see those in either of the boxes. I mean, I'm sure I  
13 can pull them up in my system, but --

14           [REDACTED] Yeah, these are documents that you provided --

15           Mr. Greim. -- this is not a matter we talked about or that we [inaudible], so --

16           [REDACTED] These are the documents you produced to us, so we did not  
17 re-produce them to you today.

18           Mr. Greim. Yeah, I understand that, but it's going to take some time. I mean, I  
19 don't have all this stuff, you know, quickly at hand. I'm going to go into an online file  
20 that I can access from where I am now.

21           [REDACTED] That's fine. We're not going to go through this line by line.

22           BY [REDACTED]

23           Q Just for purposes, we are going to recall back to it, so your knowledge of  
24 what these exhibits are hopefully will help.

25           But if we do go to exhibit No. 24, this is an email that was produced to us, I'll

1 represent to you, as part of ongoing litigation, and it was produced over certain  
2 attorney-client work product and other objections.

3 The first thing I'll ask you is -- one person on this is Chuck DeVore. Do you know  
4 who Chuck DeVore is?

5 A Not to my recollection.

6 Q So the day after the election, on November 4th -- it's at the bottom of this  
7 email -- John Eastman wrote to Chuck DeVore, saying, I'm on a plane to Philly, can't call,  
8 but can do email.

9 And then Chuck DeVore responds, November 4th at 7:25 p.m., says, If Biden ends  
10 up 270 to 268, consider this. Of the 270 electors, 171 are in States that allow faithless  
11 electors. I believe that's 55 in California where there is a penalty, but you can do it  
12 anyway. Decent odds he loses one, especially if he starts deteriorating in the coming  
13 weeks under the stress.

14 Mr. Eastman then responds one email further up the chain on November 4th, at  
15 7:12 p.m., saying, So throws it to the House. How likely one of our Rep delegations goes  
16 south on us. Lots of never Trumpers there.

17 Mr. DeVore then, moving up one, responds November 4th at 6:13 p.m., saying,  
18 We may be up to 27. Iowa went from 3 to 1 Dem and might go 3 to 1 Rep.  
19 Republican, I'm assuming.

20 And then Mr. Eastman, at the very top of this email chain, on Friday, November  
21 6th, says to Mr. DeVore, I'm in a conference but can do email. Already been in touch  
22 with Ken Klukowski on the legislative override for violations of existing State law option.  
23 John.

24 Do you recall Mr. Eastman reaching out to you in this period, so before November  
25 6th and after the election, about what he calls the State legislature override?

1           A    I recall communicating with Dr. Eastman in the days following the election.  
2 I'm not sure exactly what dates.

3           Q    Okay. And tell us about the communications you had with this, that's  
4 reflected in this email, the legislature override.

5           Mr. Greim. Okay. Now, at this point, we're going to jump in. And I  
6 understand you're probably asking about a period of which we've been very clear that  
7 Mr. Klukowski was counsel on the campaign. You may be trying to argue for some sort  
8 of subject matter waiver.

9           And what we can do, [REDACTED] is we can -- you know, Mr. Klukowski can testify as to  
10 whether, you know, he was, in fact, in touch with Eastman about the subject in this email.  
11 But we are not going to use this, the fact that this email was pried loose in this other  
12 litigation, to have Mr. Klukowski testify now to everything he spoke with Mr. Eastman  
13 about, you know, while he was in the midst of working on the campaign. We just -- we  
14 can't do that.

15           [REDACTED] And what's -- if you could just, please, clearly put the basis of the  
16 objection on the record.

17           Mr. Greim. Attorney-client privilege.

18           BY [REDACTED]

19           Q    And is it your understanding that Mr. Eastman was working for the campaign  
20 between November 4th and November 6th, Mr. Klukowski?

21           A    My understanding was, when I was working as a volunteer attorney on the  
22 campaign, that my communications with Dr. Eastman during that window were when he  
23 would also have been providing legal advice to a client or prospective client, in evaluating  
24 potential legal issues and whether he would engage on the matter.

25           Q    And his client being the campaign or Mr. Trump individually as a candidate

1 for President?

2 A I was -- I can't speak to Dr. Eastman's state of mind. For my part, I was  
3 representing the President's campaign.

4 Q But you're suggesting here that you're on the same legal team, is that right,  
5 with Dr. Eastman at this period between November 4th and November 6th?

6 A What I'm saying is that any communications I would've had on that subject  
7 matter during that window would have been of a nature that, as a practicing attorney, I  
8 have with other attorneys numerous times in terms of I'm working on a matter and want  
9 to consult with another attorney who may or may not formally join the campaign, but it is  
10 a consultation in contemplation of potential representation of anticipated litigation.

11 Q Okay. So your objection is noted. I will go back to one thing that  
12 Mr. Greim raised, which was, do you remember talking to Mr. Eastman about this  
13 legislative override that's referenced in the email that I'm showing you as exhibit No. 24,  
14 between November 4th and November 6th?

15 A I do recall conversations about identifying potential legal issues that could be  
16 raised in litigation as part of a post-election challenge.

17 Q Okay. And that's somewhat different than this legislative override which  
18 would be about electors and the legislative -- based on the context of this email -- a State  
19 legislature's authority to choose electors. So do you remember discussing that, the  
20 legislative override that involves a legislature, a State legislature choosing its own  
21 electors, with Dr. Eastman in this period between November 4th and November 6th?

22 A In some of -- I was working on the campaign in Pennsylvania. To the best  
23 of my recollection, in the public filings that were made in that Pennsylvania litigation, it  
24 included a discussion of the Electors Clause.

25 Q Do you dispute --

1 A In the litigation.

2 Q I'm sorry.

3 Do you dispute that you had this conversation that Dr. Eastman references in his  
4 email of November 6th?

5 A The way he characterizes it are his words, not mine. In the litigation that  
6 was filed, I believe it was in the middle district of Pennsylvania, in the days following this  
7 timestamp, it did include, to the best of my recollection, included substantive material  
8 regarding the meaning of the Article II Electors Clause and the role of State legislatures.

9 Q Outside of litigation, this email at exhibit 24 doesn't reference litigation.  
10 Did this come up outside of litigation? I don't want to get into your discussions about  
11 litigation.

12 A I do not recall having -- I do not recall having conversations with Dr. Eastman  
13 during this window where what I was talking about was not litigation or potential  
14 litigation.

15 Q So then, there wouldn't be conversations about going directly to State  
16 legislatures and asking them to choose their own electors is what you're saying. Is that  
17 correct?

18 Mr. Greim. Well, and here's where I'm going to jump in, okay, because, you  
19 know, he can answer whether he had this discussion. I guess the problem, though, [REDACTED]  
20 that's coming out here is we don't know what John Eastman means here.

21 And so I'm afraid that by continuing to probe, did he mean this, did he mean that,  
22 did you have a conversation about this or that, it's becoming a wedge to ask about other,  
23 you know, discussions other than what he's referencing.

24 [REDACTED] Okay. The way I just understood Mr. Klukowski's answer was that  
25 he did not have conversations in this period, November 4th through November 6th, or



1 didn't recall having conversations with John Eastman about the legislative override  
2 option, outside of the litigation context, in which case there would be no privileged  
3 communications, so to speak. Is that correct? Is my understanding correct?

4 The Witness. I do not recall conversations on that subject matter that were  
5 unconnected to existing or anticipated litigation.

6 [REDACTED] Okay.

7 The Witness. I do not recall them.

8 BY [REDACTED]

9 Q Okay. All right. If we go to exhibit No. 25, this is an email that you are  
10 copied on, from a person named Coleman Hopkins, to John Eastman on November 10th,  
11 2020. Subject line is availability to chat this afternoon, evening.

12 Who's Coleman Hopkins?

13 A Coleman Hopkins is a gentleman who, I believe, served in the White House  
14 and who I believe, to the best of my understanding and belief, was also volunteering with  
15 the campaign.

16 Q You say that you believe and to the best of your understanding. He says  
17 that, Our mutual friend, Ken Klukowski. Is that not an accurate description of your  
18 relationship, was a friendship with Mr. Hopkins?

19 A Mr. Hopkins and I were not particularly close, but it was certainly a friendly  
20 relationship.

21 Q And he said that you introduced Mr. Eastman -- excuse me -- Dr. Eastman to  
22 Mr. Hopkins. Is that correct?

23 Mr. Brothers. Objection. Misstates the evidence.

24 BY [REDACTED]

25 Q All right. So what it says, Our mutual friend, Ken Klukowski, I added him to

1 the email, shared your email with me and suggested you as a potential resource.

2 Did you share your email with Mr. -- or excuse me -- Dr. Eastman's email address  
3 with Mr. Hopkins and suggest Dr. Eastman to Mr. Hopkins as a potential resource, as it  
4 says?

5 A I believe I shared Dr. Eastman's email with Mr. Hopkins.

6 Q Why?

7 A I do not recall the -- the conversations I was having with Mr. Hopkins at the  
8 time. I see how this email -- I see how this email describes -- describes it. Dr. Eastman  
9 is both a Ph.D. and a lawyer. He has expertise in statistical analysis, or at least that is my  
10 understanding.

11 I do not recall exactly what the conversation would've been in the context in  
12 which his name would've come up.

13 Q Did Dr. Eastman ask you to introduce him to somebody in the White House?

14 A Not that I recall.

15 Q Do you remember any reason that you would've had this thought to  
16 introduce Dr. Eastman to Mr. Hopkins?

17 Mr. Greim. I'm going to object here again. Suggesting to the witness that he  
18 did introduce him to Mr. Hopkins.

19 [REDACTED] I'm sorry. Connect him with Mr. Hopkins. That's fair.

20 The Witness. Could you repeat the question?

21 Mr. George. I'd be happy to.

22 BY [REDACTED]

23 Q Do you have any recollection of why you chose to connect Dr. Eastman with  
24 Mr. Hopkins around November 10th?

25 A I do not recall.

1 Q Is Mr. Hopkins an attorney?

2 A I do not know.

3 Q So you withheld this document, I understand, as an attorney-client privilege  
4 document. I believe it's on your attorney-client privilege log in an entry on page 4,  
5 dated November 10th at 4:37 p.m.

6 It says the sender is another attorney, slash, professional, to another attorney,  
7 copying you. And the reason for the -- I think the time difference is 1 hour, based on  
8 time zones.

9 Mr. Brothers. One moment, [REDACTED] You're getting -- again, if we  
10 would've had this in advance, we would've been more prepared for these questions, but  
11 because you elected not to do that, we're going to need some time for you to point us to  
12 the exact line. So if you could help with that, I'd appreciate it.

13 [REDACTED] Of course. And we did provide, obviously, the documents in  
14 advance, understanding you had the documents that you withheld, as well as the  
15 privilege logs, for some time since our original engagement. But this is on page 4 of the  
16 attorney-client privilege log.

17 The Witness. Page 4.

18 [REDACTED] Which is exhibit No. 22.

19 The Witness. Page 4, line what?

20 [REDACTED] And it's an entry dated November 10th at 4:37 p.m.

21 The Witness. 4:37 p.m. That would've been sender. So the sender would've  
22 been Mr. Hopkins and the recipient would've been Dr. Eastman.

23 [REDACTED] I will give you an opportunity, after this deposition as well, to go  
24 back through and confirm. It sounds like, to the best of my understanding, Mr. Hopkins  
25 is not an attorney. And this is helpful if there are other documents as well that are

1 relevant and that are being withheld.

2 Mr. Greim. You know, I'm going to -- I'm going to jump in here. I've been trying  
3 to pull up my own electronic version of this, and I'll -- this is my own fault because I'm not  
4 used to the complexity of our files on the system.

5 I can see our transmittal emails and I can see a draft, but I cannot see the final log.  
6 So I'm going to go mute and call my paralegal to try to help me find this on our own  
7 system. Because right now, I'm not able to follow along with the questions. So just 1  
8 second.

9 [REDACTED] And we'll put it up on the screen for you as well, Mr. Greim.

10 So this is page 4 of exhibit No. 22, and we'd be looking at the entry for November  
11 the 10th at 4:37 p.m.

12 I think you're on mute, Mr. Greim, if you're speaking.

13 Mr. Greim. Sorry. I was, yeah.

14 Okay. So 4:37, the very, very middle column, can we just scroll so I can see what  
15 that says?

16 [REDACTED] Of course.

17 The justification column?

18 Mr. Greim. No. It's the two in front -- actually, I'm going to pull up my draft  
19 log. I bet the categories are the same.

20 That's a different witness.

21 [REDACTED] While you're pulling that up, Mr. Greim, what I'll ask is for  
22 Mr. Klukowski to just tell us about your conversations with Mr. Coleman, the White  
23 House employee of Presidential Personnel, in the lead-up to the introduction -- or excuse  
24 me -- connection with Dr. Eastman.

25 Mr. Greim. And I'm just going to caution the witness here that, you know,

1 discussions with a nonlawyer can be privileged. And so if they're logistical, that's fine.  
2 If they're about what some other lawyer has tasked Mr. Coleman to do, then, you  
3 know -- and conveying legal issues, then those are privileged. And so that's the best I  
4 can do.

5 Go ahead, Mr. Klukowski.

6 The Witness. I regarded Mr. Hopkins as an agent of the campaign.

7

BY [REDACTED]

8 Q Why is that?

9 A He was actively working with the litigation.

10 Q Did you know him to be a volunteer for the campaign?

11 A It was my impression that he was volunteering time with the campaign.

12 Q Based on what?

13 A Based on there were campaign activities that he was involved with in a way  
14 indistinguishable from other volunteers.

15 Q And as a volunteer, you perceived him as an agent such that the  
16 attorney-client privilege could apply based on your discussions?

17 A For the --

18 Mr. Brothers. I'm going to object to asking the witness about his opinion as to  
19 the application of the attorney-client privilege. Once again, [REDACTED] you're  
20 wandering into the area that could implicate discussions between Mr. Greim and I and  
21 Mr. Klukowski.

22 I think if you want to discuss the basis for privilege objections, that's something  
23 that's appropriate for counsel to engage in, not something that's appropriate to put this  
24 witness on the spot about.

25 [REDACTED] Mr. Klukowski's understanding of Mr. Hopkins and his role, I think,

1 goes directly to a claim. I'm not asking for any privileged communications between  
2 Mr. Klukowski and Mr. Hopkins or Mr. Klukowski and you guys.

3 Mr. Brothers. No. That's correct. But you are doing one thing. You're going  
4 beyond asking him about his impression of Mr. Coleman's role. He answered that  
5 question.

6 Now you are inserting legal analysis by asking Mr. Klukowski if that impression to  
7 him would satisfy the legal requirements of attorney-client privilege. That is where I'm  
8 drawing the line.

9 [REDACTED] And he did assert that in his privilege log, that he was speaking with  
10 Mr. Coleman -- Mr. Hopkins, who is described as another attorney, slash, professional.  
11 So I'm trying to understand that.

12 Mr. Brothers. The log is -- again, we're getting back into this. We're not going  
13 to get into conver- -- we're not going to get into testimony under oath between you and  
14 Mr. Klukowski about the privilege log, the analysis that went behind the privilege log,  
15 when decisions were made about the privilege log.

16 [REDACTED] I'm not asking for that information. I'm asking for Mr. Klukowski's  
17 understanding of Mr. Hopkins' role on the campaign.

18 Mr. Greim. Okay. I think that's fair. I think that question's fair. Sorry to  
19 jump in.

20 The Witness. Sure. The conversations I'm referring to where I was under the  
21 impression that he was acting as a volunteer, those were conversations about the  
22 ongoing aspects of ongoing litigation.

23 [REDACTED] In theory, you could have a conversation with anybody about  
24 litigation, right? Doesn't have to be somebody who's part of the campaign necessarily.  
25 Would you agree with that?

1           The Witness.   Would I agree that it's possible for one person to have a  
2 conversation with another person about litigation that is not part of a campaign?   Yes, I  
3 think that's a correct statement.

4           [REDACTED] I do want to be careful here.   I mean, we want to respect your  
5 assertions, but it is helpful to understand Mr. Hopkins and who he is and his role as a  
6 professional or an attorney, as well as his role on the campaign.   So that is something  
7 that I will follow up with Mr. Brothers and Mr. Greim about afterwards.

8           If we could go to exhibit No. 26, please.   And this is one, Mr. Greim, that you  
9 should have from the -- what we gave you today.

10          Mr. Greim.   Yep.   Thank you, sir.

11

BY [REDACTED]

12          Q   This is an email, again, produced in ongoing litigation over -- that involved  
13 claims of various privileges and work product from somebody named Samuel Dewey to  
14 you and Mr. Eastman.   The subject is simply forward, and the attachment is  
15 Bognet.docx.

16          So who is Mr. Dewey?

17          A   Mr. Dewey is an attorney who was doing volunteer work with the campaign.

18          Q   At this point on November 17th, I understand your period of dedicated  
19 volunteer to the campaign was over.   Is that correct?

20          A   I'm not sure exactly which date.   I was on two different types of leave.  
21 First I took dedicated leave to work on the campaign, both before and after election day.  
22 Then coming back from the campaign, [REDACTED], and I was put on [REDACTED] leave.  
23 So I was again on leave from the White House.

24          I do not recall -- I do not recall the date on which my [REDACTED] leave ended and I  
25 was back on duty, though even after that point, I continued to volunteer when I was

1 outside what I referred to in my previous testimony as Hatch Act territory.

2 Q Okay.

3 A Such as on private property, outside business hours, unless I took a lunch  
4 break, et cetera.

5 Q I don't want to get in -- based on your assertions, this is a document that's  
6 on your log as being withheld as legal strategy. I don't want to get into that legal  
7 strategy, but Bognet, can you just tell me what Bognet is? And if you can do so without  
8 revealing legal strategy.

9 A Yes. Bognet was a Federal lawsuit that raised Elections Clause issues. It  
10 was being actively litigated at that time.

11 Q Understood.

12 A I believe out of the State of Pennsylvania.

13 Q Okay.

14 A So the jurisdiction that I had worked in primarily as a -- as a volunteer  
15 attorney.

16 Q Were you involved in that litigation as counsel of record?

17 A Bognet?

18 Q Yes.

19 A Not to my recollection.

20 Q Were you involved in any litigation as counsel of record in Pennsylvania?

21 A Counsel of record? Not to my recollection. Not that I recall.

22 Q If we go to exhibit 27 -- we are moving through these rather efficiently, so  
23 hopefully we won't be here all too long.

24 But exhibit 27 is an email from Mr. Eastman to you on November the 9th. The  
25 subject is motion to intervene, and the attachment is, quote, Texas v. Pennsylvania, et al.,



1 dash, Trump motion to intervene.pdf.

2 If you go to 28, that is the attachment to the email in exhibit 27. And it looks like  
3 a motion of Donald J. Trump, President of the United States, to intervene in his personal  
4 capacity in the Texas v. Pennsylvania lawsuit with counsel of record John C. Eastman.

5 Did you discuss Texas v. Pennsylvania with Professor Eastman around this time,  
6 December the 9th, 2020?

7 A I do not recall conversations with Dr. Eastman on that case.

8 Q This lawsuit raises a number of issues, but did you have any role in Texas v.  
9 Pennsylvania either with Dr. Eastman or any of the other plaintiffs, including the State of  
10 Texas?

11 A Not that I recall.

12 Q Had you discussed with Professor Eastman the idea of filing suit to four State  
13 legislators to select electors before the election in November?

14 A Did I have a conversation with Dr. Eastman prior to November 3rd?

15 Q Correct.

16 A Not that I recall.

17 Q Did you have a conversation with anybody about filing suit to four State  
18 legislators to select electors before the election, so before you were a volunteer for the  
19 campaign?

20 A Not that I recall.

21 Q If we go to page 17 of this lawsuit -- or at least the attachment -- in the  
22 prayer for relief --

23 A I'm sorry, could you repeat where I am?

24 Q Of course. Page 17. And the page numbers are at the top of this  
25 document.

1 A Yes. Yes. Thank you.

2 Q Sure.

3 A I'm there. Yes, I'm there.

4 Q All right. So in the prayer for relief, B, it says, Declare that any electoral  
5 college votes cast by such electors appointed in the defendant States -- Pennsylvania,  
6 George, Michigan, and Wisconsin -- are in violation of the Electors Clause and cannot be  
7 counted.

8 So my question is, had you discussed the idea of filing suit to, quote, declare that  
9 any electoral college votes, end quote, in States that Trump might lose, before the  
10 election? Did you have that discussion before the election?

11 A Not that I recall.

12 Q This relief, particularly in D, which is at the bottom of page 17, If any of the  
13 defendant States have already appointed electors to the electoral college using the 2020  
14 election results, direct that such States' legislatures, pursuant to statute in the  
15 Constitution, have the authority to appoint a new set of electors in a manner that does  
16 not violate the Electors Clause or to appoint no electors at all.

17 That is somewhat similar to the letter that you drafted for Mr. Clark on December  
18 the 28th and that we covered in your last deposition. Did you discuss the December  
19 28th letter that you drafted with John Eastman?

20 A Not that I recall, nor would I say that the two are similar.

21 You're referring there, if I am correct in understanding, that you're referring to a  
22 letter for Jeff Clark that was after December 14th?

23 Q Correct, yeah. So in our last meeting, we discussed the December 28th  
24 letter that you drafted for Mr. Jeffrey Clark while at the Department of Justice as a proof  
25 of concept letter to the State of Georgia, asking them to look into election-related issues.

1           A    Yeah.  Rather than call that similar, I would characterize that as  
2 fundamentally different.

3           Q    Okay.  And, obviously, this document and that document will speak for  
4 itself.  I'm not here to necessarily argue with you on the merits of that, Mr. Klukowski.

5                    Did you speak to anybody that you knew to be affiliated with the Trump campaign  
6 or Trump campaign legal team about the December 28th letter that you drafted for  
7 Mr. Clark?

8           A    Not that I recall.

9           Q    Do you know if Mr. Clark did?

10          A    Not that I recall.  Not that I know of.  Not that I can recall knowing of.

11          Q    Do you know whether Mr. Clark ever discussed filing Texas v. Pennsylvania  
12 or the relief in Texas v. Pennsylvania with Dr. Eastman?

13          A    I have no recollection of any reference being told to me about that.

14          Q    We understand that Mr. Eastman and Mr. Clark may have had at least one  
15 conversation or communication in very early January, perhaps as early as January 1st or  
16 the 2nd.  Do you remember Mr. Clark ever telling you about communications that he  
17 had with Dr. Eastman?

18          A    I do not recall being told of any such communication.

19          Q    If we can go to exhibit No. 29, please.  And just for timeline purposes, the  
20 email we just looked at where Mr. Eastman sent you Texas v. Pennsylvania motion to  
21 intervene, that was at 8:33 Mountain Standard Time, and exhibit No. 29 looks to be  
22 December the 9th, same day, at 8:37 UTC minus 7.

23          A    Yeah.  So both in the evening.

24          Q    The subject of this email in exhibit No. 29 is legislator T -- excuse  
25 me -- legislators TPs with an attachment, Congress TPs Trump electors.  That attachment

1 is at exhibit No. 30.

2 A Yes, I see it.

3 Q Why did you send this to Dr. Eastman?

4 A I do not recall -- I don't recall why it was sent. I do -- I do see it.

5 Q Do you remember sending it to Dr. Eastman?

6 A I do not recall sending it to him. I see -- I see the email record. I do not  
7 recall sending that email, but I do see the record of it here.

8 Q Do you remember talking to Dr. Eastman around this time when -- around  
9 the time he sends you a motion to intervene in Texas v. Pennsylvania and around the  
10 same time that you then sent to him these legislators TPs with the attachment in 30?

11 A I had a number of conversations with a number of individuals. I do not,  
12 sitting here in, what is this, June of 2022, I don't recall which -- which dates certain  
13 conversations or points may have been made or discussed -- or topics discussed.

14 Q Fair enough. Do you ever remember talking to Dr. Eastman about this  
15 document that you sent, or the ideas conveyed in this document, legislators TPs?

16 A I do not recall specific conversations, though I do see the substance of the  
17 document in front of me.

18 Q Okay. So let's look at the substance of it. Why did you draft this  
19 document -- or did you draft this document?

20 A I recall writing something similar to this.

21 Q Why?

22 Mr. Greim. And I'm going to jump in here. This -- the problem is this: This is  
23 a document over which we would be asserting privilege. Obviously, it's been produced  
24 by Eastman. And so we're prepared to talk about the substance of the document, in  
25 other words, you know, what has been waived, which is what's in the document, but I

1 think we are not prepared to go beyond in terms of, you know, why it was produced, who  
2 requested it, what his own thoughts and beliefs are, and other conversations that are like  
3 the document.

4 And so while we recognize that you have it now, it is privileged, and I think the  
5 questions need to be limited to the document and what's in it.

6 [REDACTED] Well, we're going to explore some of those privileges in just a  
7 minute, Mr. Greim, and point taken.

8

BY [REDACTED]

9 Q So you said you remember drafting a document like this?

10 A Yes.

11 Q Does this look like the document that you drafted?

12 A Yes.

13 Q In the summary points, this talks about Article II of the Constitution, making  
14 legislatures the final authority on Presidential electors, State law makers appoint electors,  
15 Congress accepts them.

16 In the second paragraph, below the summary points is a very short paragraph. It  
17 says, Republican legislatures should do likewise and summon Trump electors to vote on  
18 December 14th. On January 6th, Republicans in Congress should fight to count those  
19 elector certificates.

20 What is it that you're saying here, if you could just boil it down to --

21 A Sure. The "likewise" refers to the previous paragraph, the one we skipped  
22 over there. And it was to say that the relationship of -- of sections reflected in Federal  
23 law, in that this accepts, as a premise, that this is a document built on the premise that 3  
24 U.S.C. Section 1 says that States can choose -- State legislatures can choose to participate  
25 in a national election day the same day that Members of Congress are chosen; in that that

1 is the general -- that is the general and typical framework through which the legislature  
2 appoints electors for the electoral college in a Presidential election; in that the following  
3 section of Federal law, 3 U.S.C. Section 2 is Congress' recognizing the reality, not  
4 conveying the power, because it's not theirs, but to recognize that Article II empowers  
5 State legislatures that if the election process -- if a State chooses to participate in a  
6 national election day, and if the framework for that day fails on election day to produce a  
7 result, then legislatures can, if they don't want to be opted out, to miss their chance to  
8 participate in the electoral college, that then they can appoint electors in a manner that  
9 they see fit; in that this is what was reflected in various opinions in Bush v. Gore, which  
10 was decided at this time, making reference to the historical fact that the Republican  
11 legislature was debating a form of legislation, I believe but not sure, that it was a joint  
12 resolution or a concurrent resolution, where the legislature was -- would've passed a joint  
13 measure saying that the election had failed in Florida in November of 2000, and that it  
14 was the legislature's determination that George W. Bush of Texas had -- was the lawful  
15 winner of the States, I believe it was 25 electoral college votes, while that legislation or  
16 resolution -- whatever the proper term would be for it -- while that measure was being  
17 debated, that's when the Supreme Court handed down Bush v. Gore. And so the  
18 legislative action then became -- became moot. It was never brought then for a final  
19 vote.

20 And so in the following paragraph, the one that you referenced, it says that  
21 Republican legislatures, so a legislature acting in official session on a majority vote basis, a  
22 majoritarian basis, could, in advance of December 14, because Article II specifies that  
23 Congress picks the day when electors are appointed, and that under 3 U.S.C. 7, that date  
24 would've been December 14 in 2020, that legislatures could pass the same kind of joint  
25 measure, summoning Trump electors to actually be appointed on December 14, if -- if the

1 legislature determined that because of the irregularities and violations of State election  
2 law in the numbers reflected in the subsequent paragraphs, that in each of those States it  
3 was, in fact, a failed election, and, therefore, that the legislature would have the option of  
4 shifting from the 3 U.S.C. Section 1 framework, to the 3 U.S.C. Section 2 framework, so  
5 long as they acted by the day specified in 3 U.S.C. Section 7, which, again, is December  
6 14th.

7 Q Okay. Do you recall working on this document or a document like this  
8 before -- well, let me rephrase that.

9 When, to the best of your recollection, did you begin working on this document?

10 A I'm thinking through whether that is -- I'm thinking, processing through  
11 whether that is envelope information.

12 Mr. Greim. As am I. As am I.

13 You know, I think it's fair -- I think the problem is this. That question is trying to  
14 understand the campaign's legal strategy. I think it's fair -- I think it's fair to ask when  
15 this document was prepared. I think asking about how long it took to prepare it, when  
16 did it start, how many drafts did it go through, I think that is not appropriate because  
17 we're trying to get at the campaign's legal strategy.

18 [REDACTED] So this document obviously was produced to us in litigation. You  
19 can tell that from -- well, I'll just represent that to you.

20 I'll also say that this was not included on your attorney-client privilege log. It was  
21 included on your First Amendment log. So there has been no assertion, at least as far as  
22 withholding this document from the committee, on the basis of any kind of  
23 attorney-client or work product privilege, and that makes sense particularly to the  
24 committee in light of the fact that we received it through separate litigation where it did  
25 not protect the document as well.

1           Mr. Greim. Well, but we are asserting attorney-client privilege. I mean,  
2 obviously, it's been produced because -- I don't know this, but I think a judge in California  
3 found that there's a crime fraud exception. I'm not sure if that's where this was  
4 produced, but --

5           ██████████ It was not.

6           Mr. Greim. Okay. Okay. Well, nonetheless, I mean, this is a -- this is a  
7 document produced by the campaign, and I -- we can tell you that, and we assert the  
8 attorney-client privilege.

9           BY ██████████

10          Q Do you agree with what Mr. Greim just said?

11          A I don't know any aspect of that that I disagree with.

12          Q Okay. Some of the theory in here, and what you just explained in this  
13 document, is similar to the letter that you drafted for Mr. Clark on December the 28th.  
14 Do you agree with that?

15          A No.

16          Q In what ways are they different?

17          A December 14th. Congress sets the day by which electors are to be  
18 appointed. December 28 is after December 14th.

19          Q And both of those, both letter and the document we just looked at, talk  
20 about State legislatures having the authority to choose their own electors. Do you agree  
21 with that?

22          A My recollection of the December 28 letter was the authority of legislatures  
23 to convene, not whether on December 28 they had power to appoint electors after  
24 December 14.



1

2 [11:28 a.m.]

3

BY [REDACTED]

4

5

6

7

8

9

Q I will say this. The letter is at exhibit No. 2 in your binder we went over at length. On page 3, it does say that "we," meaning the Department of Justice, "share with you," in this letter, meaning the State of Georgia, "our view that the Georgia General Assembly has implied authority under the Constitution of the United States to call itself into special session for the limited purpose of considering issues pertaining to the appointment of Presidential electors."

10

A Which paragraph?

11

Q That's page 3, the bottom paragraph.

12

13

14

15

A Yes. That paragraph does not say they still had the authority to appoint new electors. It's saying they have the authority to convene to discuss the appointment of electors. That would include electors that were already appointed and could not be changed.

16

17

18

19

20

Q Okay. If we go to page 5, this letter that you drafted says, middle paragraph, "The Georgia General Assembly accordingly must have inherent authority granted by the U.S. Constitution to come into session to appoint electors regardless of any purported limit imposed by the State constitution or State statute requiring the Governor's approval."

21

Do you agree that I just read that correctly?

22

23

24

25

A Yes. And that's consistent with what I said, because I'm referring to there's no mention there to the Federal Constitution or the Federal Constitution empowering Congress to set a date beyond which electors cannot be appointed. That's only a reference to State statutes and State constitutions.

1 Q Do you see on the second line it says U.S. Constitution?

2 A No. Authority granted by the U.S. Constitution to come into session to  
3 appoint electors and that that is not limited -- that appointment process is not limited by  
4 State statutes or by State constitutions, yes.

5 Q So this document, as well as the document we were looking at before, does  
6 talk about State legislatures' authority to choose their own electors, correct, under the  
7 U.S. Constitution?

8 A It refers to their authority through the date specified by Congress, which in  
9 2020 was December 14 --

10 Q Okay.

11 A -- to appoint electors.

12 Q Okay.

13 A -- either through the national election process, if they're under 3 USC 1, or if  
14 that becomes a failed election under 3 USC 2.

15 If there is a failed election, then through December 14, through the date set by 3  
16 USC 7, they have authority to directly appoint rather than forego participation in the  
17 electoral college for that cycle.

18 Q When we met the first time, you discussed the process by which you were  
19 selected to join the Department of Justice.

20 Did conversations about State legislatures and their powers to choose electors  
21 come up at any point during your process of being selected to join the Department of  
22 Justice?

23 A Not that I recall.

24 Q It could have, though, or you just don't recall it?

25 A I do not -- normally in deposition I like to stay with "not that I recall." I will

1 categorically say I have no recollection, no inkling that there was any sort of conversation  
2 prior to the time that I was on leave and an attorney with the campaign.

3 Q Okay. And I appreciate that. And, of course, in deposition you are under  
4 oath. So if there is something that you do recall, you would have to tell us.

5 A Absolutely. So it's my standard formulation is "not that I recall," but I'm  
6 trying to be as emphatic as I can in terms of -- the first conversation I recall about my  
7 going to the Justice Department was July of 2020, the first conversation I had in terms of  
8 formally pursuing it.

9 The first conversation I had with DOJ personnel being interviewed to come over to  
10 the Department, that was in September. I believe the date of the interview was -- and  
11 that process started while Mr. Hunt, Joseph Hunt, who goes by Jody Hunt, was the  
12 assistant attorney general in charge of the Civil Division.

13 I believe by the time I was interviewed, it was September 10th, I believe it was  
14 Camellia Delaplane, if I'm recalling her name correctly, and no conversation of this nature  
15 came up at any point in that process.

16 Q Okay. So like I said before, you withheld this document on the basis of the  
17 First Amendment. It's not on the attorney-client log to the best as I can tell. And in  
18 your comments you said that this is an email regarding electors clause in democracy,  
19 parentheses, (no discussion of Vice President or Congress' role).

20 A Which communication are we speaking about now? Which document?

21 Q Thank you for clarifying. It's the document attached at exhibit No. 30.

22 A Okay. So we're on 30 now.

23 Yes. Okay. Go ahead.

24 Q And this, of course, does talk about Congress, and it says, "On January 6th,  
25 Republicans in Congress should fight to count those elector certificates."

1           A     Right.  Elector certificates that were appointed on December 14 that the  
2 legislature appointed through joint legislative action on December 14.

3           Q     So you do agree this document involves the discussion of Congress' role on  
4 January 6th?  And I'll just refer back to the second paragraph there, right in the middle,  
5 it says, "On January 6th, Republicans in Congress should fight to count those elector  
6 certificates."

7           Mr. Greim.  I mean, counsel, the document says what it says, and you can ask the  
8 witness to agree that it says those words.  But you've heard the context in which this  
9 was drafted.  This is not about alternate electors.  This is not about the issues that  
10 arose later on where people began to talk about the role of Congress.

11           ██████████ Right now I'm just focused on the representation to the select  
12 committee that this document doesn't include discussion of Congress' role.  And I just  
13 want to make sure that we're on the same page, because it does, in fact, mention, "On  
14 January 6th, Republicans in Congress should fight to count those elector certificates," and  
15 these, of course, are relevant issues to the select committee.

16           Mr. Greim.  Well, I'm trying to understand what is the point about what the  
17 document represents or what it doesn't.  I mean, it says what it says.  Why does that  
18 have a special -- I guess I'm missing the relevance of it.

19           ██████████ Yeah.  I mean, if Mr. Klukowski's objection to the select committee  
20 getting this is a First Amendment assertion with the justification that it doesn't include a  
21 discussion of the Vice President or Congress' role, issues that are core to the select  
22 committee's investigation, we just want to make sure that he understands that this  
23 document does, in fact, include that and that we would ask for a careful look of other  
24 documents being withheld on that justification.

25           Mr. Klukowski.  Congress' role in what?  I just want to make sure I --

1           ██████████ This is your assertion of the First Amendment privilege. It says,  
2 "No discussion of Congress' role." And it does, in fact, include the sentence, "On  
3 January 6th, Republicans in Congress should fight to count those elector certificates."

4           Mr. Klukowski. And that would have been responsive to what? When the  
5 committee put the role of Congress on the table, what was that referring to, alternate  
6 electors?

7           ██████████ I mean, if you're asking about the relevance, that's for the  
8 committee to determine. I'm just trying to understand the basis for your withholding.

9           Mr. Greim. Yeah, I'll just jump in here.

10           I mean, I understand -- thank you, ██████████ -- I understand the last point you  
11 made. However, this is not -- the question of Congress' role came into play when it  
12 turned out that legislatures did not call anyone back, did not call electors in, and there  
13 were no alternate electors that were chosen in that manner.

14           And so this is prospective, this is before December 14th had come and gone, and  
15 this is about a role that Republicans in Congress could have had, but ultimately did not.

16           I mean, so I don't think this is -- I understand it has the words Republicans in  
17 Congress on January 6th, I understand that, but it's not relating to the situation that  
18 actually occurred, that was actually presented, and that the committee's actually  
19 investigating. So I think we have a disagreement on that.

20           ██████████ I hear what you said. The committee's investigation obviously is  
21 not entirely public. And so I will say that the committee's determination of relevance is  
22 different than what your understanding seems to be, Mr. Greim. So I'm just trying to  
23 make sure that I understand the basis for withholding in the First Amendment context,  
24 particularly this document that's now been produced to the committee.

25           But that's something I'm happy to take up with you and Mr. Brothers afterwards

1 as well to understand these assertions.

2 Mr. Greim. Okay. I mean, I can't say it any better than I just did. But in our  
3 view, this is not -- I mean, this is describing a scenario that never took place.

4 And so I just don't -- I don't understand how that's within the purview of what  
5 the -- the committee's investigating what did take place. I'm sorry. I'm wasting time.  
6 Go on ahead.

7 [REDACTED] No. That's okay. I do want to get on the record your objection  
8 to talking about this, though. Is it a relevance objection that you're making?

9 Mr. Greim. No. I mean, I'm addressing -- I mean, look, we've said that he can  
10 talk about what's in the memo. You've got it, we've said he can talk about it.

11 My objection is moving beyond the memo, and the objection is attorney-client  
12 privilege and First Amendment objection.

13 And so everything we were just talking about was one prong of your attempt to  
14 show relevance to get around the First Amendment privilege.

15 [REDACTED] And I'm not --

16 Mr. Greim. But you can go fully into what's talked about in this memo.

17 [REDACTED] I'm not trying to show relevance. At this point, we've talked about  
18 this memo. I'm trying to understand the withholdings from the select committee of  
19 relevant documents, particularly where the explanation is that there's no mention of  
20 Congress.

21 But that is something I'd be happy to address with you after this as well.

22 BY [REDACTED]

23 Q Did you ever show this document to Jeffrey Clark?

24 A Not that I recall.

25 Q Did you ever discuss the contents of this document or the theories in this

1 document with Jeffrey Clark?

2 A Not that I recall. My conversations with Mr. Clark that I can recall are all  
3 after December 14, after that memo would have become moot.

4 Q And your conversations about this included your discussion about the letter  
5 you drafted on December 28th for Mr. Clark, the Georgia letter.

6 A If I understand your question correctly, yes, I do not recall any mention of  
7 this memo pertaining to what could happen on December 14. I recall no mention of  
8 that in any discussion that we had on December 28th.

9 Q One of the things that Mr. Greim just mentioned is this idea about alternate  
10 electors meeting and casting votes in States that President Trump had lost.

11 Were you aware of that effort to have alternate electors, the Republican electors,  
12 meet and cast votes in any State that Trump had lost?

13 A Electors that had not been appointed by the legislature?

14 Q Correct.

15 A No, I do not recall any conversation up to that time on that.

16 Q Up to what time?

17 A It is, as I referenced in my -- the first part of this deposition, on the previous  
18 date, I did become aware at some point later in December that, in fact, on December 14,  
19 which was then in the past, that individuals had gotten together and executed papers  
20 that they claimed were electoral college certificates, but I became aware of that at some  
21 date in the future.

22 I had no knowledge, I don't recall any conversation or recall having any awareness  
23 of that either before December 14 or on December 14. It was some point after  
24 December 14.

25 Q Do you remember ever discussing those alternate electors after

1 December 14th with John Eastman?

2 A Not that I recall. I do not recall discussing those.

3 Q Do you remember discussing those alternate electors after December 14th  
4 with Jeff Clark?

5 A Give me a moment. I'm thinking through conversations here.

6 Q Of course. Take your time.

7 A I do believe at some point in the day on December 28 I did discuss with him  
8 what had happened in Hawaii in 1960 that we discussed in the first part of my  
9 conversation. So it would have been relevant -- it would have been relevant to that  
10 conversation point at that time, that Hawaii -- and I understand DOJ has waived all  
11 privilege regarding -- I can just answer.

12 Acknowledged the historical fact about it and that, if I recall correctly, and I'm  
13 trying to be as forthcoming as I can, if I recall correctly, that I had found no case law  
14 support to support the effectiveness of what had been done in 1960.

15 So it had happened as a historical fact and that Vice President Nixon had not  
16 objected to it, but that there was -- but that I did not identify any legal authority saying  
17 that those pieces of paper would have any constitutional empowerment.

18 Q What was Jeff Clark's reaction to that?

19 A I don't recall if he reacted at all.

20 Q Do you remember --

21 A Nor do I recall precisely how I phrased it, if it's -- if it's -- you know, it's we  
22 just spent a few seconds on Hawaii. I don't recall what my word choice was and I don't  
23 recall anything about the substance of his reaction or whether he reacted at all.

24 Q Did Jeff Clark ever mention anything to you about using -- let me start over.

25 Did Jeff Clark ever mention anything to you about the fact that these alternate



1 slates of electors might be used on January the 6th even if a legislature or a court hadn't  
2 ratified or adopted them?

3 A Not that I recall. Can you repeat it again, because I want to make sure I'm  
4 listening to every aspect of what you're saying? I'm saying not that I recall, but ask it  
5 again.

6 Q Okay. And I'll try to do my best to repeat it.

7 But do you recall any conversations with Jeff Clark about using or anybody using  
8 these alternate slates of electors on January 6th even if they had not been ratified by a  
9 State legislature or adopted by a court?

10 A I do not recall such an exchange.

11 Q How about any use of the alternate slate of electors on January 6th? Do  
12 you have any conversations with Jeff Clark about that?

13 A Not that I recall.

14 Q Did you discuss after December 15th, when you started at the Department  
15 of Justice, alternate electors with anybody from the President's campaign or personal  
16 legal team?

17 A Discussed the idea that alternate electors could be inserted into the mix and  
18 impact? Not that I recall.

19 Q Just relevant at all, that somehow these alternate slates of electors --

20 A Would be relevant to the outcome of the 2020 election?

21 Q Correct.

22 A Not that I recall.

23 Q So you don't remember having conversations with anybody from the  
24 President's personal legal team or campaign legal team about alternate electors after?

25 A Not that I recall.

1 Q Okay. I'll go to exhibit No. 31. This is a December 28th email, again,  
2 produced to us in litigation over -- that included claims of various privileges and work  
3 product assertions.

4 This is from a person named Edward Corrigan and Connie Hair, copying both you  
5 and Mr. Eastman, from Ken Blackwell. This subject is, "VP briefing on January 6th, 2021,  
6 meeting."

7 First, I'll ask you, who is Ed Corrigan?

8 A Ed Corrigan is, to the best of my knowledge, a private citizen who works here  
9 in Washington, D.C.

10 Q Do you have any kind of friendly or professional relationship with Mr.  
11 Corrigan?

12 A I would say that we are friends.

13 Q Did you work on issues related to the November 2020 election together?

14 A I do not recall working with Mr. Corrigan on the election.

15 Q And Connie Hair, we went over last time, is Mr. Gohmert's chief of staff, at  
16 least at the time. Is that correct? That's what you understood?

17 A Yes. Correct. That was and is my understanding.

18 Q John Eastman, we've been talking about him.

19 And who's Mr. Blackwell?

20 A Mr. Blackwell is a friend of mine and a former elected official and former  
21 presidentially appointed official, previous administrations.

22 Q In this email Mr. Blackwell says, "As I stated last week, I believe the Vice  
23 President and his staff would benefit greatly from a briefing by John and Ken."

24 Did you have a conversation in the week before this email with any of these  
25 participants about briefing the Vice President?

1           A    I do not recall having a conversation with any of these individuals about  
2 briefing the Vice President.

3           Q    Do you remember Mr. Blackwell saying anything about the Vice President's  
4 role on January the 6th at any point after December 15th?

5           A    I do not recall conversations with Ambassador Blackwell on that topic.

6           Q    And conversations, to be clear, would include any communications,  
7 meetings, text messages, phone calls. You don't remember any of those things with Mr.  
8 Blackwell about the Vice President?

9           A    I see this email right here and I do not recall any communications other than  
10 this email. I don't recall being consulted beforehand about this. I do not recall any  
11 subsequent action that took place.

12           I will say emphatically, even though I'm saying not that I recall, I do not recall ever  
13 briefing the Vice President or members of his -- or, like, his legal counsel or chief of staff  
14 or, you know -- I do not recall any such briefing or meeting taking place.

15           Q    Do you remember ever hearing after December 15th about the idea that  
16 somebody should brief the Vice President about what could happen on January the 6th?

17           A    So many people were saying so many things in the media and in news  
18 reports and in rooms with bunches of people where I might be at some point. I do not  
19 recall that point being made at any given point.

20           Q    Okay. So this email, in the first sentence it says, "As stated last week, I  
21 believe the Vice President and his staff would benefit greatly from a briefing by John and  
22 Ken."

23           You don't remember anything about conversations --

24           A    Yeah.

25           Q    -- about briefing the Vice President with you and John Eastman?

1           A     In whatever communication is being referenced in that first clause where it  
2     says, "As stated last week," I have no recollection of anything happening. I mean, this is  
3     December 28. So I have no recollection of anything in whatever that window would be,  
4     December whatever to whatever. What that's referencing there, I have no recollection  
5     about what that would be.

6           Q     Did you ever speak to John Eastman about him potentially briefing the Vice  
7     President or after briefing the Vice President what he discussed?

8           A     I do not -- I'll answer those as separate questions. I do not recall anything  
9     pertaining to the former, nor do I recall him ever telling me that he briefed the Vice  
10    President.

11          Q     Mr. Blackwell said in the next line, "As I also mentioned, make sure we don't  
12    overexpose Ken given his new position." At that point, you had only a week or two  
13    before joining the Department of Justice.

14                Do you know what Ken Blackwell's concerns were with you and your new  
15    position?

16          A     I do not know. It is -- I do not know. I don't know what he is referring  
17    there. I had made known in my friend circles, which would include Ambassador  
18    Blackwell, that I was looking forward to joining the Department and that once I was there  
19    I would be in a fundamentally different role. I saw myself as a straight G-man and just  
20    seeking to get some respectable DOJ litigation credentials under my belt before I went on  
21    to the private market in January 20 looking for a job.

22                So I had told everyone that I thought I was moving on from campaign-related  
23    activity, because I was going to keep my head down and focus on my government job.

24                I don't recall specific conversations, but I said them to so many people so many  
25    times that I would be confident that the ambassador was in at least one of those

1 conversations.

2 Q Do you know why Mr. Blackwell would suggest that you and John Eastman  
3 brief the Vice President?

4 A I do not. I do not know. Ambassador Blackwell has frequently  
5 recommended me for, like, my Federal judicial clerkship. He was one of my  
6 recommenders for that. So he is -- he has frequently recommended me for things.

7 He and I did publish a law review article more than a decade prior, Yale Law and  
8 Policy Review, about voting rights. And he and I had worked on election law issues  
9 through the years. And we had done so both as legal academic scholars and in active  
10 litigation.

11 So I believe he regards me -- he has described me to other people as an election  
12 law expert and as a constitutional law expert. So that that is -- that is the background.  
13 But I don't know with regards to this specific assertion. So I'm obviously trying to be as  
14 forthcoming as I can.

15 Q Do you know why he would recommend you to talk about the Vice  
16 President? And the context of this to me suggests it's about the joint session.  
17 Obviously, it doesn't state that. But what about your qualifications makes you the  
18 person to brief a Vice President?

19 A I do not know and I do not recall sharing my views with him regarding what  
20 the Vice President could do on January 6th. I do not know exactly -- I did not know at  
21 the time what Dr. Eastman's views were of it, the views that were later -- that later came  
22 to light in that memo that we discussed in my earlier deposition.

23 If he was aware of both of our views -- and, again, I don't recall having a  
24 conversation with him on it -- but if he was aware of both of our views, then he would  
25 have known that we had very different views regarding January 6th. So I don't know if

1 he would have wanted the Vice President to hear different perspectives.

2 Q And when you say very different views, what do you mean?

3 A I know it came up earlier in my deposition that I expressed -- that I did not  
4 express support for what Dr. Eastman said in his memo and that I had explained the  
5 positions I had pressed or that I was supportive of with the Department of Justice in  
6 terms of filing a motion to dismiss in litigation that was seeking to implement something  
7 in that vein.

8 So I've recounted the historical facts of my activities related to those things that  
9 I've been cleared to do.

10 To go from that to discussing what my personal views are on the underlying legal  
11 issues, I would see that more as asking for my expert opinion than asking a fact question.

12 Q You just said that perhaps the Vice President might benefit from having  
13 different views between you and John Eastman, and so I guess I'm trying to understand --

14 A No, no. You had asked me why Ambassador Blackwell might have  
15 mentioned my name.

16 Q Right.

17 A And I made clear that I didn't recall even conversations and that I was trying  
18 to be as forthcoming as possible in terms of teeing up. But it's -- for that matter I  
19 shouldn't even -- I shouldn't speculate regarding -- I guess it's -- I'm trying to be helpful,  
20 but it's, I guess, if I'm a fact witness, I just won't -- I won't speculate.

21 Q Okay.

22 Mr. Greim. And I let the witness go on at great length. You know, the  
23 committee's here for facts and not speculation. So you've said it yourself. I'll pass  
24 back out.

25

BY 

1 Q Did Ms. Hair -- I guess -- let me start over.

2 Did you ever talk to Ms. Hair about sensitivities about your situation with the  
3 Department of Justice and being able to do things like briefing the Vice President?

4 A Well, those are two separate questions. Let's break those out.

5 I have no recollection of anything pertaining to the Vice President. I referenced  
6 in my earlier conversation that I wasn't sure what I spoke with her about on the phone  
7 record that we saw on December 28. And I told you that while I couldn't recall the exact  
8 conversation, that I would be -- that to the best of my recollection the substance was that  
9 now that I know there is litigation here with the United States as an adverse party, that I  
10 should not be communicating about this.

11 And so I don't recall if that was a, "You can't be calling me on this. I can't be  
12 answering your questions. Don't email me things. Make sure I'm not copied on things.  
13 I can't have any part of this." I don't know what was conveyed in that phone call.

14 But I do know that was the fact of the matter, is that I'm now seeing that I had  
15 just -- I was seeing something indicating to me that I was in an adverse position and so I  
16 just shouldn't be having communications on this.

17 I do not recall what I conveyed or how I conveyed it.

18 Q So this email is on the same date as the email you received from Ms. Hair --

19 A Yes.

20 Q -- about Gohmert v. Pence?

21 A Yes.

22 Q Was there any connection between what's being suggested in this email and  
23 Ms. Hair sending the Gohmert v. Pence lawsuit to you?

24 A Not that I know of. Not to my knowledge.

25 Q Were you surprised by this? I mean, somebody's suggesting to you that

1 you're going to brief the Vice President and it sounds like you wanted nothing to do with  
2 that. Do you remember being surprised or pushing back?

3 A I recall being surprised when I saw the email. I don't recall whether I  
4 responded at all or if it was I just need to be totally, you know, I need to be a hole in the  
5 water on this.

6 I can't remember that I responded at all. I could well have just been, "I'm not  
7 even going to reply to say stop. It's just nothing. And if someone calls me, tell them  
8 we can't have this phone conversation, get off the phone."

9 So I do not recall responding on this.

10 Q You said you were surprised, though. What specifically do you recall being  
11 surprised about?

12 A I'm surprised, given that I would be at the Department of Justice, that it's  
13 just -- that's just not the kind of thing that I saw as consistent with the role I was having  
14 for our limited remaining weeks in the administration, that I was just being a straight  
15 G-man lawyer, and that for me things pertaining to the 2020 election were just for me  
16 that they were done, that it was -- that I have a job description now and I had a full plate,  
17 and that there was not a role to be in ongoing efforts regarding the aftermath of the 2020  
18 election, that that wasn't what I was doing -- with the glaring item there of Mr. Clark  
19 having tasked me with helping in the drafting of a letter to write out points on that  
20 subject matter that he dictated be written. But that that was nothing that I volunteered  
21 for or that I was voluntarily engaging in.

22 Q So --

23 Mr. Greim. [REDACTED] I'm sorry to jump in here, but we've been going -- I  
24 know we've had some discussions with counsel, but we have been going now for quite a  
25 while straight. Can we take just a short break to let the witness walk around and drink



1 some water, go to the bathroom, or are you, like, almost done?

2 [REDACTED] We're getting to be done here and I do want to finish just a line of  
3 questioning. I'm happy with a quick break in a few minutes, though.

4 Mr. Greim. Okay.

5

BY [REDACTED]

6 Q I do want to draw your attention, in front of you is a transcript of your prior  
7 testimony.

8 And, Mr. Greim, for your benefit, I believe you still have access to it, but I'll also  
9 read the portion that I want to ask Mr. Klukowski about.

10 If you turn to page 118, starting on line 23. This is a conversation that we were  
11 having about Ms. Hair. And you said, starting on line 23, "When we do see each other  
12 it's, 'Hi, how it's going?' And it's genuine. But we're not, like, in regular  
13 communication or work on things."

14 So my question for you is, this is now the second email from the 28th about the  
15 election -- or seemingly about the election, at least on its face -- that you received from  
16 Ms. Hair. And to a layperson it could suggest that you were, in fact, working on things  
17 together. So --

18 A One moment. Let me --

19 Q Yeah.

20 A Stand by one moment. I'll let you know when I've reviewed this. I'll let  
21 you know as soon as I'm done. It looks like we went on at great length on this.

22 Okay. I think -- we went on for quite some length, and I think I've got the  
23 exchange in terms of the prior part of the deposition.

24 Go ahead, sir.

25 Q Okay. So if we look at page 118 of your prior deposition transcript, lines

1 23, talking about Ms. Hair, you said, "When we do see each other it's, 'Hi, how's it going.'  
2 And it's genuine. But we are not, like, in regular communication or work together on  
3 things."

4 A Yes.

5 Q So my question for you in light of that is that on December 28th we know of  
6 at least these two emails that included Ms. Hair about the election in particular. So  
7 were you working on issues related to the election with Ms. Hair?

8 A Not that I recall.

9 Q Do these emails, seeing them, this, and the fact that you got the Gohmert v.  
10 Pence lawsuit from her the same day and you discussed at length your communications  
11 with her on the 28th, refresh your recollection as to what you were doing with Mrs. Hair  
12 around that time?

13 A No. I do not believe I was doing -- to the best of my recollection, I had not  
14 seen Mrs. Hair during any of my time at DOJ. I'm not sure how long it had been even  
15 prior to that since I had seen her.

16 Q And you said you weren't in regular communication. So were both of these  
17 kind of news to you, out of the blue, all of a sudden Ms. Hair pops up twice in one day?

18 A To the best of my recollection, yes.

19 Now, obviously, that's not -- those are not two isolated things. Someone  
20 mentioned my name to her. So, I mean, it's -- there's content from the communication  
21 we just looked at indicating that there were other conversations going on, conversations  
22 that I have no recollection being a part of.

23 Q When you spoke to Ms. Hair on the 28th, did she raise this idea about  
24 somebody briefing the Vice President, potentially you?

25 A Not that I recall.

1 Q Were you ever, in fact, asked to brief the Vice President?

2 A Not that I recall.

3 Q Do you think that's something you'd remember, if you had to brief the Vice  
4 President about something?

5 A I'm trying not to speculate, but I think it'd be hard for me to forget being  
6 asked to brief someone of that high of rank.

7 Q Did you help prepare any materials or information that were used to brief  
8 the Vice President or intended for use to brief the Vice President?

9 A Not that I recall.

10 Q You mentioned earlier that Mr. Eastman may have had a differing view on it  
11 than you and, of course, he sent you on January the 3rd a short two-page memo that we  
12 discussed in the prior deposition.

13 Do you recall receiving that from Mr. Eastman?

14 A I recall what we previously discussed a number of months ago about that,  
15 that's reflected in the deposition here.

16 Q Okay. Fair enough. And were you at the time -- so this is now  
17 December 2020, January 2021 -- aware of Mr. Eastman's views on what the Vice  
18 President could or couldn't do at the joint session?

19 A I do not recall being aware of those views prior to seeing that memo. I  
20 recall being surprised by -- yeah.

21 Q And you have no recollection or understanding of why Mr. Blackwell would  
22 want -- suggest that you brief the Vice President with John Eastman, who eventually did  
23 brief the Vice President and said that he had the authority to not count certain electoral  
24 votes or even delay the session?

25 A No. I do not know and it would be speculation. All I know is the historical

1 pattern of how frequently he has recommended me -- recommended me for the  
2 administration, recommended me for my clerkship, recommended me for an adjunct  
3 faculty position -- there's a long list over the years of things that the ambassador has  
4 recommended me for.

5 Q And when you say "he" and "the ambassador," you're referring to Mr.  
6 Blackwell?

7 A Ambassador Blackwell, correct.

8 Q So do you recall having any conversations with John Eastman about the joint  
9 session of Congress after December 15th, 2020?

10 A I do not recall any such conversation.

11 Q Do you remember discussing the joint session of Congress with any of these  
12 people -- Edward Corrigan, Connie Hair, Ken Blackwell -- after December 15th, 2020?

13 A I do not recall such conversations.

14 Q So they could have happened, you just don't recall them?

15 A Someone like Mrs. Hair I don't see often. People like Ambassador  
16 Blackwell and Mr. Corrigan, we're at the same Christmas parties, we're at the same  
17 cocktail hours. I mean, we're together an awful lot of places. And at events of that  
18 nature, upcoming big events are frequent topics of conversation.

19 I do not recall being part of any such conversation during that window.

20 Q Do you remember ever discussing with Ms. Hair Representative Gohmert  
21 objecting at the joint session?

22 A I do not recall such a conversation.

23 Q Do you remember talking to Ms. Hair about any objections during the joint  
24 session?

25 A I do not recall such a conversation.

1 Q Did you know in this period, around December 2020 and January 2021, that  
2 John Eastman was, in fact, going to brief the President or the Vice President about the  
3 joint session?

4 A I do not recall being told that regarding either POTUS or VPOTUS.

5 Q How about any White House staff, including the President's staff or the Vice  
6 President's staff?

7 A I do not recall being told about such a briefing.

8 Q And my question specifically would be whether you were told about the  
9 briefing or an intended briefing beforehand or after the fact of it occurring?

10 A Yeah, I do not recall any such conversation.

11 Q Originally, this document you withheld as being about an email regarding  
12 scheduling and logistics of a private meeting. Would you characterize a meeting with  
13 the Vice President to brief him as a private meeting?

14 A Well, it would not be a public meeting. So by principle of noninclusion, I  
15 think that -- I think someone could characterize the default alternative as a private  
16 meeting.

17 Q But a meeting with the Vice President, a meeting with a government official  
18 about the joint session of Congress, a public event, that's still in your mind a private  
19 meeting?

20 A It is not a public meeting.

21 Q Are you friendly with the Vice President?

22 A I have met the Vice President at points in the past. We do not have what I  
23 would call any sort of interpersonal relationship.

24 I don't even know if he would know my name if he were to see me. He might  
25 recognize a familiar face. I would not count on him to even remember my name.

1 [REDACTED] I do just want to ask a couple more people.

2 If you want to take a quick, I think we maybe have 15 or 20 minutes left. So we  
3 can power through or take a quick break. It's entirely up to you.

4 Mr. Greim. Well, why don't we take a very quick break?

5 [REDACTED] Sure. Absolutely. And just as a reminder before we go that this  
6 camera will stay on.

7 Mr. Brothers. Can [REDACTED] take us back to that empty room?

8 [REDACTED] That's fine with me. And maybe we'll reconvene then in  
9 7 minutes, 12:30, or 10 minutes, 12:33?

10 Mr. Brothers. Let's just do ten. I like round numbers.

11 [REDACTED] We'll go off the record.

12 [Recess.]

13 [REDACTED] Let's go back on the record. It's 12:34, and we're resuming the  
14 deposition of Mr. Ken Klukowski.

15 BY [REDACTED]

16 Q Just a few follow-ups.

17 Are you familiar with a person named Ken Chezbro (ph) or Cheesebro (ph),  
18 depending on how you pronounce it?

19 A How is it spelled?

20 Q C-h-e-s-e-b-r-o.

21 A I have no recollection of ever seeing or hearing that name.

22 Q Okay. Do you know an individual named Mark Martin?

23 A Mark Martin?

24 Q Correct. Former North Carolina Supreme Court judge.

25 A I have no recollection of a person by that name.

1 Q How about James Troupis, T-r-o-u-p-i-s?

2 A I do not recall ever meeting a person by that name.

3 Q Okay. Not necessarily meeting, but talked with them, communicated with  
4 them?

5 A No. I am unaware of any communication I had with someone of that name,  
6 by that name.

7 Q And just I'll represent to you that Mr. Chesebro is somebody who also was a  
8 lawyer doing work with the campaign in the post-election period. I believe he was  
9 based out of, at least for part of the time, Boston, Massachusetts.

10 Does that refresh your recollection?

11 A No. It -- no.

12 Q Okay. Do you know who Ginni Thomas is?

13 A Yes.

14 Q Who do you know her to be?

15 A Ginni Thomas is a prominent figure in the conservative movement and the  
16 wife of Justice Clarence Thomas.

17 Q Did you have any communications with her after the election,  
18 November 3rd, 2020, up and through January 20th, 2021?

19 A I do not recall any substantive communication. We end up at a lot of the  
20 same Christmas parties and whatnot. So I do not recall any conversations with her, but I  
21 could easily have seen her during that time and exchanged pleasantries at some sort of  
22 social event like a Christmas party. I have no recollection.

23 Q Fair enough. And we're not so interested in those pleasantries.

24 A Right. Absolutely. I just want to make clear I'm being very forthright with  
25 you in my answer.

1           Q    Yes. I appreciate that. So just for clarity in the record, do you recall ever  
2   having any conversations about the 2020 election with Ms. Thomas after the election?

3           A    I do not recall such a conversation.

4           Q    Do you remember any conversations you had with Ms. Thomas about the  
5   joint session of Congress?

6           A    I do not recall any such conversation.

7           Q    Earlier, before we broke, I asked you about any briefings that you're aware  
8   of for the Vice President or the President. And just to be clear, did you ever discuss or  
9   communicate with any White House staff about the joint session of Congress?

10          A    Not that I recall.



1

2 [12:37 p.m.]

3

BY [REDACTED]

4

Q How about the Vice President's staff? Same question.

5

A Not that I recall.

6

7 Q And given your role, do you think you'd remember if you were to brief the  
8 White House staff or Vice President's staff about the Joint Session of Congress after the  
9 election?10 A If it were a meeting in something like the Oval Office, I think I would recall  
11 something like that. It's -- it's -- I'm not going to speculate regarding my recollection,  
12 but certainly if it was something -- if it was the kind of moment you'd think you'd have a  
13 photographer present for to capture, that would be something I would expect to  
14 remember.15 Q Is there anything that you've said today that you'd like to go back and  
16 change or amend before we break?

17 A Not that I think of at this time.

18 [REDACTED] Okay. Is there anything else that you, Mr. Brothers, or you,  
19 Mr. Greim, would like to put on the record before we break?20 Mr. Brothers. Nothing from me.21 Mr. Greim. No.22 [REDACTED] Okay. Then at this time, we are going to leave the deposition  
23 open, subject to the call of the chair, in order to work through some of the objections that  
24 we've discussed today, and mainly those that were asserted on the privilege logs for First  
25 Amendment and attorney-client privilege reasons. But other than that, I think we're  
done, and we can go off the record.

1           [Whereupon, at 12:39 p.m., the deposition was adjourned, subject to the call of  
2   the chair.]

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Certificate of Deponent/Interviewee

I have read the foregoing \_\_\_\_ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

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Witness Name

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Date