

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

KENNETH JOHN CHESEBRO;
SIDNEY KATHERINE POWELL, et al.
Defendants.

CASE NO.

23SC188947

**PETITION FOR CERTIFICATE OF NEED FOR TESTIMONY BEFORE
CRIMINAL PROSECUTION PURSUANT TO THE UNIFORM ACT TO SECURE THE
ATTENDANCE OF WITNESSES FROM WITHOUT THE STATE**

COMES NOW the State of Georgia, by and through Fani T. Willis, District Attorney, Atlanta Judicial Circuit, Fulton County, Georgia, and petitions this Honorable Court for a Certificate of Need for Testimony Before a Criminal Prosecution Pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without the State, pursuant to O.C.G.A. § 24-13-90 et seq., and in support thereof says as follows:

1. The above-styled matter is a criminal prosecution currently pending and specially set for trial beginning October 23, 2023 in the Superior Court of Fulton County, Georgia.
2. Defendant Kenneth John Chesebro is charged with one count of Violation of the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act, one count of Conspiracy to Commit Impersonating a Public Officer, two counts of Conspiracy to Commit Forgery in the First Degree, two counts of Conspiracy to Commit False Statements and Writings, and one count of Conspiracy to Commit Filing False Documents.
3. Defendant Sidney Katherine Powell is charged with one count of Violation of the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act, two counts of Conspiracy to Commit Election Fraud, one count of Conspiracy to Commit Computer

Theft, one count of Conspiracy to Commit Computer Trespass, one count of Conspiracy to Commit Computer Invasion of Privacy, and one count of Conspiracy to Defraud the State.

4. Washington, D.C. resident Boris Epshteyn is a necessary and material witness to the proof of the State's case, specifically as to Defendant Sidney Powell's culpability and Defendant Kenneth Chesebro's culpability.
5. Boris Epshteyn is known to be affiliated with both former President Donald Trump and the Trump Campaign.
6. Boris Epshteyn served as an aide to the Trump Campaign in the weeks following the November 2020 election.
7. On November 19, 2020, at a press conference with co-defendants Rudolph Giuliani, and Jenna Ellis and coconspirator Boris Epshteyn, Sidney Powell claimed that there was an algorithm on the Dominion voting machines that could "take a percentage of votes from President Trump and flip them to President Biden." She further went on to say that it was not only the "swing states" that were affected but that "the algorithm was likely run across the country to affect the entire election."
8. On December 13, 2020, Kenneth Chesebro sent an e-mail to co-defendant John Eastman with a memorandum titled, "PRIVILEGED AND CONFIDENTIAL – Brief notes on "President of the Senate" strategy. The memo was requested by Boris Epshteyn on behalf of co-defendant Rudy Giuliani and discussed methods to disrupt and delay the January 6, 2021 joint session of Congress.
9. On December 23, 2020, co-defendant John Eastman sent an e-mail to Kenneth Chesebro and Boris Epshteyn acknowledging that Kenneth Chesebro had edited a

draft of a document titled “PRIVILEGED AND CONFIDENTIAL – Dec 23 memo on an 6 scenario.docx.” This document discussed methods to disrupt and delay the January 6, 2021 joint session of Congress.

10. On January 1, 2021, Kenneth Chesebro sent an e-mail to co-defendant John Eastman and Boris Epshteyn titled “Filibuster talking points” discussing methods to disrupt and delay the January 6, 2021 joint session of Congress.
11. The facts and allegations described above form the basis for Acts 3, 70, 94, 109, 144, 145, 146, 147, 148, 149, 155 of Count 1 and Counts 9, 11, 13, 15, 17, 19 of this indictment.
12. Boris Epshteyn will provide evidence to the jury of Sidney Powell’s involvement in the conspiracy, including, without limitation, as it relates to her appearance at the press conference on November 19, 2020.
13. Boris Epshteyn will also provide evidence to the jury of Kenneth Chesebro’s involvement in the conspiracy, including, without limitation, as it relates to his communication with co-defendants John Eastman and Rudy Giuliani regarding the attempt to disrupt and delay the January 6, 2021 joint session of Congress.
14. Boris Epshteyn, based on the information set forth above, is a necessary and material witness. He possesses unique knowledge concerning communications between himself and Sidney Powell as well as communications between himself and Kenneth Chesebro and other known and unknown individuals involved in the multi-state, coordinated efforts to influence the results of the November 2020 election in Georgia and elsewhere.

15. The testimony of Boris Epshteyn will not be cumulative of any other evidence in this matter.
16. Boris Epshteyn resides outside the jurisdiction of this Honorable Court and is therefore unable to be served with process to compel attendance and testimony.
17. Boris Epshteyn currently resides in Washington, D.C.
18. Boris Epshteyn will be required to be in attendance and testify before the trial in this matter commencing on October 23, 2023. It is not known at this time which specific date he will be called by the State as a witness as a jury has not yet been sworn and the presentation of evidence has not yet begun. The District Attorney reasonably anticipates that Boris Epshteyn's testimony will not exceed one day.
19. The Office of the Fulton County District Attorney, in and for the State of Georgia, will pay all reasonable and necessary travel expenses and witness fees required to secure Boris Epshteyn's attendance and testimony, in accordance with the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. *See* O.C.G.A. §24-13-90 et seq.
20. If Boris Epshteyn comes into the State of Georgia pursuant to this request, directing him to attend and testify in this criminal prosecution, the laws of this State shall give him protection from arrest and from service of civil or criminal process, both within this State and in any other state through which he may be required to pass in the ordinary course of travel, for any matters which arose before his entrance into this State and other states.

21. Both Georgia and the District of Columbia have adopted the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. *See* O.C.G.A. § 24-13-90 et seq.; D.C. Code § 23-1501 et seq.

WHEREFORE, the State of Georgia, by and through Fani T. Willis, District Attorney, Atlanta Judicial Circuit, Fulton County, Georgia, prays that this Honorable Court issue a Certificate of Need for Testimony Before a Criminal Prosecution Pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without the State, pursuant to O.C.G.A. § 24-13-90 et seq., certifying to the proper authorities in the jurisdiction in which Boris Epshteyn is located that Boris Epshteyn is a necessary and material witness whose attendance and testimony is required for the above-referenced criminal prosecution, and the presence of Boris Epshteyn will be needed for the number of days specified above,

Respectfully submitted this the 3rd day of October, 2023,

**FANI T. WILLIS
DISTRICT ATTORNEY
ATLANTA JUDICIAL CIRCUIT**

/s/Grant Rood
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