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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: CLETA MITCHELL

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15 WEDNESDAY, MAY 18, 2022

16

17 Washington, D.C.

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20 The deposition in the above matter was held via Webex, commencing at 10:19

21 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 INVESTIGATIVE COUNSEL

9 [REDACTED], INVESTIGATIVE COUNSEL

10 [REDACTED], PROFESSIONAL STAFF MEMBERS

11 [REDACTED], INVESTIGATIVE COUNSEL

12 [REDACTED], SENIOR COUNSEL TO THE VICE CHAIR

13 [REDACTED], STAFF ASSOCIATE

14 [REDACTED], CHIEF CLERK

15 [REDACTED], CHIEF INVESTIGATIVE COUNSEL

16

17

18 For CLETA MITCHELL:

19

20 JOHN ROWLEY

21 JOHN IRVING

1

2 [REDACTED]. It is 10:19 on May 18, and this is a Select Committee deposition of
3 Ms. Cleta Mitchell.

4 This deposition is being conducted by the House Select Committee to investigate
5 the January 6th attack on the United States Capitol pursuant to House Resolution 503.

6 At this time, I'd like to ask you, Ms. Mitchell, to identify yourself and spell your last
7 name for the record.

8 The Witness. My name is Cleta Mitchell, M-i-t-c-h-e-l-l.

9 [REDACTED] Thank you, Ms. Mitchell. And your attorney is Mr. Rowley and
10 Mr. Irving. If you could identify yourselves and spell your last name for the record,
11 please.

12 Mr. Rowley. John Rowley, counsel for Ms. Mitchell. Rowley is R-o-w-l-e-y.

13 [REDACTED] And Mr. Irving, can you do the same? And turn your camera on
14 when you do so, please.

15 Mr. Irving. Yes. John Irving. Last name is spelled I-r-v-i-n-g. Counsel also for
16 Ms. Mitchell.

17 [REDACTED] Thank you. This will be a staff-led deposition. My name is [REDACTED]
18 [REDACTED], and I am a senior investigative counsel for the Select Committee. I'm joined
19 today on my right by [REDACTED], investigative counsel for the Select Committee, and
20 to my left is staff member [REDACTED]. You can see in the WebEx platform that
21 there are a number of other folks who have joined us today, including the Select
22 Committee chief clerk, as well as other investigative counsel and of counsel to the vice
23 chair. The last one I mentioned, the of counsel to the vice chair, is [REDACTED].

24 It's possible that members of the Select Committee or other staff will join. If
25 members join, I will try to note their presence for you, Ms. Mitchell, so you're aware

1 they're there. And if they do have any questions, what typically happens, they will turn
2 on their cameras and I will defer to them for whatever questions they might have.

3 I don't believe we have any members with us right now.

4 Before we do begin, I do want to go through some of the ground rules of the
5 deposition and just the mechanics of how it's going to work. There is an official
6 reporter. You'll see her listed in the WebEx right now. That may change throughout
7 the day, but there will be one continuous transcript being kept by the reporter, and that
8 will be the official record of the interview.

9 As you probably heard, the platform on our end is also recording this, the audio
10 and video, but the official record is what is taken by the reporter.

11 You and your attorney will have an opportunity to review the transcript and
12 suggest any corrections before it's finalized.

13 And do I want to take an opportunity now to confirm that no one on your end is
14 recording the audio or video of this deposition or otherwise transmitting it to anybody
15 else. Is that correct.

16 Mr. Rowley. That's correct. And there are only three of us in the room:
17 Ms. Mitchell, myself and Mr. Irving.

18 [REDACTED]. Okay, very good. Thank you. You anticipated my next question.

19 Because this is being taken by the stenographer, please wait until each question is
20 completed before you begin your response and we will try to wait until your response is
21 completed before we ask our next question.

22 The stenographer cannot record nonverbal responses, such as shaking your head.
23 So it is important and we ask that you answer each question with an audible and verbal
24 response.

25 At this time, I'd ask the reporter to please place you, Ms. Mitchell, under oath.

1 [Witness sworn.]

2 EXAMINATION

3 BY [REDACTED]:

4 Q Thank you.

5 So as you know, Ms. Mitchell, you're now under oath, meaning that any knowing
6 false statement you make can constitute perjury as well as a violation of 18 U.S.C.
7 Section 1001 because you are speaking to, in an official proceeding, Congress. So it is
8 important and we ask that you tell the truth at all times.

9 Do you understand that.

10 A I do.

11 Q To that end, it's also important that you understand our questions and can
12 answer them to the best of your ability. So if there's something that I ask or that
13 anybody else asks that's not clear, please ask us to clarify it and we'd be happy to do so.

14 Similarly, if you don't know the answer to a question, you can say that or say that
15 you don't recall. But we do note that, because you're under oath, if you do recall
16 something, you are obligated to provide that, assuming it's also responsive to the
17 question.

18 You may only refuse to answer a question to preserve a privilege recognized by
19 the Select Committee, and if you refuse to answer a question based on privilege, the staff
20 may either proceed with the deposition or seek a ruling from the chair on the objection.
21 And if the chair overrules the objection, you would be required to answer the question.

22 If you need to consult with your attorneys, Mr. Rowley or Mr. Irving, at any time,
23 that's perfectly fine, of course. And you can have a sidebar. We do recommend, if
24 you're going to do that, to turn off all your audio, your microphones as well as your video.
25 And that way there's less of a chance that we would be able to overhear anything. If for

1 some reason that falters, we will let you know on our end, but please take as much time
2 as you might need with your attorneys.

3 Under the House deposition rules neither the Committee members nor staff can
4 discuss the substance of the testimony you provide unless the Committee approves the
5 release of that information.

6 Do you have any questions about anything that I've just gone over, Ms. Mitchell?

7 (Witness confers with attorney.)

8 A Okay.

9 Q Do you have any questions about what we've just gone over?

10 A Yes, but I'll reserve those for later.

11 Q Okay. Do you understand everything we've just gone over?

12 A I do.

13 Q Very good.

14 Then at this time -- and I would just note, too, if you need any breaks, just for
15 comfort, food or otherwise, let us know that and we're happy to accommodate any
16 reasonable breaks.

17 At this time, I turn it over to Mr. Rowley, who I understand would like to make a
18 statement.

19 Mr. Rowley. [REDACTED], thank you. Yes, I do have a statement. For the
20 record, we preserve our objection to the subpoena in this matter with respect to both
21 documents and testimony. We believe the Committee lacked the authority to issue the
22 subpoena or demand this deposition, because its organization and membership deviates
23 in material ways from House Resolution 503, which created the Committee.

24 As you know, Ms. Mitchell is a practicing elections attorney who routinely has
25 privileged communications with her clients and prepares attorney work product for the

1 legal services she provides to those clients. She has not been authorized by her clients
2 to waive either attorney communications privilege or attorney work product for this
3 deposition.

4 With that understanding, and notwithstanding our objections, which we preserve
5 for the record, Ms. Mitchell has agreed to appear today as an accommodation to the
6 Committee. She is ready to proceed, but before doing so, one final note. When the
7 deposition was scheduled, we advised the Committee that Ms. Mitchell has another
8 obligation today and a hard stop at 4 p.m. And I hope that the Committee will honor
9 the request that we conclude the deposition prior to that time. Thank you.

10 [REDACTED] Thank you for the statement. It's noted for the record. As far as
11 scheduling, we will do our very best to get through as much as we can, and you,
12 Mr. Rowley and I, I'd be happy to talk with you offline if there's anything else we need to
13 cover with Ms. Mitchell once we get to that point.

14 Mr. Rowley. Thank you.

15 [REDACTED]:

16 Q So part of what we're going to be doing today, Ms. Mitchell, is going through
17 several documents, and we're going to show them up on the screen. And at this point
18 I'd ask [REDACTED] to please pull up Exhibit Number 1.

19 Ms. Mitchell, can you see what we've put up as Exhibit Number 1?

20 A No. It's not on the screen. It's not on my screen. Should I need to
21 hit -- there it is. Now I see it.

22 Q Okay. So this is a subpoena issued by the Select Committee on March 1,
23 2022. And is this a copy of the subpoena that you received from the Select Committee?

24 A It appears to be.

25 Q Do you understand that you are appearing here today pursuant to the

1 subpoena with your name, Cleta Mitchell, on it?

2 A Yes.

3 Q Part of the subpoena required you to produce documents and information
4 including electronically stored information.

5 Do you understand that?

6 A Yes.

7 Q Did you search for records that are responsive to the subpoena's schedule?

8 A My lawyers and I did so.

9 Q Okay. And I won't get into any discussions you had with your attorneys,
10 but is it your understanding that you've produced to the Committee all responsive
11 information that isn't otherwise being withheld based on a claim of privilege?

12 A I did not manage the document production. I would defer to my counsel.

13 [REDACTED]. Mr. Rowley, did you want to say something? I think you're all
14 muted now. I just need one of you to turn on the microphone. I think, Ms. Mitchell, it
15 would be best to keep yours on at all times.

16 Mr. Rowley. Yeah.

17 Mr. Irving. This is John Irving. I just wanted to clarify, [REDACTED], that you and
18 I have had discussions, communications, emails about the scope of the production under
19 the subpoena. We have diligently collected and looked for responsive documents.
20 We've put quite a lot of time and effort into reviewing those, and pursuant to our earlier
21 discussions, we have focused on a time frame of November 1, 2020 until January 7, 2021.
22 So I just didn't want Ms. Mitchell to, you know, blanketly assert that we've produced all
23 possibly responsive documents when I know that we have focused on our review and
24 production on that more narrow time frame.

25 [REDACTED]. Okay. I appreciate that, Mr. Irving. Thank you.

1 [REDACTED]:

2 Q And so I guess my question to you, Ms. Mitchell, is, is there anything that
3 you're aware of that you've withheld outside a claim of privilege?

4 A Well, as Mr. Irving said, there is a truncated time period in order to
5 accommodate the Committee's schedule, so we did not -- we didn't review or try to
6 produce everything that was requested in the subpoena because that would have taken a
7 great deal longer. And we're trying to accommodate and present things to you on a
8 timely basis.

9 Q Sure.

10 And within the time period that I've worked with your counsel, is there any
11 document within that truncated time period that you are withholding outside of the claim
12 of privilege?

13 A Not to my knowledge.

14 Q Okay. Did you, Ms. Mitchell, use any personal email accounts in
15 connection with your work for the Donald Trump campaign or Mr. Trump individually?

16 A No. Well, I used my standard email, which at the time was
17 Cmittchell@Foley.com.

18 Q You're not aware of any other email accounts that you could have used that
19 would contain responsive documents to the subpoena?

20 A Not to my knowledge. But the last few days was when I was leaving my
21 firm. I may have set up another email account, but everything was pretty much finished
22 by then from my perspective.

23 Q When were you leaving your firm, Ms. Mitchell?

24 A The actual resignation date, effective date was January 31 of 2021, but the
25 terms of my departure were developed and worked out January 4 and 5th and 6th, to the

1 best of my recollection. It may have gone on into a later time frame for purposes of
2 executing documents.

3 Q Did you provide to your attorneys access to any private email accounts you
4 may have used during that period?

5 A Well, I don't think that I had any. If there was anything, they would have
6 had access to it. I really don't think I had any other email address. I have some other
7 emails, but I don't use them, and I did not use them for the work I was doing in Georgia.

8 Q You did produce some text messages. How many cell phones did you have
9 in this period? So, primarily, November 1st through -- 2020, through January 6, 2021.

10 A I had a cell phone, which I -- I had one cell phone.

11 Q And did you have any other cell phones issued by the campaign or any
12 other --

13 A No.

14 Q -- entity during that period?

15 A No, no.

16 Q Did you ever send or receive any text messages with President Trump?

17 A No, I don't think I -- the best of my knowledge, I don't think I've ever
18 received a text message from the President. I don't think -- anything like that would
19 have come from another person on his behalf.

20 Q Who typically would be the person on his behalf who would send you text
21 messages?

22 A One of his assistants in the White House, and then subsequently at -- well, at
23 the White House, it would have still been at the White House. Mullen
24 Michaels -- Mullen Michaels is his primary assistant. There's one more. His name I
25 can't remember off the top of my head.

1 Q Could it be Nick Luna or Austin Ferrer?

2 A No, I don't recognize his name.

3 Q Did you have any messaging applications that you used, meaning Signal,
4 Telegram, WhatsApp, Facebook Messenger or otherwise, that you recall?

5 A I do have a WhatsApp account where I share photographs with my daughter
6 and son-in-law, because that's how they send me pictures of my grandbaby.

7 Q Okay.

8 A I don't use those -- I don't use that for business.

9 Signal, people send me things on Signal. It's just one more thing, and so I forget
10 to look at it, but I can't -- I can't recall using that. If I did, it would be very sparing, and I
11 don't remember it off the top of my head.

12 I basically use text, email and phone.

13 Q Did you look in your Signal application for any messages that would be
14 responsive to the subpoena?

15 A I did not. But I really -- I can do that, but I promise I don't think there was
16 anything there. It kind of drives me crazy when people try to send me things on Signal,
17 so I tell them to stop.

18 Q Okay. I will ask -- we can talk to Mr. Rowley offline about that, but I would
19 appreciate, if you do look through the Signal for anything, even if you received it without
20 responding to it, that could be relevant.

21 During that period, again talking about November 1, 2020, through January 6,
22 2021, did you keep any handwritten or electronically stored notes?

23 A I don't know if I kept notes or not. Probably wrote some things down, but I
24 don't have any way of knowing anything like that. I don't remember anything that
25 would be formal note-taking that wouldn't have been ultimately reflected in email or text

1 message.

2 Mr. Rowley. [REDACTED], that question and the other questions you're asking all
3 pertain to matters that could potentially be responsive to the subpoena, not generally
4 whether she made notes during that period of time.

5 [REDACTED]. Well, first, it's whether she kept notes during that period, and then
6 subsequently we will ask is there anything responsive to the subpoena. So first is kind of
7 foundation, second is going to be responsive.

8 [REDACTED]

9 Q So as you sit here today, are you aware of any notes that you may have kept
10 between November 1, 2020, and January 6, 2021?

11 A If I have them, to the best of my recollection, they would have ended up in
12 an email or a text message. And we did search all of that.

13 Q Did you search any physical documents that you have for information
14 relevant to the -- or responsive, excuse me, to the Select Committee subpoena?

15 A Well, I don't have -- the short answer is I wouldn't have any physical
16 documents that were not in the records that my formal law firm produced. It would just
17 be something I would have printed, and I don't even know where all those are, frankly. I
18 have no idea. I left the law firm. I moved out of the firm. I packed my boxes, I want
19 to say, around January 10, 11, and boxes were delivered to my house. They're in the
20 garage. There's nothing in any box that wouldn't have been included in the electronic
21 files. That's just -- that's just the way I've done business for many years.

22 Q Ms. Mitchell, if you could briefly summarize your professional background
23 leading up to your work in the 2020 presidential election.

24 A Starting when.

25 Q Just overall perspective as a lawyer.

1 A Are you asking me about my education and training and practice over, what,
2 five decades? Is that what you're asking me.

3 Q Yes. If you could summarize that.

4 A All right. So I'm a graduate of the University of Oklahoma, University of
5 Oklahoma College of Law. I was admitted to the bar as a practicing attorney before the
6 Oklahoma Supreme Court and the United States Supreme Court. I guess I graduated
7 from law school. I was admitted to the bar in 1976. I ran for the state legislature and
8 was elected to the State House of Representatives in 1976, where I served for eight years.

9 And then I became general counsel for a bank. I retired in 1984. I became
10 general counsel at a bank.

11 I subsequently ran for statewide office, did not win, and then I began practicing
12 law in Oklahoma City -- in Norman and Oklahoma City. And business law, that kind of
13 thing, commercial law, administrative law.

14 And then I became, in the early '90s, the attorney for the national term limits
15 movement and was co counsel in the case that went before the United States Supreme
16 Court, U.S. Term Limits versus Thornton. And I was involved for several years with the
17 term limits movement until the case was decided by the U.S. Supreme Court in 1995.

18 I then had a little bit of a hiatus, but then I formed a small boutique law firm in
19 Washington, D.C. where we focused on political law, campaign finance, election law, state
20 and federal, lobbying disclosure, ethics, financial disclosure, just the business and
21 regulation of politics. And I did that for three years with one partner and a couple of
22 associates.

23 And then in 2001 we merged our boutique practice into Foley & Lardner where I
24 became a partner and practiced there for almost 20 years, until January of 2021.

25 And in that regard, I represent -- I represented then, and to a lesser degree today,

1 elected officials, candidates, campaigns, political parties, nonprofit organizations,
2 corporations, PACs. I've been very involved in the election process for many years,
3 many decades.

4 And then -- that's what I was doing in 2020 and what I continue to work on in that
5 area today but focused exclusively on election integrity.

6 Q Thank you, Ms. Mitchell.

7 How did you begin working on the 2020 presidential election?

8 A I received a call the day after the election. I happened to be in Montana
9 where I represented the Montana Republican party and Senator Daines in his reelection,
10 so I went to Montana for election day operations and helped with setting up and
11 managing and working with the Montana party to make sure that the election was
12 conducted smoothly and helped with organizing poll workers and poll watchers. And I
13 was leaving Bozeman the day after the election and I got a call from Mark Meadows
14 asking where I was and if I might be able to go to Atlanta. And so I changed my ticket
15 and instead of flying home, I went to Atlanta.

16 Q We'll get back to that call in just a moment.

17 Did you already know Mark Meadows before you received that call on November,
18 I guess that would be the 4th?

19 A He was my client. He would be my client. I represented his campaign
20 both when he was a member of the House and then when he left the House to join the
21 President's Administration as chief of staff to President Trump. And so I worked on the
22 transition issues, legal issues for winding down a congressional office, both under the
23 House rules as well as the campaign finance rules. And so I've been close to Mark
24 Meadows for several years before November 4 of 2020.

25 Q Tell us more about that call on the 4th. What did he say to you and why

1 did he want you in Atlanta?

2 I think you're on mute.

3 Mr. Roselman. I think she's consulting.

4 Mr. Rowley. Counsel, at this point, we will interpose an objection to the extent
5 that Mr. Meadows either was a client at the time or was conveying information from
6 President Trump or other clients that Ms. Mitchell had at that time. You can ask her
7 what she did in response to the call, but we object to the substance of the call.

8 [REDACTED]. Okay. And the basis is attorney-client privilege?

9 Mr. Rowley. Yes, sir.

10 [REDACTED]

11 Q I'd like to explore that just a little bit. So on that date, November 4, did you
12 represent Mr. Meadows individually?

13 A Well, that's always -- the short answer is yes. When you represent a
14 member of Congress and their campaign, you end up representing them in a variety of
15 capacities. But yes, I did. And ultimately represented the President. But I flew to
16 Atlanta and arrived in the middle of the night in the wee hours, probably at that point, of
17 November 5.

18 Q Thank you for that.

19 So at that point Mr. Meadows was chief of staff; correct? He was no longer a
20 candidate or a congressman?

21 A That's correct. But he still has -- he still has a committee and I still do work
22 for that.

23 Q Was his call to you in any way related to him as a congressman or a
24 candidate for Congress or the committee that he had?

25 A I'm not going to talk about the specifics and the details of our conversation.

1 I will tell you that he called me and that after that call I changed my ticket and I went to
2 Atlanta.

3 Q At the time of that call, did you represent Mr. Trump or his campaign?

4 A Nothing had been formalized at that point.

5 Q You mentioned earlier that this was the first time you began working for
6 the -- related to the 2020 presidential election; is that right?

7 A Well, no. I was in Montana and the work that I was doing in Montana not
8 only was with regard to -- it was with regard to all the races that were on the ballot in
9 Montana. It was included. The presidential campaign and race and all that was all
10 included.

11 Q Was Mr. Meadows asking you to assist with specifically the Trump campaign
12 or Mr. Trump as a candidate for President?

13 A No.

14 Q When did you first begin that work or when were you asked to do that
15 before?

16 A I would say late August, early September.

17 Q Tell us about that.

18 A I was asked to consider doing work for the campaign, and I agreed to do
19 that. But then I didn't ever hear anything back.

20 Q Who asked you to do work for the campaign?

21 A The President.

22 Q Did he call you directly?

23 A Yes.

24 Q Did you ever formalize your relationship with him in that period, late August,
25 early September with the President, to represent him or the campaign?

1 A No.

2 Q Do you know why not, why you never heard anything back?

3 A No.

4 Q And then the next time you heard from the campaign -- I don't want to put
5 words in your mouth, but the next time you heard from the campaign or you representing
6 the President as a candidate was this November 4 call?

7 A Correct.

8 Q We're going to get back to your trip to Atlanta, but we understand that you
9 participated in an effort called the Election Integrity Working Group this the lead-up to
10 the election.

11 Are you familiar with that?

12 A No.

13 Q Never heard that name before?

14 A I work with a lot of different organizations and groups and all, but I don't
15 know which one you're referring to.

16 Q Do you remember working with any working group in the preelection period
17 to anticipate any issues that might arise in the presidential election?

18 A I don't think there was ever anything formalized, unfortunately. I thought
19 there should be, but that never materialized.

20 Q And what did you think should be formalized and for which group or groups
21 of people?

22 A I thought that the left was planning and had spent many hundreds of
23 millions of dollars manipulating the election system all over the country, including, but
24 not limited to Mark Zuckerberg's \$400 million that he gave that flowed from his
25 foundation to another foundation to a 501(c)(3) organization that is prohibited from

1 engaging in partisan campaign intervention. And that ultimately flowed to targeted
2 election offices in Democrat cities in targeted states in order to manipulate the outcome
3 of the election. And I was aware that there had been -- that there was activity with this
4 private funding. And I knew -- I've been involved in this for a long time. I watched the
5 left, I've documented the amount of money they spend, and I knew what they were up
6 to, but unfortunately, that's just not something that conservatives ever had -- I never had
7 been able to persuade very many people that that was something to worry about.
8 That's changed now. It took what happened in 2020 for conservatives to realize that
9 they can no longer leave that playing field to the left.

10 Q In the preelection period, so meaning before November 3, did you try to
11 assemble any group of people together to look at these issues?

12 A I did. I reached out to some people that I knew would be useful and
13 helpful. But then nothing had ever happened, so I went on about my business.

14 Q Who did you reach out to?

15 A John Eastman, who's been a friend of mine for many years. Tom Fitton,
16 Jenny Beth Martin, Christian Adams. Not too many people. I didn't want to get out
17 over my skis until I knew that something was going to actually be formalized. It wasn't,
18 so I stopped.

19 Q Why wasn't it formalized?

20 A I don't know.

21 Q Did anybody tell you why they wouldn't or didn't want to participate in a
22 group like that?

23 A No. The people I contacted were already all ready to go. It's just that we
24 never got any kind of authorization. I just think that the campaign was very ill-prepared
25 for what the left was planning, as we've seen.

1 Q From whom were you seeking authorization to do that type of work before
2 the election?

3 A I expected ultimately it would come from the campaign.

4 Q Did you reach out to the campaign?

5 A I had reached out to the campaign a year earlier to try to alert them to the
6 fact, in May of 2019, that Marc Elias and a plethora of left-winged groups were filing
7 lawsuits all over the country to change and upend the election laws. And that was
8 almost a year before COVID. COVID was a convenient pretext that the left used and
9 they pivoted to COVID as a basis and a pretext for upending the duly enacted laws passed
10 by state legislatures.

11 And they -- by May of 2019 I think that we had already counted that they had filed
12 over 100 cases in various jurisdictions all over the country. And I tried to warn the
13 campaign and their legal team that they needed to take action then, but they didn't.

14 Q Who did you talk to -- I'm sorry.

15 Who did you talk to on the campaign legal team about this?

16 A Jessica Clark and Stefan Passantino. They had no idea what I was talking
17 about, frankly.

18 Q Did they say anything --

19 A They may not -- they still may not.

20 Q Did they say anything in response to your outreach?

21 A Hmm. Hmm. That's about it. Wow. Hmm. It was another year
22 before they finally took action.

23 Q Why did you reach out to Dr. Eastman specifically to assist in the preelection
24 period?

25 A Because John is one of the most brilliant lawyers I know, and he's brilliant on

1 constitutional law and constitutional history. And he's very creative, and I knew that he
2 would be someone who could bring a lot of knowledge and legal training. He's been a
3 friend of mine for many, many years. I've worked with him on any number of matters
4 over the years.

5 Q Did you develop any documents or memoranda related to your work or
6 collaboration with Mr. Eastman before the election?

7 A Not really, no. I think that I sent him something -- I sent some things to the
8 three or four people that I reached out to. It wasn't anything other than would you be
9 willing to work on this. But I stopped pretty quickly because I'm, you know, not going to
10 get up and start dancing around the dance floor, twirling around the dance floor unless
11 someone asked me to dance. So clearly I wasn't being asked to dance, so I just went on.

12 Q In this period you mentioned a number of names, including Dr. Eastman,
13 Mr. Fitton, Jenny Beth Martin. I want to focus on this period before the election.

14 Did you discuss with any of them issues related to the constitutional authority of
15 state legislatures or legislatures, excuse me, to appoint electors? Again, we're focused
16 before the election.

17 A I don't recall. I don't recall when I had that conversation, when I first had
18 that conversation.

19 Q You don't recall whether you first had that conversation about this idea of
20 state legislatures appointing separate electors before the election or after. Is that what
21 you're saying (electors)?

22 A Let me make something very clear.

23 Q Yes.

24 A The Constitution of the United States grants plenary power to state
25 legislatures to chose the electors of the state. Congress has enacted a statute which is

1 an enabling law, which I happen to think is unconstitutional, because that power granted
2 in the Constitution to state legislatures -- legislatures, is complete and total. There's
3 nothing in the Constitution about allowing people, citizens to vote on electors.

4 Now, that is something that legislatures have over time decided they want to do.
5 But in my view, according to the Constitution, that's an advisory role that happens
6 because the legislature has created a mechanism to conduct the election.

7 And assuming that that mechanism is carried out in accordance with the statutes
8 that the legislature has enacted to make it possible for the citizens to weigh in and make
9 their voices heard, then the legislature can use -- choose to use what the people have
10 decided. But that's not in the Constitution.

11 And so I think that that is one of the things that we hadn't really -- as a country,
12 we haven't focused on that. But that is what the Constitution says. So it's not like
13 picking an alternate slate of electors. The legislature has the authority to choose the
14 electors. And they don't have to ask anybody's position, in my view. And that's my
15 position and I think that that's what the Constitution says, and I think there's ample
16 authority to support that view.

17 Now, you may have a different view, but we're lawyers and we're both entitled to
18 read the law in the way that we think is appropriate. And I don't think people ought to
19 be massacred or put in jail or disbarred because they have a different legal view than you
20 do.

21 Q I'm not going to debate your legal views, Ms. Mitchell, and I appreciate you
22 explaining your views on the record. So this will be something that comes up
23 throughout the day.

24 And do you remember discussing that idea, your views about the state legislature
25 choosing electors as something that might be necessary in the 2020 presidential election,

1 before the election occurred?

2 A I don't remember. I don't remember when I started having that discussion.

3 Q Again, still focusing on this period before the election, do you remember
4 having discussions with Dr. Eastman, Mr. Fitton, Ms. Martin, any of the people you've
5 identified, about the vice president's role in overseeing the joint session to count
6 electoral votes?

7 A No, I really never had much of a discussion with anybody about that. That
8 was very much at the tail end of the process. It wasn't something I was particularly
9 involved in.

10 Q I think we will get to some of that --

11 A That's to the best of my recollection.

12 Q Thank you. I'm sorry to keep interrupting. I do think we'll get to some of
13 that with the documents you've produced and we plan to go through.

14 We understand there's something that I'll refer to as war games conducted by
15 various individuals associated with the Claremont Institute before the election took place.

16 Are you familiar with what I'm talking about.

17 A I didn't understand what you said. There's something called what.

18 Q I'll refer to this exercise as war games, election-related war games that were
19 conducted. I believe Dr. Eastman may have played a role in that. And that it was in
20 coordination with or at least associated with the Claremont Institute.

21 Are you familiar with any of the preelection planning done related to
22 the Claremont Institute before the election?

23 A I don't think so. I mean, I wasn't involved. I'm trying to think if I was
24 aware of that, if I ever saw something about that. I have some vague recollection I
25 might have seen something, but I couldn't even tell you -- I could not tell you what that is.

1 Q Okay. Not an exercise that you remember participating in. Is that fair?

2 A No, I did not participate in that.

3 Q So going back to the call you received --

4 [REDACTED]. I'll stop there and see if anybody has any questions related to this
5 preelection period.

6 Okay. Don't see any here.

7 [REDACTED]:

8 Q So moving on and going back now to the call that you received from
9 Mr. Meadows asking you to go to Atlanta.

10 You said you went to Atlanta that night on November 4; is that right?

11 A Correct.

12 Q And what did you understand your role to be in Georgia after receiving of
13 this call?

14 A I wanted to see what was going on. I wanted to look at how the election
15 had been conducted, whether there were problems or issues, and that's what I was -- I
16 was overseeing -- I was there to be eyes and ears and see what had transpired and what
17 was transpiring. Because you have to remember, they were still counting. It was
18 ongoing. They were still processing ballots.

19 Q Do you know why you were chosen as opposed to somebody from the
20 campaign or ultimately Mr. Giuliani and his legal team?

21 A No.

22 Q Where did you go when you got to Atlanta that night?

23 A I went to the hotel.

24 Q Okay. Fair enough.

25 A To the hotel.

1 Q That was not a great question.

2 Where did you set up your work operation? Did you have a temporary office?
3 Were you working out of the RNC?

4 A No. The next morning -- I had called the Fulton County election office and
5 asked where the counting and tabulating was going on, and one lady told me that it was
6 at State Farm Arena. I called someone at the state party headquarters, and he told me I
7 should probably go to the English Street warehouse where they were working on mail
8 ballots. So I ended up going to the English Street warehouse.

9 Q What happened when you got there?

10 A I met a couple people who started showing me what was going on. And I
11 was watching these teams of people process and duplicate ballots where they couldn't
12 tell -- either they had been rejected by the tabulator for some reason or it was impossible
13 to tell who the vote was for. So they were -- there were teams with ostensibly a
14 Republican and a Democrat and they were trying to determine the voter's intent and then
15 create a new ballot that could then be tabulated.

16 Q Were they reviewing any specific types of ballots? And what I'm thinking of
17 in my mind, though this may not be universal, absentee versus early voting versus day of
18 ballots?

19 A They were paper ballots, and I presume that they were ballots that had been
20 received in the mail. I don't know that for certain, but that was my impression. But
21 they could not be processed.

22 Q Were you allowed into that facility?

23 A Yes, I was in, uh-huh.

24 Q Who admitted you?

25 A The press was in there. The door was open.

1 Q Were you --

2 A You couldn't interfere with what people were doing, but anybody could go in
3 there. There were reporters there watching.

4 Q Is that where you were? Were you in the area where the reporters were?

5 A Uh-huh, yes. I met with the reporters.

6 Q Were you an election observer? Were you one of the people who watches
7 over shoulders or up close to see what's happening?

8 A I was not a designated or authorized election observer. But they were
9 fairly open about allowing observation by people from the party.

10 Q Did you have any role in challenging any ballots or determinations made by
11 the people who were counting the votes?

12 A Not at that time, no.

13 Q And was this on the 5th? So this would be two days after the election? Is
14 that when you first went to --

15 A Right.

16 Q How long were you there?

17 A How long was I where.

18 Q At the English Street warehouse.

19 A For about three hours.

20 Q Did you go back after that?

21 A No, I did not go back to English Street.

22 Q Did you go to any other facilities where ballot counting or adjudication was
23 occurring?

24 A No.

25 Q How long did you stay in Georgia after getting there on the 4th?

1 A I want to say two weeks, 10 days to two weeks. And then I went home,
2 and then I went back, and then I went home again.

3 Q Did you set up kind of a base of operations for you to do your work in
4 Georgia?

5 A Yes, yes.

6 Q Where was that?

7 A Several, several. The first place was -- where we met was at Ray Smith's
8 office. We met with him on the 5th. Because they had undertaken a project to try to
9 get the Fulton County voter roles cleaned up before the election. And they had
10 hundreds of affidavits from people who said this person who is registered at my home
11 doesn't live here and hasn't lived here in a long time. And that was presented to the
12 Fulton County board of elections and nothing was done and they filed suit.

13 So I met with them to understand that project and began to realize that there
14 were an awful lot of illegal votes that were included, that they were tabulating and
15 including and not keeping them out of the election results.

16 Q How did you know to go meet with Mr. Smith?

17 A Well, a couple other people that I talked to at English Street told me about
18 the project.

19 Q Was Mr. Smith recommended to you by Mr. Meadows?

20 A No.

21 Q Can you pull up Exhibit Number 2. This is a document you provided to us.
22 It's a litigation consulting services agreement.

23 Can you see that, Ms. Mitchell?

24 A Not yet. Okay, now I can. Okay.

25 Q All right. This is an agreement dated November 4 with the same effective

1 date. It includes Mr. Smith, it looks like Ms. Denmark and the law firm Smith & Liss, LLC.

2 A Okay.

3 Q Tell us what this document is be.

4 A It's a litigation consulting services agreement.

5 Q And at that point did you understand that the law firm, Smith & Liss, and
6 Mr. Smith had been retained by the Trump campaign as well as Mr. Trump individually as
7 a candidate for President?

8 A Not then, no. Not on the 4th. It was an evolving relationship, but
9 retroactively to the 4th.

10 Q I see.

11 Do you remember when you signed this document?

12 A No.

13 Q Was it after the 4th?

14 A Probably, yes.

15 Q Okay. I'm just going down to clarify because on page 2 it says it's agreed to
16 on the 4th of November, signed by you. This one does not have Mr. Smith's signature on it.

17

18 A Okay. What's your question.

19 Q Can you see that?

20 A It's not scrolling. Okay. Okay.

21 Q So you believe this was signed after the 4th, but going back to cover the 4th?

22 A Correct.

23 Q How long after the 4th do you think you signed it, approximately?

24 A A few days. I don't remember, actually. I really don't know, actually.

25 Q And what was your understanding of what you would be doing in this work,

1 in litigation consultant work with Mr. Smith and his firm?

2 A My job was to look at what was going on -- what had gone on in Georgia,
3 what was going on in Georgia, and to make recommendations and assemble a team to
4 identify if there were problems in the election. And we did. And I was more or less
5 the point person for that all together.

6 Q Who made the decision that you would be acting as a legal consultant as
7 opposed to counsel for the campaign or Mr. Trump?

8 A That is a long story. I think that's a privileged conversation.

9 Q It's a privileged conversation --

10 A It is what it is.

11 Q I'm not asking necessarily for communications, but who just made the
12 decision to have you as a consultant rather than counsel for Mr. Trump or his campaign?

13 A I can't discuss that.

14 Q Okay. So are you objecting on attorney-client communications grounds,
15 Ms. Mitchell?

16 A Yes, and the agreements I had with my former law firm.

17 Q An agreement you had with your former law firm meaning what?

18 A Meaning that I have a confidentiality agreement with my former law firm.

19 Q Have you produced that to us?

20 A No. It's not -- it's not relevant. It's not responsive to the subpoena.

21 Q I just want to understand that, though, because it seems like it may be
22 relevant in response to this question.

23 A No, it isn't. No, it isn't.

24 Q You just raised it as a basis for not answering the question, right,
25 Ms. Mitchell?

1 A I'm telling you I have a confidentiality agreement with my former law firm
2 that covers everything involved in my relationship with the firm.

3 Q Is that asking for legal process in your agreement?

4 A No.

5 ██████████. Mr. Rowley, I think that's something that we would like to probably
6 take up with you offline, but we don't need to do so now.

7 The Witness. It's not going to say anything. The agreement is not going to tell
8 you the answer to your question. So, it's just that I have a confidentiality agreement,
9 which I think you'll see referenced in some of the documents. There are things I can't
10 talk about.

11 Mr. Rowley. We can talk about it offline.

12 ██████████:

13 Q If you can pull up Exhibit Number 3, please. It looks like you were paid, by
14 the way, \$1,000 for your services under the agreement that we looked at with Mr. Smith
15 and his law firm.

16 Does that sound accurate to you?

17 A Yes.

18 Q Do you recall receiving any additional money under that agreement you had
19 with Mr. Smith and his law firm?

20 A Just reimbursement of expenses.

21 Q We're pulling up Exhibit Number 3. Can you see that, Ms. Mitchell?

22 A No. There it is. Okay.

23 Q So this -- I'm just reading from the top. It says it's an agreement entered
24 into on the 5th day of December -- skipping forward a little bit -- with The Hilbert Law
25 Firm, LLC, and attorneys or others employed by that law firm. Could you just tell us

1 what this is, generally?

2 A So this is an agreement, a litigation consulting agreement with Kurt Hilbert
3 and his law firm when he took over the litigation on December 5. The day after the
4 election contest was filed, we moved litigation responsibility to Mr. Hilbert.

5 Q Why is that?

6 A We just did.

7 Q Who is "we"?

8 A Our team of lawyers, legal team.

9 Q Who is on that legal?

10 A Alex Kaufman, Patrick Witt. We made the decision that we needed to have
11 a litigation firm.

12 Q Did you discuss this decision with the White House or the Trump campaign,
13 what was left, I guess, in December of the Trump campaign?

14 Mr. Rowley. Objection.

15 [REDACTED] What's your objection?

16 Mr. Rowley. Discussions that she may or may not have had with the Trump
17 campaign or President Trump. Privilege.

18 [REDACTED]. Attorney-client privilege --

19 Mr. Rowley. Yes.

20 [REDACTED]. -- that occurred for the purpose of receiving or giving legal advice.

21 That would be responsive to that question; is that correct?

22 Mr. Rowley. That's the objection.

23 [REDACTED]:

24 Q In your role working as a litigation consultant with Mr. Hilbert and the law
25 firm, did you prepare pleadings?

1 A I reviewed pleadings. But once we moved everything to Kurt Hilbert, he did
2 the lion's share of the work.

3 Q What was your role then once it transitioned to Mr. Hilbert?

4 A Overseeing things, being a consultant.

5 Q Any particular tasks?

6 A I'm not going to get into that.

7 Q Did you interview witnesses?

8 A That was all done before the election contest was filed.

9 Q Did you identify experts that could be used?

10 A I ran -- I ran the team and different people had different responsibilities.
11 One was to develop the fact witnesses and the affidavits and one was to identify experts
12 and to develop expert witness reports. And our role -- we had a couple of rules about
13 the filing of the election contest. Number 1, nothing went into that election contest,
14 into that complaint that was not -- that could not be proven in court by having a fact
15 witness who signed under penalty of perjury as to personal observation or an expert
16 witness who, upon review of publicly available documents, was able to develop a report
17 and to testify to that by signing an expert opinion with a -- signed under penalty of
18 perjury so that it could be introduced into an election contest and at trial.

19 We had certainly anticipated that we were going to trial, which is never -- were
20 allowed to go to trial. But that was the election contest. That was filed on
21 December 4. And we had a 64-page complaint that details every illegal vote that we had
22 identified, and we had identified over 30 categories of illegal votes that were cast and
23 counted and included in the certified total from Georgia, recognizing that they kept
24 coming up with different numbers. One would think that if an election is conducted
25 properly, that when you recount the ballots, that you get the same number twice or three

1 times. They didn't.

2 Q Ms. Mitchell, what was the name of that lawsuit?

3 A I beg your pardon.

4 Q What was the name of the lawsuit you're talking about, just so that we're
5 talking about the same thing?

6 A The election contest that was filed on behalf of the President in his capacity
7 as a candidate and the campaign and David Shafer as a Trump elector. That was filed on
8 December 4 against Brad Raffensperger in his capacity as Secretary of State and the Chief
9 Election Officer of Georgia, and a number of counting registrars -- I think they called them
10 that. I'm not really sure -- identifying the specific illegal votes that had been cast and
11 counted and included in the certified total and demonstrating through the records that
12 we produced and filed in the lawsuit that there were more illegal votes that were cast,
13 counted and included in the certified total than the margin of difference between
14 President Trump and Joe Biden.

15 And we filed that lawsuit and were prepared to go to court to defend the facts as
16 we had gathered them and as were contained in that election contest.

17 Q That lawsuit was -- ultimately did not go to trial, correct?

18 A There was no judge appointed. Under Georgia law, if you sue a
19 constitutional officer, you have to bring the suit in Fulton County, the Capital. But then
20 under the election code, in order to try an election contest, the chief judge of the county
21 where the suit is brought must appoint a judge who lives in a different county. The chief
22 judge of Fulton County, Chris Brasher, did not appoint a judge eligible to hear and try the
23 case and to adjudicate the facts. It was supposed to be an expedited proceeding.
24 That's what the statute requires.

25 In addition, we had filed a motion for injunctive relief, a temporary injunction to

1 expedite the consideration of the trial that we did not receive notice of any judge, an
2 eligible judge to be appointed until, I want to say it was Monday, January 4? And this
3 judge, she was appointed and set a trial date for that Friday. But it was too late then.
4 So, no, it was not adjudicated. It was not adjudicated. It was beyond our control.

5 But we filed the lawsuit. We believed that we could -- we established the
6 problems in the election totals and never got our day in court.

7 Q My understanding is that plaintiffs dismissed the lawsuit before it was to go
8 to trial that Friday; is that right?

9 A We did. We submitted it. That's what I was working on on January 6,
10 frankly. And it was dismissed without prejudice on the 7th.

11 Q You said "without prejudice." Was it ever refiled in any form that you're
12 aware of?

13 A No.

14 Q In that role that you were discussing related to witnesses and expert
15 witnesses, identifying them, working with them, understanding the pleadings, is that a
16 role you have had both with the original consulting agreement with Mr. Smith, as well as
17 once it transitioned to Mr. Hilbert?

18 A Basically.

19 Q And, again, I'm sensitive to the questions. I don't want to reveal or ask you
20 to reveal any work product or privileged conversations. But generally I'd like to
21 understand how you identified claims of fraud that you ultimately presented in the
22 pleadings in that case.

23 A Well, I think that that's -- I think your question is not appropriate. I mean,
24 claims of fraud? What we identified were illegal votes, votes that were cast by people
25 who were not legally registered to vote in Georgia for a variety of reasons. If you read

1 the election contest, we had specific numbers of this many people had been out of state
2 and registered in another state. By operation of law in Georgia, if you live out of state
3 and you registered to vote in another state, you have abandoned your residence in
4 Georgia. And we had a specific number of people. And we had people --

5 Q Understood.

6 A What.

7 Q Understood.

8 How did you identify them? What was the process for taking in tips or
9 information about the problems you identified and put allegations relating to in the
10 complaint?

11 A There were a variety of sources. Some were through experts who
12 reviewed government documents and records, and some were people who called the
13 hotline at the Republican Party of Georgia. There was a very active hotline. And so
14 then there were -- one individual's job was to go through those complaints and then had
15 a team that followed up on those to ascertain whether it was real or something that was
16 not actionable. And then we had another person whose job it was to make sure that
17 those were converted to affidavits sworn under penalty of perjury.

18 And so we had different -- there were different mechanisms depending on the
19 category of the illegal votes. But to call that fraud, we believed that there were some
20 fraudulent activity, but that was not the whole basis of the complaint. Under Georgia
21 law, under Georgia election law, if you can establish that there are more votes that have
22 been cast and counted -- regardless of who they voted for, that doesn't matter. If you
23 can establish through an evidentiary record that there are more votes included in the
24 certified total that are irregular, illegal, anomalies, whatever the reason is, and we give
25 specific -- if you read the complaint, it says this many votes cast and counted in violation

1 of this particular provision of the Code. And if you can establish that through an
2 evidentiary record, the remedy under Georgia law, as it is in many states, is a new
3 election because you cannot know with certainty who actually won the election. That
4 was -- that's what election lawyers do.

5 Q Did any Court that you're aware of make any findings that supported the
6 allegations you put in your election contest?

7 A We never got a chance to put on our evidence.

8 Q So no, then?

9 A No. I mean, to my knowledge, there wasn't a single evidentiary hearing in
10 any of the cases filed by the Trump campaign. Now, I don't know that for certain,
11 because I was only focused on Georgia. But my impression is that there was not an
12 evidentiary hearing in any of the cases, which I find utterly startling that -- I was only
13 involved with making certain that we did what we needed to do under the Georgia
14 Election Code. And we did.

15 Q So you're not aware of any other evidentiary hearings in other states, you're
16 saying, because your focus was on Georgia?

17 A I'm not aware of -- I've had no indication, that I'm aware of, since November
18 of 2020 where lawyers have come forward and said, well, we were able to put on our
19 case and our evidence and the other guys put on evidence and they won and we lost. I
20 don't know of any case like that. You may, know, but I don't know of any such case.

21 Q I'm just asking for your awareness of anything. And it sounds like you're
22 not aware of any such hearings where evidence was considered.

23 A I'm not aware of any evidentiary proceedings. Everything, to my
24 knowledge, was dismissed based on standing, you know, that kind of thing.

25 Q Okay.

1 A Procedural issues, not sensitive.

2 Q I will represent to you that there were a number of courts that did consider
3 evidence in a number of different evidentiary-type hearings, witness testimony, affidavits
4 and otherwise. But it sounds like you're not familiar with those; correct?

5 A I'm not, I'm not.

6 Q Okay. Did anybody from the campaign ever raise those issues about
7 evidentiary hearings in other states occurring?

8 A I was pretty focused on Georgia. I really was not paying a lot of attention
9 to what was going on in other states. This is a very truncated time frame when you're
10 dealing with a post-election contest and there's really -- I didn't have time to think about
11 what was going on elsewhere.

12 Q Earlier you mentioned, we were talking about information coming in, that
13 there was somebody assigned, for example, to determine whether the allegations had
14 any truth to them, essentially like a fact checker.

15 Was that person on your team or on -- affiliated with another organization?

16 A As I said, the Republican Party had -- at the headquarters, it had a war room,
17 a hotline and people answering phones and people calling to say this happened to me,
18 this happened to me. And we heard a number of things that people repeated over and
19 over again.

20 For instance -- and this I heard subsequent to 2020, and I've now have learned
21 that this was happening all over the country and I still can't figure out what it was -- how
22 this happened. But people would arrive at the polls and would be told oh, Mrs. Smith,
23 you've already voted. And that happened repeatedly. And if you look in the complaint
24 and the exhibits attached to our complaint, we have affidavits from many people, I want
25 to say, 20 or 30 people who were told that when they arrived at the polls to vote in

1 person that somehow there was a ballot that had already been cast in their names. And
2 that happened all over the country, all over the country. And that was a new one. I
3 hadn't seen that before, but there were a lot of things that happened in 2020 I hadn't
4 seen before.

5 Q Were you involved in any litigation other than this case, which I'll call a
6 Trump v. Raffensperger?

7 A Well, the legal team filed one or more federal cases. There was an effort to
8 try to get the Supreme Court of Georgia to order the chief judge to appoint a Judge
9 Albaugh to hear the case. So there were some other legal proceedings, but Kurt Hilbert
10 really took the lead on all of that once he stepped in on the 5th of December. And my job was to be
11 more of a support role; whereas, prior to the time when the election contest was filed, I was pretty much the point person to make
12 sure it got filed properly.

13

14 Q Would you supervise any investigators or any of these fact checkers that you
15 mentioned?

16 A Investigators were volunteers who took phone calls at the state party. And
17 then we would receive those, and there were a group of people who would take those
18 and follow up with the ones that had merit and try to ascertain if they did have merit.
19 Was I -- I was the team captain, and so I would send people out to interview people
20 whose affidavits we thought might reflect an anomaly or an illegality that needed to be
21 included in the election contest.

22 Investigators, you would suggest -- investigator is a bit of a more sophisticated
23 term that we actually had.

24 Q Understood.

25 Who were the people that you would send out to do these interviews?

1 A They were volunteers at the state party.

2 Q Any names that you recall that you worked with, primarily?

3 A Jenny Beth Martin and Courtney Kramer were two of the people who
4 worked on assembling all the interviews and affidavits. But there were others,
5 volunteer lawyers who had come in from other states. I don't remember their names.

6 Q What about Alex Kaufman? What was his role with your team?

7 A Well, Alex, he's a litigator, brilliant young man, represented the Republican
8 Party of Fulton County. And he had the most knowledge of the state election code
9 because he had been involved in cases involving elections and campaigns for a number of
10 years. So he was really our go-to person for the sensitive law of the Georgia Election
11 Code.

12 Q Was Dr. Eastman, somebody you talked about earlier, was he at all involved
13 with your team in Georgia in the postelection period?

14 A Not until -- he was not involved with the election contest.

15 Q Was he involved otherwise?

16 A There were -- there were people, lawyers from across the country, who were
17 preparing other cases. And I connected John to talk to some of the rest of the legal
18 team after the election contest was filed.

19 Q So later in December then, is that fair?

20 A That would have been later. I was very focused on the election contest.

21 Q How did your team in Georgia interact with other lawyers involved in
22 election challenges? And I'll go through a few names. Sidney Powell, what was her
23 role, if any, with respect to issues in Georgia?

24 A Not any, really. I talked to her early on, but then -- I talked to a lot of
25 people when I first arrived and entertained information from a lot of different sources.

1 And then ultimately sifted through all of it and then focused on things that I thought were
2 important under the Georgia Election Code.

3 Q Was there anything about Ms. Powell or her allegations related to the
4 election that you didn't pursue?

5 A There were a lot of allegations that a lot of people made that we did not
6 pursue.

7 Q Why is that?

8 A Because I didn't think they were -- I didn't have -- here is the rule. Our rule
9 was we had to have a fact witness who would sign a verified affidavit and be prepared to
10 testify in court under penalty of perjury. All we needed, an expert with actual review of
11 records and documents that could testify at a trial about the veracity of the expert report.
12 And that was the rule.

13 And people could bring every kind of allegation or theory or suggestion or this
14 happened, but if we did not believe that it was something that could be put -- someone
15 could get on a witness stand and defend and be cross-examined, it did not go into the
16 complaint.

17 So I'm very proud of the work that we did. And we identified, as I said, over 30
18 categories of votes that were cast, counted and included in the certified total that exceed
19 the margin of difference between President Trump and Joe Biden. That is a fact, that is
20 a fact. We found those. We identified them. We have the names. They are
21 included in the exhibits. People say, oh, you were trying to go find people. No, we
22 already found them. It's in the lawsuit. If it couldn't be verified -- if it couldn't be
23 verified, it didn't go in the complaint or the lawsuit.

24 Q What types of allegations did you look into that couldn't be verified that you
25 recall?

1 A In particular, we looked at a lot of complaints about Dominion voting
2 machines and some, you know, things with regard to vote changes by the machines or
3 the software. Ultimately, you know, I said I can't work my iPhone. I barely worked my
4 iPhone. And we didn't have any money to hire an expert and didn't have the time to
5 really see if there was anything to that. And so I said we're not -- we are not going to
6 include that in our lawsuit. And we didn't.

7 Q You mentioned a couple times --

8 A We didn't have to. We didn't have to.

9 Q You mentioned a couple times -- sorry.

10 You mentioned a couple times using experts. Was that Mr. Braynard, Mr. Geels?

11 A And Mark Davis. Those three for sure. We had a couple expert affidavits
12 about voter rolls, I think.

13 Q Did you talk to Mr. Braynard and Mr. Geels about their findings?

14 A When.

15 Q At any point.

16 A Well, sure.

17 Q Before the suit was filed?

18 A Of course.

19 Q Who was primarily responsible with working with them from your team?

20 Was that you?

21 A No. Patrick Witt.

22 Q Is he a lawyer?

23 A Yes, he is. Harvard Law.

24 Q And as far as the affidavits, you mentioned that it was important for your
25 team to have affidavits. I think you also mentioned earlier Jenny Beth Martin was one

1 of the people who would go out and talk to witnesses and collect affidavits; is that right,
2 that she would do that?

3 A That's right. She was one of the people, yes.

4 Q Is she an attorney?

5 A No, but she's smarter than most of the lawyers I know. And she's from
6 there. So she knew how to find people and so she would take lawyers with her.

7 Q Other than the experts, would you meet with these other witnesses who
8 provided affidavits to support the election suit?

9 A Some. Some. But we had a team, and I didn't have to -- I didn't have to
10 double up and do whatever the right fielder was doing, because we would have a good
11 right fielder. I wouldn't have to double up and do what the third baseman was doing,
12 because we had a good third baseman. We built a pretty good team. We were
13 volunteers at -- initially. And people had their own responsibilities for gathering the
14 evidence in order to put it into the election contest.

15 Q Are you familiar with a person named Ken Chesebro, C-h-e-s-e-b-r-o?

16 A I don't recognize that name, no.

17 Q What about Mark Martin? Do you know somebody named Mark Martin?

18 A I don't recognize that name.

19 Q I believe he's a former chief justice or justice on North Carolina Supreme
20 Court. Does that refresh anything related to Mr. Martin?

21 A No.

22 Q What about Kurt Wilson or Bill Olson? Do those names mean anything to
23 you?

24 A I know Bill Olson. He's a First Amendment lawyer in northern Virginia.

25 Kurt Olson, I know that name, but I hear it -- actually, I heard it just the other day,

1 but I don't remember in the context in which I heard it in 2020.

2 Q Do you recall working with either of them on your efforts in Georgia related
3 to the election?

4 A I don't recall, but it doesn't mean I didn't. I may have. I talked to a lot of
5 people.

6 [REDACTED]. I'll stop there and see if anybody has any questions.

7 Again --

8 Mr. Rowley. For planning purposes, when do you want to take a lunch break.

9 [REDACTED]. A lunch break, perhaps, at 12:30, 12:45, about an hour. But if
10 you'd like a comfort break now, I'm fine with that.

11 Mr. Rowley. We're okay to keep going on. Why don't we plan on 12:30 for
12 lunch.

13 [REDACTED]. We can do it earlier if you prefer, if we are not going to take a break
14 now.

15 Mr. Rowley. I think that works.

16 [REDACTED]:

17 Q When you began work on election-related issues after the election, so once
18 you got to Georgia, did you have any interactions with Mr. Giuliani and his team related
19 to your work?

20 A Yes.

21 Q Without getting into specifics of communications, what was his role with
22 respect to your team?

23 A It was -- I knew that he was working in a lot of different states on the
24 postelection issues.

25 Q Did he have approval authority over what you and your team were doing in

1 Georgia?

2 A I don't think I feel comfortable answering that question.

3 Q Because why?

4 A Privilege.

5 Q You think that would call for an attorney-client communication?

6 A I do, yes.

7 [REDACTED]. We'll note that objection then for the record.

8 The Witness. Okay.

9 [REDACTED]:

10 Q Did Mr. Giuliani have any kind of role when you first began working on
11 election-related issues on November 4?

12 A Not initially.

13 Q Do you know why he came in later?

14 A No.

15 Q Do you remember roughly when you began interacting with Mr. Giuliani on
16 election-related issues?

17 A I really -- I don't. It's a bit of a blur. So I don't really know.

18 Q Did you ever meet with Mr. Giuliani in person to discuss the work in
19 Georgia?

20 A I don't think I did, actually. Now that you asked me that, I don't think I did.

21 Q How about any of the team? I'll just name a few people.

22 Katherine Friess?

23 A No, I don't recognize that name.

24 Q Christina Bobb?

25 A I recognize the name, but I don't recall having any interaction with her.

1 Q How about Boris Epshteyn? Did you ever work with Mr. Epshteyn related
2 to your efforts in Georgia?

3 A I did have some phone calls with Boris.

4 Q And would your communications or would you understand your
5 communications with Mr. Epshteyn to be privileged?

6 A I did, yeah. He was part of the legal team with Rudy.

7 Q What about Bernie Kerik? Did you ever work with Mr. Kerik or
8 communicate with him related to your work in Georgia?

9 A I talked to him a couple of times, yes.

10 Q Did he have a role in helping to investigate or look into any of the allegations
11 in Georgia?

12 A No.

13 Q What were your communications with Mr. Kerik about?

14 A There were a number of people, as I said, who wanted us to investigate the
15 voting machines.

16 Q He was one of them?

17 A I would just say there were a number of people that wanted us to include
18 allegations about the voting machines, and we chose not to do that.

19 Q Did you have any calls where Mr. Kerik was a party with outsiders, third
20 parties, election officials or otherwise, to discuss voting machines?

21 A No.

22 Q Did you have any calls -- other than an obvious one being the Raffensperger
23 call in January, any calls with election officials to discuss voting machines or where the
24 topic of voting machines came up?

25 A I did not. It doesn't mean that there weren't people -- it doesn't mean that

1 there weren't people on the team who didn't have those conversations. Some of them
2 may have.

3 Q Do you know of any conversations like that?

4 A I have a vague recollection that I think there was. There were a couple of
5 conversations.

6 Q Who were those conversations that you vaguely recall, who were they with?

7 Mr. Rowley. Dan, objection to the extent that that may implicate privilege.

8 The Witness. No. Just suffice to say we had a lot of people calling, writing,
9 sending in, you got to look at this, you got to talk to that person. We did our best to
10 take seriously allegations that we thought might be true and ultimately did not include
11 anything in the contest, in the complaint about the voting systems.

12 [REDACTED]:

13 Q So -- okay. So my specific question right now is do you recall any outreach
14 from your team to election officials about voting machines?

15 A No, no.

16 Q What about Mr. Giuliani and his team? Are you aware of any outreach by
17 Mr. Giuliani and his team to election officials about voting machines in Georgia?

18 A I have no idea.

19 Q It's been reported that lawsuits that Mr. Giuliani was involved in or aware of
20 were partly based on getting favorable court rulings and also based on convincing the
21 media and the President that the outcome of the election was in doubt.

22 Was the public relations aspect of lawsuits ever something that you were aware of
23 or involved in discussions about?

24 Mr. Rowley. Objection.

25 [REDACTED]. What's your objection?

1 Mr. Rowley. Same objection to the extent that the question calls for either work
2 product or privilege.

3 ██████████. Okay. I'm specifically asking about public relations, not legal
4 efforts or legal advice.

5 Mr. Rowley. Are you asking about communications that she had with other
6 members of the legal team.

7 ██████████. About public relation strategy, not legal strategy.

8 The Witness. Let me just say this. There were a lot of people in the public and
9 in conservative organizations who wanted to know what was going on. They were very
10 concerned. They wanted to know what was going on. And to the extent that we could
11 ultimately translate what we had filed in a way that people could understand it and what
12 our claims were and the support, the evidentiary support and the factual support for the
13 allegations in the election contest, we developed some materials that we could circulate.
14 Because not everyone can sit down and read a 64-page complaint with over 1100 pages
15 of exhibits. If that's PR, well, then that's PR. But mainly it was to help people. I've
16 always been a very good believer in trying to help people understand the legal system,
17 legal proceedings and so I wanted to make sure, after we got everything filed, that we
18 were able to rewrite things in plain English and circulate those when we did.

19 ██████████:

20 Q And we'll get through some of those materials as we go through the day.
21 That's helpful. Thank you, Ms. Mitchell.

22 In the week after the election day, so I believe the election was called
23 November 7. In that week after you arrived in Georgia and before the election was
24 called, what was your understanding about irregularities, allegations about illegal voting?

25 A My understanding.

1 Q Correct.

2 Did you have evidence of it already, or was it just coming in as allegations at that
3 point?

4 A No. We started gathering the evidence immediately. It became pretty
5 clear within the first 24 hours after I was there that this election had some serious
6 problems.

7 Q What types of things were you actually collecting in that week before the
8 election was called?

9 A We started looking at -- well, first of all, we did not get the voter data until, I
10 want to say, the Monday or Tuesday following the election. So all the data we had was
11 only through the 2nd of November. The Secretary of State's office didn't release the
12 voter data for election day until maybe a week later, so maybe the 10th. But what I
13 began to do was to look at whether or not -- and we had experts who volunteered to help
14 look through records, identify records, obtain records and look through the government
15 records that we had available or could get access to and determine whether people had
16 voted illegally. And we found many categories, and that's what ultimately ended up in
17 our lawsuit.

18 Q That lawsuit, again, the same one we talked about earlier filed in early
19 December, Trump versus Raffensperger?

20 A Uh-huh.

21 Q Could you pull up Exhibit Number 4, please? This is a document that you
22 provided to us. It's early November, November 7 to be specific, text messages with
23 Senator Mike Lee. If you can go to page 2, please.

24 Can you see that?

25 A Yes.

1 Q Okay. So the Mike Lee here, is that Senator Mike Lee?

2 A It is.

3 Q What's your relationship with Senator Lee?

4 A He's my client and a very close friend.

5 Q Is he a client related to the election issues in the November 2020 election?

6 A I don't think he was on the ballot then. But I work with him on lots of legal
7 issues related to his campaign, his candidacy, his service as a senator, et cetera.

8 Q He reached out to you on November 2 in that first message and said, "What
9 should I be doing right now? I'm trying to find out what's winnable and what isn't." He
10 said, "I suspect that the only way to win this election would involve identifying systemic
11 fraud." And then you say, "And I think that has happened in key states nationwide.
12 Working on that now."

13 Q Could you tell us just what this exchange you had with Senator Lee was about,
14 what prompted it?

15 A I don't know what prompted it.

16 Q Okay. Do you remember having a call with Senator Lee where you
17 discussed election fraud before this exchange of messages?

18 A I don't have any recollection of that, no. But I talk to him frequently.

19 Q You say, "I think this has happened in key states nationwide." Again, this is
20 November 7.

21 A Yes.

22 Q What made you think that systemic fraud was happening in key states
23 nationwide on that date?

24 A Because I have a good friend who is an election lawyer in Philadelphia. I
25 actually talked with her a week before the election. I started to write an article,

1 actually, the week before the election saying brace yourselves, people, this is what we're
2 getting ready to see in Philadelphia. And so I knew a little bit about what was going on
3 there. And -- particularly because I knew about the massive, nearly half a billion dollars,
4 although I didn't know the number at the time, but I knew there were massive funds
5 funding from Mark Zuckerberg into election offices. And I find that to be reprehensible.
6 And I've known about that before the election. I thought we were seeing some of the
7 results of that in Georgia and Fulton County as well as in Pennsylvania.

8 And I talked to a couple of people who were telling me about things in Nevada and
9 Arizona, but I wasn't spending a great deal of time on that because I was really focused on
10 Georgia.

11 Q You say "key states." You just mentioned Pennsylvania, I believe Arizona
12 and Nevada, Georgia.

13 A Yes.

14 Q Were those the key states you're referring to in this message?

15 A Yes.

16 Q Any others?

17 A Ultimately Michigan, Wisconsin. We know what happened there now. I
18 didn't know at the time, but we know now.

19 Q Why the focus on only those states as opposed to other states nationwide?

20 A Well, I don't know. Why don't you ask CTCL and CEIR and Dana Clark?
21 Why don't you ask them that very question? Why did they pour all that money into
22 those key states and those key cities? Why don't you ask them that.

23 Q I'm just asking, why did you focus on those states?

24 A Because I knew that that's where they had -- that's where money had
25 flooded in and I knew that there were things that had happened in those cities to gin up

1 the turnout and to do, frankly, a lot of it in violation of the election codes.

2 Q These aren't the only states that made changes, of course, related to COVID
3 and other things. Did you discuss any challenges or investigations related to other
4 states' election code changes?

5 A I don't understand your question. Start over, please.

6 Q Yes, sure.

7 These states, these key states that you just mentioned weren't the only place
8 where the elections were adopted, issues were, I guess, changed or modified to account
9 for COVID or other reasons. So did you participate in any challenges or investigations in
10 any other states other than Georgia and some of those you just mentioned?

11 A Well, I reject the premise of your question.

12 Q Okay.

13 A When you say the changes were made due to COVID, that is not accurate.
14 You had changes made that were made by Democrat election officials to disregard the
15 state laws and then to basically remove requirements for signature verification. That
16 happened in Pennsylvania, it happened in Wisconsin, it happened in Arizona, it happened
17 in Georgia. And they disregarded the state laws, and they did not do that because of
18 COVID. It was a pretext, but the fact of the matter is the statutes were not changed and
19 you had election officials who made decisions that they were going to remove verification
20 standards, not abide by them. And they flooded -- all those offices were flooded with
21 money from Mark Zuckerberg. So why did I think about those states? Because that's
22 sort of like Jesse James said "why do you rob the banks?" "Because that's where the
23 money is." And that's where the money went.

24 Q Are those the only states, the ones you mentioned, Nevada, Arizona,
25 Georgia, Pennsylvania, are they the only states that you believed these types of changes

1 happened in?

2 A Michigan, Wisconsin.

3 Q Anywhere else?

4 A Well, they made changes. They filed lawsuits all over the country. They
5 filed over 200 lawsuits. But, I mean, that's okay from your guys' perspective, I guess.
6 It's okay. It's just that when we try to say, no, we think the law should be followed and
7 upheld, that's when we're -- we're not allowed to do that.

8 Q Ms. Mitchell, I'm not suggesting one way or the other. I'm just asking
9 questions.

10 Why was the focus on those states in particular, and not anywhere else?

11 A Because that's where they manipulated the outcome of the 2020 election.

12 Q I see.

13 A Those states and those cities targeted communities where they could
14 manipulate the outcome of the election, using the election office and using Mark
15 Zuckerberg's money. It's all been documented since then.

16 Q Do you believe it happened anywhere else based on what you learned in
17 that --

18 A Probably, probably, probably. Those are the ones that I know it happened.

19 Q Okay. And, of course, you said earlier, though, your focus was on Georgia.
20 Did you do anything to look into claims related to illegal voting in these other states?

21 A No. Not then.

22 Q Now, if you continue through this text message exchange, Senator Lee sends
23 you a text at 5:45 on page 2. It says, "By the way" --

24 A I can't see Page 2.

25 Q We're bringing it up now. It happens on our end. Can you see that now?

1 Page 2, it's a message that starts, "By the way, I don't think Jared was actually pushing
2 this."

3 Mr. Rowley. There is a delay on her end. So she sees the document after I do.

4 [REDACTED]:

5 Q Okay. Okay. I'll build in some time. Thank you.

6 A Mike Lee says what.

7 Q Mike Lee, at the top there, it says, "By the way, I don't think Jared was
8 actually pushing this." And you say --

9 A I don't know -- I don't know what that meant.

10 Q Okay. You said, "Okay. Good, I talked to Meadows. He's with us. No
11 C word."

12 Are you referring to that, the C word, as concession?

13 A I don't know.

14 Q Do you remember what you meant when you said "No C word"?

15 A No.

16 Q Do you remember talking to Mark Meadows around this time about the
17 possibility of the President conceding?

18 A No, I don't remember that. I talked to Mark multiple times a day about -- I
19 don't even know what date this is.

20 Q This is November 7.

21 A Yeah. I don't know.

22 Q Ms. Mitchell, if it helps your recollection, this is the day that the election was
23 called by several major media organizations.

24 A That had nothing to do with me.

25 Q We understand you didn't call the election. This is a point of reference.

1 This is the same day that -- these text messages occurred the same day that the media
2 called the election for President Biden. Does that help?

3 A No. No.

4 Q Okay. We can pull up Exhibit Number 5, please. Just let us know when
5 you can see that, please.

6 A Okay.

7 Q This is a chain, November 13 emails, including various folks. One is this
8 Google groups -- 20024 Google group. Do you know what that is?

9 A No.

10 Q I believe it's identified as Groundswell. Do you know what Groundswell is?

11 A It was a group of conservative leaders.

12 Q What was their role -- what was your role with Groundswell, if anything?

13 A I would get copied on things.

14 Q Is there a membership structure? Were you a member of Groundswell?

15 A This doesn't have a membership. It's just a group of people on our listserv.

16 Q And you were a person on that listserv then; is that right?

17 A Yes. And I would weigh in from time to time.

18 Q Who is Barbara Ledeen?

19 A Barbara Ledeen.

20 Q Who is that?

21 A She's a conservative leader who's been very involved over the years in
22 judicial confirmations in the Senate.

23 Q How about Christian Adams, who is that?

24 A He's the president and general counsel of the Public Interest Legal
25 Foundation, a former Justice Department lawyer.

1 Q Did you say the name of the public interest organization he's with?

2 A Public Interest Legal Foundation.

3 Q Okay. If you go to page 2 of this exhibit -- we'll give it a moment for it to
4 scroll up for you -- this is a message that Ms. Ledeen sent -- forwarded, rather, it looks like
5 from Mr. Richard Manning.

6 Do you know who that is?

7 A Yes.

8 Q Who is that?

9 A He's a conservative leader. He's president of Americans for Limited
10 Government.

11 Q What were these individuals' role with respect to your efforts in Georgia, if
12 any?

13 A None, just citizens. They care about election integrity and making sure that
14 the election was properly conducted and the correct person was declared the winner.

15 Q In this email chain, if you go back up to the bottom of page 1, Ms. Ledeen
16 says, "An audit will not reveal all the computer fraud here. The machines must be
17 impounded, disconnected from the Internet and forensically evaluated by Harri Hursti,
18 expert witness in the Georgia suit already. This is urgent." And then you say, "I think
19 this is -- that is very good advice from Christian. We have to make sure that when we
20 say things, they are true. There are enough problems to discuss without making things
21 up."

22 Do you recall this email?

23 A Not really, no.

24 Q Do you remember --

25 A That was my rule that I said to everybody.

1 Q And so at this point, then, November 13, I don't want to put words in your
2 mouth, but it seems like you're concerned that this computer fraud issue, voting
3 machines issue hasn't been fully established, sufficient to say in court or otherwise. Is
4 that fair?

5 A In my opinion, that's correct. That's why we didn't include it in our lawsuit.
6 It's one thing to make public statements, but it's different when you got to put it in a
7 lawsuit and somebody has to look at a judge and you got to make sure that what you
8 put -- I actually care about attorneys and the rule of law.

9 Q Groundswell is a group that Ginni Thomas is associated with. Do you know
10 Ms. Thomas?

11 A I know her very well. She's a very dear friend.

12 Q Do you work --

13 A She's been badly treated by you guys in the media.

14 Q Did you work with her at all related to postelection efforts after the
15 November 2020 election?

16 A What -- how do you define "work with"? Do I talk to her? I've talked to
17 her.

18 Q What do you talk about?

19 A We talked about what was going on in Georgia.

20 Q Did she give you any recommendations?

21 A No. She asks me what I think.

22 Q Did she -- other than recommendations, did she make any suggestions, quick
23 picture of the election, not only in Georgia, but in other states about what she thought
24 should happen?

25 A No, no, no.

1 Q Did she say anything about her interactions with Mr. Meadows or anybody
2 in the White House?

3 A No.

4 Q Did she say anything about her -- just to drill down on that a little bit more
5 specifically -- about any interaction she may have had with the President in the
6 postelection period?

7 A No. Not that I can remember. I can't remember having conversations
8 with her other than just very briefly.

9 Q What were the conversations that you remember? Tell us about that.

10 A Just like that. Just like that. What you just showed me. People were
11 asking questions. They wanted to know what was going on. I'm a lawyer. There
12 aren't many lawyers involved with conservative groups. I've represented a lot of the
13 organizations. I represented a number of the organizations when Lois Lerner and the
14 IRS came after them and the conservatives in the targeting of the Tea Party and
15 conservative groups in 2010, '11, '12, '13, and so I'm a trusted source for information.
16 So they wanted to know -- they are laymen. They wanted to know what was going on.

17 Q Do you recall ever talking to Ms. Thomas about state legislatures choosing
18 electors in the presidential election?

19 A I don't recall. I don't know. I may have. I may have. I may refer to
20 John Eastman. I remember looking at the statutes and looking at the memoranda, and
21 those were not privileged. Those were in the public domain.

22 Q Do you remember sharing any of those memoranda, legal or factual
23 memoranda, with Ms. Thomas or anybody else at Groundswell?

24 A Well, Groundswell is not a formal organization. It's just a listserv. So
25 there are a lot of people who are on that listserv, and I can't sit here today and tell you,

1 no, I didn't send anything to anybody on that list. I'm sure I probably did. This is an
2 example of it.

3 Q How about Ms. Thomas? Do you remember sharing any legal or factual
4 memoranda with Ms. Thomas?

5 A I do not have any present recollection of that. I do not. It doesn't mean I
6 didn't.

7 [REDACTED]. A follow-up on these documents. One quick question and this
8 takes us back a little bit, Ms. Mitchell. But I believe earlier you mentioned that you had
9 connected Dr. Eastman with other lawyers on the campaign at some point in December.
10 And I'm wondering who on the campaign you connected him with. Apologies --

11 The Witness. I don't think I said that.

12 [REDACTED]. Did you --

13 The Witness. John Eastman -- I had connected John Eastman -- I can't remember
14 who I connected him with. But he had his own relationships with people on the
15 campaign and the President and all. I didn't have to connect him.

16 [REDACTED]. Did you ever connect him with any other conservative legal
17 organizations, any other members of Congress, anyone else like that.

18 Mr. Rowley. Time frame?

19 [REDACTED]. Postelection period leading up to January 6.

20 The Witness. Well, John did a memo about what is the authority under the
21 Constitution of state legislatures with regard to us, the selection of electors, presidential
22 electors. He did a memo and I think I did send that to some people because I thought
23 this was worth looking at. But that's -- I don't even remember who I sent it to. I wasn't
24 his PR person. John doesn't need me to do that.

25 [REDACTED]. Understood.

1 And I think [REDACTED] will probably cover some of that later, so I will pass things
2 back to him.

3 The Witness. Okay.

4 [REDACTED]:

5 Q If we can pull up Exhibit Number 6, please. Tell us when that comes up for
6 you, Ms. Mitchell.

7 A Okay.

8 Q So this is an email exchange you provided to us, and it involves you as well as
9 an email recipient, Thirdwave2@speakingingrich.com.

10 A Yes.

11 Q Do you understand that that email address is the email address for Newt
12 Gingrich?

13 A Yes.

14 Q How was Mr. Gingrich involved in postelection efforts?

15 A Well, I've known Newt for many years, and he called me and he knew -- he
16 found out I was in Georgia. You may remember, he represented Georgia in Congress,
17 lived in Georgia for many years. He called and offered to help any way that he could
18 and wanted to know what was going on and what he could do to help.

19 I had lots of calls like that from lots of people. I know a lot of people. And so I
20 had a lot of calls from people like that. But Newt has always been a good friend and
21 brilliant and strategic.

22 Q Did Mr. Gingrich --

23 A So he was someone I talked to.

24 Q Did he help fund any litigation expenses or efforts?

25 A I don't have any idea.

1 Q We'll get into some of his suggestions or -- I don't want to mischaracterize
2 them. But if we go to page 3 here, same exhibit, Exhibit Number 6, it starts with an
3 email from Charles Kilmer.

4 Do you know who Charles Kilmer is?

5 A I do not.

6 Q Mr. Kilmer, it looks like, sends to Mr. Gingrich, an email about Max (sic)
7 Braynard, a member of Trump's 2016 digital team who said he had actionable evidence
8 showing voter fraud in numbers great enough to turn the election in Georgia. This is on
9 November 20.

10 Do you remember hearing about Max (sic) Braynard before this email exchange
11 that ultimately ends up with you on November 20?

12 A I've known Matt Braynard for several years before this. And it's not Max,
13 it's Matt.

14 Q That was my next question.

15 So this is Matt Braynard. How do you know him?

16 A I think I knew him first with the Santorum campaign. I represented Senator
17 Santorum for many years, his campaign, et cetera. So I think the first time I met him, I
18 think he was somehow involved in the Santorum campaign.

19 Q Do you remember what his role was with the Santorum campaign?

20 A No.

21 Q Do you remember what his background is?

22 A No.

23 Q Do you know if he had any expertise in statistics?

24 A I don't know his CV.

25 Q Did you ever know him to have any experience or expertise in

1 investigations?

2 A I think that he had done data analysis and data work for the Trump
3 campaign in 2016. I don't know that, but I seem to recall somebody told me he had
4 done that.

5 Q And this email says that Mr. Braynard, although it says the wrong name, but
6 Mr. Braynard was part of the digital team. Do you understand that Mr. Braynard was
7 part of the digital team for the Trump campaign?

8 A That's my understanding, that he was part of that. He was working with
9 some other groups in the postelection and he was made available to do research for our
10 election contest.

11 Q Do you know what his role on the digital team was, what his specific job
12 duties entailed?

13 A I do not.

14 Q If you go to page 2 of this exhibit, still on Exhibit Number 6, you say, "Yes,
15 been trying to get him hired for two weeks" -- I guess that goes to answer my original
16 question -- "he is key."

17 Why did you say he was key?

18 A I understood that he had the capability to do data research on voter rolls
19 and voting election data and analyze data. That was what was represented to us, that
20 he had the capacity to perform those kinds of research projects.

21 Q And Mr. Gingrich responds and says, "What does he cost? Maybe I could
22 just get him paid."

23 Do you remember Mr. Gingrich having any role in helping to hire
24 Mr. Braynard and get him paid for postelection work?

25 A Other than making that offer, no. We were able to get Matt to do work for

1 the election contest and did not -- not involving Speaker Gingrich.

2 Q If you go to page 1 now, you discuss or tell Mr. Gingrich about a project you
3 had Mr. Braynard run, and you say, "People reported as living out of state but voted in
4 Georgia. His call center called a sample," among other things.

5 And then in the top email exchange you said, "Yes, apparently when the attorneys
6 called them back to turn in two affidavits, the individuals said they did vote. So that is
7 now being run to ground."

8 Could you tell us what you meant by this top email where you say, "When
9 attorneys called them back to turn in affidavits, the individuals said they did vote".

10 A No. I don't remember this. I mean, I remember there were multiple
11 projects that we were talking to Matt about, and this one in particular, I know he said he
12 had a call center, and I don't remember the specifics at all of this. Sorry.

13 Q Do you remember at any period looking into the individuals who were
14 believed not to have turned in ballots in the election but were marked as voting and then
15 finding out later that actually those people did vote, they turned in their ballots?

16 A Well, if we found that, we didn't include that in the election contest. And
17 we were making a very concerted effort to make sure nothing was going in our complaint
18 that wasn't accurate. So if we found things that were not accurate, we didn't put it into
19 the complaint.

20 Q You also referenced somebody in this email exchange called Stefan.

21 A Stefan.

22 Q Who is that?

23 A He's part of the President's legal team, the campaign's legal team. He's
24 from Georgia. And he was there at the headquarters.

25 Q In the email exchange I'll read to you, it's on page 2, it says, "This is what

1 Stefan should have been helping with, but he checked out two weeks ago, no interest, no
2 involvement, and that leaves us scrambling."

3 Did he say why he wasn't following up on some of these issues that you're flagging
4 for Mr. Giuliani?

5 Mr. Rowley. Can we see where it is in the document.

6 [REDACTED]. Yes, of course. It's on the top of page 2. As soon as it shows up
7 on your end, it's the last paragraph of the email you're looking at now, just above
8 Ms. Mitchell's signature block.

9 Mr. Rowley. Got it.

10 The Witness. The speaker knows Stefan, has worked with Stefan for many years.
11 And it would have been nice to have help from Stefan.

12 [REDACTED]:

13 Q Did -- is that Stefan Passantino?

14 A Correct.

15 Q Did he tell you why he didn't follow up on some of the issues or wasn't
16 interested in some of the issues that you're raising here?

17 A No.

18 There were a great many people around the Republican Party of Georgia who had
19 pivoted to work on the Senate runoff. I think that was his priority.

20 Q If we can pull up Exhibit Number 7, please. Tell us if you can see that.

21 A I can see it.

22 Q So this involved somebody named Brian Geels as well as Ryan Germany,
23 Bryan Hill and you, Ms. Mitchell. First let's start with Brian Geels.

24 Who is that?

25 A He's one of our expert witnesses.

1 Q Do you know what his background was?

2 A He is a CPA and a data analyst, as far as I can recall.

3 Q Do you know if he had ever been involved in election-related challenges
4 before the 2020 presidential election?

5 A I have no idea. That's not something you find on every street corner, by
6 the way.

7 Q Also on this is Ryan Germany. Who do you understand Ryan Germany to
8 be?

9 A He's the counsel. I think he's the counsel to Secretary of State
10 Raffensperger.

11 Q And then Brian Hill. It looks like it's a similar email address.
12 Who is he?

13 A I don't know him.

14 Q Earlier on this email chain, if you go down to the bottom of page 1, it
15 includes somebody named Vincent Russo and Brian Tyson.

16 Do you know who they are?

17 A Yes.

18 Q Who are they?

19 A One of those is the lawyer for the state party, Republican Party. And one
20 of them I think was the retained counsel for the Trump campaign in Georgia.

21 Q Who is the lawyer for the state party?

22 A You know what, I never could get that straight. They were kind of Frick and
23 Frack in my mind and I never could figure out which one was who. I always got them
24 confused. Sorry.

25 Q In the bottom email that we're looking at there, it says -- this is Brian Geels

1 responding now saying -- making your request for a data dictionary in the Georgia voter
2 files and it says, "I was asked by Mark Meadows to analyze the Georgia 2020 election
3 results."

4 A Yes.

5 Q What do you know about Mr. Meadows asking Mr. Geels to analyze the
6 election in Georgia?

7 A Brian Geels was one of our experts. We made multiple, multiple
8 approaches to the Secretary of State's office to obtain data, to compare to the data that
9 we had and that we ultimately included in our election contest, and we got nowhere with
10 the Secretary of State's office. They had no interest in trying to explain anomalies, to go
11 and sit down with us to go over data. And we kept trying and trying and trying because
12 we had identified all of these problems and were -- on the 27th of November we were,
13 you know, trying to pull together all the data for the election contest and wanted to sit
14 down with the Secretary of State's office and go through it.

15 And, ultimately, they were so uncooperative. They were just going to the media
16 and saying everything was wonderful. They ran a great election because Brad
17 Raffensperger cared more about having his mug on television and making Wolf Blitzer
18 and 60 Minutes love him than making sure that he got it right. And he didn't get it right.

19 So we had all the data that we had been able to access, much of it from their
20 office. And they would say, oh, your data is wrong and we would go, Okay. Our data is
21 wrong? Can you sit down with us and tell us what's wrong? Let's try to get it right.
22 And they would never do that.

23 So this was one of those many efforts to try to sit down with the Secretary of
24 State's office to say here is what we show in our data. We've identified all these illegal
25 votes. You say it's not right. Where are we wrong? They would never do that.

1 Q Did Mr. Meadows ask Mr. Geels to get this type of data from the Georgia
2 Secretary of State's office?

3 A I don't know that he would have done it separately or if we just did it
4 together or whatever. But we made lots of different efforts from a lot of different
5 sources to try to get them to sit down with us and go over what we saw as problems in
6 the election data. They never would.

7 Q And ultimately, of course, you sued or the legal team in Georgia sued
8 Mr. Raffensperger as part of Trump versus Raffensperger; correct?

9 A Uh-huh, yes.

10 Q Bringing up Exhibit Number 9, please. This is a document you provided to
11 us. It's text messages exchanged with somebody named Chip Roy.

12 Who is Chip Roy?

13 A He's a congressman from Texas.

14 Q How do you know Mr. Roy?

15 A I've known him since he worked for Senator Cruz. He was Senator Cruz's
16 chief of staff. I was Senator Cruz's lawyer and I got to know Chip when he worked for
17 Senator Cruz, and we are still good friends.

18 Q If you go to page 2 of this -- and this -- I should say that also in this, at least
19 on the messages, was Mr. Mark Meadows.

20 A Okay.

21 Q It doesn't look like he responded to anything. So Mr. Roy reached out to
22 you on November 29 and says, "Any update on litigation/talking points." You say, "I will
23 have something tonight."

24 Do you know why Mr. Roy was reaching out to both you and Mr. Meadows for this
25 information?

1 A Because he wanted to know what was going on. He wanted factual
2 information. And I've known Chip for a long time before he ran for Congress, since he
3 ran for Congress, since he's been in Congress. I have a lot of members of Congress who
4 reach out to me about information, ways I can help them, and he wanted to know.

5 Q He says, "Great, I'm trying to get our folks on the sheet of music for
6 messaging." Do you know who he was talking about when he said "get our folks on the
7 sheet of music for messaging"?

8 A I don't know. I don't know for certain, but he's a member of the House
9 Freedom Caucus, and I presume that he might be referring to them, perhaps, or some
10 subgroup thereof.

11 Q Then you sent him a message about Georgia Election Code and the election
12 not being conducted in accordance with it. And he, Mr. Roy, responds, "Is this the 40K
13 of people across county lines or issues beyond?" You respond and say, "Do you mean
14 the Mark Davis stuff? That guy totally finked out yesterday. We're getting it in
15 another way but what a bizarro he turned out to be."

16 First of all, I'll ask you, do you know what Mr. Roy is referring to by "across county
17 lines"?

18 A Yes, there were more than 40,000 people that we've identified, their names
19 are actually in the lawsuit, the spreadsheets, people who moved out of their county more
20 than 30 days before the election and then went back to their own residence and voted in
21 the November 2020 election, which is illegal under Georgia law.

22 And I had a little dustup with Mr. Davis, but he ended up coming back in and was
23 one of our experts. He has his own database, so he wanted to be sure -- I don't
24 remember. But ultimately he ended up testifying in the affidavit, in the expert report
25 about those 40,000 people who voted illegally in the 2020 election.

1 Q What did you understand his database to be? What kind of information
2 did it contain?

3 A He has a database of all the voters in Georgia. He keeps it up to date.

4 Q Do you know how he --

5 A No, I don't. He has his proprietary software. It's just something he
6 decided to do.

7 Q You say he totally finked out. What did you mean by that?

8 A He said he wasn't going to help and then he came back and said he did want
9 to help. I don't know.

10 [REDACTED]. Any questions on this.

11 By [REDACTED]:

12 Q What did you mean when you wrote "What a bizarro he turned out to be"?

13 A It speaks for itself. He turned out to be kind of bizarre, but then he came
14 back and -- he didn't want to use his database and then he came back and said, okay, I
15 think we -- we can't have somebody as an expert if we don't have data. So he came
16 back. It was fine. He was right. He was right.

17 Q But you did end up using his information in your lawsuit; is that right?

18 A Correct. And he actually followed a number of -- for a number of months
19 and, in May of 2021, confirmed that more than 10,000 of those people that were in his
20 expert report reregistered in a new county, which means between November and May
21 they had confirmed that they had moved away and had gone back and voted illegally in
22 their prior residence. So that's 10,000 plus. You can read about that. You can
23 Google him and read about it. He follows all of it very closely.

24 Q Did you rely on him, Mr. Davis, for that information?

25 A For that one piece of evidence, yes, we did.

1 Q Did you --

2 A He has a database. He knows what he's doing.

3 Q Did he do any interviews related to that that you're aware of?

4 A Interviews with whom.

5 Q Anybody.

6 A I don't know.

7 Q Did you do any interviews related to that, the crossing county lines issues?

8 A What do you mean, interviews.

9 Q Talk to people. Going to talk to people who are familiar with the data or
10 people who actually moved, allegedly, and their names.

11 A You mean did I go through and call them and say did you move.

12 Q Correct.

13 A I didn't. It wasn't my job.

14 Q Do you know if anybody did?

15 A I'm sure he did. He's been keeping this database. He's very proud of his
16 database.

17 Q Do you know whether he did?

18 A No, I don't. I don't. I don't. I assume that he did. He's very
19 knowledgeable.

20 Q Did you take any steps or anyone on your team take any steps to verify the
21 information that you provided -- that he provided to you?

22 A Patrick Witt was in charge of all our experts, and Patrick is very meticulous.
23 Some people might say anal. And he was, he formerly worked for MacKenzie. I mean,
24 he is very buttoned down, which is why I put him in charge of the experts.

25 Q Do you know whether he took any steps to verify Mr. Davis' database or

1 information?

2 A I'm sure he did, but I can't sit right here and tell you what he did. But I just
3 know Patrick and he was in charge of that and I have a lot of confidence that there wasn't
4 anything going into that complaint with regard to experts that he hadn't run to ground.

5 Q Ultimately there was a hearing in Georgia where a state senator, Ms. Bee
6 Nguyen, discussed some of the data that the experts working on the Trump versus
7 Raffensperger, ultimately, lawsuit put forward, including Mr. Braynard.

8 Are you aware of the legislature hearing that Mr. Braynard testified at in
9 December?

10 A I have a question. Can we take a break now.

11 Q Yes, right after this question. We can move on and we'll take a break.

12 A Okay.

13 Q Are you aware of that hearing?

14 A I am aware there was some legislative hearing, yes.

15 Q So there was a legislative hearing at which one of the legislators, Senator
16 Nguyen, said essentially if you're going to put people's names out there into the world as
17 having violated some kind of election law, like moving out of state or across county lines
18 without calling them, that was a problem.

19 Were you aware of any efforts to call people who had moved out of state or
20 across county lines and allegedly voted illegally?

21 A Matt Braynard had a call center. I know he utilized that call center to call
22 people.

23 Q You're aware of him actually calling or his call center actually calling people
24 who allegedly moved out of state or across county lines before voting?

25 A I don't know that he -- I don't know that his call center would have been

1 involved in getting into the area that Mark Davis was testifying about.

2 Q What about just the area that Mr. Braynard was testifying about? Do you
3 know that he, in fact, reached out to voters who allegedly moved out of state and then
4 voted in Georgia?

5 A He said he did.

6 Q Did you see him do it?

7 A No. He had a call center. He gave me reports.

8 Q He gave you reports of conversations that he had had with people he called?

9 A No. I'm not going to get into the innards of this, but I know that the effort
10 to validate the experts, the work of the experts was Patrick's responsibility. And I had
11 complete confidence that he did, because we talked about it, but I'm not going to go into
12 detail about our conversations.

13 Q Okay. Anything else to add on these efforts to verify the voters or who
14 allegedly voted in Georgia, but having moved out of state or across county lines?

15 Mr. Rowley. Well, wait a second now. If you have a question, ask her a
16 question. But I don't think that asking her whether she has anything to add to a general
17 category is actually a fair way of approaching this.

18

19 Q Fair enough.

20 Are you aware of any other efforts to verify, other than using this data and the
21 experts, that people who went out of state or across county lines voted illegally?

22 A We worked with several experts. Patrick Witt was responsible for working
23 with the experts and making sure that whatever was put into the election contest was
24 accurate. And I will say that, subsequent to the filing of the election contest, there was
25 a decision made -- I wasn't part of the decision, but there was a decision made to retain

1 yet another expert to come in and look at the data that had been published and included
2 in the election contest to validate it, to verify it. Because I had to make sure I had the
3 money in place to pay this additional expert.

4 So I am very confident that there are more illegal votes included in the certified
5 total that should never have been cast and counted and included in the certified total in
6 Georgia and that that number exceeds the margin of difference between Joe Biden and
7 President Trump. I'm confident of that.

8 Q Who was the expert that came in to do this verification you just mentioned?

9 A I don't remember.

10 Q Did that person make calls to the alleged people --

11 A I do not know. I do not know what the protocols were, other than there
12 was a report generated, which I think you have, where all of that data had been reviewed
13 and verified by yet a different expert than the ones who had signed the reports in our
14 election contest.

15 [REDACTED]. Let's see if there's follow-up on that and then I think it would be
16 time for the break.

17 At this point, then, I think we should do a lunch break. Let's go off the record.

18 (Discussion held off the record.)

19 (Recess)

20 [REDACTED]. It's 1:20 p.m., and we are resuming the deposition of Ms. Cleta
21 Mitchell.

22 [REDACTED]:

23 Q We talked about this a little bit earlier, but we talked about state legislature
24 to have the plenary authority to replace electors. When do you remember this coming
25 up as an option in the postelection period for the first time?

1 A Right after the election. It might have been before the election.

2 Q Okay. Tell us about when you first remember it coming up with respect to
3 it actually having an effect on the election itself.

4 A That isn't the question. The question is you asked me when did I
5 remember that idea coming to the floor. And it wasn't -- it's just a legal principle that I
6 remember at some point there was a memo from John Eastman that outlined the history
7 of the constitutional provisions, some case law, and I thought that was very compelling.
8 I think he's right. I think he's right. I think he's right.

9 Q And sorry, you're absolutely right in that -- the way you answered that
10 question that I asked. I guess to be more precise, when do you first remember it coming
11 up as something that should be employed, discussed with legislators in the states with
12 respect to the election, more than just kind of a broad legal principle?

13 A I think within a couple days after the election. It's important for -- and I'm
14 a former state legislator. So I'm very keen on the legislative authority, particularly state
15 legislative authority. And it's not the kind of thing that anyone ever talked about, and I
16 thought that was an important legal principle that should be discussed.

17 Q Do you remember who was involved in those conversations, specifically in
18 those --

19 A John Eastman and I. John Eastman and I. I think I connected John with
20 some state legislators at ALEC. I represented ALEC at the time, and I had been very
21 involved for a couple of years in trying to ensure that ALEC members exercised their
22 authority with regard to election law.

23 And so I was involved with that and I thought that was really important. I don't
24 think judges should be writing election laws. I think that that should be left up to the
25 legislatures, because that is -- again, there's a Constitutional provision about state

1 legislatures determining the time, place and manner of elections. And I think we should
2 respect the legislator's responsibility in that regard. I've been working on that for a
3 while.

4 Q Just for the record, what is ALEC?

5 A American Legislative Exchange Council.

6 Q Can you just describe it for me?

7 A What.

8 Q What's your understanding of it? Just describe it for us.

9 A The American Legislative Exchange Council.

10 Q Correct.

11 A It's the nation's largest organization of state legislators around the country
12 who are committed to federalism, limited government and fiscal responsibility. I think
13 those are the three principles.

14 Q And I understand somebody named Lisa Nelson may be affiliated. Do you
15 know Ms. Nelson?

16 A Yeah, she's the president -- she's the CEO.

17 Q And is that the person you think you connected Mr. Eastman with or
18 Dr. Eastman, excuse me, at ALEC?

19 A Yes, because Lisa would turn to me from time to time on these subjects and
20 say what do I need to tell my members on what their authority is. I'm getting calls, they
21 want to know, you know, what was their -- what is their authority.

22 Q If we pull up Exhibit Number 20.

23 A Are we going out of order now.

24 Q No. There's no particular order.

25 A Okay, okay.

1 Q But Exhibit Number 20, tell us when you can see it there, Ms. Mitchell.

2 A I see it.

3 Q Okay. This is an email starting in kind of the middle of page 1 there. You
4 scroll down just a tiny bit. There we go.

5 It's from you to John Eastman on November 5. The subject line is "Legal Memo."
6 You say, "John, what would you think of producing a legal memo outlining the
7 Constitutional role of state legislators in designating electors. Rather than governors,
8 the U.S. Constitution vests that responsibility with state legislators." You say, "Starting
9 with these Constitutional reports, would you be willing to discuss it with Dick Morris?
10 What about that?"

11 Why did you reach out to Dr. Eastman and ask him to do this.

12 A Because he and I had talked about it previously, and I had looked at that
13 statute actually before the election. As I told you, I think that Federal Statute. 2 U.S.C.
14 Section 3, et al., I think that that statute is unconstitutional because it provides for a role
15 where the governor of a state, the chief executive officer and the chief elections official
16 to have a role in the transmittal of electors, and I think that's inappropriate and not
17 authorized under the Constitution. I think it's a separation of powers argument
18 concern.

19 And so I had -- I think I talked to John about it at some point and -- before the
20 election, and then -- but I reached out to him because Dick Morris had called me. Dick
21 Morris has been a client of mine, a friend of mine, and he called to ask me what I thought
22 about the about legislative prerogatives. So I reached out to John about talking to Dick
23 and also I thought he should write a memo, which he did. I don't remember if he gave it
24 to me or somebody else, but I think I ultimately received it. It's very well done, very
25 thoughtful.

1 Q Well, I want to show you that in just a moment. You mentioned that you
2 may have talked to Mr. Eastman before the election.

3 Do you remember in any of those conversations before the election discussing
4 with Dr. Eastman that people may need to go to the state legislatures in the 2020
5 presidential election and encourage them to appoint their own electors with their plenary
6 power as opposed to the process that's otherwise set up?

7 A Here is the thing you need to understand. I was absolutely persuaded and
8 believed very strongly that President Trump would be reelected and that the left and the
9 Democrats would do everything they could to unwind it just as they did in 2000 with
10 President Bush and Al Gore. So I was operating from a perspective of believing that, you
11 know, there was ample evidence the plans by leftist advocacy groups and all to create
12 violence. It's everywhere, and I'm sure -- well, I'm not sure you've seen that because
13 you guys are only looking at our side. But I fully anticipated that the left would be trying
14 to unwind the results of the election, which they would definitely have done, and which
15 would have been perfectly all right with you guys, if they had -- if the shoe were on the
16 other foot.

17 Just as it's apparently okay for Mark Elias to try to keep two women Republican
18 House members from being seated in this Congress, challenging their elections, and that's
19 okay. Mark Elias tells the House Election Committee that they don't have to pay any
20 attention to what the voters in Iowa decided because they had the plenary authority to
21 choose their own members and they could -- they should choose the Democrat rather
22 than the woman, Mariannette Miller-Meeks, from being seated.

23 This is not all in a vacuum. This is -- I fully anticipated that we needed to be able
24 to know what arrows needed to be in our quiver because I fully expected the Democrats
25 to create a -- they would replicate what they did in 2000, but it wouldn't just be in one

1 state, it would be in five or six states. That's what I anticipated.

2 Q I appreciate all of that. My question is: Do you remember talking to
3 Dr. Eastman before the election about the potential for contacting state legislatures,
4 encouraging them to appoint electors, as you believe they had the plenary authority to
5 do?

6 A That isn't what we talked about. I told you, we talked about the legal
7 theories --

8 Q Without being specific with respect to --

9 A -- who had the authority, what's the constitutional history, what does the
10 Constitution say, what do the cases say? Who has that authority? I'm actually very,
11 very interested in the rule of law, and that's one of the reasons I really liked to talk to
12 John, because he knows all of those things.

13 Q Were there --

14 A He's the person I talked to about it.

15 Q Were there any plans in place or structure for reaching out to state
16 legislatures, if necessary, that you discussed before the election occurred?

17 A Not to my knowledge.

18 Q You say in this email that we were looking at that a movement is stirring.
19 What did you mean when you say "a movement is stirring"?

20 A Well, people were starting to look at what did the law say, what does the
21 Constitution say.

22 Q Who were those people?

23 A People across the country. Many of -- many of the 74 million people who
24 voted for Donald Trump for reelection and woke up on Wednesday morning, the 4th and
25 said, "What in the world just happened."

1 Q Okay. So when you're talking to Mr. Eastman asking him to write this
2 memo and saying a movement is stirring, you're referring to just the public, the people
3 who voted for President Trump?

4 A The public, right. The officials and members of Congress and others are
5 starting to say, wait a minute. That's what happens when you have these sorts of
6 events. People think, oh, we got to go to the books, you got to look it up. What does
7 the law say? And that's what was happening. People are going, wait a minute, what
8 just happened? Let's go to the books. Let's see who has authority to do what. That's
9 not unusual. It's appropriate.

10 Q Bear with me just one moment. Thank you, Ms. Mitchell, for indulging me.
11 If we go to Exhibit Number 22. While [REDACTED] is pulling that up, did Dr. Eastman
12 ultimately write the memo that you requested from him?

13 A Yes, he did.

14 Q And if we look at page 2 of Exhibit Number 22, this is an attached memo that
15 Dr. Eastman sent around November 9. It's called "The Constitutional Authority of State
16 Legislatures to Choose Electors" by John C. Eastman.

17 Is this a memo that you requested that Dr. Eastman write?

18 A Yes.

19 Q What did you do with this memo when you got it?

20 A Well, I think he sent it to everybody that -- I think he sent it to people that I
21 thought should have it. I don't know. I may have sent it to other people. I don't
22 know.

23 Q Do you remember anybody who you did send it to?

24 A Well, he sent it to Lisa Nelson. I don't know if he sent it -- I think he sent it
25 to anybody that I would have sent it to. I just like -- I just was happy -- I just wanted to

1 have it. I wanted to have it.

2 Q Do you remember sending it to anybody at the White House?

3 A If I would have sent that to anybody, it would have been to Mark Meadows,
4 but I don't have a present recollection of ever having done that.

5 Q Do you remember sending it to anybody on Mr. Giuliani's team, like Jenna
6 Ellis or Mr. Giuliani?

7 A They had it, but they didn't get it from me.

8 Q Do you know where they got it from?

9 A No.

10 Q How do you know they had it?

11 A It wasn't a secret. This is not some secret memo.

12 Q Yes. I heard you mention that. How do you know they had it?

13 A Because they called to talk to me about it.

14 Q What did they want to talk about?

15 A I'm not going to talk to you about that.

16 Q Are you objecting on the basis of attorney-client communication privilege?

17 A Yes; correct.

18 The memo speaks for itself.

19 Q Do you remember sending it to any members of Congress?

20 A I may have. I don't remember that.

21 Q It looks like Ms. Nelson from ALEC, in transmitting this, or in the email chain
22 that's part of this memo that we're looking at in Exhibit 22, Ms. Nelson connects
23 Mr. Eastman or Dr. Eastman with Representative Seth Grove, chairman of the Oversight
24 Committee in Pennsylvania.

25 Do you know why Ms. Nelson wanted to connect Dr. Eastman with Representative

1 Grove?

2 A He's part of the Pennsylvania House. He's part of the working group with
3 ALEC. That's how I know him. And these would be the kind of issues that would fall
4 within the jurisdiction of his committee.

5 Q Did you speak with Representative Grove about the issues raised by
6 Dr. Eastman in this memo?

7 A I may have. I don't have any -- I have talked to Seth a zillion times over the
8 last several years. I don't know if I talked to him about this or not.

9 Q Do you remember encouraging him to exercise the plenary authority, as you
10 put it, to choose electors?

11 A I have no recollection of having such a conversation.

12 Q Do you have any recollection of having any conversation like that
13 or -- excuse me, any conversation like that with any state legislators around the country
14 in response to the November 2020 election?

15 A Well, I had some legislators, a few, not many, but I had a few legislators in
16 Georgia who reached out to me, but I don't have any recollection of discussing this memo
17 with them. I was more in the -- I would have been -- you know, the only thing I
18 remember is giving them information about the election contest and the ways in which
19 the election had been conducted improperly and the number of illegal votes that were
20 included in the certified margins and certified totals such that it was impossible to know
21 who the actual winner of the presidential election in Georgia was. And I did talk to
22 various legislators about that.

23 Q As part of those conversations with Mr. Roy in Georgia, did you ever
24 encourage them to exercise any other plenary authority to appoint electors in Georgia?

25 A I told -- anybody who would ask me, I would say you have the power under

1 the law, under the Constitution to convene the legislature. You do not have to -- when
2 you have a plenary power vested in you by the Constitution of the United States, you do
3 not have to have the governor, an executive branch officer, call you into the legislative
4 session. That was their big hangup, that they didn't think they had the authority to call
5 themselves into session.

6 This wasn't for the purpose of enacting legislation. But all I can do is give them
7 my best thoughts and advice. What I was really trying to make sure they understood
8 was the illegal votes that were included in the certified totals.

9 Q Just to be clear, these conversations you were describing, and they having
10 hangups, you're referring to Georgia state legislators who contacted you.

11 A Yeah, I didn't talk to that many. One or two.

12 Q Do you remember who?

13 A I know I talked to State Senator Marty Harbin, but that's the only name I
14 recall. There were other people on the team who talked to legislators. There was no
15 reason for me to be the primary point of contact with state legislators in Georgia.

16 Q If we go to Exhibit Number 24, please.

17 Go down just a bit to the first email. This is an email where you sent to
18 Dr. Eastman an email saying "I sent Victoria a memo and your contact information. She
19 may be reaching out to you as expert to speak with legislators." And then Victoria
20 Toensing writes back and says to Dr. Eastman, "John, you are much admired by me and
21 my husband, Joe diGenova. I look forward to contacting you. We have sent your
22 thoughtful memo to many state legislators, Victoria."

23 First of all, I'll ask you what role, if any, did Ms. Toensing, Mr. DiGenova have with
24 respect to your efforts in Georgia.

25 A They were part of Mayor Giuliani's legal team. But I had known both

1 Victoria and Joe for a long time. They're good friends.

2 Q When Ms. Toensing says, "We have sent your thoughtful memo to many
3 state legislators," were you aware of Ms. Toensing's efforts to contact state legislators
4 about this memo in particular?

5 A When I read her email I was.

6 Q That's the only way you learned of it?

7 A Well, yes. The only way I would know about it is if she communicated that
8 to me.

9 Q You didn't have a call with her beforehand saying we need to get --

10 A I had calls with Victoria. I had quite a number of calls with Victoria.

11 Q Do you recall any on this issue, on this issue of reaching out to state
12 legislators and talking about Mr. Eastman's memo?

13 A Other than what is written here, I have no present recollection of having
14 such calls with her, no.

15 Q Dr. Eastman writes back at the top of this email chain from November 28.
16 He offers some insights on it. He says, "I can't imagine" -- in the second paragraph, "I
17 can't imagine a legislature, particularly one with enough never-Trump Republicans to
18 make a difference, taking this step, which would be viewed as rather extraordinary,
19 absent pretty compelling evidence of fraud. The statistical analyses that have been
20 done might get you there, but it would be nice to have actually hard documented
21 evidence of the fraud in the areas to which the analysis purported."

22 Do you remember Dr. Eastman ever asking you for the evidence of fraud or illegal
23 voting in Georgia?

24 A Well, yes, of course I do. And that's what our lawsuit was about. It is
25 why, for anyone other than the left-winged media -- there have been many

1 commentators who say ours was the best postelection complaint proceeding in the
2 country because we actually identified specific instances and people and numbers of
3 illegal votes and -- by category, by name, and we identified the problems. And it's part
4 of the public record in the lawsuit in the election contest.

5 Q Do you remember --

6 A I certainly believe that there was ample evidence to warrant the legislators'
7 determination of the electors notwithstanding the outcome of the election because I still
8 don't believe it's possible to know with certainty who won the election in Georgia.

9 Now, do I think that -- whatever. Go ahead.

10 Q Ms. Mitchell, do you remember sending Dr. Eastman any evidence of the
11 fraud or illegal voting before this, before November 28?

12 A I have no recollection of that. I would have sent him a copy of the lawsuit,
13 the election contest when it was filed or a link to it, so he would be able to look it up.

14 Q Do you remember sending him anything other than the election lawsuit and
15 what was attached to the election lawsuit?

16 A I've sent John Eastman a lot of things over the years. I've sent him a lot of
17 things. He's a good friend of mine and we've worked together on a number of projects
18 over the years.

19 Q I'm sorry, I should be more specific. Do you remember sending
20 Dr. Eastman any evidence of the alleged fraud or illegal voting aside from the lawsuit and
21 what was attached to the lawsuit that you filed in Georgia?

22 A Why would I have to send something else? It's 1100 pages of exhibits and
23 documents reflecting illegal votes. That's pretty compelling. Why -- I don't know why I
24 need to send him something else.

25 Q It sounds like you didn't, but I need to know. Did you send him anything

1 other than that?

2 A I have no idea. I have no idea. I have no idea.

3 [REDACTED]. Any follow-up.

4 By [REDACTED]:

5 Q One quick question, Ms. Mitchell. When you spoke to Dick Morris about
6 this issue that led to Dr. Eastman drafting this memo, did he say that he was speaking
7 with other people about a state legislature theory?

8 A I have no -- I have no recollection of that. I talked to Dick Morris about a
9 lot of things, and I talked to him about a number of different names through the course of
10 that. And, you know, over the years I've talked to Dick Morris about a lot of different
11 projects and theories and ideas. And as I said, he was my client.

12 Q I'm specifically asking you if he told you he was speaking to other people in
13 the phone conversation that you referenced in that email.

14 A No. I have no recollection of his saying that.

15 Q And in that phone conversation, did he mention anything specifically that he
16 wanted to be done other than looking into the issue from an economic perspective? Did
17 he mention that you should talk to state legislators or do anything other than just
18 preparing research?

19 A I have no recollection of any -- anything specific other than what is -- what is
20 represented in the email.

21 [REDACTED]. That's all I have.

22 [REDACTED]:

23 Q Okay. If we can go to Exhibit Number 29, please. Actually, before we put
24 that up, I'm sorry, Ms. Mitchell, I'll turn your attention to December 14, which is the day
25 the Electoral College met.

1 Did you have any role in implementing or coordinating the Trump electors to meet
2 and cast electoral votes in states that Trump had not been declared the winner?

3 A No. I had some fleeting knowledge of some efforts in that regard, but I was
4 not playing a role with that. The only thing --

5 Q Tell me about that.

6 A What.

7 Q The fleeting knowledge that you referenced, what was that?

8 A Well, because there's a lot of talk in the ether and in the emails and on the
9 news and, you know, conversations and people overhearing things and -- you know,
10 there's just a lot of chatter. But I wasn't -- I don't know anything specific. I was
11 somewhat aware of it, but I really had no specific involvement or knowledge. If anybody
12 wanted to ask my opinions, I would just always come back to here is our election contest,
13 we've identified illegal votes that shouldn't be included in the final tallies in Georgia and
14 they are. So we think that's a problem. This election was not conducted in accordance
15 with Georgia law.

16 It's up to them to decide what to do about it. I did my part. I did my part. We
17 filed -- we identified everything, we put it into a lawsuit. We had verified affidavits,
18 experts and data. Every one of the illegal voters and votes is identified in that lawsuit.
19 We didn't have to go find them. We already found them and they are in the lawsuit.

20 Q Did you intentionally decide not to participate or assist in the effort to have
21 Trump electors meet?

22 A No. It was just above my paygrade. It wasn't anything I had anything to
23 do with other than what I told you, which I'll tell you again and again and again. I had a
24 defined role and I managed to, I think, carry out my responsibilities the way that I thought
25 was best and in accordance with the law. That's what I did.

1 Q Can we pull up Exhibit 29 now? These are messages that you exchanged
2 with Senator Lee, it looks like on December 7. And this starts around 6:30 p.m. Tell us
3 when you can see this exhibit come up.

4 A Well, I see a message report, but I don't see the content.

5 Mr. Rowley. There it is.

6 The Witness. Okay.

7 [REDACTED]:

8 Q Okay. So we're looking at page 2. And Senator Lee starts by saying your
9 remarks were terrific and very compelling and asks what should we be doing. It looks
10 like this is taking place during a call or just after a call or presentation.

11 Do you remember giving a presentation or conducting a call on December 7?

12 A I don't remember the date. I did make a presentation to a group of
13 senators via Zoom, a Zoom call --

14 Q Okay.

15 A -- in which I described -- in which I described the problems in the Georgia
16 election.

17 Q Was it focused exclusively on Georgia?

18 A That's really all I can talk about with any degree of certainty.

19 Q So yes, Georgia-specific?

20 A Uh-huh.

21 Q Just for the stenographer, is that a yes?

22 A Yes.

23 Q Thank you.

24 Who were the senators you recall being on that Zoom call?

25 A I don't really remember, frankly. But Senator Lee is the chairman of

1 the Senate Steering Committee, so I presume it was members of the Senate Steering
2 Committee. They come in and out.

3 Q Just I'll offer you a few names --

4 A What.

5 Q I'll give you a few names to see if it refreshes your recollection.

6 Do you remember Senator Scott being a part of that Zoom call?

7 A Rick Scott or Tim Scott.

8 Q Either one.

9 A I don't remember.

10 Q How about Senator Risch?

11 A No.

12 Q Senator Cruz?

13 A I don't remember.

14 Q How about any members of the House?

15 A There was one House member.

16 Q Do you remember who that was?

17 A Mo Brooks.

18 Q That was the only House member you recall being there?

19 A Yes.

20 Q Was anybody else present with you?

21 A No.

22 Q Was it just a conversation or did you have any materials you were showing
23 as well? Any memos, PowerPoint?

24 A I did not have a PowerPoint. I may have forwarded something that would
25 have been a summary of our election contest, but that would have been the only thing.

1 But I don't have a recollection of that, frankly.

2 Q In this text message exchange you had with Senator Lee, do you think that
3 was happening during this call or after the call or some other time?

4 A I don't know.

5 Q All right. He does say -- excuse me.

6 You say to him, to Senator Lee, "GOP senators should study these facts in these
7 cases and realize that the Congress is the vote counter and they should draw a line in the
8 dirt saying 'We are the deciders, we are not going to accept these illegal electors'."

9 And then you say, "The Senate should start making plans to object to the Biden
10 electors in those states where the election is clearly fraudulent."

11 And then Senator Lee asks you, "How do we ascertain and develop a standard to
12 determine whether the election in any state is clearly fraudulent?"

13 Can you just address your argument here, what you're suggesting to Senator Lee.

14 A It speaks for itself. It speaks for itself. If there are states where -- and as I
15 said, I knew what we had been able to provide to the Court in Georgia. I don't know
16 that I had seen the complaints in other states to know whether they had documented
17 illegal votes. But I think that -- I did think it was important for senators before deciding
18 to certify electors to satisfy themselves that the elections were conducted in accordance
19 with the law and that there were not more illegal votes included in the certified totals
20 from the state than the margin of difference between the candidates. To me that's just
21 prudent.

22 Q You say that this is dependent on the election being, in your words, clearly
23 fraudulent. Senator Lee asks you what is clearly fraudulent. And in the next message
24 you say, "That's up to you to decide. If the time period doesn't allow for resolution of
25 the courts, the Congress must decide."

1 A Right. That's right.

2 Q What is sufficient to show -- to answer Senator Lee's question to show that
3 an election is clearly fraudulent, such that the United States Congress would not accept
4 the votes in your view?

5 A I don't think that the Congress should have certified the electors from
6 Georgia. I don't. I don't know, but -- because we identified all those illegal votes that
7 were in excess of the margin. But that's -- you move from a standard for a court of law
8 under an election code to a congressional -- you know, the House and Senate have to
9 determine what their own standards are going to be, because they are the vote counters.

10 Q You suggested one here, though, whether the election is clearly fraudulent.
11 So what in your mind would satisfy that?

12 A If you can identify specific illegal votes in a number sufficient to cast the
13 election in doubt. That's the standard in Georgia under the Georgia Election Codes.
14 It's basically the standard in every state. And we did that in Georgia. We did that.

15 Q Had you discussed this idea of Congress being the court of last resort with
16 anybody before you discussed this with Senator Lee?

17 A I have no idea. I really don't.

18 Q Just to remind you, this is on December 7. Did you discuss this idea of
19 Congress being the court of last resort with Dr. Eastman?

20 A At some point we had discussed something related to the role of Congress
21 and all, but I really don't have any clear recollection of that.

22 Q On page 3 of this, ultimately Senator Lee -- you, again mentioned this idea at
23 6:42 p.m., which is about halfway down the screen. And we'll give you a moment
24 because I know there's a delay. Right in the middle there, Ms. Mitchell, it says, "You say
25 Senate as court of last resort."

1 And then Senator Lee says, "I think that's the best way to frame this, that our role
2 (as to any state's electoral votes) is triggered by the existence of a competing slate of
3 electors?"

4 And then Senator Lee says, "That seems to be the sweet spot for getting my
5 colleagues to engage."

6 You say, "Yes. That's why I was asking the White House today to organize that
7 ASAP."

8 And Senator Lee says, "That is the existence of competing sets of electors."

9 It sounds to me, and I'd like your thoughts on this, that Senator Lee is making the
10 idea of Congress as the court of last resort in the Senate as court of last resort dependent
11 on the existence of competing slates of electoral votes.

12 Is that how you understood it as well.

13 A That is what he said.

14 Q Was that what you were suggesting to him?

15 A Not really, no.

16 Q Tell us what you were suggesting to him, how it's different.

17 A I was -- he believed that there had to be an alternative set of electors. I
18 didn't believe that then, I don't believe that now.

19 Q Ms. Mitchell, was it your view that, without a competing slate of electors,
20 Congress had the prerogative to simply reject electoral votes from states where it
21 believes that the outcome was the result of fraud or illegal voting?

22 A Well, yes. I mean, if you look at the history of members of Congress voting
23 not to certify electors, that is a traditional that's happened many times. Barbara Boxer
24 led an effort to reject electors, among others, in 2004 with George W. Bush. Maxine
25 Waters -- I have got a report that somebody may have sent to me last year that goes

1 through the history of the United States and the number of times that members of
2 Congress have said I'm not going to vote to certify these electors. And they don't have
3 to have a reason. They can just say I'm not voting for this. And they have done that.
4 And there have been a lot more Democrats doing that than Republicans over the years.
5 So there's a long history of that happening.

6 Now, Mike Lee is a constitutionalist and he came to believe that, absent a
7 competing set of electors that he had, he did not have the constitutional prerogative to
8 reject the electoral slate. That's up to him. I respect that. I don't agree with it, but
9 I'm not going to argue with Mike Lee about the Constitution, for heaven's sake.

10 Q Understood.

11 So I just want to make sure I understand this, though. I think you just said this,
12 that Congress could decide to reject a certain state's electors for any reason at all; is that
13 right?

14 A And they have. And it's mainly Democrats in the last 20 years rejecting the
15 electors for George W. Bush and likely in 2016 the electors for Donald Trump. I
16 presume that you've looked at that.

17 Q Are you aware of any examples where that actually happened, they did not
18 count that state's electors, other than just objections during the joint session?

19 A Well, they didn't get a majority of people to reject the electors. So they
20 would be certified and accepted, noting the objections of the members who chose to
21 vote no. And that was not considered an insurrection. It was considered their rightful
22 exercise of the duties of a member of Congress.

23 Q Before this we've been talking quite a bit about the state legislators and your
24 view of the plenary authority they have to appoint electors as part of a presidential
25 election.

1 Could Congress, then, under this idea reject a state legislator's chosen set of
2 electors if they meet with the state legislatures and choose their electors?

3 A This is a hypothetical; correct.

4 Q Yes.

5 A We're just having an academic discussion? Well, could we actually just
6 work on what you need to ask me about, because, I mean --

7 Q This is something I need to ask you about.

8 A What difference does that make? What difference does it make what I
9 think about that.

10 Q With all respect, Ms. Mitchell, I'm the one that's asking questions here, and
11 so I just want to make sure that I understand in the context of these messages that you
12 sent to Senator Lee.

13 Mr. Rowley. Well, Counsel, she's making a fair point. If you're asking her
14 hypotheticals what she may think of a particular occasion, that's one thing, but the record
15 needs to be clear that she's just providing opinion about things that never happened.

16 If on the other hand you'd like to talk to her about what she said and what she
17 was discussing in this text message, then that's a fair question.

18 ██████████. I'm just connecting these messages with the other stuff, so I'll ask it
19 again.

20 By ██████████.

21 Q Ms. Mitchell, if a state legislature exercises their plenary authority to choose
22 the electors that they want in a presidential election, could under these, like these
23 communications you had with Senator Lee, could the U.S. Congress decide to reject them
24 for any reason or no reason at all?

25 Mr. Rowley. Well, again, are you asking her about a conversation that she had

1 with Senator Lee, what she told Senator Lee, or what he said to her.

2 [REDACTED]. I'm trying to understand -- I'm trying to understand what
3 Ms. Mitchell is saying.

4 The Witness. It seems to me that it speaks for itself. The communications
5 speak for itself.

6 [REDACTED]:

7 Q Are you refusing to answer the question I asked you?

8 A I'm not refusing to answer. You keep asking me the same thing and I keep
9 telling you the same thing.

10 Q I don't think you've answered.

11 A I think state legislatures have a certain authority and I think members of
12 Congress have a separate distinct responsibility and authority. And I don't think any of
13 this, none of it, should rise to the level of your badgering me, because I'm a lawyer and
14 I'm having a conversation with a senator about the constitutional prerogatives of the
15 Senate.

16 Q Ms. Mitchell --

17 A I'm not -- yes, you are. And I'm not refusing to answer. I'm telling you
18 that the document speaks for itself. That's the conversation. That's roughly the way I
19 remember it. And I would like to move on.

20 Q Okay. So I'm just going to ask you one more time, because I don't believe
21 you've answered the question. I'm happy to move on when you've answered the
22 question.

23 A I'm not going to tell you what I think and speculate. Ask me about what I
24 did in a specific thing and I will try my best to answer that.

25 Q That's great.

1 So I'm just asking you: Are you telling Senator Lee that he and the United States
2 Congress has the authority to reject any electoral slate submitted by a legislature or
3 otherwise to the joint session of Congress in a presidential election? Is that what you're
4 saying to Senator Lee?

5 A Here is what I'm going to tell you one more time. The document speaks for
6 itself. I'm not going to speculate further, not on what I meant or what my intent. The
7 document speaks for itself.

8 Q Ms. Mitchell, I'm not trying to make this difficult. I just would like an
9 answer to the question.

10 A I have answered the question.

11 Q I don't believe you have, Ms. Mitchell. So --

12 A What difference does it make what I think.

13 Q Again, that's not --

14 A You need to ask -- I mean, what difference does it make what I think? I'm
15 not a member of Congress. I'm not a member of the Senate.

16 Q I'm trying to understand the context for your communications with Senator
17 Lee that you have provided to this Committee as responsive to our subpoena.

18 A He reached out to me. He reached out to me. He asked me to speak. I
19 made a presentation about the illegal votes included in the Georgia, certified results.
20 And my argument to him is that I think Congress has a duty and responsibility and the
21 authority to look behind that.

22 So if that's what you're asking me, do I think that Congress has its own separate
23 duty to look at the results of an election and to determine whether or not the election
24 was conducted in accordance with the statutes? I do think they have that duty. They
25 have that opportunity, they have that authority and they have an obligation. And there

1 are many members of Congress who have exercised that authority for no reason, for no
2 reason other than that they didn't like the Republican nominee for President.

3 Q And in this message exchange it looks like Senator Lee says that that is
4 dependent, their ability to do that is dependent on their being a competing set of
5 electors. Is that how you understood it?

6 A Yes, that's what he believed.

7 Q Okay. And you say, in response to Senator Lee, "That's why I was asking
8 the White House today to organize that ASAP."

9 What you're asking the White House today, on December 7, to organize ASAP?

10 A That there were people like Senator Lee who believed that there needed to
11 be a competing set of electors. But I made a lot of suggestions that never went
12 anywhere.

13 Q But to organize what specifically?

14 A That they needed to be able to show in the other states. I could show it for
15 Georgia, but they needed to be able to show from the other states the problem with the
16 election.

17 Q All right. I just want to be very clear about this. You said to Senator Lee
18 that's why I was asking the White House today to organize that.

19 A Uh-huh.

20 Q Are you talking about organizing the competing sets of electors to satisfy
21 senators or members like Senator Lee?

22 A Perhaps, yes. I don't know.

23 Q Do you recall --

24 A No, I don't. I know what I'm reading. It speaks for itself. I keep telling
25 you that.

1 Q I understand what you're telling me is --

2 A There's not some big thing behind -- behind my head that I'm trying to keep
3 from you. I'm just telling you it speaks for itself.

4 Q I understand that. But it's our job, as you can appreciate as a lawyer, to ask
5 questions to get clarification where possible, and so that's what I'm attempting to do. I
6 understand that you think they speak for themselves.

7 A They do.

8 [REDACTED]. Any further questions on these messages?

9 [REDACTED] No.

10 [REDACTED]:

11 Q All right. Go to Exhibit 31. Page 2 of 31 to be specific. These are
12 messages that you exchanged again with Senator Lee. This is now two days later,
13 December 9.

14 A Uh-huh.

15 Q Senator Lee reaches out to you and says, "Is there any chance we will see
16 competing slates of electors named in some states?"

17 You say, "Call Mark Meadows" -- and then something is redacted -- "No clue if it
18 is."

19 And then Mike Lee says, "He's told me yesterday he's working on it. I'm not sure
20 what that means."

21 And then there's several redacted messages. Why did you tell Senator Lee to call
22 Mark Meadows in particular about this issue of competing slates of electors.

23 A Because I had nothing to do with it.

24 Q Was it your understanding that Mr. Meadows did have something to do with
25 it?

1 A If anybody would have, it would have been him.

2 Q Why do you say that?

3 A He's the White House Chief of Staff. If anything like that would be
4 happening, he would be at the epicenter of what was happening. If any strategies were
5 going to be developed or deployed, he would know what they were. I wouldn't and I
6 didn't.

7 Q Do you know the basis for these redactions, what the messages are and why
8 they were redacted?

9 A Senator Lee is my client and so anything that referenced issues or matters.
10 And a lot of times he would put client matters in other communications. So anything
11 that was specifically related to our relationship where he was the client and I was the
12 attorney, I would redact that. But that's not unusual. He would often bring me a client
13 matter and then he would include other issues.

14 Q Were there any subject areas about competing slates of electors for which
15 you represented or gave advice to Senator Lee as a legal matter?

16 A No, no, that's why it's not redacted.

17 Mr. Irving. I can take some mystery out of this. I made those redactions
18 because they were unrelated to the rest of the exchange here.

19 [REDACTED]. So it's not because of attorney-clients objection, it's because of a
20 relevance objection?

21 Mr. Irving. I'm looking. Can you scroll down? I'm looking at the 8:02 entry.
22 I'm not sure about that. I have to go look. My recollection is that the 8:12 and the
23 6:58 entries are unrelated to this. But I can certainly go back and find that out and let
24 you know what the basis for those redactions are.

25 [REDACTED]. That would be great, I appreciate that, Mr. Irving.

1 Mr. Irving. No sweat.

2 [REDACTED]:

3 Q Give me just one moment, please, Ms. Mitchell. Ms. Mitchell, I need to
4 step out for just one moment, but Mr. Roselman has some questions, and I'll be right
5 back.

6 By [REDACTED]:

7 Q I appreciate your bearing with me, Ms. Mitchell. Next we're going to direct
8 you to Exhibit Number 32. And we'll take you down to the bottom of this email
9 exchange, which looks like it took place on December 9, 2020, which is at the bottom of
10 page 3. It looks like this is a communication between you and an individual named Ken
11 Blackwell.

12 While we're pulling this up for you, can you tell me, who is Ken Blackwell and what
13 is your relationship with him?

14 A He is a very good friend. He's a former Secretary of State of Ohio. He's a
15 long-time expert on election law. He chaired the Census Oversight Board in the
16 2010 -- maybe 2000 census. He's very knowledgeable about elections and election law
17 and a leading conservative.

18 Q Understood.

19 And in the message at the bottom of this chain you write to Mr. Blackwell, "What
20 if I go to Mark Meadows and tell him you will take charge of making sure the Trump
21 electors in the five states convene on Monday and cast their electoral votes for Trump
22 and send those their votes as per the procedure outlined in federal law?"

23 What was your role generally in suggesting to Mr. Meadows candidates for people
24 who might have a role in organizing this alternative slate of elector effort.

25 A Well, Ken reached out to me and I said, well, why don't you do it. Why

1 don't you tell Mark Meadows that you will work on this? I don't know that anything
2 ever came of that, frankly.

3 Q Why did Mr. Blackwell reach out to you?

4 A Because I'm a good friend of his. We're good friends. We go back a long
5 ways. He knew I was in Georgia and he knew about that. We worked together on
6 election matters throughout the years. I said how about you take this up. Why don't
7 you take charge of that.

8 Q So Mr. Blackwell reached out to you specifically about this idea about
9 alternate slates of electors?

10 A I'll go back to the top of this. He reached out to me and wanted to ask
11 questions and I said well, why don't you do this.

12 Q Understood.

13 So, additionally, in this message you provided sort of a list of things that needs to
14 be done. You write there needs to be a convening, votes cast, collected and sent to D.C.
15 There is a list of who is to receive. Someone needs to be doing that.

16 What was the basis for your understanding of what the procedures were for how
17 these electors needed to be casting and submitting their ballots.

18 A To the United States Code Section 3, et al.

19 Q So that was predominantly based on your reading of the federal statute?

20 A Correct.

21 Q All right. And did you ultimately end up recommending to Mr. Meadows
22 that Mr. Blackwell lead this effort?

23 A I don't know. I don't have any recollection of what his response was or
24 whether I recommended it.

25 Q Okay. So I won't belabor the rest of this chain with you, Ms. Mitchell, but I

1 can summarize to you that Mr. Blackwell essentially argues that in order for these
2 electors or slates of electors to have any sort of, you know, validity under the law, that
3 they need to be validated by an action of the state legislature.

4 Is that consistent with your understanding of the law?

5 A I will reiterate, here are people discussing ideas in uncharted waters at
6 least for the last number of decades and -- ideas and what do you think this statute
7 means and what do you think the process is and do we have to have a competing set of
8 electors or does Congress have the authority to say I reject these electors, just, as I said,
9 Maxine Waters and Barbara Boxer and other Democrats have done over the last 20 years.
10 They didn't have a reason, they just rejected those electors. I think Congress -- a
11 member of Congress has the power to do that. I don't think they have to have a
12 particular reason or legal standard. But there's some members of Congress who don't
13 believe that. Mike Lee is one of them that agrees with that. I just don't know what
14 difference it makes what I think about this.

15 Q Ms. Mitchell, I appreciate --

16 A I know -- I had no authority to do anything on this point. This is just
17 conversation. I had no authority.

18 Q I absolutely understand and appreciate that, Ms. Mitchell. I get, for
19 example, that what you're doing here is you're talking about ideas. I'm just trying to
20 better understand what Mr. Blackwell's understanding was in this exchange and what
21 your understanding was. And more specifically, I'm interested in this idea of these
22 alternate electors.

23 You know, was it your understanding that these alternate electors needed to have
24 some sort of approval by the state legislatures in order to be considered by Congress, or
25 was that completely unnecessary, either the state legislative approval or the existence of

1 the alternate electors themselves?

2 A I'm going to talk to my lawyer for a moment, please.

3 Q Sure.

4 (Witness confers with attorney.)

5 Q Are you ready to resume?

6 A I'm going to tell you one more time. I wrote no legal memos about this. I
7 had no in-depth conversations. I had some communications and conversations. I had
8 no authority. And, frankly, once it got to the point of the decision by Congress of
9 accepting or not accepting the electors, certifying or not certifying, my view about that is
10 the Congress has the authority to do what it decides to do. But that's just my opinion.
11 That's just my opinion.

12 My big concern was making sure that they knew and had all the facts about the
13 problems in the election in Georgia. And beyond that, that's really -- it's beyond the
14 scope of my role.

15 Q Understood.

16 I'm going to have [REDACTED] scroll up to an email closer to the top of this exchange.
17 It's on page 1. It's a little further down on the page. But you write to this group,
18 "There's a case from 1960 that John Eastman cited to me on Monday that says otherwise.
19 So let's not foreclose that as something to get done."

20 Do you recall having any discussions with Dr. Eastman about the law surrounding
21 alternate slates of electors.

22 A I may have. I had a lot of conversations with a lot of different people at
23 this particular time.

24 Q What was your understanding --

25 A I do not have a specific recollection about a conversation with John Eastman

1 on this topic. I only know what I'm reading here, that he had cited a case to me. And
2 so basically this would be from my perspective. You guys need to take it up with John.
3 John knows way more about this than I do.

4 Q Do you know what Dr. Eastman's beliefs were about the law surrounding
5 alternate electors?

6 A I have no idea. I have no present recollection of what that -- I really don't
7 know other than that I know that he believes that state legislatures have the authority to
8 choose the electors, to designate electors from the state.

9 Q Did Dr. Eastman have any involvement in coordinating these alternate slates
10 of electors?

11 A I have no idea.

12 Q So after this email exchange that we are discussing here, did you ever have
13 any involvement in discussing those issues with anyone at the White House or on the
14 campaign?

15 Mr. Rowley. Objection. Privilege.

16 [REDACTED] All right. Just for the record, what kind of privilege? If you can
17 state that every time, Mr. Rowley, that would be helpful so we know what type of
18 privilege that you're citing.

19 Mr. Rowley. Unless I indicate otherwise, it's attorney-client privilege.
20 Communication privilege.

21 [REDACTED]. Please put that on the record. Thank you.

22 [REDACTED]:

23 Q So let's move on to Exhibit 34.

24 Ms. Mitchell, this looks like it is a December 12, 2020, email exchange between
25 you and somebody named Tom Fitton. It looks like Mr. Fitton asks you, "Has there been

1 any follow-up to your alternate electors idea?"

2 And you responded, "I think the Georgia Trump electors are meeting on Monday.
3 I don't know about other states. I gave up after seeing all the emails about the concerns
4 and the challenges, et cetera."

5 My first question to you is: What was your understanding of what the plan was
6 with respect to Georgia electors and meeting and casting electoral votes.

7 A Well, again, this email speaks for itself, in which it says, "I think the Georgia
8 Trump electors are meeting on Monday." I think.

9 Q Why did you think that?

10 A I don't know, but apparently I did, because I said that.

11 Q Did you speak to any of the Georgia electors about their plans to cast votes?

12 A I only know one of the Georgia electors, and that's David Shafer, who was
13 one of our plaintiffs in our election contest.

14 Q Did you speak to anyone in the state GOP or anyone in the RNC about
15 whether the Georgia electors might meet?

16 A I don't know where I had heard that the Georgia electors were meeting. I
17 have no idea. Because I really wasn't involved in that. It just wasn't something I was
18 paying a lot of attention to. There was a lot of interest in that, but it wasn't something
19 that was particularly on my radar screen. That's why I was suggesting to Ken Blackwell
20 you care about this, why don't I talk to Mark Meadows and you handle it. And then I
21 said in this I gave up after seeing all the emails about concerns and challenges. I didn't
22 have time for this. It wasn't what I was -- it wasn't what I was supposed to be doing.

23 Q So you write here that you gave up after seeing all the emails about the
24 concerns and the challenges, et cetera.

25 What were the concerns and the challenges that you were referring to?

1 A I don't know. It was a lot of people having conversations.

2 Q What would the concerns be about having Georgia's slates of electors meet?

3 A I don't know. I don't know.

4 Q So you have no recollection of there being any concerns or challenges
5 associated with alternate electors?

6 A I just said there were a lot of emails flying around. And I had a
7 tendency -- when people start doing a whole a lot of emails, and this person says
8 something and that person says something, I have a tendency to just tune it out. And
9 that's apparently what I did here.

10 Q So is it fair to say that alternate electors is one of those cases where you just
11 ultimately tuned it out and focused on other things?

12 A I just tuned it out. It didn't have any --

13 Q You focused on instead --

14 A -- to do with me.

15 I'm still -- we were still operating under the illusion that we were going to have a
16 trial. So we were getting ready for trial.

17 Q Before we move off of this, the first email here, it says, "Has there been any
18 follow-up to your alternate electors idea?"

19 That's what Mr. Fitton said to you.

20 Do you know why Mr. Fitton would say this was your alternate electors idea.

21 A I think that there was an email about that earlier, that there were a group of
22 people who were discussing that. I don't know that it was -- it wasn't my idea. It was
23 actually Mike Lee's idea.

24 Q But did you convey Mike Lee's idea to other people and that may be why he
25 thought it was something that was attributable to you?

1 A I have no idea.

2 Q There are a number of state laws that apply to the meeting of electoral
3 college electors, including in Georgia and every other state.

4 Do you remember those laws and not being able to comply with maybe all of
5 those laws being one of the concerns you're referencing in this email?

6 A I have no idea.

7 Q Do you recall any discussions about whether it was possible to comply with
8 state law when convening these alternate slates of electors?

9 A I have no recollection of having such a conversation.

10 Q Did you think that it was possible to do so and to comply with state law?

11 A I have no idea.

12 Q I think we asked you this before, Ms. Mitchell, but are you familiar with an
13 individual named Kenneth Chesebro?

14 A You did ask me that, and the answer is no. I didn't know who he was
15 earlier and I still don't know who that is.

16 Q All right. We're going to show you Exhibit Number 35. This appears to be
17 a memorandum that Mr. Chesebro wrote and addressed to James Troupis. The subject
18 of the memo is "The real deadline for settling a state's electoral votes."

19 Have you ever seen this document before?

20 A I think I glanced at it. I think I've seen it. I know Jim Troupis. He's from
21 Wisconsin. I know him, but I don't recall spending any time studying this. Again, it
22 didn't have anything to do with me.

23 Q Just to be clear, when did you receive this or when did you review it?

24 A I have no idea.

25 Q Did you review it in the period between November 3, 2020, and January 6?

1 A Well, probably. It's dated November 18 and then 12/10.

2 Q Do you know who would have sent it to you?

3 A No.

4 Q Do you remember having any familiarity with the legal conclusions that are
5 laid out in this memo?

6 A Not really, no.

7 Q And I'm going to turn you next to Exhibit Number 36. While we're pulling it
8 up, I'll represent to you that this is a second memorandum that Mr. Chesebro prepared
9 regarding alternate slates of electors.

10 Do you know if you received this memorandum?

11 A Perhaps. I don't know.

12 Q Just to see if I can kind of jog your memory on this, Ms. Mitchell, I'll take you
13 down to -- and apologies while I locate the correct page. Let's read through the second
14 paragraph of the first page.

15 Mr. Troupis writes that "It appears that even though none of the Trump, Pence
16 electors are currently certified as having been elected by the voters of their state, most of
17 the electors, with the possible exception of the Nevada electors, will be able to take the
18 essential steps needed to validly cast and transmit their votes so that the votes might be
19 eligible to be counted if later recognized (by a Court, the state legislature or Congress) as
20 the valid ones that actually count in the presidential election."

21 And then it says, "And they can do so without any involvement by the governor or
22 any other state official except in some states where access to the Capitol building is or
23 might be needed or where the governor must approve a substitute elector," and so on
24 and so forth.

25 Does any of this ring a bell for you.

1 A No.

2 Q Do you remember any discussions about what state law requirements might
3 have been necessary in order to convene slates of electors to cast votes for President
4 Trump?

5 A No.

6 Q Does this jog your memory at all as to any involvement that Mr. Chesebro
7 would have had in an alternate electors coordination?

8 A No, no. I told you, I don't recognize that name. I suppose it looks sort of
9 familiar, but that -- maybe it came my way because of Jim Troupis. It was not what I was
10 working on.

11 Q Understood.

12 A That was a different phase of the process, and it really was beyond the scope
13 of what I was doing.

14 Q We can pull up Exhibit 33, please. As that's going up, this is an email that
15 you provided, Ms. Mitchell.

16 A Uh-huh.

17 Q Do you see it there?

18 A No, not yet.

19 Q Okay. Do you see it now?

20 A Uh-huh.

21 Q Great.

22 So this is an email from December 9 from you as part of this Groundswell Google
23 groups or listserv, I should say, to Connie Hair, Brigitte Gabriel and a number of other
24 people.

25 First off, who is Connie Hair.

1 A She was a congressional staffer.

2 Q To whom?

3 A Representative Louie Gohmert.

4 Q What was her role, if any, in this postelection period assisting you or your
5 efforts in Georgia?

6 A It's just a bunch of people talking. She had no role.

7 Q Is she somebody who is on the Groundswell listserv?

8 A Yes.

9 Q Understood. Thank you.

10 A She was. I don't know if she is now. Groundswell doesn't exist anymore.

11 Mr. Rowley. Counsel, excuse me. I'll note that these documents were not
12 included in the ones you gave us just before the deposition, and we've not had an
13 opportunity to review these ahead of time.

14 [REDACTED]. They should have been. We gave you everything yesterday. Or
15 the day before even.

16 Mr. Rowley. There are some documents now that we haven't seen.

17 [REDACTED]. This is a document you produced. It's Bates 26218.

18 Mr. Rowley. I wanted to bring your attention to that the Chesebro memo were
19 documents we had not seen before in your exhibits.

20 [REDACTED]. I believe they were in the box. I can confirm that off offline, but
21 they were in the production. We can confirm that.

22 [REDACTED]:

23 Q On this email, Ms. Mitchell, you say, "It's hugely important that
24 conservatives pressure state legislatures/legislators in Georgia, Pennsylvania, Wisconsin,
25 Michigan and Arizona to designate the Trump electors slate."

1 And then you say at the end, "The pressure is more important than the
2 govs -- governors and attorney generals to bring a lawsuit. Conservative leaders must
3 mobilize the ground troops ASAP."

4 What do you mean by the need to pressure state legislatures.

5 A Just what I said. I'm constantly telling conservative leaders that instead of
6 sitting around and pulling fingers and waiting for some elected official to do something,
7 that they need to get organized. I did that all the time. And that's basically what I said
8 here. They wanted Alabama and Louisiana and all to join the lawsuit, the Texas lawsuit.
9 I said I think you ought to be focused on the state legislators.

10 Q And you had, of course, just filed the lawsuit in Georgia or been part of the
11 team that filed the lawsuit in Georgia.

12 A That's right.

13 Q So I guess why not the need to do both?

14 A What.

15 Q Why not the need to do both, pressure the state legislatures and follow the
16 more traditional litigation manner.

17 A What do you mean, why do I need to do both? What do you mean.

18 Q Why -- just that. Why did you think it was necessary to do both? Why
19 not just challenge in the courts?

20 A We did challenge it in the courts. We filed an election contest in Georgia.

21 Q So why also do this?

22 A I'm sorry. I'm not going to give you my ten cents of political mobilizing. It
23 speaks for itself.

24 Q That is what I'm asking you, though. Why was it important to do this as
25 well, the state legislatures?

1 A Because I think legislatures need to know what the facts are in their states.
2 They have plenary authority. They needed to make informed decisions.

3 Q Separate and apart from the court system, which is traditionally used to
4 solve disputes between the parties?

5 A That's true. And when a Court refuses to act and a judge doesn't get
6 appointed, guess what, then you have to find other means of educating people and trying
7 to get action some other way. It is why the complete and utter failure of the judiciary
8 system in 2020 to arbitrate and determine these disputes is, I think, a real black eye on
9 the judicial system. Because that is where those things should have been determined
10 and they should have been determined on the merits and not on procedural excuses.
11 And in our case there should have been a judge appointed and that we should have had a
12 trial.

13 Q We talked about this before, the merits and the trial and the lawsuit that
14 you have. So I don't need to retread it here.

15 In this email you say pressure states legislatures. What do you mean by
16 "pressure"? What does that word mean? What did you have in mind?

17 A Citizen lobbying, that's protected First Amendment activity, the last time I
18 checked.

19 Q How so? Excuse me.

20 A Seriously.

21 Q No, to be clear, my question, how did you want people to lobby?

22 A What.

23 Q How did you want people to lobby?

24 A To talk to their state legislators and to tell them about problems in the
25 elections.

1 Q Okay. So doing things like making calls; is that right?

2 A Can we -- good Lord. Keep going.

3 Q Would lobbying state legislators be things like making calls, Ms. Mitchell?

4 A It could be making calls. It could be having visits. It could be sending
5 emails. It probably would not be standing outside of their houses and yelling at the
6 legislators, like we've see the left-winged crazies doing outside the Supreme Court
7 justices' homes. I don't believe in that sort of activity.

8 Q Thank you for answering.

9 We can pull up Exhibit 50.

10 [REDACTED]. And we just confirmed, Mr. Rowley, that those documents,
11 including those memoranda from Kenneth Chesebro, were in the documents we provided
12 to you.

13 Mr. Rowley. Thank you. I appreciate that, but we reviewed them and did not
14 see those documents.

15 [REDACTED] There may be a technical issue. They were in there. We just
16 confirmed that. To the extent there's anything more beyond that, the documents were
17 included, at least on our end.

18 By [REDACTED].

19 Q So looking at Exhibit Number 50, these are more messages that you
20 exchanged with Senator Lee.

21 A Okay.

22 Q And these are from December 30.

23 A Okay.

24 Q At the beginning you say -- this is 7:58 in the morning -- "Is there a way the
25 Senate can conduct a hearing to allow me to present our election contest in Georgia and

1 other lawyers re: The contested states?"

2 Senator Lee says, "Let me see what I can arrange."

3 Could you tell us about the conversations you've had with Senator Lee or
4 otherwise that are not reflected here about having hearings in the United States Congress
5 about the election.

6 A Oh, I think there should have been hearings. I still believe that. I think
7 there should have been hearings that would allow us to present our testimony, our
8 evidence. I still believe that that should have happened. I think it should still happen.

9 Q Did you talk to any senators about that other than Senator Lee?

10 A No.

11 Q Did you talk to the White House about that?

12 Mr. Rowley. Objection, privilege.

13 [REDACTED]. What's your objection?

14 Mr. Rowley. Attorney-client privilege.

15 [REDACTED]. To the White House.

16 The Witness. I didn't talk to anybody else in the White House.

17 [REDACTED]:

18 Q Okay.

19 A Only person was Mike Lee -- was Mark Meadows.

20 [REDACTED]. Your objection is noted for the record.

21 Q Were there ever any plans to conduct hearings in the Congress to examine
22 the election that you are aware of?

23 A Not that I'm aware of. There should have been, but I'm not aware of any.

24 Q If you follow this thread, Senator Lee says he talks about potentially
25 convening a hearing with judiciary. Then he says, "January 6, is however, is a dangerous

1 idea, not just for the Republic itself, but also for the President."

2 And then he says, "If we could pull this off" -- meaning hearings -- "it might
3 obviate the need for a January 6 strategy."

4 What did you understand the January 6 strategy to be that Mike Lee is referring
5 to.

6 A I do not know actually.

7 Q Did you ever ask him what he meant when he was talking about the
8 January 6 strategy? He mentions it a few times here.

9 A I may have known at the time. I think probably it had to do with the date
10 on which the electors were to be certified. And my position was that they should
11 have -- they should make a factual record the day before.

12 Q You --

13 A And in the final analysis, what I always said to him and to others is, here is
14 the data, here are the facts about Georgia. It's up to them to decide whether there was
15 sufficient information to reject the electors, to defer. I don't know. My job was just to
16 tell them here is what the law -- here is the law and the facts. Here is the mess of the
17 election in Georgia.

18 Q At 11:10 you say it is part of the strategy.

19 So is this -- the strategy that you're referring to, is that to have the Congress reject
20 certain electoral votes on January 6? Do I have that correct?

21 A Correct. And there was some members of Congress who thought that was
22 right thing to do and objected. And there was basis for that.

23 Q Other than Senator Lee, who else did you talk to about this plan to have the
24 Congress reject certain electoral votes on January 6?

25 A I really didn't talk to people about rejecting the electors. What I talked to

1 people about is let me tell you what happened in Georgia. And I was very open about
2 that. I sent people documents. We presented information. We said here is how the
3 election was conducted not in accordance with the election code. Here are the illegal
4 votes that were included and counted and shouldn't have been. That's protected First
5 Amendment activity, among other things.

6 Q These are just text messages and don't give you any details about phone
7 calls.

8 Do you remember having any phone calls or face-to-face meetings where you
9 discussed this January 6 strategy with Senator Lee?

10 A I didn't have any face-to-face meetings. I was in North Carolina. I wasn't
11 in Washington. I was not in Washington between November -- I am trying to remember
12 the last time I had been in Washington. It was like August or September. I didn't go
13 back to Washington until the 10th or 11th of January when I went to pack my office. I
14 was not there for months.

15 Q What about phone calls?

16 A I don't really remember having phone calls. Yeah. I really don't
17 remember having phone calls. I made presentations, talked to people via text and email
18 and sent them things.

19 Q Okay. So just to be clear, you don't remember any phone calls you had
20 with Senator Lee about the January 6 strategy or what he's referring to as the January 6
21 strategy?

22 A The January 6 strategy is -- that's the day that the electors were going to be
23 certifying.

24 Q I understand that.

25 A I don't know that there was a strategy about it. It was just that was the day

1 they were going to be certified unless some members believed that there was sufficient
2 reason for them to not vote to certify, which I think they had the plenary authority to do.

3 Q Do you remember having any phone calls with Senator Lee about that?

4 A I may have. I may have.

5 Q Tell us what you remember about those.

6 A I don't know that I had any, but I may have.

7 Q Okay. So in page 3 of this exhibit still on Exhibit Number 50, the text
8 messages continue. Senator Lee asks, "Please help me understand how this works."
9 This is at 11:25 on the top of the page.

10 You say, "Call if you want to discuss, but after what I've seen in Georgia" -- and
11 you talk about some of the issues down in Georgia.

12 Senator Lee says he'll reach out to Senators Graham and Johnson. And then
13 Senator Lee asks, "Explain to me how this doesn't create a slippery slope problem for all
14 future presidential elections. I had somehow thought you and I agreed that we'd need
15 something like a judgment from a court of competent jurisdiction or a decision by a state
16 legislature. And you say that was back when I believed we would get a day in court, a
17 hearing. As of today, the chief judge has failed to even appoint a judge to hear our case.
18 Total abdication of responsibility. Total."

19 And then Senator Lee says, "We'll need to make that argument formally and
20 publicly."

21 So it looks like this -- your view shifted at one point to you need an alternate slate
22 of electors appointed by a Court or ratified by a Court or state legislature, but then once
23 you didn't get the hearing in Georgia that you were looking for, it was okay to have
24 Congress reject electors without that.

25 Is that a fair characterization.

1 A Did I -- are you asking my opinion of what the congressional authority would
2 be.

3 Q Your understanding or view on what it would be at this time; correct, in
4 these messages?

5 A You're asking my opinion? You're asking my opinion.

6 Q I am asking -- what Senator Lee says, "I thought you and I agreed about this,"
7 and you said "That was back then." I'm trying to understand the shift in --

8 A I had lots of shifts during this period. I had a lot of different incoming
9 information about various claims to include in the lawsuit and over time rejected them,
10 and we didn't include them. I thought that there was an opportunity to have an
11 organized plan for reviewing the election results from targeted states, from key states to
12 determine whether they had been conducted in accordance with the law. But
13 ultimately none of that happened. None of that happened.

14 Q So in this message Senator Lee says, "I had somehow thought you and I
15 agreed that we'd need something like a judgment from a court of competent jurisdiction
16 or a decision by a state legislature."

17 A Uh-huh. That's what he said.

18 Q Did you agree with Senator Lee at some point that that was necessary, a
19 court decision or a state legislature to decide that?

20 A I didn't argue with him about it. Whether I agreed with it -- I just didn't
21 argue with him about it. I don't really know the answer to that question.

22 Q Okay.

23 A This is all just my opinion.

24 ██████████. Any follow-up on those messages.

25 By ██████████:

1 Q So when you mentioned that you went through many shifts during this
2 postelection phase, the specific examples you gave were about the validity of certain
3 factual allegations.

4 Did you have any shift in opinion with respect to what the meaning of the
5 Constitution was or the meaning of the relevant statutes were with respect to the
6 postelection period in the electoral process?

7 A That's a pretty broad area. Do you want to narrow that down or do you
8 want me to just give you an overview of what I believe.

9 Q I'm asking if your views changed during the period between November 3,
10 2020, and January 6, 2021. You mentioned that you went through shifts during this
11 period.

12 A I certainly believe that the more I focused on it, the more I realized that state
13 legislatures had plenary power that I had never really realized before 2020, that they had.
14 So that would -- that was one change. That was not something I had ever really thought
15 about before. But I'm a very firm believer that they had that authority.

16 And insofar as what the authority of Congress is, they are duly elected
17 representatives and senators. If they want to vote not to certify electors, that's up to
18 them. I don't think you can impose anything else on them. That's just my opinion.

19 Q Did you with respect to that change --

20 A I'm not a law professor. I'm not a law professor. I wasn't involved with
21 this other than to have a conversation with Senator Lee, who is more or less bouncing
22 ideas off of me.

23 Q I'm only asking if your views changed during a specific period of time.

24 A Maybe. Maybe. Maybe they did. What difference does it make? It's
25 just me. It's just -- I wasn't doing anything other than I did think, I still think that Senate

1 Judiciary and House Judiciary should have had a hearing. They should have had gotten
2 to the bottom of the factual disputes and the problems of the 2020 election. I sure do.
3 They should have done that and they should do it today.

4 Mr. Rowley. Counsel, Ms. Mitchell has testified that her primary area of
5 responsibility was the Georgia election. And now you're asking her about a
6 conversation that she had where she was brainstorming with Mike Lee. I'm just
7 wondering what possible relevance could a casual conversation that she's having with
8 Mike Lee have to do with the area of your inquiry?

9 ██████████ Well, Senator Lee was a member of the body that was
10 responsible for voting to certify or not certify the results of the 2020 presidential election.
11 So the opinions that Ms. Mitchell communicated to him as a member of that body seem
12 like they're squarely within the realm of our inquiry.

13 Mr. Rowley. He ultimately voted to certify, didn't he?

14 The Witness. He did.

15 ██████████ His understanding of the law and the opinions that he was
16 getting from people whose opinions I assume he respected are absolutely relevant to that
17 question.

18 The Witness. Why don't you ask him about that? Don't ask me about what
19 was in his mind. This speaks for itself.

20 By ██████████:

21 Q Well, I'm asking you whether what you told him changed from the beginning
22 of that period to the end of the period.

23 A This says that it did, doesn't it.

24 Q All right. And that's all I'm interested in knowing.

25 A Well, it says that it did.

1 ██████████. Would you like a brief break, Ms. Mitchell?

2 The Witness. No, I'd like to keep going because I'm getting up and walking out of
3 here at 4:00.

4 ██████████:

5 Q On January 4 we understand that you participated in a meeting -- there's an
6 echo here. I'll just start over.

7 On January 4 we understand that you participated in a meeting to provide a
8 briefing on election fraud for a number of members of Congress and their staffs, including
9 members of the staff working for Senator Hawley, Senator McConnell, Senator Cruz and
10 potentially others.

11 Do you recall this briefing that you gave to members and their staff.

12 A I do.

13 Q How did it come up? Who first proposed having it?

14 A I don't remember. You have to remember that I represent a lot of different
15 senators and members of Congress and I know a lot of members. And a lot of people
16 knew that I was in Georgia, and I don't remember exactly how it came about. I just
17 know that we had a briefing and I hosted it. It was a Zoom briefing and there were
18 some members of the legal team or experts who participated in that call to talk about
19 Georgia.

20 Q Is that a different legal briefing than the one we already talked about?

21 We talked about one around the time you exchanged text messages with Senator
22 Lee on December 7. This one that I'm referring to is January 4.

23 Do you remember them being different.

24 A Correct.

25 Q Okay.

1 A Yeah, those were different.

2 Q Who was at this briefing that you recall?

3 A I don't remember. I think you just went through the list.

4 Q I'm going to pull up Exhibit Number 55. Just let me know when you can see
5 that.

6 A Okay.

7 Q All right. So this is a calendar entry for January 4 at 3 p.m. to 4:30 p.m., a
8 Zoom with a subject "Georgia Election Contest."

9 Is this the Zoom meeting that we're talking about?

10 A Correct.

11 Q Okay. And on this it looks like Alex Kaufman, Eric Teetsel from Senator
12 Hawley's office, someone from Senator Cruz's office, someone from Senator Daine's
13 office, a judicial representative, Andrew Davis, along with John Eastman, and
14 somebody -- another person from Senator McConnell's office, if I didn't mention that
15 already.

16 Do you remember all of these people participating in the meeting on January 4?

17 A I don't remember all the people who did or didn't participate, to tell you the
18 truth.

19 Q Do you remember John Eastman participating on January 4 with this
20 briefing?

21 A I don't know. I really don't remember.

22 Q Do you remember doing all of the talking in this briefing, or do you
23 remember if anybody else joined you to help?

24 A I didn't do all the talking. The people who did most of the talking were the
25 people from the legal team and the report that had been prepared by the independent

1 expert to review the facts that we included in the election contest.

2 Q Do you have any reason to think that Mr. Eastman wasn't a participant or
3 attendee for this briefing?

4 A I really have no idea.

5 Q Okay. And so it sounds like this is an election contest update. Is that
6 referring to the Trump v. Raffensperger case?

7 A Yes.

8 Q Okay. The information you had collected as part of that case?

9 A Yes.

10 Q Did anybody discuss in this briefing objections to electors in the joint session
11 of Congress on January 6?

12 A I don't remember. I don't remember that coming up, frankly. It could
13 have, but I don't -- that wasn't the purpose of the briefing.

14 Q How would you describe the purpose? Is it just related to this election
15 contest update?

16 A Well, some people -- members and staff on Capitol Hill wouldn't know that
17 the election in Georgia was conducted in violation of state law and that there were -- that
18 we did not know the actual winner of the Georgia presidential election. We could not
19 know that.

20 Q Do you remember any of the congressional staff asking questions or pushing
21 back on any of the information that you provided?

22 A I'm sure that they did, but I don't remember. I don't remember any of the
23 specifics other than that we did have this briefing.

24 Q I believe that somebody from Marjorie Taylor Greene's office attended, her
25 legislative director, I think is her title.

1 A I don't know.

2 Q Okay.

3 A I don't know.

4 Q I'll pull up Exhibit 56 for you. This is a message you received or, excuse me,
5 sent to. Taylor LaJoie?

6 A She was asking -- there was a public announcement of something about Brad
7 Raffensperger removing 8,000 people from the voter rolls or sending letters. I wasn't
8 really sure about what it was. So as you can see, I forwarded that to some of the people
9 in the legal team to see if they knew.

10 Q Was that an issue that you remember coming up during this January 4
11 briefing?

12 A No.

13 Q Do you remember having any separate conversations with Ms. LaJoie,
14 legislative director for Marjorie Taylor Greene, on this issue?

15 A Besides this email.

16 Q Yes.

17 A No. I could have, but I don't have a recollection about that.

18 Q All right. If we go to Exhibit Number 61, specifically, page 4. Right there.
19 While it's coming up on your end, this is an email that you sent on January 5 to
20 somebody named Richard Perry from Senator Graham's office --

21 A Uh-huh.

22 Q -- as well as Alex Kaufman.

23 A Uh-huh.

24 Q Can you see that up there now?

25 A Uh-huh.

1 Q All right. In that email you say, "Last night, Senator Graham told the
2 Georgia GOP Chairman Dave Shafer that he wants names of 100 voters in three
3 categories that the Trump campaign believes/has identified as illegal votes included in the
4 vote totals from November 3."

5 A Uh-huh.

6 Q And then an individual on page 3 named Lee Holmes from
7 Judicial -- Republican Judiciary, from the Senate says, "I've spoken to Senator Graham.
8 He's looking for specific names of voters with regard to the following claims: Under 18
9 and double voting."

10 A Uh-huh.

11 Q And then it looks like there's some effort underway to try to collect this data.
12 What do you recall of this request coming from Senator Graham?

13 A Just what it says. He told the state Republican Party chairman that he
14 wanted some information and that was conveyed to Alex and conveyed to me. And so I
15 asked Alex to ask the legal team to pull that together for him.

16 Q Do you remember providing anything to Senator Graham in response to
17 these requests?

18 A I did not. But I understand that Alex or someone else did that.

19 Q So you do believe that the legal team, perhaps, Alex Kaufman, provided
20 information to Senator Graham in response to these requests?

21 A I presume so, but I don't know that.

22 Q Did you ever talk to Senator Graham or his staff about the information that
23 your team provided to him?

24 A No.

25 Q Do you know whether Senator Graham was satisfied with the information

1 provided to him in response to his requests?

2 A Since I didn't talk to him, I have no idea.

3 Q My understanding is that ultimately Senator Graham did vote to certify the
4 election during the joint session of Congress. Is that your understanding as well?

5 A Yes.

6 Q Did Senator Graham or anybody from his office contact you or the legal
7 team, to your knowledge, about that in light of any information you provided?

8 A I don't know.

9 [REDACTED]. Any follow-up questions there.

10 [REDACTED]:

11 Q Earlier today we talked a little bit about the Vice President and his role
12 during the joint session of Congress. And I believe you said -- I don't want to put words
13 in your mouth. I believe you said that that didn't come up until much later in the
14 postelection period, in the days before January 6.

15 When do you first remember, to the best you can recall, this issue about the Vice
16 President and his role in the joint session coming up?

17 A Probably the week before I started hearing a discussion about the Vice
18 President having a role and I just really -- I just didn't think that that made any sense to
19 me. I didn't think that he had that authority. I still don't.

20 Q Who did you hear that from, that these discussions were happening?

21 A I don't know. I really don't know.

22 Q Why is it that you thought he didn't have that authority on January 6 to do
23 anything other than just count votes?

24 A Because I thought that his role was ministerial.

25 Q What about the fact that he's the president of the Senate in his legislative

1 capacity?

2 A That's fine. That's one of the things -- I mean, I didn't agree with that
3 theory. I did not agree with it then and I don't agree with it now.

4 Q Do you remember who was advancing that theory?

5 A Well, the best of my recollection, I think that John Eastman had done some
6 work on that. But I don't remember -- I do not remember having a call or a conversation
7 with John Eastman, but I could have.

8 Q And, specifically you don't recall having any conversation or call with
9 Professor Eastman about this idea with respect to the Vice President's role on January 6;
10 is that right?

11 A I don't remember having a conversation with him about that, no. I knew it
12 was happening, but it wasn't anything I was involved with. And I just honestly -- I didn't
13 think that that -- I thought at that point it was just -- it just wasn't going to happen. And
14 if any members of Congress wanted factual information about Georgia, I was happy to
15 provide it, but that was pretty much all we were doing at that point.

16 Q Do you remember telling any members of Congress that you thought the
17 Vice President didn't have this authority to do anything beyond just count votes on
18 January 6?

19 A No. I wasn't involved with that. Nobody asked me about that other than,
20 you know, maybe one question from Paul Taylor. But other than that, nobody -- nobody
21 was asking me what I thought about that.

22 Q And based on that, I expect I know the answer to the next question.

23 But do you remember telling anybody, beyond just members of Congress, that you
24 thought the Vice President didn't have this authority on January 6?

25 A I told Paul Taylor, a member of the Vice President's office.

1 Q Anybody else?

2 A I might have said the same thing to Marc Short, his Chief of Staff.

3 Q Anybody else you can remember?

4 A I beg your pardon.

5 Q Anybody else you can remember telling that to?

6 A No.

7 I really wasn't involved with that. I was only an observer.

8 Q Were you still in Georgia at that time or did you come back?

9 A I was home. I live in North Carolina. I was back in North Carolina.

10 Q Forgive me, I'm sorry. Back in North Carolina. Got it.

11 Do you know when Dr. Eastman started doing work on the Vice President's role?

12 A No.

13 Q Do you know who requested that he do that?

14 A No.

15 Q Do you know who he was working with when he was doing that work?

16 A No, I don't. It was a whole separate track. It was not a Cleta Mitchell
17 track.

18 Q Do you know who else was on the track besides Professor Eastman, who was
19 working with him?

20 A No.

21 I'm sure there were a lot of people: I just wasn't one of them.

22 Q If we can pull up Exhibit 63. This is a memo that we understand

23 Dr. Eastman drafted related to January 6 and the Vice President and several options for

24 January 6.

25 Did you have any role in drafting or editing or otherwise commenting on Professor

1 Eastman's memo that's shown here?

2 A No.

3 Q Bringing up Exhibit 64. As that's coming up, this is another memo that we
4 understand Professor Eastman drafted. This one is slightly different and also includes
5 information specific to Georgia as alleged in Trump v. Kemp, et al., which is a case filed
6 December 31.

7 My first question is: Did you have any role in Trump v. Kemp filed on
8 December 31 in Georgia?

9 A The only thing that I had to do with that, if this is the same case, was that it
10 was my job to get -- this is something that John and some lawyers from other states
11 wanted -- they wanted to have Georgia as part of a group of plaintiffs. And my only job
12 was getting the declaration signed and notarized by the President. Signed by the
13 President and notarized. That was my job.

14 Q Did you participate in the strategy or decisions on what to present to the
15 Court for this case?

16 A No. As I said, starting December 5, all the subsequent litigation was really
17 taken over by Kurt Hilbert.

18 Q Do you know if Mr. Hilbert participated in this lawsuit?

19 A I beg your pardon.

20 Q Do you know if Mr. Hilbert participated in this lawsuit?

21 A I don't remember. I'm not sure which case this is. There are a lot of
22 cases. So honestly I'm really just trying to focus on election contest, because that's what
23 I'm -- that's my area of expertise and that's what I tried to focus on. And then after it
24 was filed, what I tried to focus on was explaining the problems of the election to citizens,
25 media, whoever was interested. Members of Congress.

1 Q Did you have any role in drafting, editing or otherwise commenting on this
2 memo that Mr. Eastman drafted related to January 6?

3 A I don't think so.

4 Q We're bringing up Exhibit 67, please. Page 2. This is a series -- excuse me,
5 a single text message, rather, from you to Marc Short on December 31.

6 A Right.

7 Q You say -- part of this is redacted, but then you say, "Also, with all this focus
8 on the VP Re: Electoral College, let me know if there's anything I can do to help on that
9 front. It puts him in a terrible spot, I know that. I'm happy to help any way I can to
10 sort it out. Just let me know. Thanks."

11 Do you remember sending this message to Mr. Short?

12 A I did.

13 Q And why? Why did you send it?

14 A Well, I was writing him about a client matter, which is what's redacted. I
15 included, you know, that I knew that there was a lot of pressure from the President and
16 from conservatives that there was some role that the Vice President could play or do.
17 And I knew that it was putting him in a bad spot to -- it was a bad spot and I hated that for
18 him. I did. I still do. I'm mad at him about other things, but not that.

19 Q Did you convey that opinion that you just shared here with the President?

20 A No, the President didn't ask my opinion about that.

21 Q This is dated December 31.

22 A Yes.

23 Q Obviously you clearly must have known about this kind of focus on the VP, as
24 you put it, before then in order to write it on the 31st. Do you remember about how long before you
25 started hearing about it?

1

2 A No. I just started hearing about it toward the end of December as things
3 were, you know, getting closer to the certification, the swearing in of the new Congress
4 and all of that. And so -- and no, I don't remember when I heard that. I don't
5 remember how I heard it. I just knew that it was happening.

6 Q Did you have any conversations with Mr. Short on the phone or in person
7 about the Vice President and his role?

8 A No, this was it.

9 Q If we could go to Exhibit 69, please, page 2.

10 While that's coming up, do you remember Mr. Short ever responding to you about
11 your messages related to the Vice President?

12 A Do I remember if Marc Short ever responded to me? I don't know. No.

13 Q This is another message that you sent to Marc Short and we have your
14 response here. That's dated January 5. And you say, like you just mentioned before, "I
15 know the VP has been put in a terrible position. Here is something I wanted to share
16 with you from Georgia. They finally appointed a judge on Monday in the election law
17 contest. Set a trial for Friday."

18 You then say, "One thing you can consider is saying that the Georgia electoral
19 votes should be set aside until after the final resolution of the case. At least we could
20 then get our witnesses and evidence and force the same from the Secretary of State.
21 We are before a terrible judge, but it buys time for the VP. Just an idea."

22 A Yeah. Just an idea.

23 Q What was your suggestion there, that the joint session be delayed, that the
24 Vice President not count Georgia at all during the joint session or something else?

25 A Just what it says.

1 Q So that the Vice President would not count the Georgia electoral votes
2 during the joint session?

3 A Right. Just an idea. A whole bunch of ideas is not a plan. And that was
4 just an idea. I was trying to think of anything, anything that could be done to help the
5 political position of the Vice President, to tell you the truth.

6 Q And did you think that the Vice President had the constitutional authority
7 not to count those votes?

8 A Well, I obviously did or I wouldn't have suggested it. You know, I don't
9 actually think that the House of Representatives has the authority to have the committee
10 that you guys are grilling me on, from, but you're doing it. So, you know, members of
11 Congress do things even if they aren't authorized.

12 Q How is it possible for the Vice President to be able to reject these votes if his
13 role is ministerial, as you testified earlier?

14 A I told you. It was just an idea. It's not a plan. I throw out a lot of ideas.

15 Q I understand.

16 A This is not a legal memo. It's not a legal memo. I was trying to think is
17 there something that he could do to blunt some of the criticism from the base. It was
18 just an idea. It didn't happen.

19 Q But it was an idea that you suggested to Marc Short?

20 A Yeah. I knew Marc Short a long time.

21 Q Understood.

22 Ms. Mitchell, I want to turn to January 6, the day of. Did you have any role in
23 planning or preparing for any of the rallies that took place in Washington on January 6?

24 A No.

25 Q Did you stay in North Carolina on the 6th?

1 A I told you, I wasn't -- I was not in Washington, D.C. for a good month. And
2 the first time I got back to Washington was probably the following Saturday or Sunday.
3 Saturday. I drove up on Saturday.

4 Q Were you aware of the rally that was going to take place on The Ellipse on
5 January 6?

6 A No. I wracked my brain about that. I don't really think so. I don't really
7 think so.

8 Q Were you aware of any discussions about encouraging people to go to the
9 Capitol on January 6?

10 A No. Not until later.

11 Q Were you aware of any discussions about President Trump going to the
12 Capitol on January 6?

13 A No.

14 Q How about any discussions about the President delivering a speech near the
15 Capitol on the 6th?

16 A No.

17 Q Did you have any role in drafting, editing or commenting on the President's
18 remarks that he was going to deliver on the Ellipse on January 6?

19 A No.

20 Q On January 6, did you have any communications with members of Congress
21 about the joint session?

22 A I don't think so. I don't think so. I think all my communications were the
23 4th and the 5th. The 6th was -- it was done.

24 Q Did you talk to the President at all on January 6?

25 A I did.

1 Q What did you talk about?

2 A I'm not going to answer that.

3 Mr. Rowley. Objection. Attorney-client privilege.

4 [REDACTED]:

5 Q Was the purpose of the call you had or the communication you had to give
6 him legal advice?

7 A What happened after I spoke to the President on the evening of January 6 is
8 that we proceeded to dismiss the election contest and other -- the pending lawsuits.

9 Q How many times did you talk to the President on the 6th?

10 A Once.

11 Q Was that in the evening, the afternoon, morning? Do you remember?

12 A It's on the schedule that you sent over.

13 Q Is it at 7:53? Is that when you recall -- 7:53 p.m., excuse me, is that when
14 you recall having a conversation with the President on the 6th?

15 A That's what it says on the schedule.

16 Q I understand what it says on the schedule. Is that what you recall? Is that
17 consistent with what you recall?

18 A I actually don't recall specifics at all other than I knew I talked to him.

19 Q Did you talk to Mr. Giuliani on the 6th?

20 A I don't think so.

21 Q Did you talk to Mr. Meadows on the 6th?

22 A I don't think so. I texted him and said we can talk about this tomorrow.

23 Q Do you remember talking to anybody else who worked in the White House
24 on the 6th?

25 A No.

1 Q Do you remember talking to anybody who worked for the campaign or what
2 was left of the campaign on January 6?

3 A I did not.

4 Q Do you know Steve Bannon?

5 A I do.

6 Q Did you ever talk to him about the joint session of Congress or events on
7 January 6?

8 A I don't think so. I talked to Steve. I've been on his show a lot of times and
9 I've talked to him. He's a client, a former client. So far as that, I have no recollection
10 of talking to him about any of that. I don't even know if I talked to him about any of the
11 postelection. I could have. But, I do not have a recollection of doing so.

12 Q What about White House Counsel? Did you ever talk to anybody in the
13 White House Counsel's office about the joint session of Congress?

14 A No.

15 Q Did you say, no? I'm sorry?

16 A No.

17 Q I think I may have just muddied the waters, which I apologize for. So the
18 answer to the question is no, that you did not talk to --

19 A I did not talk to anyone in the White House Counsel's office about January 6.

20 Q What about the joint session of Congress more generally?

21 A No.

22 I don't recall talking to anybody in the White House Counsel's office about any of
23 that.

24 Q What about the election, the November 2020 election or any of the
25 aftermath of the election?

1 A You're asking me if I talked to anyone in the White House Counsel's office
2 about the November 2020 election.

3 Q After the election took place; correct.

4 A Yes, I did.

5 Q Who did you talk to?

6 A I can't even remember all the people I talked to. Even if I did, I wouldn't
7 talk about it because they were working for the President, as was I.

8 Q Do you remember talking to Pat Cipollone?

9 A I talked to a number of lawyers in the White House Counsel's office with
10 regard to the election and various issues and documents and that sort of thing.

11 Q Do you remember --

12 A That's as far as I'll go.

13 Q Do you remember talking to Pat Cipollone?

14 A When.

15 Q In the postelection period.

16 A I did.

17 Q What did you talk to him about?

18 A I'm not going to talk about that. I think it's a privileged conversation.

19 Q Mr. Cipollone, of course, represents --

20 A He worked for the President.

21 Q He represents the President of the United States and the Office of the
22 President. He does not represent Mr. Trump as a candidate or individually or his
23 campaign.

24 A Okay. I'm going to let you work that out with my counsel, because I'm not
25 going to talk about that on this day.

1 Q Okay. So you're objecting based on what?

2 A Based on my role as counsel for the President, his role as counsel for the
3 President and the attorney work product and privilege that attaches thereto. If you
4 have something you want to ask about that, I don't think that's appropriate for me to
5 answer.

6 Q Sure.

7 A I have not been authorized to waive any privileges.

8 Q I understand. And I'm just trying to get some clarity for the record. So
9 your objection is it's attorney-client privilege and work product to conversations you had
10 with Pat -- let me finish because it's hard for the reporter to take down both of us talking.

11 So your objection is attorney-client communication and work product to questions
12 about communications you had with White House Counsel Pat Cipollone about the
13 election?

14 A About the election content.

15 Q That's all correct; right?

16 A Correct. I'm not going to talk to that.

17 Q Did you talk to Pat Philbin?

18 A I don't think so. Not about that.

19 Q I'll talk to Mr. Rowley and Mr. Irving offline, but I think we can
20 move on. Your objection is noted for the record.

21 Did you ever talk to Dan Scavino after November 3, be 2020?

22 A Before when. Up and through January 6.

23 A No.

24 Q Did you ever talk to him about January 6, afterwards?

25 A No.

1 Q How about, do you know General Michael Flynn?

2 A No. I know who he is.

3 Q Did you ever talk to him about the presidential election between the period
4 of November 3 through January 6?

5 A I don't think so. I don't know that I've ever spoken with him.

6 [REDACTED]. Any follow-up questions?

7 [REDACTED]. No, sir.

8 [REDACTED]. Bear with us just a moment, Ms. Mitchell.

9 The Witness. Okay.

10 (Discussion held off the record.)

11 [REDACTED]. Thank you for the indulgence.

12 [REDACTED]:

13 Q We understand that you participated in a January 22nd, 2021 phone call
14 between President Trump, Georgia Secretary of State Brad Raffensperger and others. Is
15 that right?

16 A It is.

17 Q How did that call come about?

18 A Well, I'm reluctant to discuss that, because I think that that's a privileged
19 communication with the President.

20 Q Let me ask it this way: Did you have any role of communicating with
21 representatives from the Secretary of State's office or otherwise to set up this call?

22 A No.

23 Q Was this a call that you and your team suggested or that the Secretary of
24 State and his team suggested?

25 A I'm actually not going to respond to that because I do think that that divulges

1 privileged information. You -- as I said, I can tell you this, that, as I said to you earlier,
2 we had been -- we being our team, various people, had made an effort for a number of
3 weeks to reach out to the Secretary of State's office and to be able to sit down with them,
4 to bring our data, which we had included in our election contest, which the Secretary of
5 State kept saying was wrong, but he never sat down with us. What we wanted to do
6 and had tried to do and what we were prepared to do that day and every day was to sit
7 down and compare data. And as I have said repeatedly, if we're wrong we'll say that.
8 And if you're wrong, you need to do something. And that was the purpose. Always
9 our purpose. Always our intent.

10 Q To set up the call, one party has to reach out to the other. Do you
11 remember if you or your team reached out to the Secretary of State or if the Secretary of
12 State reached out to your team?

13 A I'm not going to -- I'm not going to discuss those kinds of details, those
14 granular details.

15 Q On what basis?

16 A On the basis that that's privileged information and I'm not authorized.

17 Q Your outreach to the Secretary of State or his outreach to you is privileged?

18 A It is.

19 Q How is that possible? Did you represent the Secretary of State at the time?

20 A No.

21 Q So can you please explain the basis for your objection?

22 A I'm not going to get into details about how the call came about, whose idea
23 was, how it happened. I'm just not going to do that. The transcript of the call speaks
24 for itself, and I've told you my impression of what the purpose of the call was. What
25 else would you like to know.

1 Q This may be an area where we ask the chairman to weigh in, because I don't
2 know. We've been respectful of your privilege assertions once you've made them, but
3 this is an area where I don't think it's at all possible, even remotely possible, that there
4 would be a privilege assertion. So if you'd like to take some time to speak to
5 Mr. Rowley, I'd encourage that. But this is something I just can't see even being a
6 colorable claim of privilege over.

7 Mr. Rowley. Let's go off the record for just a minute.

8 (Discussion held off the record.)

9 [REDACTED]. Let's go back on the record. We're resuming the deposition of
10 Ms. Mitchell.

11 Do you have anything you'd like to put on the record, or shall I ask the question
12 again?

13 Mr. Rowley. Please restate the question.

14 [REDACTED]:

15 Q Okay. Ms. Mitchell, did you and your team reach out to Secretary
16 Raffensperger to set up this January 2 call with the President, or did Secretary
17 Raffensperger and his team reach out to you guys?

18 A Well, a White House switchboard operator initiated the call.

19 Q Okay. Was it a planned call?

20 Mr. Rowley. Objection. Attorney-client privilege.

21 [REDACTED]:

22 Q Did you have plans with the Secretary of State's office to have this call?

23 A What did you say.

24 Q Did you have, make plans with the Secretary of State's office to have this
25 call?

1 A I think that's a privileged -- here is what I'd like to do. Why don't you put
2 your questions -- why don't you pose your questions and let us figure it out? To me this
3 is very -- I don't want to play games with you, but I also don't want to do anything that's
4 inappropriate. I don't want to internally waive the privilege. So I'd like to be able to
5 know exactly what it is you want to know and then I can get advice from counsel about
6 what I can and cannot answer.

7 Q We are happy to let you take as much time with counsel right now. That's
8 the question.

9 Who set this call up?

10 A I said the White House switchboard set it up.

11 Q You said they connected your call. But I want to know, was this a planned
12 call, or did it happen just spur of the moment?

13 A I don't know the answer to that.

14 Q Did you or anybody else reach out to the Secretary of State's office to set up
15 the call before the White House connected you?

16 Mr. Rowley. I think Ms. Mitchell can say that she did not reach out to set up the
17 call.

18 The Witness. That's correct.

19 ██████████:

20 Q Did anyone on your team reach out to the Secretary of State's office to set
21 up the call on January 2 that the White House switchboard ultimately connected?

22 A I actually don't know the answer to that question.

23 Q Okay. So you do not know who reached out to whom to set up the
24 January 2 call?

25 A That's correct.

1 Q Did you stay on the call through the end of it? It lasted over an hour, about
2 70 minutes if I recall correctly.

3 A I believe that I did. I think the transcript reflects that.

4 Q You were not with the President, right, in person? You weren't together
5 for that call?

6 A We were not.

7 Q And you called into that call from North Carolina where you were?

8 A The White House switchboard operator convened the call.

9 Q I see. Okay. That's helpful, thank you.

10 [REDACTED]. Any follow-up on that.

11 By [REDACTED]:

12 Q Do you know who was with President Trump physically when he participated
13 in the call?

14 A No, I don't.

15 Q Other than the individuals who were identified in the transcript of the call,
16 which has been made public, do you know of any other participants?

17 A I do not.

18 Q I think we just have a few more questions.

19 A Okay.

20 Q Earlier, Ms. Mitchell, you told us that you spoke with John Eastman Vice
21 President's role, I believe. I just wanted to clarify, did you convey to John Eastman your
22 view that the vice president's role during the joint session of Congress was ministerial?

23 A I think what I testified to was that I don't really know if I talked to John
24 Eastman about that or not. I don't have a present recollection of talking to John
25 Eastman about this idea about the Vice President. I don't remember doing that. Now,

1 it doesn't mean I didn't, but he was dealing with other people, not me at that point.

2 Q Other than Marc Short and Paul Teller, did you speak with anyone else in the
3 White House Vice President's role in the joint session?

4 A No.

5 . That's all I have.

6 :

7 Q Just some final questions on my end, Ms. Mitchell. I don't want to ask you
8 about any conversations or communications you've had with your attorneys, Mr. Rowley
9 and Mr. Irving.

10 But has anybody reached out to you in an effort to influence in any way your
11 testimony or appearance before the Select Committee today?

12 A No.

13 Q Have you discussed your testimony with anybody other than your lawyers
14 that you planned to give today?

15 A Other than the people telling me good luck with the Star Chamber and things
16 like that.

17 Q Did you talk about your testimony to whomever those people were?

18 A No.

19 Q About your document production, did anybody other than your attorneys
20 have any role in your decision to produce or not produce any documents to the Select
21 Committee?

22 A Well, we had a vendor who was providing litigation support for the
23 management of the document production. Foley & Lardner conducted a search of both
24 the documents for the period of time that we've already discussed, because all of those
25 documents are still in the possession of Foley & Lardner, and I think that's it. So that's

1 where -- we did have help from those sources, yes.

2 Q Did you talk to Dr. Eastman at all about your subpoena and your appearance
3 before the Select Committee?

4 A Only to discuss the fact that we commiserated about the hell that you're
5 putting people through.

6 Q What did he say? What did he say?

7 A That you guys are putting him through hell. I've been talking to him about
8 it for months. I feel bad for him. He's a good man.

9 Q Did he say anything about your testimony?

10 A No.

11 Q Did he encourage you to say anything or not say anything?

12 A No.

13 Q Did he say anything about your document production?

14 A About what.

15 Q Your document production to the Select Committee.

16 A I have not had conversations with him. My lawyers had conversations
17 because there are documents that relate to him or from him, they are attorney-client
18 privilege, and my attorneys dealt with all that. I've never talked to John about any of
19 that.

20 Q Did you talk to the former President at all about your subpoena or
21 appearance before the Select Committee?

22 A I told him that I had been subpoenaed.

23 Q What did he say?

24 A I think that's privileged. I'm not going to respond to that.

25 Q Is he a client for purposes of representation before the Select Committee?

1 A Well, I consider that whatever I say with him about any of the events related
2 to the Georgia postelection would continue to be cloaked in the privilege.

3 Q Unrelated to the Georgia postelection litigation, did you have any
4 conversations with the President about your appearance before the Select Committee?

5 A No.

6 Q Did he in any way say what you should or shouldn't say to the Select
7 Committee?

8 A No, no.

9 Q Did he in any way weigh in on what documents you should produce or not
10 produce to the Select Committee?

11 A No.

12 Q What about any representatives from the former President? Did you talk
13 to any of his -- any of his representatives?

14 A No, none, none. Other than to advise him that I had been subpoenaed,
15 that's it, but -- most people already knew. They read in the paper.

16 ██████████ At this point we note that you have made a number of objections to
17 certain questions which we asked you today. We haven't weighed in on them,
18 whether they're -- given our perception of whether they are valid or not. And that's not
19 something that I would be able to do, even if I did comment at any point on them. That
20 is only something that the Select Committee can do.

21 And so at this point what we'll do is we'll end the deposition, but we will put it in
22 recess, subject to call of the Chair in order to allow for any resolution of the objections
23 you have made.

24 Is there anything at this time that you, Mr. Rowley or Mr. Irving, would like to put
25 on the record.

1 Mr. Rowley. I do have a question, Counsel. What is the process for reviewing
2 the transcript when it's finalized?

3 ██████████. Why don't you reach out to me about that and I can put you in
4 touch with the person who makes that happen.

5 Mr. Rowley. Fair enough.

6 Mr. Irving. One thing I wanted to follow up on, but I can wait until we go off the
7 record.

8 ██████████. Yes, why don't we do that? So at this point let's go off the record
9 and, like I said, the deposition is in recess subject to call of the Chair.

10 [Whereupon, at 3:43 p.m., the deposition was recessed, subject to the call of the
11 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.

Witness Name

Date