

In the Matter of the)
Independent Investigation)
under New York Executive)
Law Section 63(8))
_____)

HIGHLY CONFIDENTIAL

VIDEO RECORDED TESTIMONY OF STEVEN M. COHEN

New York, New York

Wednesday, June 30, 2021

Reported Stenographically By:
PATRICIA A. BIDONDE
Registered Professional Reporter
Realtime Certified Reporter
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June 30, 2021
9:16 a.m.

HIGHLY CONFIDENTIAL Video
Recorded Testimony of STEVEN M. COHEN,
held at the offices of Cleary, Gottlieb,
Steen & Hamilton LLP, One Liberty Plaza,
New York, New York, before Patricia A.
Bidonde, Stenographer, Registered
Professional Reporter, Realtime
Certified Reporter, Certified eDepoze
Court Reporter, Notary Public of the
State of New York, and Notary Public of
the State of Connecticut.

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A P P E A R A N C E S

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A P P E A R A N C E S (CONTINUED)

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ALSO PRESENT:

LILIANNA REMBAR

CHRISTIAN BIDONDE, Videographer

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P R O C E E D I N G S
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THE VIDEOGRAPHER: This is Media Number 1 of the video testimony of Steven M. Cohen in the matter of the Independent Investigation.

These proceedings are being held at Cleary, Gottlieb, Steen & Hamilton, One Liberty Plaza New York, New York, on June 30, 2021, at approximately 9:16 a.m.

My name is Christian Bidonde from the firm of US Legal Support. I am the legal video specialist. The certified stenographer is Patricia Bidonde in association with US Legal Support.

Will counsel please introduce themselves.

MR. KIM: My name is Joon Kim. I am a lawyer with Cleary, Gottlieb, Steen & Hamilton, appearing in my capacity today as a Special Deputy to the First Deputy Attorney General to the State of New York.

1 MR. GRANT: Hi. My name is
2 Yannick Grant. I am a lawyer at the law
3 firm of Vladeck, Raskin & Clark. I am
4 appearing today at my capacity as
5 Special Deputy to the First Deputy
6 Attorney General.

7 MS. REMBAR: Hi. My name is
8 Lilianna Rembar. I am with Cleary,
9 Gottlieb, Steen & Hamilton. I am
10 appearing today -- my capacity is a
11 special assistant to the First Deputy
12 Attorney General to the State of New
13 York.

14 MR. SHECHTMAN: Paul Shechtman,
15 Rebecca Foxwell, from the Bracewell
16 firm, representing Mr. Cohen.

17 THE VIDEOGRAPHER: Will the
18 certified stenographer please swear in
19 the witness.

20 S T E V E N M. C O H E N, called as a
21 witness, having been duly sworn or
22 affirmed by a Notary Public, was
23 examined and testified as follows:

24 MR. KIM: Can we start?

25 EXAMINATION BY

1 MR. KIM:

2 Q. Mr. Cohen, thank you for joining
3 us today. As you know, the New York Attorney
4 General has appointed our firm of Cleary,
5 Gottlieb, Steen & Hamilton and Mr. Grant's
6 firm of Vladeck, Raskin & Clark to conduct an
7 independent investigation under New York
8 Executive Law, Section 63(8), into allegations
9 of sexual harassment brought against Governor
10 Andrew Cuomo and this -- as well as the
11 surrounding circumstances.

12 Now, you're here today pursuant
13 to a subpoena issued in connection with that
14 investigation. And, as you know, you were
15 just placed under oath, and that means you
16 must testify fully and truthfully just as if
17 you were in a court of law, sitting before a
18 judge and a jury.

19 Your testimony here today, as you
20 know, as a result is subject to a penalty of
21 perjury. And although this is a civil
22 investigation, the attorney general's office
23 also has criminal enforcement powers.

24 And you have the right to refuse
25 to answer any questions if you believe an

1 answer might incriminate yourself. That
2 right, however, can result in consequences in
3 any civil proceeding. And it can be used
4 against you, although it cannot be in a
5 criminal proceeding.

6 Do you understand that?

7 A. I do.

8 Q. You are appearing today with your
9 attorney present, Mr. Shechtman, and you may
10 consult with him on questions of privilege.
11 And if that -- if issues of privilege come up
12 and you want to consult with him, please
13 advise me, and you can -- we can take a break
14 and you can consult.

15 Our request would be that, if you
16 can, answer the pending question without
17 disclosing any issues of privilege and then
18 consult. Okay?

19 A. I do, thank you.

20 Q. And also, if you want to take a
21 break for any reason, just tell us, and we can
22 take a break.

23 A. Great. Appreciate that.

24 Q. As you know, we have a court
25 reporter present. We just have to be mindful

1 of making sure that we get the answers down.
2 And so I will try to do that, and then if you
3 could try also to wait for my question to end
4 before answering, and I'll try to wait for
5 your answer before asking follow-up questions.

6 A. I will try to embrace the
7 usual -- the kind of discipline I usually
8 don't have, and I will try to speak slowly and
9 deliberately so that the court reporter
10 doesn't struggle with my usual garbled
11 verbiage.

12 Q. Appreciate that. Obviously, if
13 you don't understand a question that I ask,
14 please tell me, and I'll try to rephrase. I'm
15 going to be asking you questions
16 that -- involving specific names or dates.

17 If you don't have a recollection
18 of the specific information, for example, a
19 time or date, have a general recollection, you
20 have to give us your general recollection.
21 Just tell us that it's a general recollection
22 as opposed to a specific one.

23 Can you confirm for us and your
24 counsel that you're not otherwise recording
25 this testimony other than the video and the

1 transcript?

2 A. I am not recording this
3 testimony.

4 Q. Okay. You'll be surprised. That
5 answer has actually led to answers that we
6 didn't expect.

7 A. I can imagine.

8 Q. And Executive Law 63(8) is the
9 provision under which we are conducting this
10 investigation. It is our view that that
11 section prohibits you or your counsel from
12 disclosing information that you obtained from
13 us through this questioning to anyone else.

14 So we would advise you not to do
15 that. And if anyone asks you to disclose
16 information, you know, we would request that
17 you advise your counsel, and we would ask him
18 to advise us.

19 A. Of course.

20 Q. Also, you are protected from
21 retaliation for cooperating with our
22 investigation or answering questions or
23 providing information that we ask for.

24 If you believe that -- or if
25 you're concerned about any retaliation or that

1 acts have been taken to retaliate against your
2 cooperating with our investigation, please
3 also advise your lawyer and he can advise us.

4 A. I will. Thank you.

5 Q. Are you taking any medication or
6 drugs or alcohol that might make it difficult
7 for you to understand the questions and answer
8 them truthfully today?

9 A. No.

10 Q. Other than conversations with
11 your attorney, what have you done to prepare
12 for today's testimony?

13 A. I reviewed materials provided by
14 my attorney. I have occasionally spoken to
15 executive chamber counsel. Hard to say it was
16 in preparation for today. In fact, I've tried
17 to refrain from talking about anything related
18 to my testimony or my appearance here.

19 So essentially what I've done is,
20 you know, met with my lawyer on a few
21 occasions to prepare and review documents he's
22 provided.

23 Q. Which executive chamber counsel
24 have you been talking to?

25 A. Mitra Hormozi.

1 Q. Anyone else?

2 A. No. I, from time to time, have
3 spoken to Paul Fishman. But I don't believe
4 I've spoken to him in weeks. And I should
5 add, not about my appearance here or anything
6 related to what's gone on here in the recent
7 past, but I have spoken to Beth Garvey about
8 matters before the governor's office.

9 I have spoken to Judy Mogul,
10 again, not frequently in recent weeks but
11 about a few discrete matters related to the
12 governor's office. I think that's it.

13 Q. How about Melissa DeRosa?

14 A. I have spoken to Melissa DeRosa
15 but not about the content of my testimony or
16 my appearance here.

17 Q. How about Stephanie Benton?

18 A. I haven't spoken to Stephanie
19 Benton, I think, in several weeks and, if I
20 have, it has been because she's connected a
21 phone call to me or asked me to go to a
22 meeting.

23 But as I sit here today, I don't
24 recall other than I was in an event three
25 weeks ago. She was there. We said hello.

1 Q. What was that event?

2 A. It was related to the Tribeca
3 Film Festival. There was a luncheon, a
4 kickoff luncheon. I was -- had been invited
5 by Jane Rosenthal, and the governor appeared
6 as a speaker, and I said hello to him as well.

7 Q. Other than saying hello to the
8 governor at that event, have you spoken to the
9 governor about your testimony?

10 A. Not about my testimony, no.

11 Q. When's the last time you've
12 spoken to the governor?

13 A. Two weeks ago, I think. Maybe it
14 was a week ago, something of that order.

15 Q. What was the subject of that
16 conversation?

17 A. Fundraising.

18 Q. How about any in-person meetings
19 other than the Tribeca Film Festival?

20 A. Prior to Tribeca -- I don't
21 recall. I think it's been some time, other
22 than Tribeca, since I've seen him in person.
23 He's been working out of Albany. I have not
24 gone to Albany since February.

25 And, again, there may have been

1 an episode where, you know, he appeared at a
2 meeting or there was something in New York
3 where I saw him, but not that I recall,
4 sitting here today.

5 Q. And the last conversation you had
6 with him about fundraising, is that a
7 different time than the Tribeca event?

8 A. Yeah. And that was a phone call.
9 It wasn't in person.

10 Q. Anyone else you have spoken to
11 about your testimony today?

12 A. No. I mean, there are a number
13 of people who know I'm testifying, but I have
14 not spoken to anybody about the substance of
15 my testimony other than my lawyers.

16 Q. Who knows that you're testifying?

17 A. A couple people I work with.
18 [REDACTED] knows. I think [REDACTED]
19 knows. Family members know. [REDACTED],
20 the governor's sister, knows. I think
21 generally people involved in the legal team
22 from the governor's office know.

23 I think members of the governor's
24 senior staff I'm sure know. I think that's
25 pretty much the universe.

1 Q. Did you talk to [REDACTED]
2 about the substance of the testimony that you
3 would give?

4 A. No. And [REDACTED]
5 [REDACTED] also. And the answer to -- I didn't
6 speak to him about substance either. In fact,
7 I haven't, other than my lawyers, I haven't
8 spoken to anybody about the substance of my
9 testimony.

10 Q. Can you turn to the first tab in
11 the binder in front of you and just look at
12 Tab 1-A. It's a document subpoena that we
13 sent you.

14 A. Yes.

15 Q. Do you -- did you work with your
16 lawyers in responding to this document
17 subpoena?

18 A. Yes, I did.

19 Q. If you look at B, you signed a
20 compliance with subpoena statement?

21 A. Yes.

22 Q. Which I see you and your lawyer
23 have revised slightly from the form we sent
24 you. Could you tell us what you did to
25 respond to the document subpoena?

1 A. Sure. I reviewed the subpoena.
2 There were certain items on the subpoena that
3 just didn't pertain to me. So I struck those
4 off because there was no search to be done.
5 In areas where there was a search to be done,
6 speaking with counsel, I came up with a list
7 of search terms.

8 I searched the e-mail accounts
9 that I have that would have been relevant.
10 There are a couple of e-mail accounts, for
11 example, you know, I have an e-mail account
12 that was given to me by NYU that I just don't
13 use, and I don't even think anybody has the
14 e-mail address. So I didn't search those.

15 But I searched the accounts that
16 I had and had access to using the search
17 terms. I did the same thing with my computer.
18 I only operate off of one computer. The
19 responsive documents I printed out and
20 provided to my counsel.

21 I realized through a -- sort of a
22 glitch in the e-mail client I had been using,
23 I switched at some point, that there were
24 some -- there was a short period of time where
25 there may have been e-mails that I didn't

1 capture.

2 So I went back and did those,
3 actually saved those because I was concerned
4 that it was now, you know, essentially offline
5 in a dead account, and provided those, the
6 responsive ones there to counsel. There
7 weren't a lot. And as I said, I searched my
8 computer.

9 I also searched -- I have several
10 files at home, and when I say "files," I don't
11 mean cabinets, I mean just files of odds and
12 ends that I've collected. And I looked there
13 to make sure that I wasn't missing anything,
14 and I provided those to counsel.

15 Q. And the searches that you
16 conducted, do those --

17 MR. SHECHTMAN: Joon, I won't
18 testify but he searched texts as well.

19 THE WITNESS: Yeah, I did.
20 That's right. I searched -- thank you.

21 I searched, you know, any texts
22 that I had on my phone.

23 Q. And did you do all of these
24 things yourself?

25 A. Mm-hmm.

1 Q. And the search terms that you
2 used, do you still have those?

3 A. I do.

4 Q. I would ask for those search
5 terms.

6 A. Give me one second. If --

7 Q. You don't have to do it now.

8 A. Okay. I've got my handwritten
9 notes. I mean, maybe the easiest thing for
10 you to do is just Xerox them. I don't care if
11 I have the copies or the original, but I
12 actually brought them with me.

13 Q. Okay. And did you use search
14 terms to search your texts as well?

15 A. Yes.

16 Q. And how do you actually do that?

17 A. How did I search the texts?

18 Q. Yeah. Using search terms.

19 A. There's a search function. I
20 went on. It was frankly a painstaking
21 experience. I searched -- and by the way, the
22 terms were mostly names. I searched those
23 names. If anything was responsive, I then
24 took screenshots, and then I printed the
25 screenshots.

1 And it did take a while to do it.
2 But, you know, I'm not working at a place
3 currently where I have access to any kind of
4 IT group. I at some point reached out both to
5 the lawyers here and some other lawyers and an
6 IT person that I know at a company, and I just
7 realized the most efficient way to do this, to
8 get the production done in a timely way, was
9 just to do it myself. And so that's what I
10 did.

11 Q. Okay.

12 MR. GRANT: When you say "your
13 phone," do you only have one phone that
14 you use to communicate with, you know,
15 potentially responsive or -- well,
16 sorry. How many phones do you have?

17 THE WITNESS: I have two phones.
18 I want to make sure I get this answer
19 right.

20 We live in a world, when you join
21 certain kinds of boards, they give you a
22 phone. Even if you say, "I don't want
23 the phone," they seem to delight in
24 giving you the phone.

25 When I started as chair of Empire

1 State Development, the board members get
2 phones and an iPad. I never -- to my
3 knowledge, I never got the iPad, but I
4 did get a phone. I think I've turned
5 that phone on once.

6 And I haven't used it --
7 certainly, you know, in calendar year
8 2021, that phone has not been turned on.
9 So that's the second phone that I have.

10 I have a third phone that you
11 wouldn't consider a phone because it's
12 not connected to anything. You know, I
13 think we use it in my house to operate a
14 Sonos system. It's an old iPhone. So
15 I'm almost exclusively operating off of
16 my personal iPhone.

17 BY MR. KIM:

18 Q. And is that the iPhone you use to
19 communicate with the governor, either by phone
20 or text?

21 A. Unless I'm calling him from a
22 hardline, yes.

23 Q. How long have you had that phone?

24 A. 14 months? 15 months? I got it
25 just at the beginning of COVID. My

1 phone -- my phone broke at the beginning of
2 COVID, and I replaced it through -- I was then
3 still at MacAndrews, the company I worked at.
4 I replaced it at MacAndrews, and when I left
5 MacAndrews, I kept the phone.

6 Q. And the phone you had before, do
7 you still have that?

8 A. No. It went back to MacAndrews.
9 It was their phone.

10 Q. When did you first meet Andrew
11 Cuomo?

12 A. 1984, I think.

13 Q. How did you meet him?

14 A. In the spring of 1984, I got a
15 job. I was in college at the time. It was
16 the end of my junior year. And I got a job
17 working for Mario Cuomo in his New York City
18 office.

19 And as part of that job, I was
20 working for somebody that was reporting
21 directly to a man named Mark Gordon, who had
22 been close to Andrew. And Andrew Cuomo had,
23 for the first year of the governor's
24 administration, actually worked for the first
25 Governor Cuomo, Mario Cuomo, in Albany.

1 And there were a number of people
2 who had worked with Andrew who I think had now
3 left to go to the Manhattan DA's office, if
4 I'm remembering correctly. And I got a call
5 one day basically saying, you know, Andrew
6 wants to talk to you. He has an assignment
7 for you. And it related to a press function.

8 And so that was the first time I
9 suspect. I talked to him, spoke to him a
10 number of times about that, and then at some
11 point in that year, I would have met him.

12 Q. So what were you doing in the
13 Mario Cuomo campaign in 1984?

14 A. It wasn't the campaign.

15 Q. Oh, just --

16 A. I was in the governor's office.
17 I started out as an intern, and I was -- there
18 were press functions I was working on, largely
19 related to -- if I'm -- I mean, this is a long
20 time ago, but if I remember correctly, it was
21 related to activities with the various state
22 agencies.

23 So, you know, part of it was how
24 do you coordinate announcements and activities
25 from the state agencies with the governor's

1 office. Each state agency has a public
2 information officer.

3 And so I became -- although I was
4 just an intern, I became a conduit to dealing
5 with the public information officers and
6 discussing with them and coordinating what
7 releases were going to be done and what events
8 might be of interest to Mario Cuomo.

9 And it evolved from there. What
10 ultimately happened was we began trying to
11 develop -- and again, this is 1984, and the
12 world looked very different. So, you know, as
13 I'm describing this, it seems, sort of,
14 bizarre.

15 But one of the problems was how
16 do you communicate and how do you get press
17 releases and press information on a local
18 level to local weekly newspapers. And so one
19 of the things that was decided was that I
20 would set up a unit with interns.

21 And those interns, college
22 interns, would take broad state press releases
23 and break them down into a local version. So
24 it wasn't any additional information. It was
25 just additional work.

1 So, for example, if the New York
2 State Council on the Arts was giving out
3 \$60 million in grants to arts organizations
4 throughout the state, we would pull out the
5 one or two grants that was going to Herkimer
6 County.

7 And instead of giving them a
8 broad release that said "60 million statewide.
9 By the way, here's a laundry list that chose
10 Herkimer County," we'd rewrite it to say, "The
11 governor's office and the New York State
12 Council on the Arts announced today that the
13 Herkimer County puppet theater was receiving a
14 grant of \$125,000."

15 And then we would, if I'm
16 remembering correctly, we would fax the
17 release to the local paper. And that was
18 quite a time-consuming and labor-intensive
19 effort when you think about 62 counties, the
20 size of New York. And I ended up full-time
21 running that operation.

22 It expanded then to radio. And
23 then on the side, since you asked about it, I
24 did get involved politically. But that wasn't
25 about the governor's campaign, it was about

1 Mondale-Ferraro. And I think, if I remember
2 correctly, Mario Cuomo was the state chair of
3 the Mondale-Ferraro campaign.

4 So I started working on
5 Mondale-Ferraro, which I was interested in
6 anyway. So that -- through those various
7 ways, I got to know Andrew.

8 Q. And so what was the assignment
9 that you had been directed to go see Andrew
10 Cuomo about when you first met him?

11 A. Yeah, I wasn't directed to see
12 him. I -- he called. And it was about -- it
13 was his idea. You know, he, sort of,
14 recognized that there were these underserved
15 press outlets throughout the state that
16 everybody frankly ignored, you know, sort of,
17 the weekly papers, the penny savers.

18 Even in urban areas, New York
19 City is a good example, you know, the
20 Bensonhurst Bean. You know, nobody is writing
21 a press release for the Bensonhurst Bean. And
22 so his idea was -- I mean, the other one I
23 always, sort of, laughed about years later was
24 the Chelsea-Clinton News, which was a
25 newspaper that served Chelsea and the Clinton

1 area.

2 And so I spoke to him about how
3 do you set up that operation, what we would
4 need to staff it, who we would try to hire as
5 interns to do the work, how that would be
6 managed, and then how we would set up
7 relationships with those various newspapers
8 and convey the information to them.

9 And then, you know, at some point
10 in that process, I would have met him. I
11 don't specifically recall when. But it would
12 have certainly been in that first year. And
13 then periodically, he would check in with me
14 about that operation.

15 But the bulk of my involvement
16 was with his father, Mario Cuomo, who knew
17 what we were doing. And, you know, oftentimes
18 I would meet with Governor Cuomo, the first
19 Governor Cuomo, to run through, sort of, what
20 was on the agenda, what we were doing.

21 And once we started doing radio,
22 it required that we actually get Mario Cuomo's
23 voice on tape, because the idea was to give
24 the local radio station the same idea, a clip
25 that had Mario to run. And that was much more

1 successful than I would have imagined. I
2 mean, there were technical problems in how we
3 did it.

4 It was -- you know, Mario Cuomo
5 was, sort of, I think as everybody knows, kind
6 of, one of the all-time, sort of, great men of
7 his era. But he could be very quirky, and
8 sometimes getting him to actually record
9 these -- they were called bumpers -- would
10 require quite a bit of cajoling.

11 And so I spent a good amount of
12 time with Mario Cuomo in that, sort of, first
13 year I worked there, first 18 months. I left
14 to go to law school. But that was the first
15 involvement I had with first Mario Cuomo and
16 then Andrew Cuomo.

17 Q. And then after that, how frequent
18 were your interactions with Andrew Cuomo?

19 A. Well, I went to law school. I
20 spoke to him once while I was at law school.
21 It would have been the first week. He called
22 to wish me luck.

23 I then came back for the summer
24 between my first and second year, and went
25 back to the news unit, which was what it was

1 called, the news unit operation, and then
2 spent a few weeks traveling with Mario. It
3 would have been '86.

4 So I think it was his first
5 reelection campaign. I think he was running
6 against Andy O'Rourke. And it ended up being
7 a benefit to me because a lot of senior staff
8 members took leaves to go work on the
9 campaign.

10 I was there working in the
11 governor's office. And so when the person who
12 would travel with him on the road, not the
13 advanced person but, like, the briefer or -- I
14 can't remember what the title was. I mean, it
15 doesn't matter.

16 I was the guy who had the
17 briefing book that would meet the governor in
18 the morning when he was traveling. He was
19 traveling all the time when I was with him.
20 And so I ended up with that job for probably
21 two or three weeks where I was with Mario
22 Cuomo.

23 I don't recall that summer having
24 very much involvement with Andrew Cuomo. I'm
25 speculating but my guess is he was working

1 primarily on the campaign. I did some
2 campaign work -- now that I think about it,
3 there was one thing I did for the campaign,
4 which was I was involved in drafting a piece
5 of literature.

6 And I know that it was -- again,
7 it was Andrew Cuomo's idea. And he came and
8 talked to me about this particular piece of
9 literature. It was designed to look like USA
10 Today. So it was sort of a broad sheet
11 instead of a little pamphlet.

12 He wanted to know whether I
13 could, on my off hours, work with a group, get
14 a group of people together, and try to design
15 this broad sheet to look like USA Today. At
16 the time, '84 USA Today, I think, had just
17 gone national. So there was a lot of buzz.

18 So the idea was that this would
19 be, you know, kind of, a -- sort of an edgy
20 piece of campaign literature, if we would, you
21 know, write six stories about the
22 accomplishments of Mario Cuomo in his first
23 term in a color broad sheet, distribute them
24 that way, and that's what we did.

25 But the bulk of my work that

1 summer was not on the campaign, obviously. It
2 was working at 2 World Trade Center, or being
3 up in Albany and traveling with Mario.

4 Q. And how about after that
5 when --

6 A. Few and far between. Once I left
7 for my second year of law school -- God bless
8 Mario Cuomo. His piece of advice to me was
9 don't come back. You will have a lot of
10 opportunities.

11 He always kidded me that I went
12 to Penn instead of St. John's, and, you know,
13 probably said, you know, despite the fact that
14 you're not graduating from St. John's, you're
15 going to have a lot of opportunities.

16 We had talked about that I wanted
17 to try to get into the US Attorney's office.
18 He said you should pursue that, you should
19 pursue clerkships. You don't need to work
20 right now in state government. If you ever
21 want to come back, there will be a job for
22 you.

23 But you should go out, establish
24 yourself, become a lawyer, learn how to be a
25 lawyer, and then more opportunities than you

1 can imagine would open up for you. But don't
2 come back.

3 And so, you know, I took that to
4 heart. I didn't come back. I did a couple of
5 clerkships and, as you know, I ended up in the
6 US Attorney's office. And so there really
7 wasn't a lot of reason to interact with Andrew
8 Cuomo.

9 I was more often, if anything,
10 interacting with Mario, largely to get, you
11 know, career advice or to ask him to write a
12 letter of recommendation for me, which I think
13 he did on a couple of occasions, I think for
14 clerkships. In fact, I know he did for
15 clerkships.

16 Andrew I would hear from
17 episodically. So when Andrew became -- and
18 it's funny, I didn't go back and work on the
19 Mario campaigns either. I was, sort of, out
20 of it. Mario wins second term, runs for his
21 third term. So that probably goes '86 -- '82,
22 '86, '90. By '90 I'm clerking. '94, he runs
23 and loses, Mario does, not involved in any of
24 those campaigns.

25 And as best I can recall, the

1 next time I would have heard from Andrew is
2 when Bill Clinton is elected, which is -- I
3 think it's '92. Did we figure this out? It's
4 '92. And when Andrew was looking to staff up,
5 I got a call.

6 I can't say for sure if it was
7 from him, or it could have been from a number
8 of people who worked for him that we knew in
9 common. This fellow, [REDACTED], who I'd
10 worked for in the governor's office, may have
11 been the call. And I was asked if I was
12 interested in moving to Washington and working
13 for HUD.

14 And I tried to explain to them
15 politely I had been at the US Attorney's
16 office now for -- I don't know whether it was
17 14 months or 15 months. And the notion that I
18 was -- maybe it was even less -- the notion
19 that I was going to break my three-year
20 commitment to the US attorney's office to go
21 work at HUD just wasn't going to happen.

22 But I was then asked if there
23 were other people I could recommend who might
24 be interested in going to HUD, and a lot of
25 the people I knew from the Mario

1 administration, you know, went down to HUD.

2 And I probably gave them a couple of names.

3 I know I passed on [REDACTED]
4 name, who was a colleague in the US Attorney's
5 office. And I knew him because -- not only
6 from the US Attorney's office, but we had both
7 clerked for Stan Sporkin. So that's one I
8 recall. I'm sure I gave other names. I don't
9 recall any of the others.

10 And so Andrew is now down at
11 Washington at HUD, and I'm up in New York in
12 the US Attorney's office. And I probably ran
13 into him once in a while. But unlike Mario
14 where, you know, if I was trying to make a
15 hard decision, I'd call Mario or even go to
16 see him. And Mario would also call me.

17 I mean, my [REDACTED] wrote a book,
18 and I remember Mario calling me and, in a very
19 kind and benevolent way, torturing me about
20 the book my [REDACTED] wrote.

21 And I think probably, you know,
22 the next time I would have heard from Andrew
23 is when he ran for governor in 2002.

24 Q. And what happened, then, in 2002?

25 A. He was running. I was, at the

1 time, at -- I can't remember what date Kronish
2 merged with Cooley, but I was at either
3 Kronish Lieb or Cooley practicing law.

4 You know, I got a call -- sort
5 of, as best I recall, and my memory of this
6 is, as you can imagine, you know, far from
7 perfect or clear. But I think it was probably
8 a call about, sort of, getting involved, and I
9 said, you know, I'm happy to help any way I
10 can.

11 I didn't really work on that
12 campaign. I spent a brief period of time
13 giving criminal justice policy advice. And
14 that was the bulk of what I did. I mean,
15 there were all other, sort of, research
16 functions that I helped them with, but the
17 bulk of it really was criminal justice policy.
18 And it was a very, very small amount.

19 I don't recall -- I recall
20 visiting the campaign office once to meet with
21 a guy named [REDACTED]. I don't recall
22 seeing Andrew any time during that campaign.
23 I don't recall -- I think I went to one
24 fundraising event where somebody I knew had
25 bought a table, but I didn't. I don't think I

1 was even a donor.

2 I could have been but I don't
3 think I was, because I just really wasn't in
4 that world at that point in my career, which
5 would have been, you know, '02. And then he
6 withdrew from the race so, you know, that,
7 kind of, set him in a different place for a
8 couple of years.

9 Q. And when's the next time you had
10 interactions with Andrew Cuomo?

11 A. Again, other than, sort of,
12 instances where I would have run into him.
13 So, for example, if Mario Cuomo had an alumni
14 party -- and I don't, sitting here today,
15 recall any specific ones, but he did -- I
16 would have run into Andrew there.

17 And so I saw him at those kind of
18 social events. He was, remember for most of
19 this time, down in DC. Once he was back in
20 New York, occasionally I would bump into him.

21 And then he runs for attorney
22 general. So that's 2006. And no one called
23 me. I was surprised. I expected somebody
24 would call and say -- because now it's, sort
25 of, my -- sort of, where I was in the world

1 had changed.

2 I was now a partner in a law
3 firm. He was running for AG. You know, I
4 knew something about the AG's office. Michele
5 Hirshman was the first deputy attorney general
6 at the time. Everybody knew that Michele and
7 I were friendly.

8 But phone never rang. I didn't
9 lose any sleep over the fact that no one
10 called. I just thought it was curious. I
11 actually -- I mean, now, this is irrelevant to
12 anything -- I thought it might have been
13 because I was involved in the big Palladium
14 case.

15 And Morgenthau was a big
16 supporter of Andrew's run for AG. And at the
17 time, my relationship with Mr. Morgenthau [REDACTED]
18 [REDACTED].

19 And so I kind of thought, well,
20 maybe I was just, sort of, you know,
21 unapproachable from the standpoint of
22 Morgenthau. In truth, to this day, I don't
23 know why it was I never got a phone call. But
24 once he gets elected, a number of people
25 called me. He had this very large transition

1 team.

2 Mary Jo was on it, Mary Jo White
3 was on it. You know, [REDACTED] was on it.
4 And I think, trying to reconstruct it in my
5 head, Kronish by then had merged with Cooley.
6 And I didn't want to be at a very large law
7 firm, and Cooley was a very large law firm.
8 And at the time, it was really, sort of, a
9 West Coast law firm.

10 And it just was nothing wrong
11 with them. They were -- you know, I loved the
12 lawyers, I loved the New York office. But it
13 wasn't for me. And I was looking around. And
14 I think everybody knew I was looking around.
15 Or, you know, sort of my friends and cohorts
16 in the legal community knew I was looking
17 around, probably because I was going around
18 and interviewing at law firms.

19 And I got about a half dozen
20 calls saying, hey, I can put you, you know, I
21 can put on one of these lists, you know, for
22 the newly elected AG to consider. And, you
23 know, I'm close enough that I can arrange a
24 meeting.

25 And I would, sort of, say to

1 these people politely, you know, I know him,
2 and I've known him for years. You know, I
3 appreciate the help, but, you know, it's a
4 little awkward being presented as if I'm, you
5 know, somebody that, you know, he doesn't
6 know.

7 And after a bunch of those calls,
8 I got a call from somebody with the campaign.
9 It was probably a woman named [REDACTED].
10 And [REDACTED] said, "Hey, are you the Steve Cohen
11 that used to work for Mario?"

12 And I said, "Yeah."

13 "Hey, would you come down and be
14 willing to meet with Andrew?" Come down, come
15 up, I don't remember where the -- the office
16 was in Midtown, and I was working in Midtown.

17 So I think within a day or two, I
18 went and I met with him, and that was the next
19 time I reconnected with him.

20 Q. And did you end up getting a
21 position in the attorney general's office?

22 A. Well, it really started with the
23 transition. I mean, after a couple of
24 days -- you know, again, he had these lists.
25 And I knew a lot of the people on the list. I

1 mean, as you can imagine, they were looking
2 for prosecutors, federal and state
3 prosecutors, and former federal and state
4 prosecutors. And I knew a lot of them.

5 And so, you know, at the time, it
6 was [REDACTED] who was running the
7 transition maybe with [REDACTED]. And it's
8 a long time ago. This would have been
9 November, December 2006.

10 And [REDACTED], who is -- up
11 until recently was a partner at Patterson
12 Belknap, and I think he just moved to Foley,
13 and was a law school classmate of Andrew's, he
14 was running the transition.

15 But this really -- I mean, he
16 knew a lot of people associated with the state
17 bar. He's a big, you know, state -- I think
18 he was the president of the state bar at one
19 point.

20 But he didn't know the kind of
21 lawyers that they were looking to recruit to
22 bring in to restaff the AG's office. And so
23 within a week, I was suddenly informally the
24 co-chair of the transition team, you know,
25 interviewing people, going to lunches and

1 dinners with incoming AG.

2 You know, meeting with a number
3 of people who, you know, ultimately it was,
4 you know, [REDACTED],
5 [REDACTED]. You know, a
6 whole group of people who I knew from both the
7 practice of law and the US attorney's office.
8 And so I was the conduit to a lot of those
9 people. Ultimately, [REDACTED] as well. I
10 think she came a little later.

11 And so when that all happened, I
12 was then asked -- I mean, it was curious
13 because we hadn't discussed my joining. And
14 so within, sort of, a week of announcing who
15 was taking what position, when we were, sort
16 of, putting out the announcements, Andrew
17 said, you know, I assume you're going to come.

18 There are -- you know, I figured
19 you'd take one of two positions. You could
20 either be counsel to the governor -- the
21 counsel position, which --

22 Q. To the attorney general?

23 A. I'm sorry. To the attorney
24 general, thank you. And I didn't want that
25 job. I don't think he wanted me to take that

1 job either. The idea was to get somebody who
2 really, you know, sort of, was more entrenched
3 in the New York State political world, who had
4 deeper ties in Albany. And that became [REDACTED]
5 [REDACTED] took that job.

6 The other job was -- I mean, it's
7 a funny title. It's counselor. The title
8 actually originated with [REDACTED]. [REDACTED]
9 [REDACTED] was counselor to Mario Cuomo. And the
10 idea was that the chief of staff would report
11 to me. And we created this structure where we
12 had gotten rid of the first deputy, because
13 everybody wanted to be first deputy.

14 And So the idea was let's not
15 have a first deputy, let's have executive
16 deputy attorney generals for the various
17 programmatic and substantive areas. And I
18 would, then, have a chief of staff who was
19 really the operations person about running the
20 office.

21 It wasn't a legal position. The
22 chief of staff would report to me, and then I
23 would really be the conduit through which
24 those executive deputy attorney generals would
25 interact with the AG. And so that's the

1 position I took. I ended up being counselor
2 and acting chief of staff.

3 And for all sorts of reasons,
4 within the first three months, we realized it
5 was working fine. We weren't going to get a
6 chief of staff. It would have been disruptive
7 to bring in somebody else.

8 And so I kept the chief of staff
9 title and became counselor and chief of staff,
10 which effectively was what the first deputy
11 job, I think, has reverted back to.

12 Q. And is that the position you
13 remained in until --

14 A. All four years. Wasn't my
15 intention to stay four years, but I stayed
16 four years.

17 Q. And during that period, how
18 regularly did you interact with the attorney
19 general at the time, Andrew Cuomo?

20 A. On average basis, five days a
21 week. Probably spoke six or seven days a
22 week. My office was next to his. We had
23 regular staff meetings, I think a big monthly
24 staff meeting, you know, meetings more or less
25 every day.

1 look, you know, I got to move on. So we
2 actually told the staff that I was moving on.
3 I was going to help with the transition. But
4 that was going to be it.

5 And then it would have been in
6 mid December, certainly after the second week
7 of December, he started getting briefed on the
8 budget crisis. And people forget but in 2006
9 going into 2007, there was a huge budget
10 deficit.

11 And when you're elected that
12 first year, the problem is you come in, you
13 get these briefings, you've got to do your
14 State of the State in the first week --

15 Q. 2010 going into '11. Right?

16 A. Yeah, 2010 going into '11. So it
17 would have been January 2011. You got to give
18 your State of the State. You got to give your
19 budget presentation, and you've got to try to
20 get your budget by April 1st.

21 And he had made it sort of a
22 campaign priority, he was going to get an
23 on-time budget. Hadn't been an on-time budget
24 in years. And I think there was somebody who
25 he wanted to come in for the first year to be

1 secretary to the governor who had had
2 experience in those matters.

3 And it turned out the person
4 couldn't do it, and I get called in by him. I
5 actually was out of the office that day, and
6 he called me and he said, you know, "I don't
7 have a choice. You have to be secretary to
8 the governor."

9 And we had a whole long
10 conversation about why. And his point
11 was -- he was actually persuasive about it.
12 His point was anybody he brings in right now
13 will be disruptive, because five other people,
14 six other people wanted the job and believed
15 they were entitled to the job.

16 And we went through all of those
17 people, and he said, "Any one of those people,
18 I'm going to have four other people I need who
19 are going to be upset that they didn't get the
20 job. You're doing the job. No one can
21 complain that you stayed on because this is
22 basically your job right now. And so I need
23 you to do it."

24 And we worked out an agreement
25 that I'd come -- and we went back and forth

1 for a couple of days -- but that I would come
2 until he got the budget and the end of the
3 legislative session. It's funny to say "now"
4 because it always ends in June.

5 Back then, the budget could drag
6 on into the summer. The legislative session,
7 there were all sorts of specials. So I
8 believed that would get me out by the fall of
9 2011. But I wasn't sure.

10 And I basically said, "But we're
11 never having this conversation again. On-time
12 budget -- or budget done, legislative session
13 over, we're not talking. I will then leave
14 when it's appropriate for me, and I'll let you
15 know.

16 "I'm not going to blindside you.
17 And you have to decide how involved you want
18 me to be in trying to figure out who is going
19 to become the secretary when I leave."

20 And we had a handshake deal. And
21 then he said, "Have you talked to my father
22 about this?"

23 And I said, "Why would I talk to
24 your father about it this?"

25 And he said, "Because my father

1 expects that on things like this you'll
2 consult with him, and he probably thinks on
3 things like this, I'll consult with him, and
4 neither of us have consulted with him. So
5 you've got to go up and you got to talk to
6 Mario."

7 And so I think that day or the
8 next day I trotted up to Willkie and had a
9 conversation with Mario, and he was very
10 gracious, and we spent three hours talking
11 about it and what the impact would be on my
12 career.

13 And he ultimately said, "I could
14 argue it either way, but if you think it's
15 going to be helpful to Andrew, you should do
16 it." So that is what happened. I ended up
17 secretary to the governor.

18 Q. And how long did you remain
19 secretary to the governor?

20 A. I don't know what the separation
21 date is. Effectively, by the time the
22 legislative session ended, which was -- I
23 actually think we just celebrated the 20th
24 anniversary, because the last act of the
25 legislature in that legislative session was

1 the passage of marriage equality.

2 And so upon the passage of
3 marriage equality, the next day I actually
4 spoke to the then governor and said, "You know
5 I'm going," and he said, "Yeah, yeah, yeah."
6 I mean, because I wanted him to know. And I
7 probably lingered for another 60 days, maybe.

8 I don't know what the separation
9 date is. The separation date, though,
10 reflects my calculation of when I would stop
11 working plus, you know, whatever leave I had.
12 And so that ended up being the separation
13 date, and I left the administration.

14 So it would have been, you know,
15 effectively by the fall of 2011, I was gone.

16 Q. So your time in the executive
17 chamber was less than a year?

18 A. Oh, yeah. I think it's probably
19 six or seven months. And remember, it wasn't
20 an ordinary six or seven months because,
21 unlike what becomes of, sort of, a stable
22 administration, you know, after your second
23 year and then in a second term and a third
24 term, a big part of what we were doing was
25 trying to understand and learn the

1 legislature, which was, sort of, endlessly
2 complicated.

3 It was -- you know, it's like
4 being dropped into the middle of a very
5 intense game of Dungeons and Dragons. And
6 even though you think you know it, you don't
7 really know it because you never lived it.

8 And in the AG's office, you are,
9 sort of, slightly a world apart. You don't
10 have to live in that world, coupled with the
11 fact that you don't realize how many people
12 have left until you're there. And you're now
13 trying to constantly that first year populate
14 jobs, some of which nobody's ever heard of,
15 and making sure that people are paying
16 attention to them. So it was this very
17 intense six or seven months, and then, yeah, I
18 was gone.

19 Q. And then after you left, you were
20 in private practice in different capacities?

21 A. Yeah, so I went to -- I joined
22 Zuckerman Spaeder and took over their New York
23 office. And my plan was to -- our plan was to
24 build a practice in New York. They had, I
25 think at the time I joined, I think there were

1 three lawyers there.

2 And before I came in, I recruited
3 a number of people, including [REDACTED],
4 [REDACTED], and we began to grow the office.
5 And there were tensions that existed between,
6 not the office, but me and the Zuckerman
7 leadership in DC.

8 They sent a lawyer who became a
9 good friend of mine, [REDACTED], to sort of
10 work out of New York, which I thought would
11 calm the problems. And, in fact, [REDACTED] agreed
12 with us that these were, sort of,
13 [REDACTED] with respect to me,
14 not with the firm generally, but with respect
15 to me.

16 And so at some point along the
17 way, maybe 14 months into Zuckerman, [REDACTED]
18 [REDACTED] who I had talked to about jobs over
19 the past couple of years, tried to retain me
20 to work on a matter.

21 And it was -- I don't want to go
22 off on this tangent, but it was -- it didn't
23 make any sense for me to represent him. I
24 said, "I'm happy to give you advice, but I'm
25 the wrong lawyer for what you're trying to

1 accomplish. In fact, I think it's going to
2 work against you."

3 And so I recommended the lawyer
4 that he should hire, and then that became this
5 sort of campaign of "Why aren't you working
6 here? Why aren't you working here? You
7 should come and work here."

8 And I ended up working a deal out
9 where I split my time between MacAndrews &
10 Forbes, where I became the chief
11 administrative officer, and Zuckerman Spaeder.
12 And I think that actually was working fine.

13 But, you know, my view of the
14 world I think was driving some of my
15 colleagues in DC crazy. And we ultimately
16 agreed that I would just move full-time to
17 MacAndrews.

18 Q. And since leaving the executive
19 chamber, how often have you consulted with the
20 executive chamber on various issues?

21 A. It's episodic is the way I would
22 describe it. There are times in which, you
23 know, there will be a three-week period or a
24 four-week period over the last ten years where
25 there are a lot of conversations of, sort of,

1 of varying types.

2 There are times when, you know,
3 months will go by where, other than maybe
4 social conversations, I'm really not engaged
5 or in touch. In the past few years, it's
6 ramped up considerably.

7 But there were times, you know,
8 between 2012 and 2020 where, you know,
9 literally months and months would go by where,
10 you know, I wasn't involved in anything.

11 It changed for a period of time
12 when I became a board member of the Port
13 Authority, because then there were -- you
14 know, I had to get guidance on things, and I
15 had to give my view on things.

16 And then I became the vice chair.
17 But then when I left the port, it was sort
18 of -- we reverted back to that normal
19 interaction. But, you know, I would never
20 know. You know, I would get calls, you know,
21 from the governor himself, you know, about all
22 sorts of things over that interim period.

23 Q. And what was the period in which
24 you were on the board of Port Authority?

25 A. I think I was there for two

1 years, maybe 2015 to 2017 or so. I mean, it's
2 easy enough to find out. I think I may have
3 even listed it in my -- you know, I gave you a
4 rundown of the positions I held.

5 Q. And in addition to -- so
6 when -- you said episodically you would
7 have -- be consulted on things. What were
8 some of the issues that you would get
9 consulted on?

10 A. The further back in time it
11 is -- I'm no longer as young as I used to be.
12 And my memory is odd, which is if it's in the
13 1980s, I remember it very well. If it was
14 last week, I may remember it very well. Two,
15 three years ago, I'm not so good. And eight
16 years ago, I'm not good at all.

17 Q. It's like Patti Hearst.

18 A. Exactly. I remember all about
19 Patty Hearst. Tania is who I refer to her as.

20 So, you know, I'll tell you, you
21 know, sort of a more recent vintage. There
22 was a real question about what are we doing
23 about anti-Semitism in the state of New York.
24 This is pre-COVID. What can we do about
25 anti-Semitism? Is there a meaningful law

1 change.

2 I would get calls from the
3 governor about criminal justice issues and
4 criminal law changes. I would get calls
5 about, sort of, campaign laws and where the
6 line is and what we can and can't do.

7 I then would get pulled into work
8 on projects. The anti-Semitism thing -- the
9 anti-Semitism, sort of, initiative was
10 interrupted by COVID.

11 But that's a good example that I
12 would have ended up being, you know, involved
13 in that in terms of figuring out and working
14 with people internally on what potential law
15 changes there were, what funding would make
16 sense under state law, what we could get away
17 with doing. It's a trickier area than people
18 realize.

19 And then also I became a conduit
20 to people on the outside who wanted to be
21 supportive. So that would be the typical kind
22 of thing, but it could fall into all sorts of
23 areas.

24 But then I would, you know, also,
25 you know, would and still do randomly get

1 calls about particular legal issues, both from
2 the governor personally but also that struck
3 me as issues that he was working through as
4 governor.

5 And, you know, that was always a
6 hard distinction to draw other than when he
7 said, "Hey, would you do me a favor and take a
8 look at a lease for a summer rental that, you
9 know, Sandra Lee -- who he was living with at
10 the time -- wants to look at."

11 You know, I would review things
12 like tax returns. You know, there were
13 certain regular things that I just did and
14 would advise him on, including, sort of,
15 figuring out what his obligations were under
16 certain provisions of the state ethics law or
17 the state campaign law.

18 And by the way, I'm no expert in
19 those areas. More often than not, there would
20 be another lawyer that I would be consulting
21 with. But I think the sense I got -- it's the
22 only explanation for why I'm getting
23 called -- would have been called is that, sort
24 of, had a broader understanding of how
25 everything in his life fit together.

1 And then I had good judgment
2 about what made sense and what didn't make
3 sense.

4 Q. And so on these occasions where
5 he would pull you in or you would get pulled
6 in, would it be mostly directly from the
7 governor?

8 A. It depended. I mean, there was
9 no regular. There were a lot of people who
10 would call me where my understanding
11 was -- they wouldn't always explicitly say it,
12 but my understanding was they're calling me
13 because he told them to call me.

14 You know, and that would be
15 typically -- they would call, and there would
16 be a very, you know, specific, discrete set of
17 issues or questions they would want to talk to
18 me about or get my, sort of, thoughts and tell
19 me to spend some time looking at something.

20 But, you know, he wasn't shy
21 about picking up the phone and telling me, you
22 know, whether it was, "I really need to
23 understand, sort of, what goes on in this
24 world, and I need you to think about the
25 following" or "I'm going to send you

1 something. Tell me your thoughts on it."

2 Q. In your mind, were all of these
3 issues seeking legal advice from you?

4 A. I'd love to answer that directly.
5 But it's hard to answer directly because there
6 certainly were a preponderance of issues that
7 were legal. But there were also a lot of
8 issues that sort of blended into a nonlegal
9 area.

10 And so, for example, I mentioned
11 the anti-Semitism issue. If you want to talk
12 about diverting funding, state funding, or
13 figuring out where you can get funding, I can
14 make an argument that's actually a legal
15 issue.

16 But it's also a political issue
17 because, if you're taking from something -- if
18 you're putting something somewhere, you're
19 taking it from somewhere else, and so the
20 politics of that gets complicated.

21 And I have no idea whether in his
22 head he was saying, "I want your legal advice
23 and stick to it" or he was saying, "No, I want
24 your political judgment as well."

25 This was true a lot of times

1 with -- and sort of is the -- is certainly the
2 case with, you know, a number of, sort of,
3 press-related inquiries I got.

4 You know, all I can say in all
5 candor is I'm not sure what they were thinking
6 in terms of what role I was going to play.
7 There were a couple of instances where clearly
8 I understood what was being asked for was my
9 legal advice. But as a general rule, you
10 know, these seemed to be either legal
11 questions or mixed questions.

12 The instances that I had that
13 were, sort of, involved no law at all were
14 over the years pretty clear. I mean, you
15 know, I'm called and said, "Hey, can you
16 figure out if we can hire" -- I'll use it just
17 because her name is on the top of my mind --
18 "Figure out if [REDACTED] is interested
19 in coming to -- in leaving Paul, Weiss and
20 coming to work and running this initiative."

21 Well, that's not a legal
22 conversation, there's nothing legal about
23 that. That's an easy one but most of them
24 were either legal or not easy.

25 Q. And were you ever formally

1 retained by the executive chamber as counsel?

2 A. By the executive chamber?

3 Q. Yes.

4 A. No, I had no contract with the
5 executive chamber, if that's what you mean,
6 because a formal retention by the executive
7 chamber, I think, will require -- it's not a
8 question of an engagement letter, it's a
9 question of checking the boxes on what a state
10 procurement would require.

11 By the way, this is -- another
12 good example. This is the kind of thing that
13 somebody might call me and ask me that very
14 question, and I would begin to give this kind
15 of advice, which was, you know, it's not an
16 engagement, it's a procurement. Let's look at
17 the procurement laws.

18 Clearly, you know, I am giving
19 legal advice when I say that, based upon my
20 experience, again, without the expertise but
21 knowing enough to know what questions to ask.
22 So, no, I was never subject to a state
23 procurement.

24 But I'm unaware of any
25 requirement that, if the governor or people

1 working for the government are seeking legal
2 advice from me, that somehow I'm obligated to
3 be formally retained -- formally retained in
4 the sense of a procurement.

5 And my understanding was those
6 laws, both the laws about legal engagement
7 being reduced to writing and having a formal
8 engagement letter and the procurement laws,
9 are all focused on a, kind of, consumer
10 protection view of the world, where people who
11 are paying fees need to understand what the
12 nature of those fees are and what's entailed,
13 similarly with a procurement.

14 And so I never really thought
15 that was necessary. And I didn't think,
16 especially with respect to the legal advice,
17 the stuff that, you know, isn't even mixed,
18 that there was anything odd, unusual, or which
19 would raise an issue of my providing legal
20 advice to the governor or his staff.

21 And at various times along the
22 way, not in any kind of formal way, once or
23 twice I've actually asked other counsel about
24 this just to get their take, and their take
25 was pretty much what mine was.

1 Q. How about with the governor, have
2 you ever been formally retained by the
3 governor?

4 A. Formally retained? No. Not in
5 the sense of an engagement letter. I always
6 understood and he has publicly said and I
7 think I have publicly said in some instances
8 that I do serve as his legal counsel, you
9 know, from time to time, and that's come up
10 over the years.

11 Q. It sounds like sometimes the
12 advice that is sought from you is personal to
13 the governor as opposed to the executive
14 chamber?

15 A. The problem is, in answering that
16 question is, unless it's a lease for a summer
17 rental, when you're being -- when you are the
18 governor and you're in that position, the
19 individual in his role and the position tend
20 to merge. And so it's hard for me to say, "Is
21 this Andrew Cuomo individual in the governor's
22 position or is this the governor?"

23 And there are certain instances,
24 I think, where you can -- you have to draw
25 that line. You know, counsel to the governor

1 serves the position, doesn't serve the
2 individual.

3 But even there, I mean, this is,
4 I think, played out even more on a federal
5 level. Even there the assumption is that
6 there's a kind of merger of these roles. And
7 again, I'm not talking personal in the sense
8 of the summer rental lease or, you know, my
9 ██████████ got a legal issue, can you talk to
10 her. That's clearly personal.

11 But the individual versus the
12 office. And that, to me, is very difficult
13 for me to answer that question.

14 Q. Did you have discussions with
15 people about whether you were advising the
16 governor in his personal capacity versus the
17 executive chamber?

18 A. Over the years, I'm sure I did.
19 It's hard for me to sit here and remember with
20 any specificity those conversations. But I'm
21 sure I did. And certainly over the last --
22 whatever it's been -- two months, three
23 months, there's been a general view of the
24 people that I've spoken to that, you know, for
25 purposes of where we are right now, it's a

1 distinction without a difference.

2 MR. GRANT: What if there were a
3 potential conflict of interest between
4 the governor's personal interest and the
5 interest of the office generally? So,
6 for instance, let's say the governor
7 commits a tort and this person injured
8 by the tort argues that in addition to
9 the governor being liable, the employer,
10 meaning the executive chamber, is also
11 liable. So there could be a -- and then
12 the executive chamber could argue that
13 it wasn't in the course of his
14 employment. So how would you suss that
15 sort of situation?

16 THE WITNESS: I didn't mean to
17 interrupt you. And I apologize.
18 Anything else?

19 MR. GRANT: No.

20 THE WITNESS: Yeah, so look, I
21 think that in that instance, as a
22 practical matter, if somebody called me
23 and sought my advice on that -- and by
24 the way, there have been things like
25 that over the years that have come up.

1 It's funny now that you mention it.

2 And I think that what I probably
3 would have said -- and, in fact, in one
4 instance that's not perfectly analogous,
5 what I'd say is, look, going forward, I
6 can't represent you on this. But if you
7 want my understanding of what the law
8 is, I'm happy to give it to you.

9 But then I wouldn't be -- I
10 wouldn't be appearing in any sort of
11 manner. Now, what's the risk? I guess
12 the risk is -- and I find it to be --
13 and, Paul, throw something at me if I
14 should shut up -- because he knows far
15 more about this than I do. I suppose
16 there's a theoretical risk that
17 somewhere in there, there could be a
18 waiver.

19 But I think that's a theoretical
20 risk; I don't think it's a real risk.
21 Because I think under the facts almost
22 any tribunal asked to look at this issue
23 is going to say, well, once it ripened
24 into something that could have been more
25 than theoretical, you weren't appearing,

1 you weren't before a court, you weren't
2 dealing with a potential adversary, and
3 so we're going to respect the privilege
4 there.

5 And part of it is, I think, a
6 recognition that these kind of privilege
7 issues, which, you know, lay out very
8 nicely when you're writing a rule, as
9 you're trying to apply them in the real
10 world, are not so neat and clean. And,
11 I mean, there are plenty of cases
12 struggling with these kind of issues.

13 But I think that's how you
14 reconcile it. That, you know, the
15 answer is there's a tort, there's a
16 lawsuit that's been filed. Okay. We
17 know it would be a mistake because we're
18 not going to be able to reconcile what
19 my role is, unless I'm saying point
20 blank here, for purposes of this matter,
21 I am Andrew Cuomo's lawyer.

22 But that way you'd have to come
23 to, you know, a point where you were
24 deciding that's what you were doing.

25 BY MR. KIM:

1 Q. How about on the question of the
2 sexual harassment allegations. You mentioned
3 that recently on these issues you may have had
4 discussions.

5 What was your understanding of
6 the advice you were giving, whether it was --
7 first of all, what -- in your mind, have you
8 been providing legal advice in connection with
9 the sexual harassment allegations that have
10 been made against the governor?

11 A. The answer is I have provided
12 legal advice. I think as a result of this
13 proceeding, I have provided less legal advice,
14 because I know that you, on behalf of the AG's
15 office, may have a different view of how far
16 the privilege extends. And I have tried to be
17 respectful of that.

18 I've also, as you are well aware,
19 a lot of issues can always be -- can be
20 managed by an appropriate waiver. So these
21 kind of issues can be simplified.

22 I'm looking at him to see if he's
23 telling me to shut up.

24 MR. SHECHTMAN: Not yet.

25 A. And I have had those

1 conversations. And without getting into too
2 much detail, at the risk of entering into an
3 area that I think the governor legal team
4 would argue is privileged, I was content that
5 the governor's legal team was comfortable with
6 the role I was playing, and that they believed
7 that they had a well-founded basis with
8 respect to, you know, any of those
9 conversations, let's say, has taken place in
10 the last three months about things that I
11 don't think are, you know, subject to dispute
12 because they are legal in nature; that they
13 were well founded they felt in relying upon
14 the existence of a privilege.

15 I didn't get into -- and again,
16 I've got to be careful here because I'm not
17 looking to waive anything. I was mindful, I
18 have always been mindful that at some point
19 the office is different than the individual,
20 and that ultimately I felt like my involvement
21 and the primary place I was providing legal
22 advice was to the individual holding the
23 office -- I'm not talking about he was asking
24 me to take a look at a -- asking me to take a
25 look at a private lease or a will.

1 But it was Andrew Cuomo as
2 governor who I was providing advice to. I'm
3 not sure if that helps. But that's how I
4 thought about it.

5 Q. And is that true throughout the
6 response to the sexual harassment allegations
7 prior to the AG's office involvement or our
8 involvement? That in your mind your advice is
9 to the governor individually --

10 A. Well, again, I think --

11 Q. -- as opposed to the executive
12 chamber as a whole?

13 A. Yeah, but let's make sure we're
14 using the same terms or the terms mean the
15 same thing. I don't mean governor in his
16 independent, individual, private capacity.
17 That clearly is a whole different world. And
18 as I've said, I have provided legal advice and
19 legal services to private citizen Andrew Cuomo
20 even while he has been governor.

21 To me, and -- you know, I'm not
22 as familiar with the New York jurisprudence on
23 this as I should be, but I don't think there's
24 a lot. Andrew Cuomo as governor, in his
25 capacity as Andrew Cuomo as governor, it is

1 very different -- difficult to tease out
2 unless as you pointed out, there is something
3 that sharpens the issues that you can say, oh,
4 you know, God forbid, you know, he had a car
5 accident and somebody is suing him and he was,
6 you know, wasn't in a state vehicle, he was in
7 his own vehicle, but he was on government
8 time. Right?

9 You can see how you can now tease
10 out his individual position, but even there
11 Andrew Cuomo as governor driving to the
12 executive mansion for work, we've now merged.
13 Right? We've now had -- it's very difficult
14 to say the advice I'm giving -- and given
15 that, I think -- and again, on a hypothetical
16 basis, because I'm not sure what's going to be
17 argued later, but you can imagine
18 hypothetically that people may in the future
19 argue that on this set of circumstances, that
20 everything he -- the governor -- a governor
21 did in the scenario that has been laid out in
22 the press, putting aside the truth or
23 falsity of it, that those are things he is
24 doing in a capacity as governor.

25 In fact, I am sure that when

1 cases like this have arisen before, I know
2 that when cases like this have arisen before,
3 plaintiffs have argued, for all sorts of
4 reasons, that that is a state actor acting on
5 behalf of the state.

6 Certainly has come up in, you
7 know, the context of presidential litigation,
8 and I'm sure it has come up -- I don't know if
9 it's come up with this governor, but I know it
10 happened when David Patterson was governor,
11 having to do with some -- I think this has
12 been reported publicly with, you know, remarks
13 he did or didn't make with respect to the
14 firing of a reporter. It was a photographer,
15 actually.

16 And I believe the AG's office
17 grappled with this very issue and didn't come
18 to a conclusion that I believe would provide
19 any meaningful guidance on this area, because
20 I think it is -- there's a, kind of, merger
21 that goes on here.

22 Q. How about when individuals within
23 the executive chamber have made allegations of
24 sexual harassment against the governor?

25 A. I'm not sure I understand the

1 question.

2 Q. An employee of the executive
3 chamber is part of the executive chamber.

4 Correct?

5 A. Right.

6 Q. And if an employee of the
7 executive chamber makes allegations that the
8 governor, who is also part of the executive
9 chamber, sexually harassed that person --

10 A. I think --

11 Q. -- in your mind, is there a
12 difference --

13 A. No, no --

14 Q. -- in those circumstances
15 representing the interests of the governor
16 versus representing the executive chamber as a
17 whole to which both the complainant and the
18 governor are a part?

19 A. Yeah, look, I think the law --
20 let's take me out of it for a second. I will
21 admittedly concede that I'm a peculiar case.
22 I believe the law is -- this isn't an academic
23 question. I believe the law is that if an
24 executive office holder engages in some -- in
25 conduct that somebody alleges is violative of

1 the state law, harassment, whatever it happens
2 to be, that the plaintiff is going to argue
3 that that conduct occurred in his or her
4 official capacity.

5 I believe that the state actor,
6 if the argument is that this took place in the
7 context of the office holder, in their office,
8 whatever that means -- and I don't mean
9 office, the physical office, but in their
10 office -- is I suspect entitled to
11 representation at least as far as those claims
12 are concerned, from the state.

13 They may not want to have
14 representatives from the state, legal
15 representatives, but I think -- I think that's
16 how the law works.

17 So, you know, taking me out of
18 it --

19 Q. I don't mean to interrupt.
20 Just -- I guess my question is -- I should
21 have put it better.

22 A. Yeah.

23 Q. In your mind, in the context of
24 the current investigations where some sexual
25 harassment allegations have been made by some

1 current, some former employees of the
2 executive chamber, in your providing advice
3 either to -- or communicating to people, the
4 governor or people in the executive chamber,
5 did you differentiate in your mind serving as
6 counsel to the governor or the executive
7 chamber?

8 A. No. It was hard -- I mean,
9 look -- there are -- and I don't want to be,
10 you know, anything but direct. We're
11 operating on a continuum. And I think all of
12 this is hard. Some is harder than others,
13 some of the claims are harder than others.

14 And I have tried to be mindful of
15 the fact that the nature of the claims span
16 that continuum and that there are issues that
17 have been raised that I think the obvious
18 nature of what I've referred to as that merger
19 or, you know, where it is, sort of, difficult
20 to contend with, is this the individual or is
21 this the office holder, or is this the
22 individual as office holder, that is in some
23 instances easier. But I still think it's all
24 hard.

25 And no, so as a result, you know,

1 to me the question was at some point you may
2 get to a place where you've got to pick what
3 role I'm playing, but you're not there.

4 Q. Have you reached that point?
5 Have you picked?

6 A. No. You may get there. You may
7 never get there. Depends on what -- and part
8 of it is it depends --

9 THE WITNESS: I'm sorry. You
10 wanted me to --

11 THE VIDEOGRAPHER: Just raise
12 your mic.

13 THE WITNESS: I'm sorry.

14 MR. SHECHTMAN: You okay? You
15 want to take a break?

16 THE WITNESS: Yeah, let me just
17 answer this and let's take a break.

18 A. You may never get there, and I
19 think it has more to do with the role I'm
20 playing on the outside rather than on the
21 inside.

22 THE WITNESS: And can we take a
23 break?

24 MR. KIM: Sure.

25 THE VIDEOGRAPHER: The time now

1 is 10:34 a.m. Off the record.

2 (Recess taken from 10:34 a.m. to
3 10:44 a.m.)

4 THE VIDEOGRAPHER: The time now
5 is 10:44 a.m. This begins Media 2. On
6 the record.

7 BY MR. KIM:

8 Q. Prior to December of last year,
9 had you heard any allegations that had been
10 made about the governor that related to or
11 potentially related to sexual harassment?

12 A. I'm only pausing because,
13 although I've looked at the dates to refresh
14 my recollection, I'm a little fuzzy on dates.
15 We've all just lived through, sort of, the
16 COVID experience where the normal indicators
17 of time seem to have been removed from life
18 for a while.

19 But yes, certainly with that
20 timeframe, I have never heard of an allegation
21 of the kind about the governor.

22 Q. Including when he was attorney
23 general?

24 A. Never.

25 Q. And what's the first that you

1 heard of any allegation of that type or
2 nature?

3 A. I think it was probably related
4 to the Lindsey Boylan tweets. I believe that
5 was the first time.

6 Q. And how did you become aware of
7 Lindsey Boylan's tweets?

8 THE WITNESS: I'm going to look
9 to you.

10 A. But what I'm about to say is that
11 somebody informed me of the tweets. I
12 don't -- just to be clear, although I have a
13 Twitter account, I think, I'm not active on
14 Twitter other than to check the news.

15 I certainly don't follow anybody
16 in the administration or former employees in
17 the administration. So my best recollection
18 is that somebody brought it to my attention.

19 MR. SHECHTMAN: Yeah, not
20 privileged, Steve, if you're
21 comfortable, if you know who it is.

22 A. I don't recall who it was. I
23 mean, it could have been any one of a number
24 of people.

25 Q. Was it the governor?

1 A. No.

2 Q. Someone in the executive chamber?

3 A. I don't recall if it was somebody
4 inside or outside the executive chamber. You
5 know, it certainly could have been a number of
6 people outside the executive chamber. But I
7 know that the executive chamber was aware of
8 it and that that began a conversation.

9 Q. And did you know who Lindsey
10 Boylan was at that time?

11 A. I knew who she was in the sense
12 that I knew she had been in the
13 administration. I think I've met her I'm
14 going to say once. There's one specific
15 instance I recall meeting her. I may have met
16 her on prior occasions or other occasions, but
17 I don't recall.

18 And I certainly, you know, didn't
19 know her in the sense of, you know, I had no
20 contact with her or a relationship with her
21 other than that one sort of chance encounter
22 when she was in the administration.

23 Q. And what was that chance
24 encounter?

25 A. I think she was meeting Josh

1 Vlasto who had been in the administration and
2 who is now working with me at MacAndrews and
3 Forbes. And I think they were either having
4 lunch or coffee.

5 And I remember I left a
6 conference room, and he was there and
7 Ms. Boylan was there. And he introduced me
8 and we probably chatted for five minutes,
9 maybe not even that long, you know, perfectly
10 cordial.

11 And that was, as I recall, the
12 only time I've met her. Now, you know, it's
13 conceivable that I called her about something
14 at one point in time or that I ran into her at
15 some kind of event, a political event. But as
16 I sit here, I don't recall anything other than
17 that one meeting.

18 Q. So before her tweets in New York
19 talking to people about them, she isn't
20 someone you, other than that encounter, really
21 knew anything about?

22 A. Can we take a break for one
23 second so I can consult with Paul? I don't
24 want to step on myself.

25 THE VIDEOGRAPHER: The time is

1 10:48 a.m. Off the record.

2 (Recess taken from 10:48 a.m. to
3 10:50 a.m.)

4 THE VIDEOGRAPHER: The time now
5 is 10:50 a.m. This begins Media 3. On
6 the record.

7 A. There was a point in time when I
8 believe Lindsey Boylan was working in the
9 administration. I think it would have been
10 around the time that she had moved from Empire
11 State Development to the chamber, but I'm not
12 exactly sure of the timing, where I received a
13 call from the GC of Empire State Development,

14

15 And I understood that [REDACTED] was
16 seeking my legal advice on an issue that had
17 arisen. And it was, you know, probably a very
18 short phone call. I provided some advice and
19 that was it. That was the only time that I
20 was aware.

21 MR. SHECHTMAN: And, Joon, the
22 subject involved Lindsey.

23 A. Yeah, it involved Lindsey.

24 BY MR. KIM:

25 Q. And did the subject involve

1 allegations of harassment?

2 A. No.

3 MR. KIM: And are you asserting
4 privilege over that?

5 MR. SHECHTMAN: Yes.

6 A. Yeah, I mean, I have not -- you
7 know, I think I've got to preserve the
8 privilege until I'm told otherwise.

9 MR. SHECHTMAN I mean, I can check
10 on it and see if the person considers it
11 privileged. But given the conversation
12 I think it was.

13 Q. Did it involve the governor?

14 A. No.

15 Q. So other than that -- by the way,
16 when she consulted you, did you know -- have
17 any idea who she was other than maybe -- or
18 did you know her as that person you ran into
19 with Josh Vlasto?

20 A. I don't know if it was before or
21 after I ran into her with Josh Vlasto. So
22 it's hard for me to say. I certainly had
23 heard her name, and -- yeah, I can't fix which
24 was first.

25 Q. So other than that encounter and

1 that consultation, when the tweets are brought
2 to your attention, any other information or
3 knowledge you have about Lindsey Boylan?

4 A. I knew she had left the
5 administration. I had one very vague
6 recollection of a conversation that would have
7 been either shortly before or shortly after
8 the governor's re-election in 2018 where her
9 name came up in connection with, you know, can
10 we bring new people into the administration.

11 I had a conversation with the
12 governor and Josh Vlasto. And I would be hard
13 pressed to characterize this as a legal
14 conversation, but it was really about outreach
15 of people who might want to join the
16 administration. So I think I'm comfortable
17 talking about that.

18 And I know her name came up in
19 that conversation. I didn't raise it. I
20 think Josh probably did, assuming it was with
21 Josh. It could have been Rich Bamberger now
22 that I'm thinking about it.

23 And the notion was that she'd
24 left, that she wasn't in the administration
25 anymore. But it was a passing moment. I

1 mean, we probably discussed a dozen other
2 people on that call.

3 Q. Did you know anything about the
4 circumstances of her departure prior to your
5 conversations with people about the tweets?

6 A. No, no.

7 Q. Okay. So once you're alerted to
8 those tweets, what was your involvement in
9 them and in responding to them?

10 A. I had a series of conversations,
11 mostly with lawyers, but not exclusively with
12 lawyers. There was a discussion about -- and
13 just to be clear, we're talking about the
14 December tweets.

15 Q. Yeah.

16 A. Because I think there were -- you
17 know, during the course of this I've obviously
18 learned, probably knew a little bit at the
19 time, that there had been a whole, sort of,
20 series of tweets and that there had even
21 been -- you know, I don't know what the timing
22 of this was, but there had been a back and
23 forth between Ms. Boylan and Jim Malatras.

24 And all of that I think predates
25 this. And I'm not sure I knew it at the time,

1 that this was going on, but it's certainly
2 possible that people had brought that to my
3 attention.

4 Q. At the time?

5 A. Yeah, it could have been that
6 somebody said, "Hey, you know, did you see Jim
7 Malatras and Lindsey Boylan are having a
8 Twitter war?"

9 But again, you know, my reaction
10 to that would have been, "Okay." And I would
11 have moved on. It wasn't anything I was
12 either particularly interested in or inclined
13 to pay attention to.

14 Q. You don't have a particular
15 recollection of that happening?

16 A. I know that there was -- the only
17 reason why I know it is because I think Jim
18 Malatras posted a picture of [REDACTED], and I
19 just remember being surprised at how old the
20 [REDACTED] was. I think that's why -- his [REDACTED] was.

21 You know, I've known Jim a long
22 time and, you know, sort of life has moved on
23 and people have gotten older. And so --

24 Q. But you could have seen that
25 after as well?

1 A. Yeah, I could very well. I
2 just -- that could have been brought to my
3 attention in December or whenever this was all
4 going on. But other than that, no.

5 And then I was involved in a
6 series of conversations about what, if
7 anything, we should -- the governor or the
8 administration should do in response to the
9 tweet or the tweets. I guess it's plural.

10 Q. And what were the discussions?

11 MR. SHECHTMAN: All
12 nonprivileged. And you're free to go.

13 A. Now I'm -- I hate to do this to
14 you again. I'm really confused. So, look,
15 can we take a 30-second break?

16 MR. SHECHTMAN: Unless it's
17 conversations directly with the
18 governor, otherwise I don't think there
19 is a privilege issue. Do you want to
20 take a break?

21 THE WITNESS: Yeah, I do.

22 Q. And on the record, there are some
23 documents that we'll show that have been
24 produced.

25 A. Okay.

1 Q. But I wanted to get a high-level
2 recollection before anything --

3 THE WITNESS: Yeah. Let's just
4 let me get my bearings.

5 THE VIDEOGRAPHER: The time now
6 is 10:57 a.m. Off the record.

7 (Recess taken from 10:57 a.m. to
8 11:00 a.m.)

9 THE VIDEOGRAPHER: The time now
10 is 11:00 a.m. On the record.

11 BY MR. KIM:

12 Q. I think when we took the break,
13 the question was what discussions you had
14 about responding to Lindsey Boylan's tweets.

15 A. So there were a series of
16 discussions. I think they probably were
17 conference calls about the veracity of what
18 Lindsey Boylan was saying and how it would be
19 possible to respond and whether it made sense
20 to respond.

21 And those conversations took
22 place, I think, over a relatively short period
23 of time. But there were, you know, a series
24 of calls, not all of which I was on, but, you
25 know, took place with primarily a group of

1 lawyers.

2 There were some outside people I
3 either knew at the time or learned were being
4 consulted other than me. And then there were
5 the internal lawyers who were, for the most
6 part, sort of, on those calls. That would be
7 more the core group that was there discussing
8 it.

9 Q. And who were these people who
10 were on the calls? We can start with people
11 internally.

12 A. Yeah, as best I can
13 recall -- and, you know, the group changed
14 from call to call. And so I can't really tell
15 you on this date at this time there was a
16 call.

17 But the people who were generally
18 involved would have been Melissa DeRosa, Judy
19 Mogul, Beth Garvey, Linda Lacewell, who
20 technically is not inside in the governor's
21 office anymore, as I think you all know, but
22 was advising.

23 Then the nonlawyers would have
24 been Rich Azzopardi and Peter Ajemian. And
25 then later on, I think, there may have been a

1 few calls -- oh, and Melissa DeRosa. Did I
2 say Melissa?

3 Q. You did.

4 A. Later on there were
5 calls -- later on, it could have been three
6 hours later -- I think there were
7 conversations with Josh Vlasto. And I don't
8 recall being on a call with Rich Bamberger,
9 but I recall that there was a notion that Rich
10 Bamberger -- that there had been a discussion
11 with him.

12 And then I know at some point
13 somebody was consulting with Robbie Kaplan,
14 Roberta Kaplan. And as best I can
15 recall -- and from time to time, Stephanie
16 Benton may have been on these calls as well.
17 I just don't recall. And if she was, I don't
18 recall her being an active participant.

19 Q. Was the governor on any of these
20 calls?

21 A. No, no.

22 Q. Was it your understanding that he
23 was being informed of the substance of these
24 calls?

25 A. I don't know if it was an

1 understanding or an assumption. But, you
2 know, just based upon practice, you had the
3 communications director on the phone, you had
4 the secretary to the governor on phone.

5 Whether it was in exhaustive
6 detail or just giving an update, you know, it
7 struck me that somebody was letting the
8 governor know what was going on.

9 Q. And without getting into the
10 substance, were you having or did you have
11 one-on-one conversations with the governor on
12 this subject?

13 A. You know, I have no specific
14 recollection, but I'm sure I did. I'm sure I
15 did.

16 Q. Do you have any specific
17 recollection of the governor addressing any of
18 the specific allegations to you?

19 MR. SHECHTMAN: That I'm going to
20 have to invoke on. I have to invoke the
21 privilege, attorney-client privilege.

22 Q. You said Roberta Kaplan was on
23 some of the calls. What was your
24 understanding?

25 A. Yeah, I apologize for

1 interrupting. And I'm going to mindful I've
2 got to talk more slowly.

3 I don't recall specifically that
4 she was on this series of calls. I did speak
5 to her about it, and I recall one conversation
6 that we had that probably was the next day or
7 the day after. Again, I am not great on the
8 timing here.

9 I don't believe she was on these
10 group calls, but it was my understanding that
11 somebody was talking with her. And my
12 assumption, and this is all it is, is that it
13 would have been Melissa or the governor.

14 But again, that is an assumption
15 and I probably shouldn't make those kind of
16 assumptions.

17 Q. And what was your understanding
18 of Roberta Kaplan's role?

19 A. Roberta is somebody who I think
20 is an advisor, serves as an outside advisor
21 from time to time to the governor. I think
22 that she from time to time has advised on
23 various matters related to the Me Too
24 movement, the effort to amend the sexual
25 harassment laws.

1 She's generally regarded as a
2 source of good judgment and wisdom. And so,
3 you know, as I said, at some point I became
4 aware that she was being consulted in some
5 form or fashion about these same issues that I
6 was being asked to -- to give advice on.

7 Q. And when you spoke to Roberta
8 Kaplan, what did you talk to her about?

9 A. I believe I spoke to Roberta
10 Kaplan about the letter that ultimately was
11 drafted.

12 Q. And what did you talk to her
13 about that letter?

14 A. So the general conversation was
15 sort of jumping ahead, but was about whether
16 she was comfortable with the letter. And my
17 understanding was, based upon my conversation
18 with Roberta, that she was comfortable with
19 it.

20 I, you know -- when I got that
21 letter, it was essentially a completed draft.
22 I spent some time reworking it. And my sense
23 was that Roberta had seen the letter before it
24 ever came to me. That was later confirmed.

25 That was really the gist of the

1 conversation and that, sort of, she was
2 comfortable with the notion of the governor
3 being able to respond to the Lindsey Boylan
4 tweets and to the allegations. That was, sort
5 of, the gist of the conversation, but I don't
6 have, you know, a specific recollection.

7 And I don't recall -- I don't
8 recall if anyone else was on that call with us
9 or if we were then joined by somebody. We may
10 have been -- it may have been Melissa DeRosa,
11 but I don't specifically recall it.

12 And I would have also talked to
13 Roberta about the fact that I didn't believe
14 that letter would ever be used, that it would
15 never see the light of day. So it was, sort
16 of, an -- you know, from my perspective, it
17 was an academic exercise.

18 Q. Why did you think it wouldn't see
19 the light of day?

20 A. Something like that, a letter,
21 whether it was a letter or an] op-ed piece, it
22 needs to be signed. Somebody's got to sign on
23 to that thing. And then you say, well, what
24 are the universe of people who can sign on to
25 that?

1 Well, you really don't want to do
2 current administration officials, because
3 current administration officials don't really
4 have the kind of -- they will not resonate the
5 way somebody who is no longer in the
6 administration is. You're in the
7 administration, of course you're going to
8 speak up on behalf of your principal.

9 So then you say, okay, well, who
10 has been in office for ten years? What former
11 officials are there that you can get? And by
12 the way, you can't get junior people because
13 no one is going to believe -- as a general
14 rule, it's got nothing to do with this
15 administration -- but that, you know, somebody
16 who is in a junior position is now writing
17 this letter. That doesn't really work.

18 So you need former senior folks
19 and probably not people like me. You probably
20 don't want, you know, a man over 50 signing
21 this letter either. So then, you say, okay,
22 what's the universe of people who are
23 available to potentially sign this letter?

24 You've got [REDACTED].
25 She's at a law firm. We all know a law firm

1 is not going to say -- she's going to have to
2 get approval from the law firm because it's
3 going to be a public statement. We all know
4 that a law firm is going to be disinclined to
5 allow one of their partners to sign on to this
6 letter.

7 You've got Dani Lever. Dani
8 Lever is now at Facebook. She'd have to go to
9 Facebook's compliance people or their counsel
10 and get approval. They're not going to allow
11 her to do it.

12 You have Alphonso David.
13 Alphonso David is at the human rights
14 campaign. I've got to believe, although I
15 didn't test it, that the human rights campaign
16 is not going to be thrilled with the idea of
17 Alphonso David signing this letter.

18 There were a few other people but
19 as you start, sort of, looking through, you
20 realize, well, you're going to be hard-pressed
21 to get, not the people, but their employers or
22 their firms to agree to this. And if they do,
23 every one of them is going to request changes.

24 And so you start to say, this is
25 never going to go out. And so, you know, I

1 believe -- and I talked to Robbie about it. I
2 may not have. I spoke to other people about
3 it. I didn't believe this letter was ever
4 going to see the light of day.

5 Q. Did you have any discussions with
6 Robbie Kaplan about whether a letter like that
7 could be considered retaliation?

8 A. I don't recall specifically
9 discussing that with her.

10 Q. And so when she said she got
11 comfortable with it, she didn't mention the
12 question of whether a letter like that could
13 be considered retaliation?

14 A. No, we didn't have -- we did not
15 have a specific discussion about the
16 legalities involved.

17 Q. So we'll get to the letter. So
18 when you get the tweet, you're having
19 conversations, calls with these people. It's
20 a relatively short period of time you said?

21 A. Yeah, I believe so.

22 Q. A week?

23 A. I don't even think it was a week.

24 Q. Okay. About how many calls?

25 A. A half dozen.

1 Q. And what subjects came up in
2 terms of how to respond?

3 A. It would be everything from,
4 should we put out a tweet responding to her,
5 should we get other people to tweet responding
6 to her, what is she talking about. And, you
7 know, the part of this was -- there were more
8 conversations not involving this group.

9 You know, I had to play a little
10 catch up here to try to understand what this
11 was all about and try to educate myself. So,
12 you know, it's a funny word to use, but
13 unofficially, I probably checked in with a
14 number of people, saying do you know what this
15 is about, do you know about, sort of, Lindsey
16 Boylan and her relationship in the
17 administration.

18 There had been prior tweets where
19 she had said, I think, hostile work
20 environment or something of the sort, but
21 hadn't said anything about -- specifically
22 about sexual harassment. So there was a
23 discussion generally about that, how did it go
24 from -- I think the word was "toxic work
25 environment."

1 Toxic work environment -- in
2 hindsight, I believe I was aware of the toxic
3 work environment when that tweet went out,
4 because somebody mentioned it to me, maybe
5 multiple people. That was, sort of -- there
6 was a discussion about the notion that
7 somebody had said that the, you know, senior
8 ranks of the administration were toxic.

9 So there was discussions about
10 how did you go from toxic to sexual
11 harassment? What's really going on here? You
12 know, can we respond, is it wise to respond?
13 She's mischaracterizing her tenure, she's
14 mischaracterizing, you know, why she left and
15 how she left.

16 All of that was discussed, not in
17 any kind of organized fashion. It was -- I
18 don't know how to describe it other than a
19 series of conference calls involving chatter,
20 is how I would characterize it.

21 Q. And the allegation or talk of
22 there been a toxic work environment, she
23 wasn't the first to have said that publicly.
24 Right?

25 A. Yeah, I don't know if other

1 people had used the word "toxic." Maybe they
2 had. I just don't know.

3 There was a general reputation
4 that Andrew Cuomo was a tough guy to work for;
5 that the environment in the governor's office
6 is very tough; that there's not a lot of
7 support for people who feel like they are
8 being placed under a lot of pressure.

9 And, you know, from where I, sort
10 of, stood in all of this, there wasn't a lot
11 new there. I mean, you know, he is a tough
12 guy to work for. And so I was trying to
13 figure out whether there was more going on
14 here because, I think, as we talked about
15 earlier, the notion of sexual harassment was
16 new to me.

17 And that to me was different than
18 somebody saying "toxic work environment."
19 That I -- I might have disagreed with it, but
20 I had a sense of what that was about. And so
21 there were discussions about all of that.

22 Q. That was the new part, the sexual
23 harassment?

24 A. Yeah.

25 MR. GRANT: Do you recall if

1 there was any discussion about
2 responding to Lindsey Boylan's tweets
3 before the sexual harassment allegation?

4 THE WITNESS: There may well have
5 been. But, again, I mean, it sounds a
6 little odd, but I don't know how else to
7 describe it.

8 I get looped into a lot of stuff,
9 and a lot of it I ignore. A lot of
10 it -- I'm not happy to say this to
11 people who think that they are
12 soliciting my advice, but a lot of it I
13 don't even read.

14 And, you know, things like that,
15 you know, my general view is folks who
16 are watching and reacting to Twitter
17 probably should put their phone down,
18 because it's not reflective of what's
19 going on in the world.

20 And so if you're getting all
21 bothered by the fact that somebody
22 tweeted something, I don't think it's
23 necessarily the wisest course of action
24 to respond with a tweet.

25 And I know that I live in a world

1 where, especially in the public arena,
2 where my view is very much in the
3 minority. But, you know, I wouldn't
4 have paid attention to that stuff
5 because what are you going to say?
6 Yeah, it's a tough work environment.
7 Okay.

8 MR. GRANT: So the flurry of
9 conversations you had previously
10 described over the number of a few days,
11 was that before or after the sexual
12 harassment allegation?

13 THE WITNESS: No. I think that
14 was in connection with the tweet
15 saying -- and I don't remember the
16 specifics of it, but the gist of the
17 tweet that said, you know, "I was
18 sexually harassed by the governor's
19 office. It happened all the time. If
20 he wasn't, you know, criticizing my
21 work, then he was commenting on my
22 looks, sometimes in the same meeting and
23 you all watched."

24 Or there was some reference to
25 the fact that people witnessed it, which

1 I thought was frankly unlike, you know,
2 the stuff that had come before it. Now
3 you have sexual harassment and you have
4 people witnessed it.

5 And so, you know, part of the
6 thing I was asking was, you know, what
7 is she talking about? Reportedly, you
8 are the folks who would have witnessed
9 it.

10 And so there was conversations
11 about that, and then there were
12 conversations about how can you respond,
13 should we respond, and then this general
14 notion of she's misrepresenting the
15 circumstances under which she served and
16 left the administration.

17 BY MR. KIM:

18 Q. So were there conversations about
19 releasing documents, you know, been described
20 as personnel files, documents relating to an
21 investigation into her?

22 A. Yeah, I think the conversation
23 started as, is there a way to correct the
24 record about the nature of the reason she
25 left, because there was a concern that she was

1 suggesting that she had left because of her
2 treatment by the governor.

3 And that then led into a
4 discussion about the inquiry -- complaints, an
5 inquiry, and a counseling session. And that
6 was discussed, and whether or not that was
7 something that could be put out publicly. I
8 think that's how the conversation, sort of,
9 went.

10 Q. And then who would -- was there a
11 decision to put those out publicly?

12 A. Yes.

13 Q. And who made that decision?

14 A. I can't say specifically whose
15 decision it would be. I mean, it would
16 certainly have to be something that the
17 director of communications and the secretary
18 of the governor would have to ultimately make
19 the decision. I mean, the -- go ahead.

20 Q. Was there anyone who thought it
21 was not a good idea in the discussions you
22 had?

23 A. Look, I think there are -- you
24 can break this into a couple of different
25 issues. Right? One is -- putting aside you

1 raised the notion of retaliation, put that
2 aside for a second.

3 Are you permitted under state law
4 to release these documents? And there was a
5 conversation about that, and there was an
6 effort to obtain advice on that. I did not
7 know the answer to it. I wondered that.

8 Then there was the wisdom of
9 doing it. And I think different people had
10 different opinions of the wisdom of it.

11 Q. And let's start on the question
12 of are you allowed to.

13 A. Yeah, my understanding was that
14 state law permitted it.

15 Q. And how did you get that
16 understanding?

17 A. I spoke to counsel who had
18 obtained legal advice. I think I'm not
19 allowed to go beyond that.

20 Q. Which counsel?

21 A. I believe it was Linda Lacewell
22 and Judy Mogul. It may have been Beth Garvey
23 as well. But when the question was asked,
24 sort of, I got a collective answer.

25 Q. And that's the piece from GOER,

1 that they're withholding the basis, but the
2 fact that they went to GOER?

3 A. Yes, I learned after the fact
4 that they went to GOER. But, yeah, my
5 understanding, as I sit here today, is that
6 they consulted with GOER and whoever else
7 there was to consult with.

8 Q. Did you have an understanding
9 whether they consulted with someone else?

10 A. I don't know. I actually thought
11 they did. But I don't know who it was. And
12 by the way, it may have been they consulted
13 among themselves. But I thought there was
14 somebody else or some other group that was
15 involved in that discussion.

16 Q. And how about on the wisdom?

17 A. You know, you could argue it two
18 ways -- right? -- you can say, look, how many
19 people are really reading this? How many are
20 really picking this story up?

21 You respond, you arguably are
22 going to make it a bigger story, because now
23 you've got the governor's denial, which makes
24 it a story. If it was a story in the first
25 instance, now you've got a second-day story.

1 If it wasn't picked up, you've now created
2 something that people will pick up.

3 The other hand is, you know,
4 you're the governor of the State of New York.
5 Somebody is accusing you of sexual harassment.
6 Somebody is putting out things designed to not
7 just tarnish your reputation, but to play on a
8 national level, because I remember, somewhere
9 in there, there was a tweet about he's not fit
10 to be attorney general of the United States.

11 And so I certainly understand and
12 am sympathetic to the notion that leaving that
13 unanswered is very unsatisfying, and
14 especially if you believe it is not true and
15 it did not happen. That pushes you to say
16 well, look, I understand I may be generating
17 additional press in a bad story, but I'm not
18 going to sit here and allow somebody to put
19 out something that is not true and is
20 defamatory about the governor. And so that's
21 the other argument.

22 And, again, I could argue it both
23 ways, but I certainly understand it from the
24 standpoint of this administration and this
25 governor, that the risk of leaving it

1 unaddressed was significant.

2 Q. How about on the question of
3 retaliation? You said it didn't come up with
4 Roberta Kaplan. Did it come up in any other
5 conversations you had?

6 A. It was not addressed
7 specifically, and I don't think anybody
8 thought -- I certainly didn't think, as I sat
9 there at the time as I sit here today, that it
10 was retaliation in the legal sense. I mean,
11 retaliation, I think, that's what we mean is,
12 you know, as a legal matter, that it is a
13 prohibited action under the law. And I didn't
14 believe it was.

15 MR. GRANT: Do you recall if
16 there was any discussion about releasing
17 the contents of Ms. Boylan's personnel
18 file before her tweet about sexual
19 harassment?

20 THE WITNESS: No.

21 MR. GRANT: Okay.

22 MR. SHECHTMAN: And can I just
23 make one clarification, because I've
24 been told I should do this.

25 I gather it's not her personnel

1 file, so to speak, which is to say it's
2 not a file that was her personnel file
3 as much it is memorandum prepared by
4 others that I think never made it into
5 her personnel file, and I don't know the
6 difference. But we're all talking about
7 the same thing.

8 MR. GRANT: Sure. Yeah.

9 BY MR. KIM:

10 Q. Did you know what they were
11 talking about when they talked about releasing
12 documents?

13 A. There came a point in time when I
14 was -- and, again, I got to be careful of the
15 privilege issues, and these are funny lines
16 and difficult lines for me to draw in my head.
17 But I -- somebody briefed me on what those
18 materials were. I don't think I ever was
19 physically given those materials.

20 I may be wrong about that, but I
21 have no recollection of seeing a physical
22 document. I do recall being told about it.

23 Q. Why don't you actually turn to
24 Tab 11 in the binder.

25 A. Mm-hmm.

1 Q. This is a text chain I think that
2 includes you, Josh Vlasto, Dani Lever, and
3 Rich Bamberger, December 13.

4 A. Then I did.

5 Q. Do you remember receiving the
6 contents that Rich Azzopardi sent you?

7 A. No.

8 Q. Have you seen these memoranda
9 before? Or do you remember seeing anything
10 like it?

11 A. As I sit here, I have a vague
12 recollection of having seen this, although
13 it's very vague.

14 Q. Do you remember -- do you have a
15 recollection of Richard Azzopardi sending you
16 things during this timeframe while you were
17 having these discussions?

18 A. Oh, yeah. Yeah. I don't
19 remember these being sent to me, though. But
20 I --

21 Q. Does -- do you remember looking
22 at documents that had draft -- if you look at
23 the third page of this document, draft
24 privilege and confidential attorney-client
25 privilege communications, interagency

1 communications, those types of headers being
2 on the documents that were discussed being
3 sent out to the media?

4 A. No, I don't recall that. I mean,
5 I do recall generally that a lot of things
6 were labeled privileged and confidential
7 attorney-client privilege communication. So
8 I'm not the least bit surprised, but again, I
9 don't have a specific recollection of this
10 document.

11 But again, the frequency with
12 which that phrase appeared, not just on
13 materials like memoranda but also on e-mail,
14 is no surprise.

15 Q. Do you remember that -- seeing
16 documents that were memos to file written by
17 Alphonso David, counsel to the governor, that
18 were part of the materials that were going to
19 be sent out to the media?

20 A. Again, I have a vague
21 recollection of it. I recall being told about
22 it. And I, you know, have no reason to
23 question that it wasn't sent to me. I don't
24 know how much time I dwelled on looking at it,
25 though. I just don't know. But, you know,

1 there's no question I was informed about this.

2 Q. Was there any discussions about
3 whether -- you've talked about, one, whether
4 it was allowed; two, whether it was wise;
5 three -- well, we talked about three, whether
6 there was retaliation; four, whether the
7 documents were privileged in any way?

8 A. I don't recall any discussion
9 about that.

10 Q. Certainly more discussions about
11 whether those conversations were privileged?

12 MR. SHECHTMAN: So stipulated.

13 THE WITNESS: Yeah.

14 Q. So anything else looking at this
15 jog your memory at all about the documents
16 themselves or discussions about them?

17 A. There was later a conversation I
18 remember about redaction. That's the one
19 conversation I do remember. And clearly, what
20 was being discussed, it's got to be these
21 documents. I don't know what else would have
22 been redacted.

23 Q. What do you remember about the
24 redactions?

25 A. There was a concern that there

1 was a privacy issue related to the
2 complainants, who were the subject of -- who
3 came forward with the complaints about
4 Ms. Boylan, and so it was a notion that their
5 names had to be redacted.

6 Q. And who was part of those
7 discussions?

8 A. Look, I'm speculating, and that's
9 what it is, but I'm assuming it was Judy Mogul
10 and Linda Lacewell and maybe Beth Garvey. But
11 it would have come up in one of these, you
12 know, series of phone calls where, you know, I
13 do recall that there was an issue about, well,
14 you know, these people came forward, you can't
15 disclose their names.

16 Q. Do you remember anything about
17 the subject of the complaints against Lindsey
18 Boylan?

19 A. I do because, you know, it was
20 discussed at the time, but I've also now read
21 about it in the media. And I've reread
22 that -- the draft letter which recounts it.

23 So, I mean, I can't say what
24 exactly I knew at the time, although whatever
25 was in these documents -- and, again,

1 seemingly I was sent them -- but whatever was
2 in these documents, I certainly would have
3 known the substance of.

4 Q. Did -- as part of these
5 discussions, did anyone ask you to reach out
6 to others about Lindsey Boylan?

7 A. No.

8 MR. GRANT: What is your
9 understanding of the purpose of
10 releasing these documents?

11 THE WITNESS: Correct the record.
12 To make it clear that Lindsey
13 Boylan -- there was an impression. This
14 is why I say I didn't view it as
15 retaliation.

16 You've got, you know, essentially
17 an employer. And the employer is now
18 faced with an allegation that, as I
19 understood it, is simply not true. And
20 I think under those circumstances, the
21 employer has a right to respond to a
22 false claim as long as the response
23 itself is truthful.

24 Second of all, you've got these
25 tweets that are creating this

1 impression. It's not a complaint that's
2 been filed. It's not an allegation
3 that's put through a process. It's
4 these tweets. And these tweets I think
5 can be read as misleading. And
6 certainly they leave a false impression.

7 The third point is Ms. Boylan is
8 doing this very publicly, not in a forum
9 where you file a complaint. But she's
10 choosing to do this on Twitter. She's a
11 public figure. She's doing this in a
12 public way during a public campaign.
13 She's running for office.

14 And my understanding at the time
15 was this was part of that campaign. It
16 was to garner attention and support for
17 the campaign by putting out something
18 that was false. It just -- it wasn't
19 true.

20 And these are claims that at this
21 point, when this is all happening, I
22 think they're 18 months, two years old,
23 something like that. And the folks who
24 I would rely upon to say -- put the
25 governor aside, but folks who I would

1 rely upon to say there's something
2 there, have not said -- suggest the
3 opposite. They've said it's just not
4 true, certainly not what she's
5 described.

6 Then add to that which is this
7 concept of legal retaliation, as I
8 understand it, has to involve either
9 retaliating for a protected act of some
10 kind, or it has to be done to dissuade a
11 person from engaging in a protected act.

12 And, again, as I sat there --
13 however many months ago this was -- and
14 when I sit here today, I had no reason
15 to believe and I do not believe that
16 Lindsey Boylan ever intended to file a
17 state, federal, or administrative claim,
18 and I still don't believe she intends to
19 do that.

20 And so put aside, sort of, the
21 nature of these documents, I think under
22 those circumstances, the
23 employer -- here it happens to be the
24 governor -- has the right to respond.
25 And he's got to be sure that the

1 response is accurate and truthful, but
2 he has a right to respond.

3 Now, talked about it a second
4 ago, we can debate the wisdom of the
5 response, whether you should or
6 shouldn't do it. There was a concern
7 that -- because I don't know this area,
8 but you better make sure that if you're
9 going to put something out that you're
10 entitled to under the state law, because
11 employment laws are tricky.

12 But my understanding was every
13 concern was met and that they were okay
14 putting this out. So -- and again,
15 there was no explicit, express
16 conversation about it. That's how I
17 looked at it, and that was my assumption
18 about how other people looked at it.

19 Again, debating -- you know, to
20 me, you can still debate the wisdom of
21 whether or not, you know, it was a smart
22 thing to do. But I am certainly
23 sympathetic to somebody in the
24 governor's position who says, you know,
25 how can this be allowed to stand?

1 MR. GRANT: Was it your
2 understanding then that for it to be
3 retaliation, it would have to have been
4 deterring Ms. Boylan from making a
5 formal complaint and not just an
6 informal complaint?

7 THE WITNESS: Well, an
8 interesting question -- right? -- which
9 is: What constitutes an informal
10 complaint?

11 I don't believe tweeting is an
12 informal complaint. I don't believe
13 tweeting in the middle of a political
14 campaign in particular is an informal
15 complaint. And I don't think tweeting
16 in the middle of a political campaign
17 where you've embraced the issue as part
18 of that campaign constitutes something
19 that is entitled to the protection of
20 the law.

21 Now, I don't believe that
22 Ms. Boylan ever made a complaint,
23 certainly while she was in government
24 service. I don't believe she made a
25 complaint when she left government

1 service.

2 I may be wrong, and this may be
3 corrected as of today or tomorrow, but I
4 didn't believe Ms. Boylan was going to
5 make a complaint in part because I
6 didn't think the allegations were true.

7 And Ms. Boylan -- and, again, I
8 don't really know the woman, and, you
9 know, I wish her nothing but well, but
10 Ms. Boylan had used this complaint for a
11 particular purpose, which was to advance
12 her political career.

13 It would be one thing if I
14 believed the complaint was true, but I
15 had no reason to believe the complaint
16 was true. Plus there had been -- now
17 I'm remembering other things -- there
18 had been prior instances, I believe,
19 where Ms. Boylan, you know, had had a
20 back and forth with the governor's
21 office that was -- I don't know how else
22 to describe it other than rancorous.

23 And it seemed like, from what I
24 was observing, that she was ratcheting
25 up the nature of the allegations. And

1 it was taking place in a particular
2 context.

3 Now, again, I mean, this is not
4 somebody -- and, you know, I'm not
5 holding Ms. Boylan to a higher standard
6 than anybody else, but this is not
7 somebody who was unsophisticated. This
8 is not somebody without means, and this
9 certainly is somebody who was willing to
10 put these complaints out there, yet
11 never filed a complaint.

12 And so when you look at the
13 totality of this, you know, I believe
14 that the governor was entitled to
15 respond given all of the factors.

16 BY MR. KIM:

17 Q. You've said a few times that
18 you -- that the allegations were false. How
19 did you know that?

20 A. I said I believed they were
21 false. I don't know --

22 Q. You have no personal knowledge of
23 any of --

24 A. I have no personal knowledge.
25 But look, like any -- like any lawyer, you

1 know, there's some degree of due diligence you
2 do. And the due diligence I did was speaking
3 to -- without getting into privileged
4 conversations, some of which were clearly not
5 privileged, I spoke to a number of people
6 about their view of Lindsey Boylan and the
7 circumstance that supposedly took place in
8 public.

9 And no one -- and by the way,
10 there certainly was an opportunity -- I think
11 a lot of people view me as a trusted ear.
12 People could have said, There's something
13 here, be careful. I didn't get that from
14 anybody.

15 Q. This was at a point when she just
16 tweeted sexual harassment. The Medium post
17 comes later with the details?

18 A. That's exactly right.

19 Q. Correct. So at that point --

20 A. There were no specifics -- by the
21 way, that's another factor. There were no
22 specifics. I believe Ms. Boylan said she
23 wasn't going to file a complaint. I think
24 Ms. Boylan said that she wasn't going to talk
25 to reporters.

1 And, you know, we learned a lot
2 more details in the Medium post. I agree
3 with -- I think what you're suggesting is that
4 there's an argument that things are different
5 when she puts out the specific allegations. I
6 still think the governor would be entitled to
7 respond. But from where I'm sitting, there's
8 now more to do. And there was very little to
9 look at based upon the record in mid-December.

10 Q. And based upon the record in
11 December, you had reached the view that you
12 believed the allegation -- the simple
13 allegation that she had been subjected to
14 sexual harassment was false?

15 A. As she described it, that I --
16 you know, I'm basing upon what she's saying
17 took place. And my understanding is -- and
18 again, without getting into privileged
19 conversations, you know -- I think I was
20 entitled to rely upon what a whole series of
21 people were telling me.

22 Q. But in terms of sexual harassment
23 all she had said was there was sexual
24 harassment?

25 A. No. She said, I believe -- I

1 think this is the tweet. She
2 said -- commented on my appearance, was
3 critical of my work, was sexually harassed. I
4 don't know if it said every day or something
5 along those lines. And, you know, you all
6 witnessed this and did nothing. I don't
7 remember the exact words, but that was the
8 import.

9 MR. SHECHTMAN: Pretty close.

10 Q. Had you never heard the governor
11 comment on a woman's appearance?

12 A. Well, look, I'm not sure I'm
13 going to answer that question as asked,
14 because you're suggesting or you're leading to
15 a suggestion that a comment on someone's
16 appearance is sexual harassment.

17 Q. No. I'm just asking the
18 question.

19 A. I've heard the governor for years
20 comment on people's dress, absolutely,
21 including my own, so ...

22 Q. I don't mean to try to suggest
23 anything with the question. You said at that
24 point you didn't believe the allegations. I
25 said all she had said was sexual harassment.

1 You said, no, there were additional
2 allegations. One was she had been -- she had
3 commented -- he had commented on her
4 appearance.

5 So my question simply is: Have
6 you heard the governor comment on women's
7 appearances?

8 A. Yes; however, given the import
9 of -- or the I think fair inference to draw
10 from Ms. Boylan's tweet -- and, again, we're
11 working with very few characters here -- I
12 think it was a fair inference -- it was -- the
13 implication was that something in those
14 interactions was inappropriate, not that there
15 was something beyond that.

16 Q. Putting aside whether it's
17 inappropriate or not, it was not difficult at
18 the time to believe that the governor might
19 have commented on her appearance?

20 A. Sure.

21 Q. It's also not difficult to
22 believe that she may have -- he may have
23 criticized her work?

24 A. It's true.

25 Q. So those two statements you

1 didn't necessarily have a reason to believe
2 were false. You may have a reason to question
3 tying that to sexual harassment --

4 A. Well, I --

5 Q. -- but those facts you had no
6 reason to believe were false?

7 A. -- I didn't tie it to sexual
8 harassment. Ms. Boylan did.

9 Q. Right. So that's -- I'm not
10 asking you to agree to her tying that. But
11 the mere statement that the governor commented
12 on my appearance, there's no reason to believe
13 that was false?

14 A. Again, what I'm going to rely
15 upon is the fact that the totality of the
16 tweet I think is what is at issue, not parsing
17 individual pieces of it.

18 Q. So if you can turn to Tab 10,
19 it's a collection of tweets around that time
20 period.

21 A. Okay. Oh, my God. Okay.

22 Q. On December 5, I think this was
23 prior to her -- well, if you go to the second
24 page.

25 A. Second, like on the first page,

1 the second page, or on the second as you flip
2 it.

3 THE WITNESS: So can we take a
4 short break just so I can run to the
5 men's room?

6 MR. KIM: Sure.

7 THE WITNESS: Great. Thank you.

8 THE VIDEOGRAPHER: The time now
9 is 11:45 a.m. This concludes Media 4.
10 Off the record.

11 (Recess taken from 11:45 a.m. to
12 11:54 a.m.)

13 THE VIDEOGRAPHER: The time now
14 is 11:55 a.m. This begins Media 5. On
15 the record.

16 BY MR. KIM:

17 Q. Okay. Before we continue, I
18 noticed you have a notebook and you're taking
19 notes. I have no issue with that, but only
20 the admonition that you, you know, you not
21 convey the substance of what we ask or the
22 questions to anyone else.

23 A. Just to be clear, they're notes
24 for purposes of sitting in here as I think of
25 things --

1 Q. Yeah.

2 A. -- and I will actually be happy
3 to throw this page out or these pages out
4 before I leave.

5 Q. Yeah. That would be great. And
6 the documents we'll keep.

7 A. Yeah.

8 Q. Okay. So I think when we broke
9 out, I'd shown you Tab 10 which I believe is a
10 collection of some of the tweets around that
11 timeframe, and to draw your attention to the
12 sexual harassment allegations that Lindsey
13 Boylan made.

14 You see on the third page of the
15 tweet, on December 13 about halfway down, she
16 writes:

17 "Yes, @NYGovCuomo sexually
18 harassed me for years. Many saw it and
19 watched."

20 This prior reference is to toxic
21 environment, earlier days, prior
22 reference on the 13th to sexual
23 harassment suffered by her mother. But
24 that's the first one where she makes the
25 allegation.

1 And then her text continues -- I
2 think this is what you had remembered:

3 "I could never expect what to
4 expect: Would I be grilled on my work
5 (which was very good) or harassed about
6 my looks? Or would it be both in the
7 same conversation? This was the way for
8 years."

9 And so my questions were about, I
10 gather, based on diligence and talking
11 to others, you believed her overall
12 allegation of sexual harassment was
13 false. Is that fair?

14 A. Yeah. As it appeared in the
15 tweet, that's correct.

16 Q. Okay.

17 A. And, again, I mean, I appreciate
18 it. What I'm suggesting is you can parse out
19 pieces of this, and I'm certainly not going to
20 dispute that the governor has commented on
21 women's appearances, men's appearances, my
22 appearance in particular.

23 But all I'm suggesting is that,
24 read as a whole, my takeaway from this, and
25 what I would think it was designed to lead the

1 reader to conclude, is that Ms. Boylan left
2 the administration because she had been
3 sexually harassed. And I did not believe that
4 was -- I was led to believe and came to
5 believe that that was not true.

6 Q. But the fact that she -- here she
7 doesn't say that's the reason she left.
8 Right?

9 A. No, but I think that's the
10 implication when you read it as a whole of
11 what she is suggesting. That certainly is the
12 impression that I walked away with, and I
13 think that was the general impression of many
14 readers of this tweet.

15 Q. And you reached the conclusion
16 that you believed her claim of being -- her
17 feeling sexually harassed was false?

18 A. Let me put it a different way
19 because I'm not going to pretend because I did
20 not conduct what you and I would consider to
21 be an independent inquiry.

22 But speaking to the people, and
23 again -- I'm going to be careful of the privilege
24 issue here -- but speaking to various people
25 who were in a position to know and observe and

1 had first-hand dealings, it was my
2 understanding based upon those conversations
3 that there had been no sexual harassment.

4 That's right.

5 Q. Did that include the
6 governor -- conversations you had with the
7 governor?

8 A. I think that is --

9 MR. SHECHTMAN: That's going to
10 be privileged.

11 A. That's privileged.

12 MR. SHECHTMAN: Joon, I've
13 learned over time not to be a witness
14 when you're a lawyer, but the tweets on
15 the fifth say things like:

16 "I could opt out and I eventually
17 did. I did not sign whatever they told
18 me to sign when I left, nope. I tried
19 to quit three times before it stuck."

20 If you read those too, none of
21 those are true. And, I mean, I don't
22 know how far back Steve went, whether he
23 read all the tweets, but it really is a
24 message here that says I left this place
25 because I was harassed.

1 MR. KIM: I understood his
2 reference to the full context to be
3 referring to those.

4 MR. SHECHTMAN: Okay. Good.

5 MR. GRANT: And as I recall
6 earlier, you testified that there was no
7 discussion about releasing the personnel
8 file or responding until after that
9 tweet accusing him of sexual harassment
10 on the 13th. Correct?

11 THE WITNESS: As I think is
12 probably clear by now, my recollection
13 about the timing and sequencing is not
14 particularly good or particularly clear.
15 And especially when it comes to things
16 that I'm being e-mailed and tweeted,
17 because I frankly didn't pay attention
18 to a lot of it.

19 However, with that said, my
20 assumption is, because it's the only
21 thing that seems rational, is that the
22 discussion came after this series of
23 tweets, not before. I don't know why we
24 would have had that conversation before.

25 Q. Yeah, we have records of when

1 calls happened.

2 A. Yeah. Yeah. Yeah. Okay.

3 MR. GRANT: And even though, and
4 as your lawyer just suggested, you may
5 have wanted to correct the record about
6 the reasons why Ms. Boylan left, you
7 didn't do so earlier, meaning on
8 December 5?

9 THE WITNESS: That's correct. It
10 wasn't until later.

11 Q. Can you turn to Tab 12?

12 A. Yes.

13 Q. And this is December 13, so it's
14 about -- at 12:06, which is three minutes
15 after you forwarded the records?

16 A. Mm-hmm.

17 Q. And Dani Lever says:

18 "Do we have additional details of
19 complaints made against her? These just
20 mention them but doesn't explain what
21 they were."

22 Then another party sends contact
23 information for [REDACTED], to which
24 you're not -- you do not respond to
25 Dani's text about additional

1 information, but then you write "Why
2 [REDACTED]?"

3 Do you see that? -2779 is the
4 Bates number.

5 A. Give me a second just to get the
6 context here.

7 (Document review.)

8 Yeah, I see it.

9 Q. And then Rich Azzopardi responds:

10 "Different [REDACTED] than I think
11 you're thinking of, Steve. She was ESD
12 press secretary. Lindsey treated her
13 badly."

14 A. Yeah.

15 Q. You say, "Okay. Good."

16 Azzopardi says, "she's willing to
17 talk about that."

18 Do you remember this exchange?

19 A. Now that I read it, I can, sort
20 of, put it in context and remember what it
21 would have been about. I thought they meant a
22 woman named [REDACTED]. I read it too
23 quickly. And I hadn't heard [REDACTED] name
24 in years.

25 [REDACTED] -- I think it's

1 [REDACTED] -- had worked -- I don't think she
2 was in the AG's office. She may have been in
3 the governor's campaign. But I just -- it was
4 more of a, you know, what the heck are we
5 talking about [REDACTED] for? I mean, I
6 haven't heard about [REDACTED] in ten years.
7 And then, I mean, Rich, whoever it was -- I
8 guess Rich Azzopardi said you're talking about
9 somebody else.

10 Q. And did -- and Rich says at the
11 end of text that she's willing to talk about
12 that, "that" being Lindsey treated her badly.

13 A. Yeah.

14 Q. Did you reach out to
15 [REDACTED] -- or this [REDACTED]?

16 A. No, I don't know this [REDACTED]

17 Q. Okay.

18 A. And I don't know where the other
19 [REDACTED] is. Again, I haven't heard from her in
20 maybe eight years, maybe longer. So no.

21 Q. And was there -- were
22 there -- were you part of discussions about
23 reaching out to people who --

24 A. Yeah, I recall there were
25 discussions about reaching out to people, sort

1 of, seeing if there was something out there
2 that was being missed. Largely, I thought
3 about people who had left the administration.
4 There may have been some who were currently
5 there.

6 But I -- and I may have been
7 asked to reach out to people. But anybody I
8 spoke to about this were people that I
9 considered friends who were far removed from
10 this.

11 Q. And who did you reach out to?

12 A. I don't think I'd call it a
13 reach-out. But I have a friend named [REDACTED]
14 [REDACTED] who now lives in [REDACTED], and we had been
15 in touch because they were in the midst of
16 COVID in [REDACTED]. And so we had, sort of,
17 gotten back in touch. And when she's in New
18 York, she usually gives me a call.

19 And I had called her -- I imagine
20 it was around this time. It had to be around
21 this time -- to basically say, "Are you
22 following this? You know, do you have any
23 thoughts on it?"

24 And I think she either didn't
25 overlap or barely overlapped with Lindsey

1 Boylan.

2 And, you know, she said, "Look,
3 it was our place to work, but, you know, I
4 didn't see anything like that. I certainly
5 didn't experience anything like that."

6 So I did speak to [REDACTED]. I
7 may have called a few other people just, I
8 mean, to try to get a sense of, what's this
9 all about? It turns out that I did not know a
10 lot of people who were in the administration
11 who overlapped with Lindsey Boylan and knew
12 Lindsey Boylan.

13 And I don't recall if they asked
14 me to call people or not to call people. But,
15 you know, I think the grand -- and if I
16 made -- and again, it wasn't part of this. I
17 was speaking generally to people about their
18 experience.

19 I'm trying to thinking of who
20 else it would have been. I probably spoke to
21 a woman named [REDACTED] who had
22 been -- worked for Mario Cuomo and worked for
23 the administration probably in 2014 maybe to
24 2016. And if I were speaking to
25 people -- sort of casually I was asking people

1 like, you know, what do you make of this?

2 But it wasn't any kind of formal
3 outreach. And I don't think those people
4 would view it as I was reaching out to them to
5 find out what was going on.

6 Q. And what was the purpose of
7 reaching out to these people?

8 A. I wanted to see if I was missing
9 something.

10 Q. Were other people doing the same
11 thing on these calls?

12 A. I understood that people might be
13 calling people to get, you know, a -- I don't
14 know if it was referred to as a check-in or to
15 gather information to see if there
16 was -- again, I understood it as, are we
17 missing something here?

18 They were just trying to learn
19 were there problems that had gone unaddressed
20 or unnoticed. And beyond that I really wasn't
21 involved.

22 Q. Although the conclusion that
23 the -- whatever we want to call it -- the
24 files, to your understanding it was sent out.
25 Correct?

1 A. I don't know -- again, I'm not
2 sure on the timing. But I didn't view one as
3 being linked to the other. I -- you know, my
4 understanding was -- again, I stated it a
5 minute ago -- that the administration was very
6 comfortable with the notion that whatever was
7 being alleged by Lindsey Boylan -- debate what
8 the Tweets mean -- but that it was not true
9 and that it should be responded to.

10 Now, it's a natural question to
11 ask, is there anything else we're going to
12 hear about? And I think that was what was
13 percolating with the notion of reaching out to
14 other people.

15 Q. And was it reaching out to other
16 people who would know about Lindsey Boylan or
17 reaching out to other people who may have
18 allegations?

19 A. I don't have a specific
20 recollection. I mean, I can speak for myself.
21 When I spoke to [REDACTED], I was interested in what
22 she had to say about Lindsey Boylan and was
23 there something more that has gone on here.

24 Now, it's -- in reality, I know
25 [REDACTED] well, and we have been friendly

1 since she worked in the AG's office. I didn't
2 expect that she was going to tell me anything
3 that was shocking because she would have told
4 me previously, and she didn't.

5 Similarly, with [REDACTED]
6 [REDACTED] -- and again, I'm sure there were
7 another -- you know, in, sort of -- in the
8 course of, sort of, interacting with people,
9 I'm sure I was casually asking. But it wasn't
10 specific as to Lindsey, although I did ask
11 people, sort of, what is the story with
12 Lindsey Boylan? You know, did you work with
13 her?

14 Q. Okay. Did you -- and do you know
15 who sent out these documents about Lindsey
16 Boylan?

17 A. I don't recall that. I would
18 assume -- I don't know, as I sit here today,
19 whether the press office did it or -- you
20 know, I'd heard after the fact that Rich
21 Bamberger was somehow involved. Now, I heard
22 that. I think because there was an article
23 that he was either in or was going to be
24 mentioned in, and I heard about that.

25 So I -- that might lead to the

1 conclusion that Rich Bamberger was somehow
2 involved. But it could have been simply
3 that -- and again, I don't know the mechanics
4 of what they did. They could have told the
5 reporters to ask for the documents. They
6 could have called reporters and given them the
7 documents. I just don't know.

8 Q. Do you know -- were you part of
9 any discussions as to whether these documents
10 should be provided on the record or off the
11 record or on background?

12 A. I don't recall a conversation.

13 Q. Did you hear of any outlets not
14 wanting it when offered it?

15 A. I have a very vague recollection.
16 It's vague enough that I'm going to get myself
17 into trouble. But I do -- I have a very vague
18 recollection that somebody said -- and this
19 would have been repeated to me, you know,
20 through I don't know how many people -- that,
21 you know, they wanted them in a particular way
22 or they weren't going to use it. And beyond
23 that I just don't recall.

24 Q. Do you have any recollection of
25 any outlets being uncomfortable with receiving

1 these types of records?

2 A. Well, that would suggest that
3 they were uncomfortable receiving it in a
4 particular way. I mean, I think -- I don't
5 know how else to read that notion.

6 Q. I guess I'm asking about the "in
7 a particular way" answer, whether they were
8 uncomfortable receiving it. Or "in a
9 particular way" suggests potentially by e-mail
10 or, you know, by some other means. But the
11 fact they're receiving these type of records.

12 A. Yeah. Yeah, I don't recall.
13 And, look, my assumption is that it could very
14 well be that some news agencies are saying, If
15 we're getting these, we want to get them
16 officially. We want to make sure that we're
17 not receiving something that we're not
18 entitled to.

19 That I can certainly see. And,
20 you know, I'm assuming that may have been what
21 was going on, but it's not anything that I
22 really focused on -- or at least that I recall
23 focusing.

24 Q. Did you participate in
25 discussions about statements that the governor

1 would make in response to Lindsey Boylan's
2 tweets?

3 A. Yes.

4 Q. Okay. And what do you remember
5 about that?

6 A. Putting aside conversations I may
7 have had with the governor, other than -- I
8 mean, I'm trying to remember. I think the
9 gist was that he should go out and make a
10 denial. But I don't -- you know, as I sit
11 here today -- have a specific recollection.

12 Q. You want to turn to Tab 13?

13 A. Yeah.

14 Q. And this is -- by the way, this
15 type of a group, do you know why Rich
16 Bamberger and Josh Vlasto were looped in?

17 A. The answer is because they were
18 respected. They gave good advice, and there's
19 a tendency, which I'm sure you've seen, to
20 just add people to this stuff. You know, you
21 may ask yourself on a number of them, why am I
22 on there?

23 And it's just, you know, almost a
24 practice, where if it's a press thing of a
25 certain nature, they're including, you know, I

1 assume Rich and Josh.

2 Q. And was there any discussion
3 about even giving access to Josh Vlasto or
4 Rich Bamberger or even you documents about
5 that they had to consult would go about
6 releasing publicly? Was that decision -- was
7 that inquiry made before providing those
8 documents to you?

9 A. Again, that's a hard one for me
10 to answer because I don't specifically recall
11 receiving the documents. But certainly with
12 respect to me -- I can't speak to Josh or Rich
13 Bamberger -- I heard about those documents in
14 substance prior to what I assume was -- I now
15 assume was the outreach to GOER, because the
16 timing doesn't make any sense otherwise.
17 Right?

18 Because I'm having a
19 conversation, the question is being raised,
20 Well, are you even allowed to put out these
21 documents? Then an answer comes back
22 almost -- the logical sequence has to be that
23 they didn't talk to GOER about whether or not
24 they could talk to me.

25 And I don't know where Josh or

1 Rich were in this chain of events. I frankly
2 don't remember Josh and Rich being, at that
3 point, in the chain of events.

4 Q. I guess more broadly, any
5 discussion you remember about people
6 questioning whether people outside of the
7 executive chamber like Josh and Rich and you
8 can and should get access to information?

9 A. No, I don't recall it.

10 Q. So does looking at this exchange
11 jog your memory at all in terms of any
12 additional --

13 A. No.

14 Q. -- comments and, you know --

15 A. No.

16 Q. Was this sort of a common way for
17 you all to be communicating during this time
18 period, through texts of this nature?

19 A. Yes.

20 Q. And so if -- there's two options
21 in terms of the statement:

22 "Yes, I heard about the tweet
23 about comments supposedly made and
24 there's no truth to it."

25 And then there's an "Or":

1 "Yes, I heard about the tweet.
2 There's just no truth to it."

3 And there's the question:

4 "Did you comment on her
5 appearance?"

6 And the answer here is:

7 "There's just no truth to the
8 tweets. I support women having the
9 opportunity to speak out. I believe in
10 transparency. But there's no truth to
11 the tweet."

12 The last page of this document
13 is your response to some of the discussions.

14 And you say:

15 "I think going down the path,
16 that path," which is not answering
17 whether he commented on her appearance.

18 A. Mm-hmm.

19 Q. It says:

20 "No, doesn't make sense. Yes,
21 invites another question, sounds funky."

22 A. You're on the last page?

23 Q. Yeah.

24 A. Okay. Good.

25 Q. I think this is the only

1 substantive response you gave to this
2 exchange.

3 A. Yeah. I'm surprised I gave any
4 response, but that's beside the point.

5 Q. (Reading):

6 "Yes. Invites another question,
7 another Q and sounds funky. And a 'I
8 often comment' seems similarly weird.
9 Problem is LB doesn't mean what she
10 says. She must mean he made a comment
11 that was an inappropriate sexual
12 innuendo. To that the answer is strong:
13 It didn't happen. You're forced to
14 unpack it to get to the direct no."

15 A. Mm-hmm.

16 Q. What did you mean by that?

17 A. I've got to take a second to read
18 this thing. Hold on one second.

19 Q. Yeah.

20 A. (Document review.)

21 So if we just take the first four
22 sentences; although, they're not in complete
23 sentences:

24 "I think going down that path
25 doesn't end cleanly. 'No' doesn't make

1 sense."

2 So saying "no, I never commented
3 on her appearance" doesn't make sense because,
4 as we've discussed, he frequently comments on
5 people's appearance.

6 "'Yes' invites another question
7 and sounds funky."

8 "Do you comment on people's
9 appearance?" "Oh, yes." Well, it's just going
10 to lead down a path of, well, what kind of --
11 why would you want to go there. And I often
12 comment, seems just weird -- right? -- because
13 you're meaning -- again, part of the problem
14 with parsing it is that it doesn't really get
15 to what you're responding to, I think like we
16 discussed earlier.

17 And what I'm really saying here
18 is:

19 "The problem is Lindsey Boylan
20 doesn't mean what she says."

21 Other words, if you parse it, the
22 individual -- we just had this conversation
23 between ourselves ironically enough -- that it
24 doesn't really get you the import of what she's
25 saying because it's not really what she means.

1 So to that the answer is a strong, "It didn't
2 happen."

3 And I'm not exactly sure what I
4 mean:

5 "But you're forced to unpack it
6 to get to the direct 'no.'"

7 At this point, I think don't know
8 what I was meaning by unpacking it, because I
9 think my point was: If you're going to deny
10 this, just deny it. Right? We shouldn't be
11 parsing things. You said it didn't happen, it
12 didn't happen. I think that's what I'm trying
13 to get at.

14 Q. But you do say you can't cleanly
15 say no because he does comment on people's
16 appearances?

17 A. Yeah, you're exactly right. I'm
18 saying don't say no. Say, "overall the
19 conduct that she's describing, the import of
20 it did not happen. I did not sexually harass
21 this woman." I mean, I'm saying it in sort of
22 a shorthanded way, but that's exactly what I'm
23 saying.

24 Q. And over the years, have you
25 heard him comment on people's appearances?

1 A. Certainly he has commented on
2 people's attire. Less frequently have I heard
3 him comment on somebody's appearance. But I'm
4 sure, you know, in the past, whatever it is,
5 35 years, I'm sure I've heard the governor or
6 the AG or the, you know, Andrew Cuomo in prior
7 occupations comment on people's appearances.

8 Q. Have you heard him comment on
9 people -- women's attire?

10 MR. SHECHTMAN: Joon, can
11 I -- because I think it helps you here.
12 If you ask Steve -- Steve said he
13 commented on Steve's appearance. I
14 mean, it's worth asking Steve what he
15 said because I think it gives you a
16 sense, if that's fair.

17 MR. KIM: We can get to that.

18 Q. But have you heard him talk about
19 women's attire?

20 A. Sure.

21 Q. What has he -- what have you
22 heard him say?

23 A. He's commented on shoes.
24 He's -- I've heard him comment on people who
25 are dressed up, so that, you know, if you were

1 dressing more formally than you would expect
2 to be dressed in an office building.

3 New haircut. He and [REDACTED]
4 had a constant back and forth about her hair,
5 and a phrase I did not heard until I [REDACTED]
6 [REDACTED] which was that -- instances when she got
7 it blown out. You know, commented on an
8 instances in which I was wearing a jacket and
9 a pair of pants rather than a suit.
10 Oftentimes talked about my shoes.

11 Sort of, I was at my own risk if
12 I -- in fact, I almost inevitably wore shoes
13 that were scuffed because I knew it would draw
14 a comment. I mean, those were the general
15 nature of the conversations I heard.

16 Q. Have you ever heard him ask women
17 why they don't wear a dress? Skirt?

18 A. No. No, I didn't hear that.

19 Q. How about men and women's weight?
20 Have you heard him talk about that?

21 A. No, but I have heard him have
22 conversations -- and, again, this is -- goes a
23 long way back. Remember, I haven't really
24 been in an environment where that would be
25 likely to be the conversation.

1 But in the AG's office there
2 were -- there were repeated conversations
3 about [REDACTED] and [REDACTED] physical
4 fitness, and not specifically about weight but
5 who was fitter.

6 Q. How about -- have you heard him
7 comment on people's marital status and their
8 partners?

9 A. It's almost not possible in a
10 relationship that has spanned 35 years that I
11 haven't been present with Andrew Cuomo in
12 private settings, even in office settings,
13 where there wasn't discussion about, you know,
14 whether people were having -- you know,
15 whether they were married, who they were
16 married to, what the relationship was, but
17 nothing that I ever took as inappropriate.

18 Q. How about asking people, who are
19 you dating?

20 A. I don't recall that. By the way,
21 not out of the realm of possibility, but I
22 don't recall that.

23 Q. How about asking people about
24 their sex lives?

25 A. Not in my presence.

1 Q. Anyone say to you that the
2 governor has asked about their sex lives?

3 A. No, I don't believe so.

4 Q. Or their sex drive?

5 A. Not directly. But the governor
6 has certainly made a joke with me when I've
7 seen him from time to time about that as I
8 age -- he's constantly claiming that I'm older
9 than he is, which is not the case, but that my
10 testosterone level has dropped which explains
11 why I am, you know, in his view, less alert
12 and aggressive than I once was.

13 You know, testosterone level
14 seems to be linked to sex drive, but those are
15 the kind of conversations I've had with him.

16 Q. How about have you ever heard him
17 talk to others about what happens to their sex
18 drive when they get married?

19 A. No. No. That I haven't heard.
20 Maybe because I'm married.

21 Q. Have you ever heard anyone else
22 talking about -- or have you ever heard him
23 talk to a woman about their sex drive?

24 A. No.

25 Q. Have you heard anyone recount or

1 tell you that he made a comment about a
2 woman's sex drive?

3 A. No.

4 Q. How about have you heard him ask
5 people to find him a girlfriend?

6 A. Yes.

7 Q. Who have you -- when have you
8 heard that?

9 A. When he broke up with Sandra Lee,
10 he had a conversation with me about it.

11 Q. Okay. With --

12 A. I mean, the gist of it was --

13 MR. SHECHTMAN: Let's treat this
14 as nonprivileged.

15 MR. KIM: I don't know what's
16 privileged anymore.

17 MR. SHECHTMAN: But I don't think
18 he's seeking legal advice.

19 THE WITNESS: You know something,
20 let the governor's office --

21 A. He broke up with Sandra Lee. He
22 told me he's now available. He said he was
23 now looking for -- you know, to date again.
24 It's hard given the position to date, if I
25 knew of anybody.

1 That was sort of the gist of it.
2 I mean, in all candor, I've learned -- I don't
3 want to be fixing up anybody with anybody. No
4 good comes of that. And so, you know, I sort
5 of engaged with him but didn't really take it
6 seriously.

7 MR. GRANT: Did he describe the
8 sort of woman he would want?

9 THE WITNESS: I think he gave me
10 general -- a general notion of height,
11 and that was looking for somebody who
12 was fit and who could keep up with him.
13 I think that may have been the phrase.

14 MR. GRANT: Anything else?

15 THE WITNESS: As I sit here
16 today, not that I recall.

17 MR. GRANT: Do you recall if he
18 mentioned age?

19 THE WITNESS: No. No.

20 MR. GRANT: And I believe earlier
21 you said that you've heard him comment
22 about female women's shoes -- or women's
23 shoes. Correct?

24 THE WITNESS: Men and women's
25 shoes.

1 MR. GRANT: Okay. Well, focusing
2 on women's shoes only, what comments do
3 you recall him making?

4 THE WITNESS: "That's some pair
5 of shoes," or, you know, "Those shoes
6 could use a shine."

7 MR. GRANT: When he would say
8 "Those are some pair of shoes," what
9 sort of shoes were they?

10 THE WITNESS: Either -- and I
11 will acknowledge, I don't know a lot
12 about footwear, maybe why I'm perfectly
13 comfortable and scuffed shoes. You
14 know, they were the kind of shoes that I
15 would think of as more, sort of, formal
16 shoes or dress attire.

17 MR. GRANT: Heels?

18 THE WITNESS: Not always, but
19 yeah. I mean, it could include heals.

20 BY MR. KIM:

21 Q. So he's asked you about
22 girlfriends. Have you heard him
23 say -- mention get -- "find me a girlfriend"
24 to anyone else?

25 A. No.

1 Q. Did anyone else tell you that he
2 asked about that?

3 A. Maybe [REDACTED]. I don't have
4 a specific recollection, but [REDACTED] and I, you
5 know, would have a similar sort of
6 relationship with him in the sense that we
7 don't speak to him that often. I think [REDACTED]
8 probably talks to him a lot more than I do.

9 But I have a vague recollection
10 of [REDACTED] mentioning something to me
11 about -- again, it would have been in the,
12 sort of -- the point at which it became public
13 that he and Sandra Lee were no longer
14 together.

15 Q. In terms of your relationship,
16 what -- how would you characterize it?

17 A. That's a tough question to
18 answer. Look, I think, you know, the
19 relationship is one of primarily an advisor.
20 We're friendly. I know the family. I know
21 his -- you know, knew his father very well. I
22 know his mother. But it's not as if we're
23 socializing.

24 There are events I'll go to where
25 he'll will be there. There are certain kind

1 of events that I, you know, almost will always
2 be invited to that are, sort of, related to
3 alumni or a celebration of his father's
4 legacy.

5 But it's not like, you know, I'm
6 getting a call saying, "What are you doing
7 next Thursday? Let's go to a Mets game
8 together." I mean, that's just not the nature
9 of the relationship, although I don't think he
10 has a lot of those relationships anyway.

11 But, you know, I think that for
12 the most part -- especially, you know, since I
13 left the administration -- the relationship is
14 primarily one of, you know, I'm a lawyer, I'm
15 an advisor, I'm involved in certain things
16 related to the state, and that I am trusted.

17 I think that would probably be
18 how I would characterize the relationship.

19 Q. And how often do you -- over the
20 last -- since you've left the administration,
21 how often do you actually see him?

22 A. In person?

23 Q. Yes.

24 A. In the last ten years?

25 Q. Yeah -- no, how regularly.

1 Sorry.

2 A. Oh, I mean, up until COVID I'd
3 see him from time to time at a fundraiser if
4 there was an alumni event of some kind, so
5 maybe four or five times a year. That may be
6 overstating it.

7 Q. But not one-on-one meals or
8 drinks or ...

9 A. I would have had lunch with him
10 in 2019. I think we may have had
11 somebody -- dinner or lunch with somebody
12 together in, like, 2015, 2016. When I was
13 with [REDACTED], we hosted -- [REDACTED] hosted a
14 Super Bowl party, he came.

15 I go to those kind of events with
16 him. And, I mean, that's the nature of it.
17 It's not like -- I can't tell you that I've
18 gone to dinner with him or lunch with him
19 privately ten times in the last ten years. I
20 think that would way overstate it. It's just
21 not the nature of the relationship.

22 Not that I'm not friendly with
23 him, not that, you know, he doesn't pick up
24 the phone and call me. But that's just not
25 the nature of the relationship.

1 And, you know, just to be clear,
2 because it's kind of implicit in this, you
3 know, for good or bad when I left the
4 administration, I left the administration. My
5 tendency is -- I left the US Attorney's
6 office. I never went -- and it's not
7 like -- I've been back three times maybe in
8 the last, you know, whatever, 20 years.

9 When I left the governor's
10 office, similarly, if I was back it was, you
11 know, two or three times, or specifically for
12 a meeting and then I left. It's changed a
13 little bit because of COVID. It's changed a
14 little bit because of COVID. I've taken on
15 more assignments.

16 But that hasn't increased the
17 frequency of those kind of, you know,
18 one-on-one or personal sort of meetings,
19 private meetings. I'm just -- you know, it
20 just hasn't been the way it's played out.

21 Q. Have you ever heard him make
22 suggestive jokes or comments, sexually
23 suggestive jokes or comments?

24 A. In private. I'm trying to think
25 of an instance in which it was -- you know,

1 like in a staff meeting, no. But in private,
2 sure.

3 Q. Just with you?

4 A. When -- and again, I'm going back
5 a good ten years. When [REDACTED] and I would
6 be there, for example, that would be the
7 nature.

8 And also not just with [REDACTED], but,
9 you know, the person I always think of is
10 [REDACTED]. He and [REDACTED], you know,
11 had a -- what I would, I guess, is -- probably
12 the word is a repartee, where, you know, they
13 would go back and forth with each other.

14 You know, at the time, I did not
15 think that there was anything inappropriate or
16 they were crossing a line. Frankly, if it had
17 been taking place in a -- you know, in the
18 monthly staff meeting, it probably wouldn't
19 have been the place to do it.

20 But, you know, private is a funny
21 word because we're in the office, the AG's
22 office. But in the AG's office, I didn't
23 think anything of it, nor did [REDACTED].

24 Q. What kind of comments?

25 A. I don't recall the specifics, but

1 a lot having to do with how fit she was.

2 MR. GRANT: What's your basis for
3 saying that [REDACTED] didn't think anything
4 of it?

5 THE WITNESS: [REDACTED] a good
6 friend and we've spoke about it over the
7 years.

8 MR. GRANT: Meaning you had a
9 particular conversation about how she
10 took any particular comment by the
11 governor?

12 THE WITNESS: You know, it's not
13 as if I closely questioned her, but I
14 had no reason to believe -- and I have
15 every reason to believe that if she was
16 uncomfortable, she would have said it.

17 MR. GRANT: Okay. And these
18 times you were describing, these were
19 times including those in which you were
20 an employee of the
21 governor -- correct? -- meaning you
22 worked in the AG's office and you were
23 his subordinate?

24 THE WITNESS: Yeah.

25 MR. GRANT: Okay.

1 BY MR. KIM:

2 Q. Have your heard him joke or
3 comment about the size of his hands?

4 A. No.

5 Q. How about did he ever show you or
6 talk to you about a cigar box he got from Bill
7 Clinton?

8 A. I know the cigar box, and I know
9 he got it from Bill Clinton. And it's with a
10 lot of other memorabilia he's gotten from Bill
11 Clinton, including -- I mean, the thing that I
12 remember more than that is the crossword
13 puzzle. But yeah, I'm aware of the cigar box.

14 Q. Any conversations where he was
15 talking about the cigar box with anyone?

16 A. No.

17 Q. No reference to Monica Lewinski?

18 A. No.

19 MR. GRANT: Did you ever hear him
20 comment on a woman's body?

21 THE WITNESS: Say again?

22 MR. GRANT: Have you ever heard
23 him comment on a woman's body? "Him"
24 being Governor Cuomo.

25 THE WITNESS: It would be hard

1 for me to say that in a private setting,
2 at a bar, out at dinner, in that kind of
3 situation that there wasn't some
4 reference, but nothing I specifically
5 recall. And I don't recall anything
6 like that in the office.

7 MR. GRANT: Do you recall
8 generally anything about what he may
9 have said about a woman's body?

10 THE WITNESS: No, and again, I'm
11 going back ten years and I'm trying to
12 be careful here.

13 MR. GRANT: And these would
14 include times you were his employee?

15 THE WITNESS: Yeah.

16 MR. GRANT: Okay.

17 BY MR. KIM:

18 Q. Have you seen the governor flirt
19 with anyone?

20 A. Yes.

21 Q. Who?

22 A. I've seen it mostly -- and again,
23 the context and to my characterization of
24 flirting -- at fundraisers. That would be the
25 place in which, in the last ten years, there

1 would be an opportunity. And it would
2 be -- you know, would be where something like
3 that could happen.

4 Q. Like what kind of flirting?

5 A. You know, it's one of those
6 things that's hard to characterize. It's
7 flirting. You know, it's, you know, a
8 pleasant conversation. You know, nothing
9 particularly suggestive but, you know, I'd
10 characterize it as flirting.

11 Q. How about with any employees,
12 state employees?

13 A. I don't recall anything. But
14 again, my recollection is from the years 2007
15 to 2011. And I don't have any specific
16 recollection. I'm not saying it didn't
17 happen, but I have no specific recollection of
18 them.

19 MR. GRANT: And how would you
20 describe his interactions with

21 [REDACTED]

22 THE WITNESS: It was with [REDACTED]
23 and [REDACTED]. I think there was a lot of,
24 you know -- I wish I could think of an
25 example, but it's long enough that I

1 don't -- I can't.

2 But it generally was around the
3 idea that, you know, they both thought
4 that they were the fittest people in the
5 office -- physically fit people in the
6 office. That was -- it was that kind of
7 thing.

8 MR. GRANT: Got you. And
9 does -- going back to something I asked
10 earlier, when you recall hearing the
11 governor comment on a woman's body, do
12 you recall if any female was present in
13 those instances?

14 THE WITNESS: I don't believe so.
15 But again, you know, I'm going back a
16 ways. But I don't recall that.

17 MR. GRANT: Okay.

18 BY MR. KIM:

19 Q. Have you ever seen the governor
20 kiss anyone?

21 A. Oh, yes, frequently.

22 Q. On the cheek?

23 A. Cheek, yeah, on the cheek.

24 Q. How about on the lips or the
25 mouth?

1 A. Other than Sandra Lee, no.

2 Q. Have you heard of anyone who may
3 have seen or heard of the governor kiss anyone
4 else on the lips?

5 A. Not that I recall.

6 Q. And have you heard of any or are
7 you aware of any relationships the governor
8 has had with any staffers other than
9 professional?

10 A. Romantic relationships, sexual
11 relationships?

12 Q. Yes.

13 A. Not that I'm aware of.

14 Q. Have you heard rumors about it?

15 A. Yes.

16 Q. What have you heard about it?

17 A. There was a rumor for a while
18 that he was involved with **Senior Staffer #1** .

19 There had been a rumor about him and **Senior**

20 **Staffer #2**. There was a rumor about **██████████**

21 **██████████** . I think -- there may have been
22 others. Those are the ones that I remember.

23 Q. And have you spoken to the
24 governor about any of those rumors?

25 A. No.

1 Q. How about with Melissa DeRosa?

2 A. I have a vague recollection that
3 I would have spoken to her about the [REDACTED]
4 rumor.

5 Q. And what did you ask her -- what
6 did you talk to her about?

7 A. I think it was either in the
8 press or somebody was going to write about it.
9 This was going back years, five years maybe.
10 I think Melissa was the communications
11 director at the time.

12 And I don't recall specifically
13 what I said, but it would have been along the
14 lines of you better figure out whether this is
15 true or not.

16 Q. And what did she say?

17 A. I think ultimately she said it
18 wasn't true and that was it.

19 Q. Do you know what she did to look
20 into it?

21 A. No. No.

22 Q. How about [REDACTED] SS #1? Did you ever ask
23 her if [REDACTED] SS #1 has a relationship with him?

24 A. No. I had no reason to believe
25 [REDACTED] SS #1 did have a relationship with the governor.

1 Q. How about Senior Staffer #2 ?

2 A. Same thing, I had no
3 relation -- reason to believe that there was
4 any -- anything to the rumor.

5 Q. Have you spoken to her about it?

6 A. No.

7 Q. Senior Staffer #2 ?

8 A. No.

9 Q. Can you turn to --

10 A. To be clear, not that I recall.

11 Q. Can you turn to Tab 68? It's a
12 little out of order, but since we're on the
13 subject.

14 A. Yup.

15 Q. This I think is a text exchange
16 that you produced. It's you and Lis
17 Smith --

18 A. Yeah.

19 Q. -- and JP?

20 A. Yeah.

21 Q. And who's JP here?

22 A. Jeff Pollock.

23 Q. And she writes, Lis Smith:

24 "Breaking: Andrew Cuomo's

25 Relationship with His Assistant Senior Staffer #1

1 [REDACTED].

2 " [REDACTED] this

3 [REDACTED]

4 "Is how it ends."

5 What's your understanding of what
6 she's reporting to you here?

7 A. What she's -- I think what she's
8 doing is she's repeating what the text of the
9 article is. That's my only conclusion.

10 "We have some information on this
11 relationship as well. Stay tuned.

12 "Is how it ends."

13 I assume she's saying that's how
14 the article ends.

15 Q. Then she adds:

16 "Sometimes they bluff, sometimes
17 they do have the goods."

18 A. Right.

19 Q. Do you remember -- do you know
20 what she meant by that?

21 A. Yeah, which is maybe there's
22 something there. You know, even though it's a
23 right-wing website, you never know. And then
24 I think this is my response in blue:

25 "This [REDACTED] is kind of stupid."

1 And then she says "It is."

2 And the reason why I thought it

3 was kind of stupid is [REDACTED]

4 [REDACTED]

5 Q. [REDACTED]

6 A. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 And I thought it was stupid
14 because if it was me and I was there with him
15 and he was in the same position, no one would
16 say "boo." So given the context of what's
17 going on, my point was this whole thing is
18 kind of stupid. Why am I wasting my time?

19 Q. Did you have any conversations
20 with Lis Smith about whether or not the
21 governor had a relationship with [REDACTED]
22 [REDACTED]?

23 A. No, I don't think so.

24 Q. Okay. Did she seem to have any
25 additional information --

1 A. No. She wasn't -- if she did,
2 she wasn't offering it up, and I had no reason
3 to believe that she did.

4 Q. Okay. Have you ever seen the
5 governor -- anyone -- any staffer sitting on
6 his lap?

7 A. No.

8 Q. Did you ever see any picture of
9 that or have you heard of any pictures of
10 that?

11 A. There may have been reporting in
12 the last three or four months that showed a
13 picture of some staff member sitting on his
14 lap. I don't recall because there have been a
15 lot of pictures that have now, sort of, been
16 in the media.

17 But I don't recall that. I don't
18 recall seeing it myself. I mean, whether I
19 saw a picture of it or not, I just don't
20 recall.

21 MR. KIM: This is probably a good
22 place as any to take a quick lunch break
23 if that works.

24 THE WITNESS: Sure. That works.

25 MR. KIM: So it's 1:43 -- say 45,

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we go 1:10?

MR. SHECHTMAN: 1:15.

THE VIDEOGRAPHER: The time now
is 12:42 p.m. This concludes Media 5.
Off the record.

(Lunch recess taken from
12:42 p.m. to 1:27 p.m.)

(Continued on the next page.)

1 A F T E R N O O N S E S S I O N

2 - - -

3 (Time noted: 1:27 p.m.)

4 - - -

5 THE VIDEOGRAPHER: The time now
6 is 1:27 p.m. This begins Media 6. On
7 the record.

8 S T E V E N M. C O H E N, resumed and
9 testified further as follows:

10 CONTINUED EXAMINATION

11 BY MR. KIM:

12 Q. So after the Lindsey Boylan
13 tweets in December, in addition to discussions
14 about releasing the files, were you involved
15 in any discussions about any other actions to
16 take in response?

17 A. There was sort of an ongoing
18 discussion -- I don't know how else to
19 describe it -- about press response and press
20 strategy. And for the most part, that's the
21 only thing I recall related to the issue.

22 Q. Do you remember any discussions
23 about doing some investigation into her
24 campaign?

25 A. There was as best I can

1 recall -- I don't recall it as being an
2 investigation. I do recall that somebody had
3 said, and I don't recall who it was, that
4 there were people in the campaign who were
5 upset about the position she had taken and the
6 tweets. And there was
7 conversation -- conversation is the wrong
8 word.

9 There was information that
10 somebody was going to resign, and they wanted
11 to make sure that there was coverage for the
12 resignation. And, I mean, I think I probably
13 was on the call for these kind of
14 conversations or some of them.

15 And I'm fairly certain I would
16 have gotten -- whether they were texts or
17 e-mails that referred to it, I don't recall
18 being particularly active in these
19 conversations.

20 I didn't really know much about
21 either Lindsey Boylan or the people that were
22 at issue here. But that's the best
23 recollection I have sitting here today.

24 Q. Did you personally communicate
25 with anyone in Lindsey Boylan's campaign or

1 knew Lindsey Boylan?

2 A. No. And again, I didn't know
3 anyone in Lindsey Boylan's campaign. I'm
4 trying to even think about it. Yeah, I knew
5 no one in her campaign.

6 The only person I even knew in
7 the race, if I remember correctly, was Brad
8 Hoylman. And so that was the gist of it.

9 Q. How about looking into expenses,
10 donors, or vendors of Lindsey Boylan's
11 campaign?

12 A. Yeah, I remember there was a
13 discussion. And maybe even somebody sent
14 around the filing to look at. But I don't
15 recall -- I mean, again, you know, I have a
16 vague recollection of getting it, probably
17 scanned it, and I don't think anything would
18 have jumped out at me.

19 I think the only person I know
20 who was even a Lindsey Boylan donor is [REDACTED]
21 [REDACTED]. And I think I spoke to [REDACTED]
22 about -- I was curious about how he became a
23 Lindsey Boylan donor. It seemed sort of far
24 afield.

25 And I asked [REDACTED] about it, and he

1 explained that -- I think it was when he hosts
2 or used to host an NYU Tandon annual lecture.
3 And I think that Lindsey Boylan may have
4 attended as a guest when she was in the
5 governor's office. I think that's the gist of
6 it.

7 And [REDACTED] told me that he had
8 given her a ride home, and she had solicited a
9 donation from him. And I said "Oh, okay."
10 And he didn't say anything more than that.

11 Q. Can you turn to Tab 16 in your
12 binder?

13 A. Mm-hmm.

14 Q. This looks like a list of -- or a
15 document describing her campaign finance
16 history.

17 A. Yeah.

18 Q. And it's sent from [REDACTED]
19 to Judy Mogul, and then latest one is
20 forwarded to you.

21 Do you know [REDACTED]?

22 A. I know the name. I don't think
23 I've ever met him. And I think he's a staffer
24 in, you know, the Andrew Cuomo -- what I think
25 is now called Andrew Cuomo 2022, which is the

1 campaign office. And I believe he does
2 filings and vetting on the governor's donors.

3 Q. And do you remember receiving
4 this?

5 A. No.

6 Q. Did you do anything with it
7 to --

8 A. Look, if I received something
9 like this, I would probably skim it and see if
10 there was anything that jumped out at me.

11 Yeah, and by the way, there's
12 [REDACTED].

13 Q. Did you have a view about the
14 appropriateness of having the campaign or
15 individuals employed by the campaign working
16 on efforts to get information about Lindsey
17 Boylan?

18 A. I didn't.

19 Q. Do you now, sitting here?

20 A. Look, if the theory is that this
21 is all part of -- that what Ms. Boylan's
22 activities were was an effort to undermine the
23 governor, and if the governor is going to run
24 for re-election, I don't think there's
25 anything inappropriate about pulling a public

1 filing and looking at it and seeing if there's
2 anything there that's curious or raises
3 questions.

4 So in and of itself, I
5 mean -- and I don't -- and this is a funny
6 form, because it looks like this was compiled.
7 This isn't the filing itself. But, you know,
8 pulling a public filing doesn't strike me as,
9 you know, a particularly troubling act for a
10 campaign to do. They do it all the time.

11 Q. Do you remember any discussions
12 about making public or drawing reporters'
13 attention to positive tweets that Lindsey
14 Boylan had issued about the governor?

15 A. Let me break this down. At the
16 time whenever those tweets were, I wasn't
17 discussing Lindsey Boylan with anybody. So I
18 don't know what would have happened when
19 Ms. Boylan said something positive about the
20 governor in, I'll make up a date, 2019.

21 In light of the negative tweets
22 about the governor, I know there was a
23 discussion about -- many discussions about
24 pointing out that she had previously said
25 positive things.

1 And I know that I received texts
2 from people of screenshots typically of those
3 positive tweets, sort of saying to me, you
4 know, how can she say what she's saying now?
5 Look at what she said a year and a half ago.

6 And, again, other than I know
7 there was one from Madeline Cuomo, I think
8 there were some from other people, similar
9 kinds of things, that's the extent I recall of
10 that happening.

11 Q. How about contact that she had
12 had privately with folks in the executive
13 chamber that was threatening -- viewed as
14 threatening, the discussions about those and
15 what to do with those?

16 A. Yeah, I don't know -- I'm not
17 sure I understand what you're referring to.

18 Q. If you want to take a look at
19 Tab 18.

20 A. Yeah. Oh, yeah.

21 Q. So from Melissa to a group
22 says --

23 A. Yeah. Just to orient myself,
24 this is a funny format for me, as was the
25 prior one, because it looks like an e-mail.

1 But given that there are phone numbers, I'm
2 assuming these are texts. Have I got that
3 right?

4 Q. Yeah.

5 A. Okay.

6 Q. I think they're texts that have
7 been -- yeah, and the numbers shows up.

8 A. Yeah.

9 Q. And actually the metadata shows
10 who the device owner is.

11 A. Okay. So I don't want to go back
12 in substance, but I think that helps me
13 explain in my own head my failure to recall or
14 spend any significant time reviewing --

15 Q. 11?

16 A. Yeah, I think it was 11, because
17 it was a text. And frankly, I'm sure I opened
18 it and, you know, didn't do a whole heck of a
19 lot with it.

20 Q. They were images of texts?

21 A. Yeah, yeah. You know, I think
22 that, at least for my own purposes,
23 explains -- not that I'm -- I mean, again, to
24 be clear, there's no question I knew of the
25 substance, because the substance was told to

1 me.

2 Yeah, so I do recall this and I
3 do recall this being sent around.

4 Q. And what do you recall about the
5 discussions about -- if you look at page
6 ending 33, Melissa DeRosa says:

7 "We are idiots if we don't get
8 this out. This is motive" -- if go to
9 the next page -- "to help her campaign."

10 And you say, 2637:

11 "Absolutely. She's a narcissist
12 and delusional."

13 A. Yeah, so I mean, that's exactly
14 right, that you have -- let me look at what
15 the tweet is.

16 Yeah, so this is a text -- I'll
17 just try to reconstruct this. I referred to
18 this previously when we were talking about,
19 sort of, the general view of the credibility
20 of Ms. Boylan's claim.

21 So I gather this was to Rob -- it
22 would be Rob Mujica. So he's the budget
23 director. And so Ms. Boylan is responding to
24 the fact that the governor has signed an
25 executive order -- this was in the midst of

1 COVID. I don't remember when that executive
2 order was -- it's 317. So:

3 "In the midst of COVID, I'm
4 signing a new executive order to reduce
5 the number of petition signatures to
6 30 percent of the statutory threshold."

7 So what he's basically doing is
8 saying that for purposes of getting on the
9 ballot, in any race that was going on at that
10 time, I'm going to require fewer signatures,
11 which means people will have to be out -- it
12 reduces the amount of contact people are going
13 to have to qualify to be on the ballot.

14 So it's a safety measure. And
15 then the comment from the governor's Twitter
16 account is:

17 "This will ensure our electoral
18 process goes on while
19 safety -- safeguarding public health."

20 And I gather this gets screenshot
21 to Robert Mujica, according to what the prior
22 e-mail or text says.

23 (Reading):

24 "Absolutely not helpful. Please
25 relay that while we are okay, I see what

1 the point is here, and I will find ways
2 to respond."

3 So we're in the middle of a
4 public health emergency. The governor is doing
5 something that, regardless of what you think of
6 Andrew Cuomo, strikes me as rational. In fact,
7 one might argue you should have suspended
8 petitioning completely because people are now
9 coming into contact with each other.

10 We're in the midst -- March 17,
11 by my recollection, is we're in the midst of
12 the ramp-up where the numbers are going in the
13 wrong direction. And somebody is looking at
14 this -- Ms. Boylan is looking at this and
15 saying "I see what the point is here."

16 In other words, "This is about
17 me, Lindsey Boylan. You are making it easier
18 for people to run against me."

19 Now, I think by definition -- and
20 again, I'll allow for the fact that maybe my
21 interpretation of this is wrong. But if my
22 interpretation of this is right, I think what
23 I've just defined is conduct that you would
24 ascribe to a narcissist, somebody who believes
25 that these things are being done and it's about

1 them.

2 Then:

3 "Life is long and so is my memory
4 and so are my resources."

5 Now, I don't know what conclusion
6 to draw from that other than that there's some
7 kind of -- maybe it's a perfectly valid threat,
8 but there's an implied threat there.

9 And so I think what DeRosa is
10 saying is, well, here's the motivation for why
11 now that she is running for Manhattan Borough
12 President. She's putting out these tweets
13 about the governor, that it's payback.

14 Again, I don't know. All my
15 response is saying, that it strikes me as what
16 I'm reading is, suggests narcissistic
17 tendencies and being delusional.

18 And unless there's some other
19 reading of this, and maybe there is, I mean,
20 it's -- I think the characterization, at least
21 with respect to this, doesn't have anything to
22 do with the other claims -- but with respect to
23 this, which is what I was talking about, that
24 seems sort of accurate.

25 Q. So what discussions or decisions

1 were you involved in about what to do with
2 these tweets?

3 A. I think that may have ended my
4 involvement, as far as I recall. I mean, I
5 sort of got this thing, I read it. I probably
6 was responding if somebody would have called
7 me and said, "Hey, will you take a look at
8 this and give us your thoughts?"

9 My general practice was not to
10 respond to most of this stuff. And so I took
11 a look at it, I said what I thought, and I
12 don't remember anything beyond that.

13 Q. Okay. And then you've mentioned
14 this earlier, one of the other responses was
15 drafting up a letter.

16 A. Yeah.

17 Q. What -- who -- whose idea was it
18 to draft a letter?

19 A. I don't recall -- let me be
20 accurate. I don't know. As I sit here today,
21 my best recollection is that there was a
22 general conversation about you needed more of
23 a response. But I don't know who drafted the
24 letter.

25 Q. And that conversation about

1 needing a response, was the governor part of
2 those discussions?

3 A. I don't recall discussing it with
4 him, but it's certainly possible I would have.

5 Q. Do you know if he was aware of
6 the fact that this letter was being drafted
7 and revised?

8 A. I don't.

9 Q. So you didn't do a first draft?

10 A. No.

11 Q. And if you can look at Tab 17.

12 A. One second. Yeah.

13 Q. So this is a draft of what
14 appears to be a letter or op-ed or -- does
15 this look like a version of --

16 A. Yeah.

17 Q. -- the letter we're talking
18 about?

19 A. This is one of the versions.

20 Q. And it's sent from Melissa to
21 you.

22 Does this -- do you know if
23 Melissa DeRosa wrote the first draft?

24 A. I don't know.

25 Q. You see this one comes from

1 Melissa DeRosa's gmail?

2 A. Let me -- if I can just -- and I
3 don't know if this was the first draft.
4 My -- I don't want to speculate, but it is
5 certainly possible that this was not the first
6 draft, that there had been other iterations of
7 this, and now it was being sent to me and a
8 number of other people. And my guess is
9 that's probably what happened.

10 Q. This comes from Melissa DeRosa's
11 gmail to various people's personal e-mails.

12 Do you know what -- why that was?

13 A. I do not.

14 Q. Did you have a general
15 understanding of when Melissa DeRosa used her
16 chamber e-mail versus her personal e-mail?

17 A. Yeah. The personal e-mail, in my
18 experience, was used if something was truly
19 personal. You know, an e-mail saying I'm
20 going to be in New York City, you know, do you
21 want to get together for a cup of coffee?
22 Although that frankly would probably be a
23 tweet, not an e-mail.

24 But I could see her using it for
25 that and did see her using it for that. But

1 more often than not, it was for political. So
2 if you have something that clearly shouldn't
3 be on a state facility, that's when I tended
4 to see personal e-mails. This, I'm not sure
5 why.

6 Q. Was it your view that this issue
7 of sexual harassment was an issue that was
8 personal --

9 A. No.

10 Q. -- to the governor?

11 A. Well, look, again, you could
12 argue it all sorts of ways. But, you know, at
13 this point, you know, I think the governor is
14 being attacked as governor. And I think it's
15 not inappropriate for the administration to be
16 responding.

17 So in that regard, it
18 doesn't -- I don't view it as personal.
19 There's another argument, but I'm not here to
20 make it.

21 Q. And what do you remember about
22 your views on the substance of this letter?

23 A. There were a couple of views.
24 One is, as I think I said earlier, you know, I
25 looked at it, and from the beginning I said

1 this letter will never see the light of day,
2 just based upon the first paragraph.

3 I thought it was in part an
4 exercise to -- there was a cathartic quality
5 to it. Get our arguments out, let's know what
6 we're saying, let's understand where we were.
7 And I thought that maybe there was some
8 benefit to doing that.

9 And, you know, in my career,
10 there have been plenty of times where I've
11 drafted things at the request of a client or a
12 client has drafted something for me that
13 really I understood that was the purpose. And
14 I felt like that may be what this is when I
15 read it, especially after reading the first
16 paragraph.

17 And I don't, other than that,
18 recall my reaction other than at some point, I
19 rewrote it -- right? I edited it. I don't
20 know if I rewrote it. I certainly did edits
21 and removed things and added other things and
22 changed the language.

23 Q. If you can go to Tab 20.

24 A. Yeah.

25 Q. So this, it comes back from you

1 with some revisions and comments?

2 A. Yeah. Yes.

3 Q. And I think you put, on the
4 second page in square brackets, a paragraph
5 about:

6 "Her political campaign
7 consultant is a consultant to Jumaane
8 Williams" --

9 A. Yeah.

10 Q. -- and then "she's supported by
11 lawyers in the financial back group, Donald
12 Trump."

13 And do you remember putting those
14 in square brackets and italics?

15 A. Yeah. I've got to look back to
16 see if that was in the original letter. I
17 don't remember. I mean, I'll take your word
18 for it, if it was in the original letter.

19 It either was in the original
20 letter or somebody said to me, hey, why don't
21 we put this in. And I put it in as an option.
22 I mean, I think I even said, in parens, it
23 says "option." And I lost the original. Hang
24 on one second.

25 Q. And is that something you thought

1 would be a good idea to potentially include?

2 A. If I thought it was a good idea
3 to include it, I wouldn't have put it as an
4 option. I would have put it in.

5 Q. And what had you heard about a
6 political consultant being consultant to
7 Jumaane Williams?

8 A. I think the sum total of what I
9 had heard is probably expressed in those --

10 Q. You heard it from someone else?

11 A. Yeah, I heard it from somewhere
12 else. And I'm not sure who it was. But, you
13 know, I thought it was beside the point.

14 And I actually thought -- you
15 know, as I'm reading this, that isn't the
16 issue. And so you can have it as an option.
17 If somebody is going to actually send this
18 letter or publish it somewhere, I mean, you
19 can consider it. But it struck me as, sort
20 of, didn't belong in the letter.

21 Q. And then there's a next paragraph
22 about the text that Ms. Boylan had sent about
23 the executive order truncating the petition
24 period. You said:

25 "I would give this piece to a

1 reporter rather than include it in the
2 letter."

3 A. Yeah.

4 Q. Did you know -- why did you
5 recommend that?

6 A. Because standing alone, it sounds
7 both self-serving -- and it's so hard to
8 explain, that if this, in fact, happened, and
9 it sure seemed like it happened, because by
10 that point apparently I had the tweet.

11 It's easy enough to tell a
12 reporter, hey, look, you know, why don't you
13 look into this. Let the reporter actually do
14 some investigation, and then there will be a
15 story.

16 And that strikes me as a far more
17 effective way to proceed with this, if this is
18 where you're going, than putting it in a
19 letter that's drafted by your allies.

20 And by the way, again, just from
21 a standpoint -- and part of this is I'm
22 reading this as an editor. And as an editor,
23 you lose yourself in this paragraph.

24 And you say to yourself, like,
25 what's the point? I don't fully understand

1 this. It takes so long to explain this
2 versus, sort of, the other more simple points.
3 So I think that's what I was thinking.

4 Q. And so you -- even though you
5 didn't think this letter would see the light
6 of day, you're going through and revising it
7 and --

8 A. Yeah.

9 Q. -- making comments?

10 A. Yeah.

11 Q. And are others doing the same?

12 A. Well, I got it from people that
13 apparently spent time writing it. I knew by
14 this point that, certainly -- I mean, the
15 people who are on here, I think Linda
16 Lacewell, I think I may have spoken to her
17 about it. I spoke to Melissa DeRosa about it.

18 In fact, I think they called me
19 and said would you please take a look at it
20 because I hadn't responded. I don't know how
21 much time passed between my sending this back
22 and my receiving that draft, but it would have
23 been prompted by somebody saying, you know,
24 the equivalent of, would you please read what
25 we sent you and will you please respond.

1 And then I knew by this time that
2 Robbie Kaplan had both looked at it, and then
3 I learned when I -- and she's on here. And
4 when I responded, I think I got a quick
5 response from her to my edits, basically
6 making it clear to me that she had previously
7 seen it, which I think I knew because I think
8 I had spoken to her about it.

9 Q. And you had mentioned the one
10 conversation with her about it, and that was
11 that she was comfortable with it if it went
12 out?

13 A. Yes. And again, I'm not sure the
14 timing, and there probably were many kind
15 of -- "many" is probably a bad word. There
16 were several conversations with Robbie.

17 Among other things, it was about
18 a response and about how to think about the
19 Lindsey allegations, and, you know, knowing
20 that she was comfortable with the response was
21 something that was significant to me.

22 Q. And then what's your
23 understanding of what was done with this
24 letter?

25 A. Well, I don't specifically

1 recall, although, I think there were
2 conversations with various people who were
3 mentioned in the letter in that first
4 paragraph.

5 Q. The former -- the current or --

6 A. Yeah.

7 Q. -- former executives of the
8 former employees?

9 A. Yeah. In fact, let me -- if I
10 can -- I'm now lost. It's 17. Right?

11 (Document review.)

12 Yeah, so it's Dani Lever, Cathy
13 Calhoun -- and that was the person I couldn't
14 remember -- and Alphonso David. And again,
15 you can't send this letter out without them
16 obviously agreeing and making it their letter
17 and making sure they're comfortable with it.

18 And I don't know what the back
19 and forth was. But I'm fairly certain they
20 would have had a hard time getting the
21 organizations they worked for to agree to
22 this. And at some point, you know, I never
23 heard about the letter again.

24 Q. Did you reach out to anyone to
25 share the substance of the letter with?

1 A. I don't believe so. It's within
2 the realm of possibility that I would have
3 spoken to ██████████ about it. But
4 she's the only person I believe I would have
5 spoken to.

6 Q. Do you remember what her response
7 was?

8 A. I'm not even sure I spoke to her.
9 But over the years, I have learned
10 that -- ██████████ a partner at Gibson, and
11 Gibson is not interested in getting involved
12 in any kind of dispute that might involve any
13 kind of legal matter where they may practice
14 in or there may be reputational fallout.

15 And so, although I don't remember
16 if it was in this context, I know that Gibson
17 was reluctant to have ██████████ participate in
18 anything related to this.

19 Q. Was there a discussion also about
20 a potential second letter or shorter letter?

21 A. I don't recall a second letter.

22 Q. Okay. Can you take a look at
23 Tab 23.

24 A. Ah, yes.

25 Q. And Melissa DeRosa sends around

1 the substance of a letter that people issued
2 in connection with Tom Brokaw, it looks like?

3 A. Yeah, I didn't think of this as a
4 letter, although clearly it's in Melissa's
5 draft or whatever this is. It's referred to
6 as a letter.

7 I thought of it as a petition,
8 because I think that's what Brokaw did when
9 Brokaw was accused of sexual harassment. And
10 I don't remember the specifics of the
11 allegation against Tom Brokaw.

12 A number of former employees
13 signed -- I mean, again, I think of it as a
14 petition because there were a lot of people
15 who signed on to that basically saying "We've
16 known Tom Brokaw for years. We worked with
17 him in a variety of capacities, and this just
18 didn't happen. It's inconsistent with the
19 conduct that we witnessed over bumpity bump
20 number of years."

21 And so that's what this was. And
22 it had been discussed, again, as I understood
23 it, as a petition, not as a letter. And I
24 don't recall what happened, although I
25 thought -- again, my view at the time was that

1 this was impractical.

2 Q. And did you participate at all in
3 reaching out to former employees of the
4 executive chamber?

5 A. No.

6 Q. Do you know if they ever -- a
7 letter of any kind ever came out in response?

8 A. I don't believe so.

9 Q. And then following the December
10 timeframe now, just to put the timing in
11 perspective, there's the December tweets and
12 then this flurry of activity on how to
13 respond.

14 There's late February,
15 February 24, she details some of the
16 allegations in a Medium piece.

17 A. Yeah.

18 Q. Between those periods, are
19 you -- how often are you in touch with people
20 in the executive chamber about Lindsey Boylan
21 or any allegations of sexual harassment?

22 A. The best way I can characterize
23 it is it simmers down. So what was a flurry
24 of activity doesn't go away completely, but it
25 does simmer down. We have the holidays

1 intervening, which, in and of itself, becomes
2 sort of a reason to, sort of, not be dealing
3 with all of this.

4 I also at the time was back and
5 forth from DC a lot. I'm trying to remember
6 when those trips were, but went down to DC for
7 some family issues. And I tended to ignore
8 everybody when I was down there.

9 But I recall that, you know,
10 until February, things were relatively calm,
11 but there was percolating unrelated to all of
12 this, issues involving the nursing home
13 matter. And I wasn't really involved in that
14 until mid February or whenever the event is,
15 if there is an event that sort of puts it on
16 the front page of various newspapers.

17 But there was a lot of back and
18 forth, I think, between myself and probably
19 Melissa about, sort of, things in general in
20 the administration, and I tried to be helpful.

21 Q. And you had mentioned earlier
22 that post COVID, you have more interactions
23 with the executive chamber. In what context
24 do those interactions occur?

25 A. Well, a few weeks after the

1 shutdown, I had been talking to -- I think I
2 spoke to the governor himself once or twice.
3 And I was speaking to Melissa. There was a
4 real concern that they just didn't have many
5 people up in Albany, and they were in the
6 middle of a crisis.

7 And so I called and offered to
8 help. Simultaneously, you know, my
9 relationship with MacAndrews and Forbes
10 changes or had changed. And this is
11 now -- I'm trying to remember the timing.

12 So this is 2020, in March, April,
13 May. And so I offer to get involved. I
14 offer -- originally, I think it was in
15 connection with trying to locate personal
16 protective equipment.

17 And I said that I thought they
18 were making a mistake because everybody was
19 cloistered up in Albany, and I just thought
20 from a management perspective, that's a
21 problem.

22 And I said, "Look, you know, I'm
23 at MacAndrews and Forbes. We have a lot of
24 space here. We have -- I have people that I
25 can bring in in a responsible way, because we

1 have enough room to distance people. Do you
2 want me to get involved and help identify
3 sources of PPE?"

4 And that's how the conversation
5 started. And so once you open that door,
6 inevitably, you know -- I guess I went in with
7 my eyes open, and then I get a call saying,
8 "Hey, can you come to Albany?"

9 And [REDACTED] and I, who was
10 one of the former secretaries to the governor,
11 are asked to go to Albany, and we learn that
12 the governor wants us to take responsibility
13 for something that becomes New York Forward,
14 which is the reopening.

15 You know, the idea is we're
16 shutting down, but let's plan on how we're
17 going to reopen things, what the rules will
18 be, what the guidelines will be.

19 And so I get up to Albany, and
20 this is now announced. And so as a result of
21 that, I'm not interacting with a whole lot of
22 people about a variety of things involving
23 guidelines to reopen and other sort of health
24 and safety issues. So that's March-April.

25 By July, a year ago, I've

1 decided -- and it's mutual -- that I want to
2 alter my relationship with MacAndrews. I had
3 been there at that point, I think, eight
4 years, which is, I think, as close to a record
5 of as long as I've been anywhere.

6 And [REDACTED] was perfectly
7 gracious. We agreed that I could step back,
8 that I'd stay on doing certain things as a
9 consultant, but that the relationship would be
10 altered.

11 So now I have a lot more time on
12 my hands. And so I offer to the governor,
13 look, you know, I'll give you six months,
14 maybe even a little longer, where I'm happy to
15 give, you know, you in some fashion a piece of
16 my time.

17 And I tell him, you know, with a
18 preference towards working on what I think are
19 critical issues related to economic
20 development. Because, again, we're still mid
21 COVID and people are saying, "What happens
22 next?"

23 And so it turns out that the head
24 of ESD, I mean, another just coincidence,
25 Howard Zemsky wanted to step down, had given

1 up being CEO and was now just the chair. And
2 so they say, "Well, would you consider being
3 the chair of ESD?" I said yeah. And so now
4 I'm the chair of ESD and so, again, slightly
5 more interaction.

6 So as that year goes by, as that
7 COVID year goes by, separate and apart from
8 the issues related to Lindsey Boylan, you
9 know, I'm now back in that world a little more
10 than I have been in a decade.

11 And so I think in particular with
12 Melissa, it was -- I was an easy phone call
13 because I had been there, I understood the
14 governor, I understood the pressure she was
15 under, and so then there are a series of phone
16 calls that I'm having.

17 Q. And that's what's going on in
18 this time period also --

19 A. Yeah.

20 Q. -- between December and February?

21 A. Yeah. And I don't remember the
22 specific issues, but there were issues. And
23 then in February, I think it's early February,
24 Melissa has the meeting, the Zoom meeting,
25 with members of the democratic caucus in the

1 legislature, which then becomes, you know,
2 this tempest of its own related to comments
3 she made about a nursing home report that had
4 been issued, you know, in, I think, July of
5 the prior year and about the governor's
6 nursing home order, which I think was in
7 March of 2020.

8 So when that happens, you know,
9 I'm basically -- I'm calling to basically ask
10 her, are you all right, is there anything I
11 can do to help you manage this?

12 Q. And do you remember any specific
13 happening with respect to Lindsey Boylan and
14 her allegations between December and her
15 Medium article?

16 A. Not that I recall. The next
17 looming event in my mind is the Medium
18 article.

19 Q. So you can turn to Tab 24.

20 A. Yeah. 24 is the Brokaw thing,
21 right?

22 Q. Sorry.

23 A. Oh, no, you may be right. Yup.
24 I got it. I got it. My 24 has nothing.

25 Q. 24A and B.

1 A. I got you.

2 Q. So it's a text chat chain, and
3 then it attaches a tweet from Lindsey Boylan
4 from January 31.

5 A. Mm-hmm.

6 Q. Do you remember this exchange?

7 A. No.

8 MR. SHECHTMAN: Do we have --

9 MR. KIM: Paul, it should be 24A
10 and then 24B.

11 MR. SHECHTMAN: Yeah, I'm sorry.

12 Q. And Linda Lacewell says:

13 "Really dumb to loop you and Rich
14 into her hatred of AMC. The depth of
15 her nastiness and self-delusion is
16 bottomless."

17 A. Yeah.

18 Q. Do you remember any discussions
19 around this, beyond what -- this text?

20 A. The tweet?

21 Q. Yeah.

22 A. Which I guess is being referred
23 to, which I assume is 24B.

24 Q. Yup.

25 A. (Document review.)

1 No idea. No recollection of this
2 at all.

3 Q. Okay. How about 25, which is
4 another text from about a week later, ten
5 days -- nine days later, February 9?

6 A. (Document review.)

7 And I assume -- do we have this,
8 whatever it is that I'm referring to?

9 Q. It's not attached to this?

10 A. No, I don't see it.

11 (Document review.)

12 Yeah, I don't know what this is
13 referring to.

14 Q. And then so prior to the Medium
15 piece, was there discussions about the
16 governor issuing a statement about Lindsey
17 Boylan?

18 A. There may have been. I don't
19 recall other than I think this morning we
20 looked at some, some -- at least press
21 responses, but --

22 Q. Right, yeah, that -- other than
23 that?

24 A. I don't recall.

25 Q. Can you take a look at 26?

1 A. Sure.

2 Q. So to give you a timeframe,
3 February 24 is when the Medium piece comes
4 out.

5 A. Yeah.

6 Q. And here there looks to be an
7 exchange among a number of you. And Richard
8 Azzopardi first writes:

9 "She is a disgruntled former
10 employee who quit after being counseled
11 on multiple harassment complaints
12 against coworkers and subordinates. She
13 later asked to return to chamber, and
14 that request was not granted."

15 Then you edit it.

16 A. Yup.

17 Q. And then at the top, Josh Vlasto
18 says:

19 "Please don't send this. Please,
20 please, please."

21 A. Yeah.

22 Q. Do you remember this exchange and
23 what it was about and in response to?

24 A. I don't know what prompted this,
25 but something must have prompted this. But I

1 don't recall, I mean, on February 21 what it
2 was in particular.

3 My edits basically are just
4 building out what already I think was the
5 position of the administration, which was if
6 you're going to say it, say it. I don't know
7 what the "He did not, he read it to me" is in
8 reference to.

9 And then this was Josh's general
10 view of this, which was all you're doing is
11 drawing attention. I think his view was that
12 every time -- or any time you do anything in
13 this area, you're basically playing into a
14 scenario where you're going to get more
15 attention, not less, and you're going to
16 encourage Lindsey Boylan to tweet more.

17 And by the way, I think that was
18 a compelling argument he was making. I think
19 I probably spoke to him about these kind of
20 things. I don't remember the specific
21 conversations, but Josh and I spoke
22 frequently. And I'm sure that was his
23 position. And I'm sure that he was right.

24 Q. Did you speak regularly with Josh
25 Vlasto during this time period?

1 A. Yeah. "Regularly" is probably
2 the wrong word because it suggests that there
3 was a routine to it, but I did speak to him
4 often.

5 Q. And what was his view on the
6 overall response to Lindsey Boylan?

7 A. Big mistake. Don't respond to
8 her.

9 Q. Don't respond?

10 A. Let it go. Let it go.

11 Q. And over time, did Josh Vlasto's
12 role in, sort of, responding to not just
13 Lindsey Boylan but the overall allegations
14 change?

15 A. I think Josh and I had a tendency
16 to just check out, which is why, you know,
17 there will be strings of e-mails where he and
18 I will both be on -- I'm sure he has his own
19 that I'm not on; I'm sure I have my own where
20 he's not on -- where we just don't respond.
21 And I think Josh's view was you're wasting my
22 time on this, enough already.

23 And Josh is -- when it comes to
24 communications, is one of -- sort of, the best
25 communications people I've ever worked with.

1 And Josh's view was what you're doing -- put
2 aside the substance. It's self-defeating.

3 Because you're dealing with
4 somebody who has a limited number of Twitter
5 followers, and every time you respond, you
6 have a lot of Twitter followers, and you are
7 going to drive people to her, and you're going
8 to drive reporters to her, and just leave it
9 alone. That, I think, was his general view of
10 all of this.

11 MR. GRANT: Is there any reason
12 why you would check out?

13 THE WITNESS: Look, I -- what's
14 the easiest way to put this? Number
15 one, I'm busy. I was actually doing
16 other things. Number two, you know, I
17 didn't disagree with Josh. And number
18 three, the frequency of the activity at
19 times -- I mean, it would be in spurts.

20 But I found it both unproductive,
21 and I found it -- it took too much time
22 to follow. I mean, a lot of -- I'm sure
23 to the extent I've responded to some of
24 this stuff, you know, oftentimes I'm
25 saying, you know, I'm not sure what's

1 going on here, because it would be, you
2 know, these viral e-mails or viral, more
3 often, texts.

4 And my general rule is if it's
5 worth having these conversations, get on
6 the phone and let's have a conversation,
7 but let's not operate by text.

8 And there was a degree of
9 frustration, I think, that set in with a
10 number of people who were involved
11 because of those tendencies.

12 MR. GRANT: Did you ever ask to
13 no longer be included in these
14 communications?

15 THE WITNESS: I don't recall.

16 MR. GRANT: Okay.

17 BY MR. KIM:

18 Q. Did there come a time when Josh
19 Vlasto expressed a view that -- after Lindsey
20 Boylan and a number of the other
21 allegations -- that the response was too
22 negative and attacking of complainants and
23 others?

24 A. He may well have. I just don't
25 recall.

1 Q. So do you remember how you
2 learned about the Medium article?

3 A. I don't recall specifically, but
4 I actually think I was in Albany at the time.
5 There was -- around that time, I went up to
6 Albany for what I thought was going to be a
7 day. It turned out being three days or four
8 days.

9 And I think it came out when I
10 was there, and it would have been part of a
11 conversation with the governor and perhaps
12 Melissa and perhaps Stephanie Benton.

13 Q. And in this time period, had you
14 been -- had you gone up to the mansion before
15 that?

16 A. No -- I hadn't been up to Albany
17 in -- let me think about that for a second.
18 It had probably been years since I'd been up
19 in Albany.

20 Q. So this was the first time in a
21 long time?

22 A. Oh, yeah.

23 Q. And you stayed overnight?

24 A. I ended up staying overnight.

25 Q. Okay. And who else was there?

1 A. I was told that Larry Schwartz
2 was there, another former secretary of the
3 governor, but I never saw him the whole time I
4 was there. At one point, Maggie Moran came
5 and then she left. And as far as I know, that
6 was it.

7 Q. And what was the reason for going
8 up there?

9 A. It was related to the issues
10 involving Melissa and the legislature. When,
11 you know, Melissa made the statement to the
12 members of the democratic caucus on that Zoom
13 call, sort of, things were getting worse and
14 worse. [REDACTED]

15 [REDACTED].

16 And I said to her, "At any point,
17 if you think it's helpful for me to come and
18 we can talk, or if you think there's a benefit
19 for me coming up and talking to the governor,
20 let me know."

21 And at some point -- I think it
22 was the weekend before I went -- she called
23 and said, "I really would appreciate it if
24 you'd come up." And so, I think it was on a
25 Monday, I went up to Albany.

1 Q. And while -- was it while you
2 were up there that the Medium piece --

3 A. I believe so.

4 Q. So what do you remember about
5 that?

6 A. I just remember that it was
7 published. It had far more detail -- I mean,
8 it actually had detail is probably the way I
9 should put it. And that prompted a
10 conversation with the governor, which I think
11 I am not to get into.

12 Q. Was that one-on-one you had?

13 A. Yeah, I would have spoken to him.
14 I mean, there were a number of conversations,
15 but in particular there was a one-on-one
16 conversation.

17 Q. And then what did -- what did you
18 do or what were you a part of in terms of
19 responding to that piece?

20 A. I think there was, you know,
21 a -- and, again, I don't recall the specifics,
22 but there was a question of whether or not he
23 should put out something, shouldn't put out
24 something. I'm sure there were drafts that
25 were circulated.

1 I think there were -- I recall in
2 particular there was an airplane -- a vignette
3 about the airplane. There was an effort to
4 respond to that.

5 And although I was there, and I'm
6 certainly -- I'm sure I participated in some
7 of those conversations -- I wasn't deeply
8 involved in this, because at the same time,
9 the notion was that the governor wanted to
10 deal with the nursing home claims and that
11 March nursing home order.

12 So I was actually up there now
13 enlisted to work on that, and there had been a
14 lengthy document that had been prepared that
15 was a letter. And, I mean, again, I read it
16 and said -- unrelated to Lindsey Boylan, I
17 said, "This letter is never going out in this
18 form."

19 But I got involved in rewriting
20 the letter and coordinating with Elkan
21 Abramowitz, who was the governor's counsel or
22 the governor's office counsel for that matter,
23 and trying to come up with a strategy on how
24 to respond and distill the governor's view of
25 that, which ultimately led to me

1 doing -- releasing a statement, which, instead
2 of being 12 pages, I think it ended up being
3 about four pages, on a Thursday, on that
4 Thursday that I did from Albany.

5 Q. And did you end up giving --
6 being asked about it yourself and giving an
7 answer up there in Albany?

8 A. When you say "it," tell me
9 what --

10 Q. The allegation, Lindsey Boylan's
11 allegation.

12 A. Yes, I did a press conference
13 call. And I thought it was highly likely I
14 was going to be asked about it. And the
15 direction I was given by the folks in the
16 communication office was, "Well, just don't
17 answer. It's not the -- beyond the -- it's
18 not within the scope of what you are -- you're
19 addressing."

20 And I think after two or three
21 attempts, somebody asked me a question that it
22 would've been hard for me not to respond to,
23 which is something along the lines of whether
24 the conduct described by Lindsey Boylan was
25 something similar to, you know, what I

1 experienced or seen when I worked for the
2 governor.

3 And I answered that question and
4 basically said, no, that in my experience, I
5 was -- I tried to stick to the notion that I
6 was discussing what I had seen and what I had
7 experienced when in Albany, or when in the
8 AG's office, and that ended up being the
9 statement.

10 Q. And did you have any personal
11 knowledge of any of the allegations that
12 Lindsey Boylan made in her Medium piece?

13 A. No. And again, I haven't looked
14 at it in a long time, but I believe -- by the
15 way, the statement I made was not prepared.
16 It was me speaking off the cuff.

17 I thought I was careful to not
18 suggest that I was -- that I had any personal
19 knowledge of Ms. Boylan's specific allegations
20 in the Medium piece, but was, rather, speaking
21 to what I had witnessed and observed while I
22 was in the AG's office and during my tenure in
23 the governor's office.

24 Q. So if you can turn to Tab 28,
25 which is the Medium piece. It's a long piece,

1 obviously. If you go to the third page, she
2 talks about how -- so sorry, second
3 page -- how her boss says that the governor
4 had a crush on her, and then how Stephanie
5 Benton told her that he said:

6 "Look up Lisa Shields. You could
7 be sisters. Except you are the better
8 looking sister."

9 Did you know who Lisa Shields
10 was?

11 A. No.

12 Q. Did you discuss among the group
13 about this allegation that Stephanie Benton
14 had said this to her?

15 A. There was a conversation. I
16 believe Stephanie Benton said she didn't
17 recall sending this. I think that is --

18 THE WITNESS: I don't think this
19 is privileged, governor's there,
20 Stephanie's there --

21 MR. SHECHTMAN: No.

22 A. And, You know, my recollection is
23 that Stephanie didn't remember this.

24 Q. She didn't remember it? Was
25 there a discussion that this was doctored

1 or --

2 A. I don't recall that.

3 Q. Just that she didn't remember?

4 A. Yeah.

5 Q. And then she also -- Lindsey
6 Boylan, that is -- attaches questions about
7 Howard Zemsky, -- Jill DesRosiers is asking
8 Howard Zemsky about the whereabouts of his
9 chief of staff, which was Lindsey Boylan at
10 the time.

11 A. Yeah.

12 Q. Any discussions you remember
13 about this allegation in the group?

14 A. Yeah. I don't recall if this was
15 when I was up in Albany or afterwards, but
16 there was general discussion about the fact
17 that -- by the way, it was my experience as
18 well that there was a tendency to want to know
19 where people were at all times, and that this
20 seemed to be reflective of that general notion
21 that, you know, that senior members of the
22 administration had to be available, and that
23 he needed to know where they were.

24 By the way, not unlike what I
25 experienced when I was at MacAndrews and

1 Forbes; your whereabouts had to be known.

2 Q. Going back to the earlier one,
3 had you ever heard anyone else being compared
4 to the governor's ex-girlfriends?

5 A. No. No. And again, I didn't
6 know Lisa Shields was an ex-girlfriend of the
7 governor.

8 Q. Or anyone being compared to other
9 women and being told that they're better
10 looking than --

11 A. No.

12 Q. -- the other one --

13 A. No. I never heard of that.

14 Q. -- or sister?

15 There's a discussion later in the
16 Medium piece about how she was called to the
17 governor's office and was given a tour.

18 A. Mm-hmm.

19 Q. Any discussions about that
20 allegation?

21 A. Again, it's hard for me to
22 distinguish what was discussed when I was in
23 Albany and what was discussed afterwards. But
24 generally, there were conversations about the
25 fact that a number of people had received, men

1 and women, a similar tour, you know, typically
2 involving the Hall of Governors.

3 Sort of, talking about the
4 portrait of his father and the story behind
5 the portrait of his father, and then the
6 various memorabilia in his office, which
7 included the cigar box and included -- I mean,
8 again, I don't know why I remember it,
9 but -- there were probably ten other
10 pieces -- but the crossword puzzle.

11 MR. GRANT: You say "men and
12 women." Was there any discussion about
13 the frequency of which any particular
14 sex received this tour?

15 THE WITNESS: No.

16 MR. GRANT: Okay.

17 Q. So the discussions were that
18 other people had received it --

19 A. Yeah.

20 Q. -- not that anyone questioned her
21 claim that she had received it as well?

22 A. Yeah, I don't recall anybody
23 saying, "Oh, Lindsey never received that tour,
24 what is she talking about?" I think it was,
25 as best I can recall, that was a, sort of, a

1 routine thing that people would get this tour.

2 Or "tour" overstates it. I mean,
3 would be a walk-through. You would see the
4 governor's -- the portraits, the Hall of
5 Governors, and then there are, you know --
6 within that office, there is this private
7 conference room and then the governor's office
8 that's attached to the red room.

9 And it's that governor's office,
10 which I think was both Mario's office and
11 FDR's office. And that conference room is
12 where a lot of the memorabilia is, but I don't
13 recall anybody saying, "Lindsey never received
14 that, you know, what is she talking about,"
15 no.

16 Q. How about any discussion about
17 how routine or regular it was for people to be
18 called out of events and sent up to the office
19 for the tour?

20 A. I can't link the two, and I
21 apologize for smiling. But the notion of
22 being interrupted and called out of events,
23 being called out of meetings, being pulled off
24 phone calls was routine. The purpose of those
25 things, I think, varied.

1 But that piece of it, I mean,
2 there's nothing unusual or exceptional about
3 that that happened. I would dare say it
4 happened every day.

5 In terms of being called to come
6 over to the governor's office, that happened
7 when he was up there every day. Being called
8 over to --

9 Q. Specifically for a tour?

10 A. Yeah, I don't know. I don't
11 know. And, again, remember my experience, you
12 know, is a grand total of -- I mean, it was
13 seven months or eight months as secretary to
14 the governor. But that was not all spent at
15 Albany. A portion of that was also -- and
16 again, the world was very different then, so I
17 just don't know.

18 Q. How about others that were part
19 of this group? Did anyone talk about
20 that --

21 A. I don't recall. I don't recall.

22 Q. How about discussions about her
23 allegation that he kissed her on the lips?

24 THE WITNESS: Can we take a
25 15-second break?

1 MR. KIM: Sure.

2 MR. SHECHTMAN: Want to do longer
3 and just take a --

4 MR. KIM: Yeah, sure, let's take
5 a --

6 MR. SHECHTMAN: Five, six.

7 THE VIDEOGRAPHER: The time now
8 is 2:25 p.m. This concludes Media 6.
9 Off the record.

10 (Recess taken from 2:25 p.m. to
11 2:36 p.m.)

12 THE VIDEOGRAPHER: The time now
13 is 2:36 p.m. This begins Media 7. On
14 the record.

15 BY MR. KIM:

16 Q. I think when we went on break,
17 the question was: How about discussions about
18 her allegations that he kissed her on the
19 lips?

20 A. Yeah, there were -- while I was
21 in Albany, there were a series of
22 conversations, sometimes one-on-one with the
23 governor, but sometimes in the presence of
24 other people, in particular Stephanie Benton,
25 and from time-to-time Melissa DeRosa.

1 And we went through many of the
2 allegations in the Medium article. And the
3 governor said that they didn't happen. And
4 with respect to the kissing her on the lips,
5 he said it did not happen.

6 Q. He said none of allegations in
7 the Medium article happened?

8 A. Well, it wasn't discussed that
9 way. It was, I think, discussed by particular
10 allegation. I mean, there were things that
11 certainly in this article I'm sure are true.

12 I'm sure she had a -- as we
13 discussed a moment ago, I'm sure she did have
14 a, you know, a tour of -- whether it was the
15 Hall of Governors or the governor's office.

16 There's no question that she was
17 up in -- I can't remember where that event was
18 that's described in here. She was clearly
19 there.

20 But the substantive allegations
21 he said simply were not true.

22 Q. By "substantive allegations,"
23 meaning what?

24 A. The conduct that would be
25 characterized as harassing conduct or

1 inappropriate conduct.

2 Q. And did he identify which ones
3 those would be?

4 A. Yeah. Again, my recollection is
5 that, as I sit here today -- I haven't read
6 this in a couple of months, but it would be --
7 I'd have to actually specifically go through
8 this.

9 Q. The strip poker comment?

10 A. Yeah, he said it didn't happen.
11 Never said it. Didn't happen. No
12 question she was -- you know, I think she was
13 on the plane. But they were on the plane with
14 a number of people. And it didn't happen.

15 No kissing on the lips. You
16 know, no -- I mean, there's somewhere in here
17 where it's, you know -- I think there's
18 something about, you know, "You can't tell
19 anybody about this" or some such thing. I
20 thought that was in here. But he said it just
21 wasn't true.

22 Q. How about the flowers on
23 Valentine's?

24 A. Yeah, that's a good example. I
25 think he sent -- and again, I'm hearing all of

1 this secondhand. I obviously wasn't there.

2 But I heard that the governor did
3 send to the women senior staff members flowers
4 on Valentine's Day or a flower on Valentine's
5 Day. I don't recall which it was. And so
6 that certainly did happen, but it wasn't just
7 about Ms. Boylan.

8 Q. Had you ever --

9 MR. SHECHTMAN: And Joon, the
10 line we just drew, so it's clear, is
11 between things that were said in a group
12 and things that were said separately.

13 I'm not saying that what was said
14 separately differed in any way, but just
15 to hold the privilege, those were all
16 group conversations.

17 MR. KIM: Understood.

18 Q. Had you ever heard previously the
19 governor ever talk about strip poker or ever
20 mention those words?

21 A. No.

22 Q. But the discussion of strip
23 poker, is that any more or less suggestive
24 than discussions you had previously heard him
25 have with people, including, for example,

1 [REDACTED]?

2 A. Yeah, I think it's different in
3 nature. I think being a -- which is sort of
4 the import of the, I think, what is sort of
5 being alleged is, you know, you're in close
6 quarters, you're confined.

7 And suddenly the suggestion is
8 "let's play strip poker." That was nothing
9 like the conversations with [REDACTED].

10 Q. Even as a joke, he had never made
11 jokes of that nature?

12 A. He may have, but not in my
13 presence. Not -- I mean, "that nature" is a
14 very broad characterization. But nothing like
15 the strip poker line.

16 Q. Anything else you remember about
17 things the governor said in the presence of
18 others in response to Lindsey Boylan?

19 A. No. I mean, the best
20 characterization is that he was surprised and
21 he, you know, expressed the notion that none
22 of this is true. Not none of it, but that
23 these specific allegations are not true.

24 MR. GRANT: Was he angry?

25 THE WITNESS: I wouldn't say he

1 was angry. I think he was surprised,
2 really surprised.

3 MR. GRANT: And what do you
4 recall of his reaction to the December
5 tweets alleging that he had engaged in
6 sexual harassment, meaning the ones
7 around December 13?

8 THE WITNESS: Yeah, the
9 difference is I wasn't with him when
10 that happened.

11 MR. GRANT: Got you.

12 THE WITNESS: Which is -- so I
13 may have had a phone call or two. But
14 you don't get the context and you don't
15 pick up -- I mean, I don't want to use
16 the word "stunned" because I think it's
17 too heavy a word. But whatever is
18 slightly short of stunned. Disbelief.

19 But again, you know, in those
20 earlier ones, I'm just not in a position
21 to gauge what his reaction was.

22 BY MR. KIM:

23 Q. So it was stun and disbelief at
24 the parts of the story that he denied, the
25 poker and --

1 A. Almost stunned.

2 Q. Almost -- just shy of stunned.

3 Because some of what she said he -- neither he
4 nor others questioned. They may have
5 questioned the way she responded to it or took
6 it, but the tour of the office or the rose on
7 Valentine's or -- did he claim that he had
8 never commented on her appearance?

9 A. I don't recall discussing that.

10 Q. So I guess the question is: Was
11 his almost stunned reaction to those specific
12 things versus those part of the story that he
13 and others seemed to agree happened regularly?

14 A. No. I think it was he was
15 reacting to somebody who was being accused of
16 a course of conduct involving specific acts
17 including an unwanted effort to kiss somebody
18 and, you know, other, sort of,
19 inappropriate -- and we're not talking about
20 borderline issues, but, sort of, over-the-line
21 conduct that he was behaving as if somebody
22 who was being falsely accused of something.

23 And he wasn't -- at least in a
24 group setting, I think he was put back about
25 how does this happen, and how do I respond to

1 this. That's the best I can do in
2 characterizing what his demeanor seemed to be.

3 Q. And at this point in February,
4 you had already heard about the allegations
5 that Charlotte Bennett had made. Right?

6 A. Yeah. You know, again, I'm
7 trying to figure out -- there are two issues
8 here. One is I don't recall the timing. But
9 this is February. So I believe the answer is,
10 to extent I'm allowed to say what I did or
11 didn't learn with respect to Charlotte
12 Bennett, I think the likelihood is --

13 THE WITNESS: Can I do this?

14 MR. SHECHTMAN: Yeah, at the
15 time, I think you can do.

16 A. Yeah, I think the likelihood is I
17 would have by then, yeah.

18 Q. In December, you had had
19 conversations with Judy Mogul --

20 A. Yeah, that's probably right.

21 Q. And how did you end up -- what do
22 you remember about Judy Mogul reaching out to
23 you to talk about Charlotte Bennett in
24 December?

25 MR. SHECHTMAN: I think I have to

1 draw a privilege line there. I mean,
2 the question -- what?

3 MR. KIM: How you came to talk
4 about it, talk to Judy Mogul?

5 MR. SHECHTMAN: Oh, it is -- did
6 Judy reach out to you? Did you reach
7 out to Judy about it?

8 A. Judy would routinely call me on a
9 number issues. I got a call from Judy one
10 day. She said she wanted to talk to me about
11 something. That's how it would have been.

12 And again, can't specifically say
13 when. I mean, December makes sense as you
14 look at the timeline. And we would have
15 met.

16 BY MR. KIM:

17 Q. In person?

18 A. I think I -- I believe we met in
19 person. I'm not certain. But I think we may
20 have met in person.

21 Q. And who else was part of that
22 discussion with Judy Mogul?

23 A. I'd be guessing. The range of
24 possibilities are Beth Garvey or Linda
25 Lacewell. I think that would be it. But I

1 have no specific recollection of who was
2 there. But that's, sort of, the universe of
3 who could conceivably have been there.

4 Q. And at that point, you had
5 learned that Charlotte Bennett had been moved
6 from her position because of interactions with
7 the governor?

8 MR. SHECHTMAN: And that, I have
9 to say, I think you have to take the
10 privilege on. I've just been told that
11 what was said in that conversation is
12 privileged, and what he learned is,
13 therefore, privileged. And I apologize,
14 but we've told to draw the line.

15 Q. Did you know who Charlotte
16 Bennett was before you had that conversation
17 with Judy Mogul?

18 A. No.

19 Q. Any other conversations? Was it
20 one conversation with Judy Mogul about
21 Charlotte Bennett?

22 A. I believe, to the best of my
23 recollection, it was one conversation.

24 Q. Are you aware of any, sort of,
25 changes in practices in the executive chamber

1 following the allegations made by Charlotte
2 Bennett?

3 A. The only way I would know is if
4 they -- would be if either Judy or somebody
5 else told me because I'm not there.

6 Q. Right.

7 A. So it's a hard question for me to
8 answer without, I think, implicitly, you know,
9 revealing what I think the position of the
10 governor's office says is privileged. But I
11 would have no first-hand knowledge.

12 Q. And you may assert privilege over
13 this. Did Judy Mogul give you a sense of
14 whether she found Charlotte Bennett to be
15 credible?

16 A. I can't answer that.

17 Q. So when the governor, in any of
18 the meetings other than just you and the
19 governor in private, was talking about Lindsey
20 Boylan following the Medium article, did
21 anyone raise Charlotte Bennett?

22 MR. SHECHTMAN: That's a fair
23 question.

24 A. Yeah, I believe Charlotte Bennett
25 was discussed.

1 Q. Okay. And who raised Charlotte
2 Bennett?

3 A. I don't recall.

4 Q. And what was discussed about
5 Charlotte Bennett?

6 A. The general view was that the
7 issues involving Charlotte Bennett -- let me
8 go slow here because I'm not good on this
9 chronology. And I know that the Lindsey
10 Boylan issue comes -- Medium comes first, I
11 believe, and then Charlotte Bennett comes
12 second.

13 So at some point, the Charlotte
14 Bennett events, whatever you want to call
15 them, are in the public. And I just don't
16 know how much time passed between those two
17 events. And I don't recall if, before the
18 Charlotte Bennett issue became public or
19 before there was notice that it was going to
20 be public, it was discussed in connection with
21 Lindsey Boylan.

22 My sense, as I sit here today, is
23 it wasn't, but it was a very short period of
24 time between those two events, and that once
25 you know the Charlotte Bennett event is going

1 to be public -- and I think there was a call,
2 a press call, from -- I think the Times had
3 the story.

4 So it would have been the Times
5 saying, you know, either tomorrow or later
6 today, we're going to break this story. These
7 are the details, do you care to comment. Once
8 that happened, then it obviously was
9 discussed. And I just -- I don't want to be
10 wrong about, sort of, how it played out.

11 Q. To your recollection, between the
12 time that you talked about Charlotte Bennett
13 with Judy Mogul and the time it became public
14 in the Times, do you remember any discussions
15 about Charlotte Bennett?

16 A. I suspect there were, but I don't
17 have a specific recollection of what they
18 were. And they would have been with Judy.

19 And again, it's that same group:
20 Melissa -- perhaps Melissa, Beth Garvey, and
21 Linda Lacewell.

22 Q. And in those group discussions,
23 not one-on-one with the governor, did anyone
24 talk about their view of the credibility of
25 Charlotte Bennett's --

1 MR. SHECHTMAN: And I've got to
2 invoke a privilege again.

3 MR. KIM: Even for group
4 conversations?

5 MR. SHECHTMAN: With that group,
6 yeah.

7 MR. KIM: Because it
8 includes --

9 MR. SHECHTMAN: Judy.

10 MR. KIM: -- Judy Mogul?

11 MR. SHECHTMAN: Yeah.

12 BY MR. KIM:

13 Q. So what do you remember -- were
14 you still at the mansion when Charlotte
15 Bennett's allegation first became public?

16 A. I don't think so, and I'm going
17 on -- I'll tell you my thinking. So feel free
18 to parse it. After the press conference call
19 which was on Thursday, within an hour of that
20 call ending, I left. And I wasn't asked about
21 Charlotte Bennett in that call.

22 So it seems to me not likely that
23 that story broke when I was up in Albany. But
24 again, it's -- I can figure out the date.
25 It's -- I mean, we know the date of the

1 Medium. And the Thursday following the Medium
2 story, I left.

3 Q. So if you look at Tab 29, The
4 Daily News, and it quotes you:

5 "A longtime advisor and ally of
6 Governor Cuomo defended his old boss
7 Thursday as someone who 'demands
8 excellence' and said he has 'never seen
9 anything of the like.'

10 And so you think right after that
11 statement --

12 A. Yeah, whatever -- that week. I
13 don't know if that story -- my guess is that
14 story breaks on the day -- the next day. I
15 would think that. So this is the print
16 publication. Maybe it posted on the 23rd --
17 if somebody has a calendar, we can figure it
18 out. But the 20 -- whatever the Thursday is,
19 I leave that day.

20 Q. If you look at Tab 34 as the New
21 York Times article, which is February 27,
22 Lindsey Boylan.

23 A. Okay. February 27. And this
24 is February -- yeah, I was in Albany. I mean,
25 I don't know what the dates are, but if that

1 is breaking February 23rd, I'm leaving either
2 the 22nd or the 23rd. And this is
3 February 27th. So I'm back in New York.

4 MR. SHECHTMAN: And so I'm just
5 going to correct you. But then you have
6 to confirm it so that I'm not
7 testifying. Your press conference is on
8 the 25th.

9 THE WITNESS: Okay.

10 MR. SHECHTMAN: Which is the same
11 day of The Daily News story.

12 THE WITNESS: Okay.

13 MR. SHECHTMAN: And then the 27th
14 is when the story breaks. So you're
15 still left.

16 THE WITNESS: Yes, that would be
17 correct.

18 A. I -- whatever the day of that
19 press conference call is, is the day I leave
20 Albany. So if that was Thursday, this is now
21 the 27th. If that's the 25th --

22 MR. SHECHTMAN: Saturday.

23 A. It's Saturday. And so I'm not in
24 Albany.

25 Q. So following the Medium article,

1 are you part of discussions about drafting
2 some statements for the governor to
3 potentially make?

4 A. Yes, I believe I received
5 statements. And I don't know if I
6 actually -- I may have commented. I wasn't
7 extensively involved, but I was part of the
8 distribution of these things.

9 Q. If you want to look at Tab 31.

10 A. Yeah.

11 Q. It's a long statement and you
12 receive it. How was this drafted? Do you
13 know?

14 A. I don't.

15 Q. And generally as a practice, so
16 Stephanie Benton sends it to Melissa DeRosa
17 and Judy Mogul.

18 What's your understanding of, if
19 Stephanie Benton's sending something, what
20 that means?

21 A. It means either -- it could mean
22 one of a number of things. It could mean that
23 somebody gave it to Stephanie to show to the
24 governor, and the governor now says "Send it
25 out."

1 It could mean that Melissa went
2 to Stephanie and said, "Send it out." I think
3 it's less likely that Peter Ajemian or Rich
4 Azzopardi would have gone to Stephanie to send
5 it out, unless there was a reason to try to
6 keep it within a very small circle of people.

7 But more often than not, it would
8 mean that -- again, not saying they drafted
9 it, but that it would have been at the behest
10 of Melissa or the governor that it was being
11 distributed.

12 Q. So Stephanie Benton often sent
13 things on behalf of the governor?

14 A. Yes.

15 Q. Because the governor didn't use
16 e-mail?

17 A. I don't know if he used e-mail.
18 I never used e-mail with him, and I don't
19 recall ever receiving an e-mail from him.

20 Q. You received texts on the phone?

21 A. Sporadically, few and far
22 between.

23 MR. GRANT: Even at the attorney
24 general's office?

25 THE WITNESS: At the attorney

1 general's office, I would have had a
2 BlackBerry. And although there were
3 from time to time e-mails that were
4 sent, more often than not -- by the way,
5 I don't recall anybody texting back
6 then. It's long enough ago that I think
7 most people had flip phones, not
8 iPhones. So texting was just too hard
9 and too cumbersome.

10 But I believe most of the
11 communication of, sort of, the nature
12 of, you know, something that was
13 confidential, privileged, would have
14 come as a BlackBerry pin.

15 MR. GRANT: Do you recall if the
16 governor had an e-mail address while he
17 worked at the -- while he was attorney
18 general?

19 THE WITNESS: I don't
20 specifically recall, but with that said,
21 I am sure he had an e-mail address. And
22 I'm sure that somebody monitored the
23 e-mail address, and that there might
24 have been official business that he sent
25 something out.

1 But it wasn't something that he,
2 to my recollection, used regularly.

3 BY MR. KIM:

4 Q. So if you got an e-mail from
5 Stephanie Benton, it's -- you understood it to
6 be coming from the governor or maybe Melissa
7 DeRosa?

8 A. Yes, in the sense that it didn't
9 mean they drafted something or that they
10 were --

11 Q. They wanted you to get it?

12 A. But they wanted me to get it,
13 right.

14 Q. Any particular involvement you
15 remember in drafting this statement, which is
16 long? Let me strike that.

17 Do you remember what the context
18 of this was, like, where was he going to say
19 this or --

20 A. No. No. I don't remember this
21 one at all.

22 Q. Do you remember at this point
23 discussions about maybe getting
24 another -- having another attempt to get that
25 letter drafted from former employees of the

1 executive chamber?

2 A. I don't recall that.

3 Q. Turn to Tab 32. There's a text:

4 "Maria sent me below. Hi- what
5 is the status with surrogates? Can
6 Steve Cohen get booked? Can any of the
7 staff who were on the plane speak with
8 the press," et cetera, et cetera.

9 Do you remember this exchange?

10 A. Do you know who "Dad" is,
11 because --

12 Q. Yeah, "Dad" is -- it's Richard
13 Bamberger. I mean, I don't know why it's
14 "Dad." But it's --

15 MR. GRANT: Look below where it
16 says --

17 THE WITNESS: Device owner.

18 MR. GRANT: -- device information.

19 THE WITNESS: Yeah.

20 A. So the Maria is Maria Cuomo, I'm
21 assuming. And I think I was on -- and I
22 thought I produced it -- a similar sort of
23 text that I think came from Maria Cuomo. It
24 may have come from Madeline and Maria. And I
25 recall that I would periodically get these

1 inquiries.

2 Madeline Cuomo Cole and Maria
3 Cuomo O'Donoghue are the governor's sisters.
4 And as I said before, I've known the family,
5 you know, in various ways for years. And from
6 time to time, they would text me, Madeline
7 more often than Maria.

8 And so I think this was an
9 instance in which the sisters thought that
10 more should be done. And I did receive
11 something similar to this, which I don't
12 believe I responded to or said -- if I did
13 respond, I would have said, "I'll pass it
14 along to the lawyers." I mean, I didn't do
15 anything about it.

16 Q. So you don't remember being a
17 part of discussions about reviving that effort
18 to --

19 A. No. No.

20 Q. And the second page of this, it
21 becomes -- it's referred to as the Steve Cohen
22 letter. Do you know how it came to be known
23 as the Steve Cohen letter?

24 A. I have no idea.

25 Q. You were not a bigger proponent

1 of that than anyone else to --

2 A. Where is it referred to as the
3 Steve Cohen letter?

4 MR. SHECHTMAN: Page 2 at
5 the --

6 Q. Page 2.

7 MR. SHECHTMAN: 306 at the
8 bottom, Bates.

9 A. Hold on one second.

10 (Document review.)

11 Yeah, unless there are other
12 instances in which it's referred to as the
13 Steve Cohen letter, my guess is -- and it's
14 just that, but I'm going to guess -- is that
15 somebody sent my draft version to Richard
16 Bamberger and said this is Steve's edits.

17 And that's how, in Bamberger's
18 mind, it would have been referred to as the
19 Steve Cohen letter. I don't recall ever
20 speaking to Rich Bamberger about my edited
21 version.

22 And as I said before, what I got
23 was a draft that more or less was fully
24 formed. I got it from -- on an e-mail from, I
25 believe, Melissa, Robbie Kaplan, I think Linda

1 Lacewell if memory serves of what I looked at
2 this morning, and I sent it back to that
3 group.

4 And so, you know, how this has
5 become my letter, I -- you know, again, it's
6 news to me. And I wonder if that was just how
7 Rich Bamberger was referring to it, unless
8 there are other places where other people are
9 calling it my letter.

10 MR. GRANT: You said earlier that
11 Governor Cuomo's sisters thought more
12 should be done. Was there
13 anything -- or do you have an
14 understanding of what they thought
15 should be done beyond more press
16 messaging?

17 THE WITNESS: More Madeline than
18 Maria. I had a couple of text exchanges
19 from Maria. I don't recall -- I think
20 there may have been one call I had where
21 Maria was on the call.

22 But it was more Madeline, who I
23 thought believed that there needed to be
24 a more robust response from the
25 governor, thought that he, at that

1 point, hadn't addressed the issue in the
2 press, hadn't addressed it directly.

3 And I think they were frustrated
4 that he wasn't getting his say.

5 MR. GRANT: Anything else?

6 THE WITNESS: No. No, although,
7 I'm trying to remember. I think it was
8 Madeline. It was both Madeline and then
9 there was a lawyer involved, both who
10 had, you know, designs on getting
11 somebody to do an op-ed piece to support
12 the governor.

13 And I think I passed that along
14 to -- it probably was to either Rita
15 Glavin or to -- I think it was probably
16 Rita on both of those inquiries. And I
17 think that's reflected in -- I remember
18 it because I think it's in the text that
19 I produced.

20 BY MR. KIM:

21 Q. So February 27 is when the
22 Charlotte Bennett article comes out in the New
23 York Times. Leading up to that, do you
24 consult -- did you become aware that she is
25 about to go public?

1 A. Well, I become aware when, I
2 think it was the Times, called for comment.
3 And then somebody told -- somehow along the
4 line I learned, I mean, in all candor, sitting
5 here, but for the dates I would have, sort of,
6 merged in my mind that I would have thought I
7 was in Albany, but I clearly wasn't.

8 So somebody would have had to
9 call me to say, "The Times is breaking a piece
10 involving Charlotte Bennett and this is what
11 it's about," but I don't have a specific
12 recollection of it.

13 Q. And then what was your
14 involvement at that time?

15 A. I certainly was on calls
16 discussing what the appropriate response is.
17 There was some point in time at which I get
18 involved in what I think of is more, sort of,
19 a traditional question of who is lawyering
20 this? Who is going to be the public-facing
21 lawyer? Who is going to represent the chamber
22 to the extent the chamber needs counsel?

23 Beth Garvey at the time was
24 inundated and short of staff. But at some
25 point -- and I don't know how early it was --

1 I start thinking about those issues. And
2 again, you know, I'm not exactly sure when I
3 turned to that.

4 Q. And did you discuss Charlotte
5 Bennett's allegations with the governor?

6 MR. SHECHTMAN: And there I have
7 to invoke a privilege as to private
8 conversations.

9 THE WITNESS: Any conversation I
10 had with the governor about Charlotte
11 Bennett I believe was one-on-one.

12 Q. Any discussions that -- did the
13 governor talk about Charlotte Bennett's
14 allegations on any occasion other than when
15 you were just one-on-one with him?

16 A. I don't recall that. I do recall
17 that there were conversations with other
18 people. There was a conversation with Robbie
19 Kaplan. But I don't recall the governor being
20 part of those conversations.

21 Q. When you're having conversations
22 with Robbie Kaplan about Charlotte Bennett,
23 who was she representing?

24 A. I wasn't sure at the time. My
25 understanding was she had some kind of

1 relationship with the governor and [REDACTED]
2 [REDACTED] that were legal -- it was legal in
3 nature. But that was, you know, as much as I
4 knew, and it was sort of a brief conversation,
5 that I recall.

6 Q. Did she seem aware of the
7 Charlotte Bennett allegations?

8 A. The timing is the issue which I'm
9 struggling with. She was aware, but it could
10 have been because she read them in the New
11 York Times.

12 Q. You don't remember talking to her
13 about Charlotte Bennett between the time Judy
14 Mogul came to you and it becoming public?

15 A. I don't believe so.

16 Q. So if you can turn to Tab 35.

17 A. Yeah.

18 Q. There's a chain of e-mails where
19 people draft possible statements. And Lis
20 Smith is on some of these.

21 A. Yeah.

22 Q. What's your understanding of Lis
23 Smith's role?

24 A. Yeah, Lis Smith had worked for
25 the governor's campaign in 2018, I believe,

1 and was one of the people that was regularly
2 consulted in the same way that Josh Vlasto and
3 Rich Bamberger were about, in particular,
4 press issues as well as social media issues.

5 And so this was one of those
6 moments where -- I don't know how it happened,
7 but Lis was suddenly being looped into this
8 stuff.

9 Q. How about Jeff Pollock who was
10 also looped into this?

11 A. Yeah, so Jeff is a pollster and
12 advisor to the governor and has been for
13 years. And similarly -- and I know Jeff, sort
14 of -- in addition to through the governor, I
15 know him separately. And so Jeff similarly
16 started to appear around this time.

17 And, again, I don't know how that
18 happened, but suddenly he was there, and
19 frankly I was welcome to have him.

20 Q. And so in here there's various
21 versions of the statement. And you see in the
22 middle, Bates Number -3373, Melissa DeRosa
23 proposes a different approach.

24 A. -3373. Yeah.

25 Q. And she has sort of a statement

1 that would go through at some length what
2 Ms. Bennett talked to the governor about, the
3 back and forth, and describes Ms. Bennett in
4 the last paragraph as having approached an
5 aide and requests to be transferred to a
6 different position.

7 A. Yeah.

8 Q. Do you know where Melissa DeRosa
9 was getting this information when she was
10 drafting this?

11 A. No.

12 Q. Was information here that she was
13 proposing consistent with what you knew about
14 the circumstances of Charlotte Bennett's move
15 out of executive chamber?

16 MR. SHECHTMAN: And I have to
17 invoke again, Joon.

18 Q. All you know about her, the
19 circumstances of her departure, is what you
20 learned from Judy Mogul?

21 A. Yeah. That series of
22 conversations, yes.

23 Q. Do you remember any discussions
24 in a group setting, not one-on-one with the
25 governor, about the way in which Charlotte

1 Bennett's allegations should be handled or
2 treated?

3 A. Treated after during the New York
4 Times or treated prior to the public
5 statements by Ms. Bennett?

6 Q. How about prior to the public
7 statements?

8 A. Yeah. The answer to that is no.
9 Again, without, you know, trying to avoid
10 tripping over the wire, by the time I hear
11 about this, I'm not going to say it's ancient
12 history, but whatever had transpired had
13 transpired, and I knew that Ms. Bennett was no
14 longer in the administration.

15 And so there was really no issue
16 about how you treat it because my
17 understanding was it was -- whatever happened
18 had happened.

19 So I wouldn't have had any
20 opportunity basis or it wouldn't have been
21 practical for me to be commenting on that.
22 And it wasn't discussed.

23 Q. How about after she went public?

24 A. That's, I think, the first time
25 when a question arises. And then there's a

1 reference to it in here about bringing in
2 somebody to investigate -- you now have two
3 allegations -- to invest the allegations.

4 Q. And who raised that possibility?

5 A. I hate taking all of these
6 breaks, but as a hypothetical matter, to the
7 extent the answer is me, there may be a
8 question about the timing and to whom I raised
9 these things hypothetically.

10 And I just think we're getting
11 into a curious area for me.

12 MR. SHECHTMAN: Let's be real
13 quick, because we may be able to just
14 say "me" and move on if the answer is
15 "me."

16 THE WITNESS: We'll be real
17 quick. Sorry about this.

18 THE VIDEOGRAPHER: The time is
19 3:13 p.m. This concludes Media 7. Off
20 the record.

21 (Recess taken from 3:13 p.m. to
22 3:16 p.m.)

23 THE VIDEOGRAPHER: The time is
24 3:16 p.m. This begins Media 8. On the
25 record.

1 MR. SHECHTMAN: I think the
2 question pending is: Whose idea was an
3 investigation?

4 And I think Steve can answer that
5 question, and then I've got to, sort of,
6 draw a line after that because issues as
7 to the who should be appointed and the
8 like I'm told are privileged.

9 But I think the question of whose
10 idea it was is he can answer unless you
11 think it waives something. But I'm okay
12 with him answering.

13 Go ahead.

14 A. So the answer is that, putting
15 aside what I might have recommended or
16 suggested privately, that there certainly was
17 a time around this period when to the group I
18 had said that it was probably wise to consider
19 bringing in somebody to generally do an
20 investigation of the allegations.

21 I may not have been the only
22 person recommending it. And I think that
23 certainly, when I start discussing it, other
24 people start discussing it as well. But, you
25 know, I certainly encouraged that.

1 BY MR. KIM:

2 Q. And what were some of the names
3 that were --

4 MR. SHECHTMAN: And there I have
5 to stop, though. I'd say it's bizarre,
6 Joon, because you have some documents
7 that they've waived on that I don't get.

8 MR. KIM: Including obviously
9 Judge Jones and Robbie Kaplan.

10 MR. SHECHTMAN: I don't know that
11 Robbie was discussed.

12 MR. KIM: There are documents
13 that have Robbie Kaplan as a
14 possibility.

15 MR. SHECHTMAN: But I think I'm
16 going to have to invoke. And I can't
17 explain why you have those documents,
18 given my marching orders.

19 A. I think I can say, though, that
20 there were a number of -- that it was not a --
21 sort of, a suggestion of one person and only
22 one person.

23 MR. SHECHTMAN: You can stop
24 there. It's nice to see you.

25 THE WITNESS: I don't understand

1 the line we're drawing, but it's not our
2 line.

3 MR. SHECHTMAN: Not my line.

4 Q. And then was there -- do you
5 remember being in discussions about whether or
6 not a referral should be made then to the
7 attorney general's office?

8 A. Yeah. My best recollection on
9 this was it was an issue that began
10 percolating, I think in the public, as well as
11 it may have been with the governor's counsel's
12 office. I don't specifically recall how the
13 thing -- how the question ends up getting
14 raised.

15 But, ultimately, that gets
16 raised, the idea of doing a referral.

17 Q. Can you take a look at Tab 40.

18 A. Yeah.

19 Q. And there's a -- first a
20 statement below from Governor Cuomo about
21 Ms. Bennett.

22 A. Mm-hmm.

23 Q. Did you -- on that one, do you
24 remember what role you played in the drafting
25 of that statement?

1 A. I don't recall having any role
2 drafting this statement.

3 Q. And how about the second
4 statement about -- from Beth Garvey about --

5 A. Yeah, I'm sorry. I was referring
6 to both of them. I don't recall -- as I sit
7 here today, I don't recall being involved in
8 drafting this.

9 Q. Okay. Had you reached out to
10 Judge Jones about potentially serving in this
11 capacity?

12 MR. SHECHTMAN: I think you're
13 okay to answer.

14 A. Yeah, I did.

15 Q. And was she prepared to?

16 A. She needed to run conflicts,
17 which she did, but she was receptive to taking
18 on the assignment.

19 Q. Did you reach out to her on your
20 own initiative, or did someone ask you to?

21 A. There was a consensus among a
22 group of lawyers. Ultimately, I
23 believe -- obviously, the governor agreed with
24 it. Without betraying any confidences, we
25 wouldn't have done it without approval. I

1 think that's self-evident.

2 And so the notion was that I
3 should reach out to Judge Jones to see if, now
4 that she said she had cleared conflicts, if
5 this was acceptable to her, she would do it.

6 Q. And then can you take a look at
7 Tab 41.

8 A. Yeah.

9 Q. And there's a statement, a
10 release from Attorney General James about a
11 referral, and then Peter Ajemian saying, "What
12 the hell is going on" to a group, including
13 you.

14 What do you remember about this
15 exchange and learning about the AG's
16 statement?

17 A. I may be out of sequence, and I
18 thought there was a statement, and it would
19 help me remember the sequence. And again, I
20 think there are two events that may be taking
21 place almost side-by-side or one is overtaking
22 the other.

23 So there was pushback I know from
24 the AG's office from the notion that we were
25 going to retain Barbara Jones. And I think

1 there was a general understanding -- you've
2 got to ask Peter Ajemian about this -- that
3 the AG would be okay with us appointing
4 somebody.

5 And what my understanding is, is
6 his statement of "What the hell is going on"
7 is that if there is an understanding that it
8 will be okay to appoint somebody or retain
9 somebody technically -- I don't think it was
10 actually an appointment -- then why are we
11 suddenly seeing the AG asking for a Section 63
12 referral? And that was Peter's reaction.

13 Q. And did you get an explanation
14 for that?

15 A. No.

16 Q. And around this same time period,
17 were you involved in working on a statement
18 that the governor was going to issue?

19 A. I'm sure I was involved in, sort
20 of, being sent many statements --

21 Q. Yeah.

22 A. -- or working on them may --
23 depending on the statement, may be too -- give
24 me too much involvement or credit.

25 Q. Okay. And do you remember

1 getting on calls where you're talking about
2 potential statements?

3 A. Yeah.

4 Q. If you can take a look at --
5 actually, this is a little out of order, but
6 85.

7 A. A little out of order?

8 Q. Yeah. I know. We put it in at
9 the end. We had already made the binder.

10 MR. SHECHTMAN: That's okay.

11 That's okay.

12 A. Yeah.

13 Q. And this is an exchange, you,
14 Steve -- you, Melissa, and Stephanie Benton,
15 "Is Steve on with him," and you say:

16 "I'm back with you now."

17 "Did you talk to him. Is the
18 statement done."

19 You say:

20 "He says he's taking out the
21 stuff that doesn't work and will resend.
22 He understands he can't fight it being
23 through AG."

24 A. I don't -- I'm sure if I looked
25 at some documents, I could figure out what the

1 statement was at that time.

2 But I was -- I suspect this
3 refers to the notion -- and I may be proven
4 wrong by documents you show me, but I suspect
5 this relates to the notion that there was an
6 agreement where the AG and the chief judge of
7 the New York Court of Appeals, so Leticia
8 James and Janet DiFiore, would agree to work
9 together to select somebody who would be in
10 the position that you are in now as, you know,
11 the -- a special deputy attorney general to
12 conduct this, you know, an investigation of
13 the allegations.

14 And so I think Melissa wanted to
15 know what the status of that was. But I
16 assume -- I don't know what the nomenclature
17 on the right means in terms of the time
18 stamps, because these times seem --

19 Q. Yeah. No, they're late. I think
20 it's Greenwich Mean Time, so five hours.

21 A. Five hours. So at 11:30 in the
22 morning -- right? -- this is going on. And
23 there seems to be a view that I'm being
24 pushed, is this done, is there a statement,
25 and that -- I don't know what the stuff is he

1 doesn't like, because I have a hunch that what
2 I did was edited something. I didn't generate
3 it myself.

4 And that I think there was, if
5 I'm reading the last sentence correctly, the
6 notion was that we would have the referral --
7 by the way, I think this actually is really a
8 question of how you deal with Executive Law 63
9 and what provision is 63, whether it's 63.3
10 which didn't work, should it be 63.8. As you
11 know, 63.8 is kind of a clunky mechanism for
12 this.

13 And then I'm being told, I didn't
14 know it myself, the "he" -- I assume it's the
15 governor -- "understands that he can't fight
16 it being through the AG," meaning that it's
17 going to be a deputy attorney general
18 appointment, that you can't do -- the governor
19 has no legal authority to appoint somebody to
20 do an investigation.

21 It's got to be through the AG,
22 other than a Moreland, and Moreland doesn't
23 work here. So I think that's what this is
24 about. And it's a back and forth about what
25 that announcement should say.

1 But I'm not -- as I sit there on
2 whatever this date is, on February 28, I'm
3 trying to piece it together myself because I
4 don't know what's going on in whatever
5 conversations are taking place with the AG.

6 I just know that I've spoken to,
7 at that point, Janet DiFiore.

8 Q. And at this point, are you
9 talking to the governor in person --

10 A. No.

11 Q. -- or by phone?

12 A. By phone.

13 Q. You're away from --

14 A. Yeah. Just for clarity sake,
15 after that February trip, I didn't go back to
16 Albany.

17 Q. Okay. And you said you also
18 spoke to Janet DiFiore?

19 A. I did.

20 Q. Okay. And about what?

21 A. For completeness, there was a
22 point in time when I was trying to put
23 together a list of potential independent
24 investigators or lawyers to do an independent
25 investigation. And I thought it wouldn't be a

1 bad idea to see if she had any ideas. That
2 was earlier.

3 And then I was asked to call her
4 about this idea that she, along with AG James,
5 would together select somebody for what turned
6 out was going to be a referral. And so I
7 spoke to her about -- I think it was two
8 calls.

9 The first was, I am -- I'm not
10 even familiar with the judicial canon of
11 ethics. I don't know what you can or can't do
12 as a New York State judge. So the first was
13 to say, look, you may be asked if you're
14 willing to do this. I didn't want you to be
15 blindsided. I don't know whether you can or
16 can't do this.

17 And then I got a call back that
18 she had referred -- had a conversation with
19 counsel for the courts and that it was
20 perfectly okay to do it.

21 And then I had a conversation
22 with her saying something along the lines of,
23 okay, it looks like we're going to do it, and
24 it's going to be announced. And that would
25 have been shortly before this exchange.

1 So I would have talked to
2 probably Chief Judge DiFiore that morning.
3 And then it was, oh, it's going to be
4 announced.

5 Q. And whose idea was it to have
6 that as an option, Janet DiFiore and --

7 A. I don't know whose idea it was.
8 I mean, I think I probably talked to Melissa
9 who told me this was what they wanted to do.

10 Q. And if you can go back now to
11 Tab 42. It's the same day, the 28th.

12 A. Yeah.

13 Q. There's drafting over a
14 statement. And then Tab 43 is a statement,
15 they say, "Sending this out shortly," and then
16 44 is the same.

17 What role do you remember playing
18 in drafting this statement?

19 A. I recall discussions about the
20 statement. But in terms of participating in
21 the actual drafting, I don't recall any role.

22 Q. Did you have discussions with the
23 governor about this statement?

24 A. There came a point where I did,
25 but I don't know which of these various

1 statements that those conversations would have
2 taken place.

3 I mean, it's -- what's happening
4 now, and I think the e-mail and text trail
5 shows it, is that things are accelerating.
6 And there's more than one thing going on now.

7 This is a good example. It's the
8 appointment. It's the, you know, do you
9 respond to Charlotte Bennett. What do you
10 say? Do you, you know, make a statement of
11 contrition? And in connection with a number
12 of those things.

13 And the question of who is going
14 to represent the governor if there's going to
15 be an investigation, and who is going to
16 represent the chamber.

17 So there were a series of
18 conversations I would have had separately with
19 the governor about those things, but it's very
20 hard for me sitting here today to tease out
21 which was which and when they were over that,
22 you know, relatively short period of time.

23 Q. Yeah, there are a lot of things
24 that start happening at the same time. So if
25 you look at Tab 45, you're on text now about

1 the -- Gareth Rhodes' wedding, a picture.

2 Were you at the wedding?

3 A. I was.

4 Q. And did you see any of the
5 interactions?

6 A. No. The wedding was very
7 crowded. It was at, I think, a place called
8 Toro on the west side. And it was crowded.
9 It was hot. There was an open bar and passed
10 hors d'oeuvres but not a lot.

11 And the servers were having
12 trouble getting through the crowd because it
13 was so -- so it was not what I would call -- I
14 wish Gareth and his wife the best of luck. I
15 was happy to be there. I was happy to say
16 hello and give them my best.

17 But this is not a place I was
18 looking to linger. And there was a general
19 mob around the governor at the event, and so I
20 waited. I felt like I had to see him and say
21 hello. I did.

22 I had to congratulate Gareth. I
23 did. And then I left. So, you know, I didn't
24 see any of the -- things that led to the
25 allegations.

1 Q. Did you see the governor, sort
2 of, hold or kiss anyone other than the -- or
3 you didn't see?

4 A. Well, I saw -- look, I saw him.
5 I'm sure I kissed him. I'm sure he kissed me.
6 I think there was a lot of, sort of, the
7 governor's typical greeting going on. He was
8 being treated at that event, I think it's fair
9 to say, like a celebrity, and he was
10 responding in kind.

11 There were a lot of people taking
12 selfies. There was a photographer, a lot of
13 people lining up to be photographed with the
14 governor. And his standard greeting in those
15 events is to kiss someone on the cheek. And I
16 certainly witnessed that and experienced it.

17 Q. So in this -- on 45, if you start
18 at the bottom, or at the end, which is the
19 beginning, Jesse McKinley of the New York
20 Times reaches out to Azzopardi and Ajemian and
21 say they're working on this article about
22 Gareth Rhodes.

23 Melissa DeRosa writes back:

24 "The governor has kissed and
25 hugged and posed for photos with men and

1 women alike at thousands of public
2 events," et cetera, et cetera.

3 Linda Lacewell says, "No," and
4 you say, "Agree with no." I think
5 that's your only response in this chain.

6 A. I hate to say it, but it sounds
7 consistent with my practice.

8 Q. And what was that? What was that
9 practice?

10 A. To not -- try not to engage in
11 discussions generally on e-mail that require
12 some thought and nuance. And I tended not to
13 be too heavily focused on the e-mail traffic
14 or the texts unless somebody called me and
15 said, you know, "You better take a look at
16 this."

17 I don't know what it was about
18 this one that drew my attention. But when I
19 read this -- do I have further?

20 Yeah, I mean, Linda explains it,
21 which is, what, are you going to get into the
22 business of every one of these allegations
23 that come up? You're going to put out a
24 statement explaining it?

25 You've made your statement. Move

1 on. And by the way, it's not addressing the
2 allegation.

3 And I don't like putting
4 out -- by the way, there is a disagreement
5 about this, but I generally don't like -- and
6 I'm sure you are talking to and have talked to
7 and will talk to the press guys.

8 The press guys in that world
9 oftentimes put out things that, as a lawyer,
10 make you a little -- cranky is the word I'll
11 use, because you're putting out a statement
12 that's not responsive to the question.

13 And I think oftentimes, you're
14 better off not saying anything if you're not
15 going to be responsive to the question. And
16 this also wasn't really responsive to what was
17 being asked.

18 Plus, you know, as Linda said
19 here, what are you going to do? Every time
20 there's a claim that he, you know, that the
21 governor, you know, kissed somebody and that
22 their view of it was that it was
23 inappropriate, that you're going to have to
24 put out a statement?

25 Well, you know, where does that

1 end? So draw a line and don't do it. I don't
2 know what happened, by the way. It may well
3 be they put out the statement.

4 Q. Did anyone ask you to call Gareth
5 Rhodes?

6 A. No.

7 Q. Do you know Gareth?

8 A. Yeah, I do know Gareth. I'm not
9 particularly close to Gareth. I mean, I've
10 known him for a number of years. But I never
11 worked with Gareth.

12 Q. And were you part of any
13 discussions about reaching out to Gareth
14 Rhodes?

15 A. No.

16 Q. Around this time period, did you
17 come to learn that the governor was going to
18 have a press conference where he was going to
19 appear in public and probably have to respond
20 to these allegations?

21 A. Yes. To more accurately
22 characterize it, there was a notion, and I was
23 part of that, that he is going to have to get
24 out and address these allegations directly.

25 So I wasn't the only person who

1 held this view, but it wasn't as if -- you
2 know, and many of these things I'm learning
3 about them and I'm not reacting. This one is
4 one where I actually had a view and I
5 expressed that view. And there were a number
6 of people who agreed with my view.

7 Q. And what was that view, that he
8 needed to address it?

9 A. Yeah, that there comes a point in
10 time when you're going to have to address
11 this. You're going to have to go out and see
12 the press. There was a sense that the
13 government was grinding to a halt. I don't
14 know how else to characterize it.

15 By the way, I don't believe that
16 was true, but that was the perception. And so
17 the governor needs to be seen and the governor
18 needs to be heard. And when these kind of
19 allegations are made, it's fair to wait a day
20 or two or even three to think through what you
21 want to say and how you're going to address
22 them.

23 But the public has the right to
24 hear from the governor and hear them addressed
25 correctly. And that was my view. And they

1 knew that was my view.

2 Q. And was there a decision -- or
3 were there meetings that were held to prepare
4 him for that?

5 A. There was -- I don't know if it
6 was a meeting or a series of meetings in
7 Albany that took place, I think, over the
8 weekend before what I think ended up being a
9 Monday press conference.

10 Q. But it sounds like you didn't go?

11 A. I did not go.

12 Q. Okay. So if you look at Tab 47.

13 A. Yeah.

14 Q. (Reading):

15 "Are we on for 4 p.m. in Albany?
16 Please let me know. I'll have tests
17 ready and find a room best for size of
18 group."

19 From Stephanie Benton.

20 A. Right.

21 Q. And this group here, do you
22 remember all of them being part of these
23 discussions?

24 A. At various times. Not
25 necessarily all together, but at various

1 times. And I think a number of these people
2 went to the Albany prep session. I don't
3 believe Josh Vlasto went. I don't know about
4 the others.

5 If my recollection serves, I
6 think Jeff Pollock had a conflict. I think he
7 went for part of it, but I don't recall the
8 specifics of when he showed up or how long he
9 was there.

10 Q. And did you participate by phone,
11 or no?

12 A. No.

13 Q. So you didn't participate at all?

14 A. There may have been a point where
15 I got a call from somebody to ask about some
16 issue. It didn't strike me as -- whatever it
17 was, it wasn't particularly material.

18 And at various times, people
19 called me from there, just telling me, you
20 know, oh, yeah, we're meeting or we -- you
21 know, it's going -- it started late or, you
22 know, frankly, I can't believe I'm up here.

23 I mean, so I got those kind of
24 calls. You know, a number of these people are
25 my friends, and so I'm sure I also got calls

1 saying, you know, how did you manage to avoid
2 being up here?

3 Q. How did you manage?

4 A. [REDACTED]

5 [REDACTED]

6 [REDACTED] And, you know, I
7 think my general approach at that point was,
8 unless there's a real need for me to be in
9 Albany, I'm not going to Albany.

10 And I had gone up for that, you
11 know, three- to four-day stint. And the idea
12 of sitting in a car for three, three and a
13 half hours, [REDACTED]

14 [REDACTED] I just -- I couldn't do it.

15 Q. So did you participate at all in
16 any substantive way in his prep, the
17 governor's prep?

18 A. I think that there may have
19 been -- there were two times he went out and
20 did public -- and, sort of, addressed the
21 public in a press release -- in a press
22 conference context.

23 And I would have seen those
24 drafts. I don't know how -- again, with this
25 number of people, I don't have a lot to add.

1 I mean, you've got a bunch of people who
2 really are professionals and know what they're
3 doing on, sort of, the managing the message
4 and what he says and how does he sound and
5 look.

6 You know, that's not my
7 expertise. So, you know, I thought, I don't
8 really need to be weighing in here. I thought
9 it was a little odd for me to be weighing in.

10 There were one or two points,
11 though, that, you know, I felt the need to
12 sharpen the message or say, "Why are you
13 saying that?" And so I think I did weigh in,
14 but to a limited extent.

15 And I also knew that, you know --
16 by this point, I felt very strongly that if
17 the AG was doing the investigation, you can
18 have a denial, but you shouldn't be getting
19 into the facts. You shouldn't be having your
20 lawyers get into the facts in public.

21 If you want to address the public
22 on a factual issue, don't do it through your
23 lawyer, do it yourself. You're not going to
24 want to do it yourself, so don't do it.

25 And that this is about -- and

1 your argument now should really turn to, this
2 is about due process. And we have somebody
3 looking at this. Governor says he didn't do
4 anything wrong. Investigator is going to look
5 at it. And you either believe in due process
6 or you don't.

7 And I thought that should be much
8 more of the tone of what was being said. But,
9 you know, I think that ends up getting baked
10 in there somewhere.

11 Q. Can you turn to Tab 49.

12 A. Yeah.

13 Q. And now the issue is Karen Hinton
14 has said things.

15 A. Yeah.

16 Q. And you're copied on some e-mails
17 about how to respond to that?

18 A. Yeah.

19 Q. And on the second page of this
20 document, the reporter, Amy Brittain, says:

21 "Two male aides who worked for
22 Cuomo over the course of his career says
23 he berated them with explicit language:
24 Sometimes calling them 'pussies' and
25 sometimes saying 'you have no balls,'

1 among other comments."

2 And Melissa DeRosa says:

3 "We have officially jumped the
4 shark."

5 Had you heard the governor use
6 terms like that?

7 A. No.

8 Q. You'd never heard him say someone
9 has no balls?

10 A. I once heard him say, in a joking
11 manner -- I don't think it was in front of a
12 group, it may have been to me. I'm trying to
13 remember what the phrasing was.

14 I'm going to get it wrong, but
15 the suggestion was -- this was in the AG's
16 office -- that, you know, either -- it was
17 either me or [REDACTED]. We weren't being
18 aggressive enough about something.

19 He didn't say, "You don't have
20 balls," though. But it would have been -- and
21 again, I'm going to guess, it would have been
22 something along those lines. Frankly, a
23 little classier than that, but the import was
24 the same.

25 Q. And you hadn't call -- seen him

1 call anyone a pussy?

2 A. No, that, I've never seen him
3 call anybody a pussy.

4 MR. GRANT: And why was it your
5 understanding that he was joking?

6 THE WITNESS: Because I had a
7 relationship, as did [REDACTED], with the
8 governor where we would oftentimes push
9 each other and berate each other and,
10 you know, suggest that, you know, that
11 you were being too timid on a difficult
12 issue.

13 But I never saw him, for example,
14 in a staff meeting, say that or -- and
15 certainly, I never heard him call
16 anybody a pussy.

17 MR. GRANT: With respect to you
18 being too timid, was this in relation to
19 a work assignment or some work task?

20 THE WITNESS: Given the passage
21 of time, I'm now guessing. I mean,
22 it -- this is -- we're talking about 12
23 years ago.

24 MR. GRANT: All right.

25 BY MR. KIM:

1 Q. At the top here, Judy Mogul says
2 "Blue highlighting is Kaitlin?" she asks.

3 Do you know who she was referring
4 to?

5 A. I don't know if I knew at the
6 time. I've heard the name Kaitlin [REDACTED]
7 mentioned. I don't know who Kaitlin [REDACTED] is.

8 Q. There's some other documents
9 we'll show you on that.

10 Did you end up speaking with Amy
11 Brittain?

12 A. No.

13 Q. No? Washington Post?

14 A. No.

15 Q. Okay. So did you speak with
16 anyone at the Washington Post?

17 A. No.

18 Q. Okay. Can you look at Tab 50?

19 A. Maybe I did.

20 Q. So you say, "Steve and I just
21 did" --

22 A. Maybe I spoke to --

23 Q. Maybe some of your commentary
24 will jog your memory. You say, "How was it?"
25 You say, "Rocky 3."

1 A. Yeah, I don't --

2 Q. And then you have some references
3 to characters in Rocky 3 that maybe only some
4 of us will remember, "MDR as Clubber Lang."

5 A. If we spoke to anybody, it would
6 have been -- I would imagine it would have
7 been Josh Dawsey. I don't know that other
8 reporter. I mean, maybe they put me on the
9 phone with a reporter. That's conceivable.

10 I mean, over the past number of
11 years, there have been times when there are
12 press calls about something, you know, having
13 to do with, sort of, the governor's history
14 and how he behaved or, you know, a position he
15 took or how the office operated.

16 And I'll get a call saying,
17 "Would you get on a call with this reporter."
18 And usually, if it's something I could speak
19 to, the answer would be yes.

20 My guess is, on this one, it
21 probably was because it was Karen Hinton. But
22 I -- you know, sitting here, I obviously don't
23 recall being in this because I didn't recall
24 my rather witty characterizations of what went
25 on.

1 Q. Do you remember Melissa DeRosa
2 getting beaten up?

3 A. No. No. And I'm not sure she
4 was beaten up. I think --

5 Q. That's what I recall happening to
6 Clubber Lang, but it's been a while.

7 A. Well, first Clubber Lang wins,
8 and then he ultimately loses. I think I was,
9 sort of -- the reference was that she was, you
10 know, tough. Meanwhile, I guess that I'm
11 referring to myself as Mickey.

12 Q. Who dies?

13 A. Who dies. "I love you, kid."

14 MR. GRANT: Melissa DeRosa used
15 to run communications for the governor.
16 Right?

17 THE WITNESS: She was
18 communications director. That's right.

19 MR. GRANT: So why would you need
20 to be on the call?

21 THE WITNESS: Because if they
22 wanted to address something with, for
23 example, Karen Hinton, where it would
24 have been prior to Melissa having
25 first-hand knowledge, she probably would

1 have said,
2 Hey, will you come and talk about the
3 relationship the governor had with Karen
4 Hinton," which is something that I'm
5 capable of doing with first-hand
6 knowledge.

7 And I can't address the
8 allegation obviously, but there's a long
9 history between Karen Hinton and the
10 governor, a falling out between the two
11 of them. And I -- my best guess is
12 that's why they would want me on that
13 call.

14 Q. And what do you know -- what do
15 you know about -- or how do you know Karen
16 Hinton?

17 A. Karen is married to Howard
18 Glaser. Howard is a friend of mine. I've
19 known Howard for 35 years. And I met Karen
20 through Howard probably in 2007 or '08 when we
21 were in the AG's office.

22 Karen then came and worked in the
23 gubernatorial campaign for a short period of
24 time. I got to know her there. And there was
25 some notion that Karen would come into the

1 administration, which didn't happen in 2011,
2 but Howard did.

3 And Howard, when I was secretary
4 to the governor, he served as director of
5 state operations, and ultimately left and
6 ultimately worked at a MacAndrews company,
7 where he still is.

8 Q. And what's your relationship like
9 with Howard Glaser?

10 A. Good.

11 Q. How about Karen Hinton?

12 A. Karen [REDACTED]
13 [REDACTED]
14 [REDACTED]. I really haven't been
15 in contact much with Karen since then. They
16 ultimately -- they were living up in
17 [REDACTED], and now live in [REDACTED]. I
18 think part of it was to have a change of
19 location for her.

20 So I really have had very little
21 contact with Karen in the last, call it four
22 or five years. There was a source of tension
23 when Karen ultimately joined the de Blasio
24 administration. She was there for about, I
25 think, nine or 10 months.

1 I think while she was there, I
2 probably talked to her. That may have been
3 the last time I spoke to Karen.

4 Q. What did you tell the Washington
5 Post reporter about Karen Hinton?

6 A. That she has a long and
7 contentious relationship with the governor,
8 that she worked for him in HUD -- by the way,
9 I'm assuming this is what I said because this
10 is what I have to say about the topic -- that
11 when I first met her, which would have been in
12 2006-2007, that there was no issue between the
13 two of them.

14 That Karen was very interested in
15 coming back to work for the governor. That I
16 saw no indication that there was any kind of
17 animosity between the two of them, just the
18 opposite. That I know Karen was upset because
19 she wasn't hired into the administration.

20 I was surprised because I didn't
21 know Karen wanted to be hired into the
22 administration. Ultimately, she went to work
23 for Bill de Blasio. There was a general sense
24 that she was responsible for Mayor de Blasio's
25 attack on the governor when he said he

1 believes in vendettas.

2 The governor believed that must
3 have been coming from Karen. They had -- to
4 the extent their relationship was already bad,
5 it got worse. That in all these years, I've
6 never heard any, you know, claim from either
7 Karen or Howard that the governor ever acted
8 inappropriately towards Karen.

9 That would have been the gist of
10 it. I'm surprised it wouldn't have involved
11 speaking to Josh Dawsey, although sitting here
12 I don't recall, because Josh Dawsey knows
13 Karen well and knows the history. So that's
14 what it would have been.

15 Q. At this point, what were the
16 allegations that Karen had made about the
17 governor?

18 A. I've got to look to see.

19 Q. Yeah, I mean, it was a -- that he
20 hugged her in a hotel room --

21 A. Yeah, I think that was it.

22 Q. -- in Los Angeles.

23 A. Yeah.

24 Q. That made her feel uncomfortable.

25 A. Yeah. Summoned me to a dimly-lit

1 hotel room, physically embraced, and following
2 a work event, you know, pulled away and Cuomo
3 pulled back towards his body, holding her
4 before she broke away and left the room.

5 Q. So your view is that was false as
6 well?

7 A. I don't know whether that was
8 true or false. I had no reason to believe it
9 was true. And it was news to me that I was
10 hearing this for the first time after 20
11 years, or however long I've known Howard and
12 Karen.

13 But, you know, I couldn't speak
14 to the specific allegations. I could put the
15 relationship in context, though. And I think
16 that's what I was called upon to do.

17 MR. GRANT: Because you've seen
18 the governor hug people. Correct?

19 THE WITNESS: What she is
20 describing is not the kind of hug that
21 I've seen the governor give people.
22 What she's describing is conduct that
23 is -- it's over a line.

24 That's not what I've seen the
25 governor do. What I've seen the

1 governor do is give people the kind of
2 embrace that is socially acceptable or
3 was before COVID.

4 You know, it's the kind of
5 embrace that I would receive from the
6 judges I clerked for, or, you know, any
7 number of people that I'm friendly with
8 that I don't see on a daily basis.

9 It's the kind of hugs that my
10 [REDACTED] give their friends all the time.
11 It's what my [REDACTED] gave me
12 when, you know, I last saw her. Nothing
13 inappropriate.

14 What's described here, at least
15 as I imagine it, is something that made
16 her feel, if you believe the allegation,
17 uncomfortable. And that's different.

18 So this was different than what I
19 had seen the governor do. And, again, I
20 can't speak to whether it did or didn't
21 happen. It was -- I think it's 2000.
22 It was 20 years ago.

23 My point was there's a long
24 history that these two have that is
25 acrimonious. Karen is now writing a

1 book -- I think at this point, we knew
2 at this point that she's writing a book
3 called "Penis Politics," and that both
4 Bill de Blasio and Andrew Cuomo were
5 going to be in the book as examples of
6 practitioners of penis politics.

7 And I thought, as reporters will
8 often tell me, I'm not saying you have
9 to draw any conclusion from all of this,
10 but you may want to think about all of
11 that in context before you credit her or
12 believe her.

13 MR. GRANT: And then when you say
14 that what you observed wasn't
15 uncomfortable, that was just based on
16 you on the outside looking at his
17 embraces or the embraces he's had with
18 you? You're not necessarily in these
19 people's minds when they're getting
20 hugged?

21 THE WITNESS: I can tell you that
22 I absolutely appreciate the fact that
23 different people have different
24 thresholds. I actually have a pretty
25 low threshold; in fact, sort of a joke

1 with [REDACTED], which is no one's
2 allowed to touch me.

3 But, you know, sort of, there's a
4 general range. A friend of mine once
5 jokingly said -- I was going to see
6 somebody he knew, and he couldn't go to
7 his wedding, and he said, "I want you to
8 hug him like this."

9 And he came over to me and hugged
10 me. And after a good three count, when
11 normally that hug would be over, he kept
12 hugging me. And then he whispered in my
13 ear, "You see what I mean"?

14 And, I mean, it's one these
15 things that stands out in my mind,
16 because there was no doubt that what he
17 wanted me to do was give his friend
18 something that would make him feel
19 uncomfortable.

20 Now, I recognize people have a
21 different threshold, but as a general
22 matter, the hugs that I have received
23 from Andrew Cuomo and Mario Cuomo, sort
24 of within the norm of what I think most
25 people would consider acceptable and

1 appropriate, recognizing people have
2 different thresholds.

3 This is not that. What Karen
4 Hinton is describing is decidedly not
5 that.

6 MR. SHECHTMAN: Joon, 4 o'clock.
7 Should we take five more minutes
8 and --

9 MR. KIM: Sure.

10 MR. SHECHTMAN: How are you on --
11 towards the finish? We can go off the
12 record, I think, just for -- if you're
13 comfortable. We'll go off the record.

14 THE VIDEOGRAPHER: The time is
15 3:58 p.m. This concludes Media 8. Off
16 the record.

17 (Recess taken from 3:58 p.m. to
18 4:12 p.m.)

19 THE VIDEOGRAPHER: The time now
20 is 4:12 p.m. This begins Media 9. On
21 the record.

22 BY MR. KIM:

23 Q. So when we took a break, we were
24 talking about how you had not seen anything
25 inappropriate by the governor like what Karen

1 Hinton had alleged?

2 A. Yes.

3 Q. You also had not personally heard
4 the governor ask someone about age differences
5 in sex partners?

6 A. Correct.

7 Q. You hadn't personally seen him
8 ask a young staffer about her relationship
9 status, had you?

10 A. That's right.

11 Q. You hadn't seen her or heard of
12 him -- seen him or heard of him asking whether
13 a young staffer had been with an older man?

14 A. That's correct.

15 Q. And you hadn't seen or heard him
16 say he would be okay with someone who was 22
17 or older?

18 A. That's correct.

19 Q. Okay. Those were essentially
20 Charlotte Bennett's allegations, as you
21 understand them. Right?

22 A. Yes. From the public reporting,
23 that is what I understand her allegations to
24 be.

25 Q. And anyone you've spoken to in

1 the executive chamber, is there anyone who
2 questioned Charlotte Bennett's version of what
3 interactions she had with the governor?

4 MR. SHECHTMAN: I have to invoke
5 the privilege again because I think it
6 trenches on the conversations with Judy.

7 Q. Other than in conversations that
8 involved Judy Mogul, have you had any
9 discussions with anyone in the executive
10 chamber about the credibility of Charlotte
11 Bennett's allegations?

12 MR. SHECHTMAN: That you can
13 answer.

14 A. Other than speaking to Judy, the
15 governor -- putting aside Judy and the
16 governor, I don't recall -- and I guess Beth
17 Garvey, I don't recall ever having a
18 conversation with anybody who questioned
19 Lindsey Boylan's veracity.

20 I do recall people talking
21 about -- although I think this was probably
22 publicly -- the evolution of her story. But
23 that's different than what you're asking.

24 Q. And you said Lindsey Boylan, but
25 you meant Charlotte Bennett?

1 A. I apologize. Charlotte Bennett.

2 Q. And what have you heard about the
3 evolution of her story?

4 A. I think that the suggestion has
5 been that from the version that first appeared
6 in the Times to whatever her interview was
7 on -- I think it was on CBS -- to later
8 statements that were made that the story had
9 changed. That was what I heard from a number
10 of people.

11 And I'm not -- to be clear, I'm
12 not saying that's right or wrong.

13 (Alarm interruption. Discussion
14 off the record.)

15 A. What I was about to say, I'm not
16 suggesting that I have in any way analyzed
17 that suggestion. It's just what I've heard.

18 Q. And have you heard that her story
19 changed in relation to the allegation that the
20 governor asked about age differences in
21 partners?

22 A. No, and the assertion wasn't that
23 specific. It was more of a generalized
24 statement that, you know, that it had evolved.
25 And again, I didn't really follow up. It

1 didn't strike me as being, at that point in
2 time, a particularly productive conversation
3 to have.

4 Somebody's investigating it. My
5 view was let them investigate.

6 Q. We -- on the other document,
7 there was a mention of a Kaitlin, and you said
8 at some point you learned the name Kaitlin
9 ██████?

10 A. Yeah.

11 Q. How did you learn her name?

12 A. It's hard for me to distinguish
13 between conversations I would have had where
14 the name might have come up with counsel, both
15 this counsel and counsel for the governor.

16 But, independently, I don't think
17 I've -- I know Kaitlin ██████ -- I'm sure I
18 don't know Kaitlin ██████ and I don't recall
19 anything specific about Kaitlin ██████.

20 Q. Okay. And do you remember in
21 December of 2020, shortly after Lindsey
22 Boylan's tweets, having a discussion with
23 Melissa DeRosa about Kaitlin ██████?

24 A. I might have. I might have. I
25 think there were a number of people that were

1 mentioned around that timeframe. But I don't
2 specifically remember Kaitlin [REDACTED].

3 Q. How about with Melissa DeRosa and
4 Linda Lacewell?

5 A. Similarly. I'm sure we had a
6 number of conversations about people. I don't
7 recall Kaitlin [REDACTED].

8 Q. Did you learn that at some
9 point -- let me take that back.

10 Do you know someone by the name
11 of Staffer #6 [REDACTED] or Staffer #6 [REDACTED]?

12 A. I don't -- well, I think Staffer #6 [REDACTED]
13 [REDACTED] is at MTA. And I think she's the
14 communications person. Staffer #6 [REDACTED], I
15 thought, was somebody in the AG's office years
16 ago, but I'm not sure. And if it's the same
17 person, I'm learning that for the first time.

18 Q. So Staffer #6 [REDACTED], did you hear of
19 any reach-out from Staffer #6 [REDACTED] to Kaitlin
20 [REDACTED] at the time, in December of 2020, after
21 Lindsey Boylan's tweets?

22 A. I hate to do this. Can we take a
23 30-second break?

24 MR. KIM: And this -- I
25 might -- this area -- I don't mean to

1 influence the testimony, but -- is an
2 area that they have waived.

3 MR. SHECHTMAN: Yeah.

4 MR. KIM: And there's a
5 conversation between Linda Lacewell,
6 Melissa DeRosa, and if he remembers,
7 Steve, about Kaitlin [REDACTED] calling
8 Staffer #6 -- or Staffer #6 [REDACTED] calling
9 Kaitlin [REDACTED].

10 MR. SHECHTMAN: Before it
11 happened, Joon, or --

12 MR. KIM: December of 2020, or
13 after it happened.

14 MR. SHECHTMAN: After it
15 happened. Yeah, I don't -- that makes
16 sense.

17 MR. KIM: But you can talk.

18 MR. SHECHTMAN: Do you want to
19 talk?

20 A. Yeah, I don't have a specific
21 recollection of it. I know there were a
22 number of people, and probably that overstates
23 it. There were people that, as we talked
24 about earlier, that there was, you know,
25 outreach to.

1 I think it was largely focused on
2 concerns related to people involved with --
3 whatever "involved" means -- with Lindsey
4 Boylan. And so I have a, you know, a vague
5 recollection. I don't know if that was -- and
6 again, I'm confused about -- I'm assuming
7 Staffer #6 and Staffer #6 -- I think it was
8 Staffer #6 -- are the same person?

9 Q. I believe so. I believe one is a
10 maiden name.

11 A. Yeah, so I mean, that -- I have
12 a, sort of, general recollection of
13 conversations about that.

14 Q. Do you have a recollection of
15 conversation about someone recording a call
16 with Kaitlin [REDACTED]?

17 MR. SHECHTMAN: It may come from
18 me. I don't know if -- you tell me. Do
19 you want to talk?

20 THE WITNESS: Yeah, let's talk.

21 MR. KIM: Yeah. Okay. But just
22 on the record, I guess, this is a
23 subject that we had a lot of back and
24 forth with, with chamber, and they've
25 waived because obviously it came up in

1 talking to other people.

2 MR. SHECHTMAN: Yeah, that's
3 fine.

4 A. Yeah, what I'm worried
5 about -- and we're still on the record? What
6 I'm worried about is my recollection and how I
7 may recall this. I can say putting aside
8 conversations I might have had with counsel, I
9 have a general recollection of a discussion.

10 I may have learned more about
11 that by conversations with my counsel and
12 other lawyers in this matter. And that's what
13 I'm just trying to, sort of, navigate through.

14 But I have a general recollection
15 that there was some kind of conversation
16 about -- and again, I don't know these people,
17 but the relationship between Kaitlin [REDACTED]
18 and, I guess, Staffer #6 [REDACTED] was my
19 recollection.

20 MR. KIM: Do we still need a
21 break?

22 A. No, no, I think we're okay if
23 that suffices.

24 Q. Do you remember any discussions
25 about you being asked whether it was okay for

1 her to record the call?

2 A. Yeah, there was an evening where
3 I received a phone call from a number of
4 people. I think they had already received
5 advice that it was okay to record a call, sort
6 of, the usual statement about, you know, New
7 York being a single-party consent state. And
8 my sense was they were asking me for
9 confirmation if that was the law.

10 And then, again, I don't remember
11 the particulars, and I do recall, if I'm
12 thinking of the right event, it was fairly
13 late in the evening. And it would have been
14 with, I'm guessing -- I shouldn't
15 guess -- don't recall who was on the call.

16 And I said, yeah, that's -- you
17 can have somebody tape. I'd be careful,
18 though, and I wouldn't -- you know, I would
19 not -- if you're going to do it, make sure
20 that it's not suggestive and that the person
21 is comfortable doing it. And I think that was
22 sort of the gist of it.

23 Q. Did they tell you where
24 Kaitlin -- what state Kaitlin [REDACTED] was in
25 when the call was recorded?

1 A. I understood -- and I may have
2 been wrong and my recollection may be
3 wrong -- I thought she was upstate or in the
4 Albany area. That was sort of my general
5 understanding.

6 Now, again, I may -- in fairness
7 to everybody involved in this, that may be an
8 assumption that wasn't warranted. I don't
9 know what that's based on, but that was my
10 assumption.

11 Q. And did you understand what you
12 said was going to be conveyed back to **Staffer #6** or
13 the person who made the call and recorded it?

14 A. I -- I don't know beyond what my
15 conversation was.

16 Q. Did you hear at all why they were
17 reaching out to Kaitlin ?

18 A. I think it had to do -- and,
19 again, I'm -- this is the best I can do to
20 recall. I think it had something to do with a
21 series of tweets or people following other
22 people, the import of which, as I look back,
23 was not particularly clear to me, as to what
24 the significance of somebody following or not
25 following or unfollowing somebody on Twitter

1 was. But I think it related, in some form or
2 fashion, to that.

3 MR. GRANT: Do you recall if
4 there was any discussion as to why they
5 wanted to record the conversation?

6 THE WITNESS: There may well have
7 been, but sitting here today, I don't
8 recall.

9 Q. Have you heard the recording?

10 A. Have I heard the?

11 Q. The recording that was made.

12 A. No.

13 Q. Are you aware of -- were there
14 any other discussions about recording anyone
15 else?

16 A. I have a vague recollection. And
17 I may be confusing two issues. It's maybe one
18 and the same of -- I thought it was another
19 instance, although I think it's probably the
20 same.

21 I think what may have confused me
22 was the names, because if you would have asked
23 me without telling me that **Staffer #6** is
24 **Staffer #6**, I would have said I thought
25 there was a different event. So there may

1 have been another, or it may have been -- this
2 may have been one and the same. I think it's
3 one and the same.

4 Q. What's the other event?

5 A. I think what I've just described,
6 a similar sort of conversation. But this -- I
7 think it was just once.

8 Q. Subsequent to that discussion,
9 did you see a New York Magazine article from
10 March 11 talking about a Kaitlin in the
11 executive chamber?

12 A. Yes.

13 Q. And you read about how she said
14 she had been hired?

15 A. I recall an article in New York
16 Magazine. I don't recall the particulars. I
17 recall -- the incident I recall -- and it may
18 have been a different article because there
19 had been a number of them. There was a New
20 Yorker piece. There was a New York Magazine
21 piece.

22 There was an episode about
23 somebody being hired after going to a Super
24 Bowl party at Dorian's on the Upper East Side.
25 And I don't know if that's the incident you're

1 talking about. If not, I can -- if you've got
2 the piece, I'm happy to --

3 Q. No. There's a discussion about
4 someone being contacted and hired after a
5 Super Bowl party at Dorian's.

6 Did you have any personal
7 knowledge about that?

8 A. No.

9 Q. Did you talk to anyone about
10 that?

11 A. No. I was at the Super Bowl
12 party, but no. And probably left early in any
13 event, and was with [REDACTED].
14 But no, no recollection, and didn't see
15 anything like that.

16 And I never heard of -- until
17 this matter arose and until I think I read
18 that article, I was unaware of the suggestion
19 that somebody had been hired as a result of
20 their being at that Super Bowl party.

21 Q. The Kaitlin article talks about
22 her being at an event, not a Super Bowl party.
23 She said she meets the governor, and then I'm
24 summarizing for you, but we could -- and he
25 embraces her in an awkward pose. And then

1 she's contacted shortly after to apply and get
2 a job at the executive chamber, which she
3 does.

4 A. I hate to answer a question with
5 a question, but do you know where she had been
6 working before she was hired from the
7 governor's office?

8 Q. Yes. She was working at a
9 lobbying firm.

10 A. Was she at [REDACTED] firm?

11 Q. Yes.

12 A. Okay. So I had heard something
13 about the claim, this -- "claim" is the wrong
14 word, the hiring of somebody who had worked
15 for [REDACTED]. And I think before that,
16 she worked for -- I think she may have worked
17 for [REDACTED].

18 But I wasn't aware, I think until
19 it was in the press, of the suggestion that
20 she had been hired -- at least I don't
21 remember hearing that she had been hired as a
22 result of her being at whatever the event was.

23 Q. All right. And I was describing
24 her, what she said, the series of events that
25 she remembered.

1 A. Yeah. And again, I don't -- this
2 may have been one of those things that
3 was -- you know, in the midst of all of this,
4 was part of a conversation. But as I sit here
5 today, I don't recall it, other than I do
6 recall after it was public there being a
7 discussion about Kaitlin [REDACTED] and, you know,
8 who she is and what the circumstances were of
9 her hiring.

10 Q. And who did you talk to about who
11 she was and the circumstances of her hiring?

12 A. I don't recall. It would have
13 been the same general group. It would have --
14 you know, it would have probably included
15 Melissa DeRosa, Linda Lacewell, maybe Judy
16 Mogul.

17 Q. What did they say about how she
18 was hired?

19 A. I don't recall. I think it was
20 more a question of how do you respond to this.
21 But, you know, I don't have a specific
22 recollection of where that went.

23 Q. Did anyone say that she was not
24 telling the truth?

25 A. No. I think that the

1 conversation was more along the lines of there
2 was nothing unusual about -- I think -- and
3 again, I'm confusing some of these public
4 claims. But I think there was a claim that
5 somebody thought that they weren't qualified
6 for the job they were hired for.

7 I don't know if this was the
8 one -- this was the instance. And I know
9 there was a discussion of that, you know,
10 people who are hired for briefers typically
11 have very little experience and not a lot of
12 substantive experience.

13 I don't know if that's this
14 incident. And again, I've obviously confused
15 this with the woman who was, I guess, hired
16 after the Super Bowl party.

17 Q. What -- you had been out of the
18 executive chamber close to ten years at that
19 point. Right?

20 A. Yeah.

21 Q. What knowledge did you have about
22 who was getting hired to fill these executive
23 assistant roles?

24 A. Very, very little, with one
25 exception. Very little with one exception.

1 And although I was involved generally in
2 outreach and hiring, it tended to be for when
3 they were looking for senior people,
4 commissioners -- you know, I was involved in
5 hiring a, you know, a new policy director for
6 them.

7 But, you know, staff positions,
8 executive assistant positions, as I said, with
9 one exception, I knew nothing about that. And
10 it was never discussed with me.

11 Q. And what -- who was the one
12 exception?

13 A. There was a woman named [REDACTED]
14 [REDACTED] who worked at MacAndrews and Forbes,
15 somebody I was -- I came to be friendly with.
16 But at the time, [REDACTED] supported and worked in
17 [REDACTED] sort of main office. So I
18 knew her to say hello.

19 If I remember correctly, she was
20 a Dartmouth graduate. She reminded me of my
21 [REDACTED]. And I didn't understand why she was
22 working there, and I think I had spoken to her
23 on occasion about, sort of, what she was going
24 to do.

25 And then one day she told me, or

1 she told Josh Vlasto and Josh Vlasto told me,
2 that she was going to work or was being
3 considered for a position in the governor's
4 office. And then I learned what the position
5 was, which was essentially the same position
6 she had at MacAndrews.

7 I don't think I talked to her
8 about it at the time, but I thought it was,
9 for her, an odd transition. And I may have
10 even said to her -- although, again, I don't
11 have a specific recollection -- that I think I
12 encouraged her to go to law school.

13 Q. And had you recommended -- so you
14 had not recommended either to her or to the
15 executive chamber that she go there?

16 A. No, I was surprised to learn
17 about it. And I think she was so far along
18 that the point of -- there was no reference
19 needed. I think she may have already had the
20 offer.

21 And, you know, I probably said to
22 her what I say to most people which is, it's a
23 complicated place. You know, don't take
24 things too seriously. And that would have
25 been, sort of, you know, my standard, sort of,

1 advice to people.

2 Q. And what did you mean by "it's a
3 complicated place"?

4 A. It's a tough environment in that
5 you're under a lot of pressure there,
6 and -- not so much with the governor but with
7 everybody else.

8 By the way, I think the place has
9 changed in the years I've been out of there.
10 There was a real sense of -- not even
11 collegiality. When I was there, in part
12 because of who was there with me and how we
13 had, sort of, come in together, there was a
14 real sense that we were all working for each
15 other and with each other.

16 And there was a real effort made
17 to not put people in the center of things too
18 soon because it doesn't end well until you're
19 acclimated, you don't want to be in the
20 meeting.

21 And if that happens, you've got
22 to say to somebody "I know you want to be in
23 the meeting with the governor, but I'm telling
24 you, let's take this slow, I'm going to get
25 you out of the meeting, and once you know what

1 you're doing, you'll go into the meeting."

2 And so when people I
3 knew -- typically, people at a much higher
4 level were going in, I'd often talk to them
5 about what their approach should be and how to
6 be successful in that job.

7 I think I did a very, very
8 watered down version of that with [REDACTED].

9 Q. And what is it that you needed to
10 be successful to be in a meeting with --

11 A. You've got to be prepared. You
12 can't guess. You can't speculate. There are,
13 you know, a lot of time pressures. You've got
14 to roll with things.

15 Things change every day, and you
16 can't be disappointed or upset that something
17 you're working on today either has changed
18 into something else the next day or suddenly
19 it's at the top of the agenda, and now it's at
20 the bottom of the agenda.

21 And for a lot of people who first
22 walk in there, those kind of things can both
23 be disheartening, and as I've come to learn,
24 there's a sense that there are not a lot of
25 people there supporting you.

1 And so you've got to figure out
2 how to build, you know, your own relationships
3 with people to, you know, be successful.

4 Q. And had you seen the governor
5 berate people?

6 A. I'm not sure I'd use the word
7 "berate." I've seen him question people.
8 I've seen him push people. I've seen him ask
9 questions that somebody doesn't have an answer
10 to and basically express his frustration that,
11 you know, why are we even discussing this if
12 you don't have the answer.

13 And, you know, look, it's all in
14 the eye of the beholder, or depending on your
15 position. I'm not sure if I would call it
16 berating, you know, anymore than I would say
17 that [REDACTED], who has since now left us,
18 berated an assistant.

19 He asked tough questions. He
20 pushed an assistant. He gave you very little
21 quarter. But I didn't feel when I was in
22 front of [REDACTED] that he was berating
23 me.

24 Now, I have a feeling that a lot
25 of people would have felt otherwise. And I

1 think that is -- that's as close as I can come
2 to, sort of, answering, you know, what that
3 experience is like.

4 I mean, there were plenty of
5 things that I was involved in that I am sure I
6 was willing to shrug and move on and didn't
7 think much of it, that I'm not sure that would
8 have been everybody else's response to it.

9 And, you know, I recognize that I
10 came into that administration when I was a
11 fully formed lawyer. I had a deep background
12 of experience. I had been, just like you,
13 through experiences where you learn how to not
14 be rattled.

15 And I was in my 40s. You know, I
16 think it would have been -- it's not -- it is
17 a difficult place if you don't have those kind
18 of experiences and you don't have that kind
19 of, sort of, internal fortitude in dealing
20 with the pressure.

21 And I think there are a number of
22 people who felt like -- and again, I'm not
23 sure I'd use the word "berating," but felt
24 like it was too intense and it was too
25 unforgiving.

1 Q. Had you ever heard him call
2 people stupid?

3 A. No. In my tenure, I don't recall
4 him calling people stupid. There were plenty
5 of instances where people may have felt
6 stupid, but I don't recall him calling
7 somebody stupid.

8 I mean, I'll give you an example.
9 I have seen the governor, the AG, you know,
10 say something along the lines of "I blame
11 myself for this. It's messed up. I don't
12 know how we're going to fix it, but I blame
13 myself because I thought you could do this.
14 And I was wrong."

15 Now, you could argue that, said
16 to a person that doesn't have a lot of
17 confidence, that that's worse, you could
18 argue, than calling them stupid. But again --
19 and part of it is who's in front of you, my
20 reaction to that is to shrug and say, "Okay, I
21 blame you, too."

22 But I'm in a different position
23 than I think some of the people we're talking
24 about are. But that is some of the stuff that
25 I think for certain people made it a tough

1 environment to work in.

2 The flip side was he shared wins
3 just as much as he would put you under
4 pressure. He gave you full credit. He
5 celebrated your role in his successes.

6 And I think that you had to be
7 there long enough -- which is why I'm a big
8 believer that you didn't want to put people in
9 the middle of things too quickly. You wanted
10 to give them the time to acclimate and to see
11 the ups and the downs.

12 But it was a high-pressure
13 environment where success was demanded.

14 Q. Have you seen or heard him
15 threaten people?

16 A. Internally or on the outside?

17 Q. Start on the outside.

18 A. Yeah. Look, you know, I think
19 people say -- and I take exception to it --
20 that in getting certain things done, that I
21 presented people with choices that they
22 perceived to be a threat.

23 You know, it's politics and it's
24 Albany. And to get things done, sometimes you
25 have to explain to people what the

1 consequences are of not supporting something.
2 There's a way to do it and there's a way not
3 to do it.

4 I -- at least during my tenure, I
5 believe that what the governor was doing or
6 what the AG was doing more likely, although in
7 the governor's office we got marriage passed,
8 we got an on time budget, we got a lot of
9 legislation passed in 2011 that people said
10 you didn't -- you weren't going to the passed.

11 And you didn't get republican
12 senators who you needed to support marriage by
13 saying to them, "You do what you think is
14 right and all will be forgiven."

15 You had to say to them -- and
16 probably the more famous story is mine, not
17 his, but you had to say to them, "Your actions
18 have consequences, and we need you here. And
19 if you're going to -- if you're not going
20 to" -- I mean, it wasn't even supporting.

21 It was more a question of if
22 you're going to renege on an offer, I'm going
23 to remember that. And that happened with
24 Senator Grisanti, where Grisanti had said he
25 was going to support marriage, and then he

1 came in and said, "I'm not sure I can support
2 it."

3 And he said -- the governor's
4 response to that was, "You gave me your word,
5 you shook my hand, and I'm going to remember.
6 I'm going to remember that I relied upon you,
7 and you disappointed me. And just remember
8 that those kind of things have consequences."

9 Now, did Senator Grisanti hear
10 that as a threat? I know he did because
11 Grisanti was seen chain smoking and sweating
12 on the outside of the building.

13 By the same token, Steve Saland
14 came in, another republican senator, and said
15 "I told you I'd be there for you. I'm not
16 sure I can. Here's why."

17 I think the governor had said
18 there would be 63 votes. There were only
19 going to be 62, which made Saland the deciding
20 vote that would have passed marriage. And
21 Saland said to him, "I'm not sure politically
22 I can do this."

23 And the governor said, "I told
24 you if I didn't have the 63rd vote, that you
25 would be released from any obligation you had

1 for me. You have my respect, you have my
2 gratitude, and if you can't vote for marriage,
3 given that I didn't deliver on the 63rd vote,
4 then I understand."

5 Now, we ended up getting the
6 63rd, I think we got a 64th, and it passed.

7 But that's what happens on the
8 outside world in Albany. And I think clearly
9 somewhere in there, you can go too far. But
10 during my tenure, I don't believe there were
11 any instances where we went too far.

12 And probably, you know, my own
13 involvement with the governor of Connecticut
14 is, you know, the example that's always
15 offered of something that was, sort of, over
16 the top.

17 But, you know, again, you know, I
18 didn't see the governor do anything that I
19 thought was inappropriate with respect to
20 people on the outside. But there was a mode
21 of operating to get things done in the AG's
22 office and in the governor's office, and those
23 are the things he did.

24 Q. Have you heard the clip of him
25 saying he will compare people to child

1 molesters?

2 A. Yes.

3 Q. What did you think of that?

4 A. I found it unfortunate, and it's
5 not in keeping with the kind of discussions
6 and conversations I heard him have during my
7 tenure.

8 Q. How about internally, did you
9 hear him threaten anyone?

10 A. Yeah, I never heard -- it's
11 different inside because you're not trying to
12 get someone to move from position A to
13 position B. So it's sort of a different mode
14 of behavior.

15 And so I would be surprised -- I
16 shouldn't be surprised at anything these days.
17 In my experience, there was no threatening
18 anybody on the inside. But he did push.

19 Q. So when [REDACTED], you heard
20 she was going, did you -- you gave her some
21 form of advice?

22 A. Yeah. I mean, at the time I
23 wasn't that close to [REDACTED]. You know, I knew
24 her. I don't think she had been at MacAndrews
25 that long. And I didn't really work with her

1 closely.

2 So it was sort of, you know, akin
3 to what I had said before, which was, as best
4 I recall, work with people, you know, don't
5 get pushed into things you're not ready to
6 handle, you know, something along those lines.

7 But she was the only person I
8 knew who went in, and I wasn't involved in her
9 hiring.

10 Q. And did you talk to her while she
11 was there or communicate with her in any way?

12 A. I don't recall talking to her
13 when she was there. At some point she called
14 me and said she was leaving or had left. And
15 then we talked about getting together. And I
16 don't recall when we got together.

17 She went to a start-up. And, I
18 mean, we may have spoken during that period of
19 time. And then she came back to MacAndrews,
20 which similarly she didn't talk to me. She
21 suddenly was at MacAndrews. And I thought
22 that was an odd choice to return to
23 MacAndrews.

24 And either shortly before or when
25 she was at MacAndrews, you know, we talked

1 generally about her experience.

2 Q. What did she say about her
3 experience?

4 A. She said it was like the Mean
5 Girls. That was the phrase she used, Mean
6 Girls.

7 Q. And who did she describe was part
8 of the Mean Girls?

9 A. Melissa DeRosa, Annabel Walsh, I
10 think Stephanie Benton. And there may have
11 been other people. But those were the ones
12 that I, sort of, knew and, sort of,
13 remembered.

14 Q. And what did she say about how
15 they treated her?

16 A. They excluded her.

17 Q. Did she say that -- what else?

18 A. I mean, that was the general gist
19 that, you know, that they would give her
20 assignments and not, you know, tell her enough
21 to get them done successfully or, you know,
22 she didn't know when they were due.

23 That, you know, she'd go to copy
24 something, and she came back -- I mean, this
25 is the one story I actually do remember -- and

1 they had all gone downstairs to get a drink
2 and hadn't told her they were leaving.

3 And that it was -- the word she
4 used was Mean Girls. She felt like that she
5 was never -- never could get in or get their
6 support. That's how she characterized it.

7 Q. Did she tell you about anything
8 she observed with interactions between the
9 governor and **Senior Staffer #1** ?

10 A. She told me that the -- that
11 there was a lot of -- lot's the wrong word --
12 that in connection with, sort of -- in the
13 evening after hours, that it was -- sort of,
14 had the feel of, you know, sort of, like,
15 being in high school.

16 And that, you know, there was a,
17 kind of, I don't know, friendliness, people
18 sitting on couches too close to each other
19 that went on in his -- I don't know if it -- I
20 assume it was in his office in New York City.

21 I actually spoke to her about
22 whether she saw the governor do anything
23 inappropriate, and she said no. And that was
24 about the gist of it.

25 Q. Did she say anything about

1 whether she saw the governor on a couch with
2 **Senior Staffer #1** ?

3 A. Yeah, I don't recall that. But
4 that was -- sort of, the gist was people on
5 couches, sort of, sitting too close to each
6 other. I don't recall, but she may have said
7 somebody sitting on somebody's lap, but I
8 don't have a specific recollection.

9 Q. Or with his head in
10 **Senior Staffer #1** lap?

11 A. That may have been it.

12 MR. GRANT: Did she say who was
13 in the office?

14 THE WITNESS: My best
15 recollection, which is murky, would have
16 been -- and part of this is because I
17 have a sense of who goes in and out of
18 there -- would have been probably
19 **Senior Staffer #2** .

20 I don't know about the other
21 people. I mean, it could have been any
22 one of a number of people.

23 MR. GRANT: And do you recall if
24 she said anything about the interaction
25 between **Senior Staffer #2** and the governor?

1 THE WITNESS: No. Not that she
2 didn't say something, I just don't
3 recall.

4 MR. GRANT: And I know you said
5 that this was a, you know, tough place
6 or high-pressure place.

7 Do you have any understanding why
8 so many young people would be hired into
9 roles or people with limited experience,
10 like the briefers you mentioned,
11 considering the high expectations?

12 THE WITNESS: I can't answer
13 that. You know, my sense is that I was
14 there earlier in the administration. I
15 was in the AG's office, and it
16 was -- that's just beyond the scope of
17 what I experienced.

18 I was the chief of staff in the
19 AG's office, so I was very involved in
20 who he hired, especially when it came to
21 who was going to sit and be involved on
22 the 25th floor.

23 Similarly, during my short term
24 in the governor's office, I, you know,
25 similarly to the extent I was there, I

1 had particular views about, sort of, who
2 should be hired and the quality and
3 caliber of those people and their
4 ability to deal with both the complexity
5 and the pressures of that kind of
6 office.

7 MR. GRANT: Do you know if the
8 governor or someone else being hired
9 into the executive chamber after the
10 governor met him or her at an event?

11 THE WITNESS: No. But again,
12 there were people that got hired in the
13 AG's office. The one that comes to mind
14 is -- I'm now blanking on her first
15 name.

16 Her last name is [REDACTED], and I
17 apologize that I can't remember her last
18 name -- her first name, but this is
19 years ago. I don't know how she -- oh,
20 she was Ralph Fabrizio's law secretary.
21 And she got hired to, sort of, be a
22 briefing person in the AG's office.

23 But -- and she wasn't part of a
24 formal process, but she'd come
25 recommended by Judge Fabrizio. Judge

1 Fabrizio knew the governor from the DA's
2 office, and she was a lawyer, well
3 respected, well regarded.

4 I mean, that sort of thing would
5 happen where he said, "I'm looking for
6 somebody to serve this role," and
7 sometimes a person would get hired, sort
8 of, through the side doors, is how I
9 would characterize it.

10 I didn't love that but, sort of,
11 it was fine.

12 MR. GRANT: My question was a
13 little bit narrower, meaning someone he
14 had met at an event and then there was
15 an invitation.

16 THE WITNESS: Yeah, I'm unaware
17 of that.

18 BY MR. KIM:

19 Q. In your experience working with
20 him, had you ever seen the governor put his
21 head on a staffer's lap?

22 A. No.

23 Q. Any other incidents that [REDACTED]
24 [REDACTED] told you about that you remember?

25 A. No.

1 Q. Did you ask her whether -- what
2 she did about -- after learning that, after
3 seeing that?

4 A. I don't recall. And I'm certain
5 that that conversation took place after she
6 had left. So she was now gone. But I don't
7 recall asking her that. I might have. But I
8 just don't recall.

9 Q. Did she say whether she felt
10 uncomfortable as a result of that?

11 A. I don't recall if she said it was
12 uncomfortable. I think she thought it was
13 odd. But I didn't get into how she felt about
14 it.

15 MR. GRANT: Your example of
16 someone getting hired through the side
17 door in the AG's office was a woman.
18 Correct?

19 THE WITNESS: Women and men. I
20 mean, it just happens to be that
21 I -- it's [REDACTED]. I happen to
22 remember [REDACTED] [REDACTED] getting hired.
23 But --

24 MR. GRANT: Can you -- sorry. Go
25 ahead.

1 THE WITNESS: Yeah. If pressed,
2 I'm sure I could come up with men that
3 were hired the same way. But it wasn't
4 just women.

5 MR. GRANT: Okay.

6 BY MR. KIM:

7 Q. Any other discussions you had
8 with [REDACTED] or communications with [REDACTED]
9 [REDACTED]?

10 A. I've talked to [REDACTED]
11 periodically. I haven't spoken to her in the
12 last month. I did know that [REDACTED] -- there
13 had been an outreach from you -- not you in
14 particular, but from the investigative team.
15 She called me about it, and we spoke very
16 briefly about it.

17 Q. What did you tell her?

18 A. She wanted to know if our
19 conversation was a privileged conversation. I
20 said I didn't know, depended on what she
21 wanted to talk to me about.

22 But I did say that -- I said,
23 "I'm going to give you two pieces of
24 gratuitous advice: One is somebody should get
25 back to the AG's office about this on your

1 behalf; and two, you should talk to a lawyer,
2 and I'm happy to recommend somebody to talk to
3 you.

4 "And, you know, if it's helpful,
5 because I know the expenses of hiring a lawyer
6 can be significant, I'm happy to see if, you
7 know, somebody will at least in terms of, sort
8 of, talking and make sure that, you know, they
9 don't simply, you know, say let's sign you up
10 and bill you, but gives you some advice, and
11 you can then figure out what you want to do
12 and if that's the right person."

13 So I believe I sent her to [REDACTED]
14 [REDACTED]. And then there was a second
15 conversation. I didn't follow up with her,
16 didn't follow up in any substantive way with
17 [REDACTED]. And then I got a call later on saying
18 that there was -- this is probably a month
19 later -- saying there was further contact.

20 And I was surprised because I
21 assumed that [REDACTED] would have reached out to
22 the -- whoever it was who was contacting her.
23 And she at that point said that -- I gather
24 [REDACTED] hadn't reached out.

25 I don't know what advice he gave

1 because I told her, "Don't tell me what [REDACTED]
2 told you." But I said, "Either call [REDACTED] back
3 or" -- she was concerned about the expenses of
4 retaining a lawyer.

5 I said, "You can speak to Mitra.
6 I don't know how this is being handled by the
7 governor's office about former employees, but
8 you can call and just get some insight from
9 Mitra about what your options are, or you can
10 have [REDACTED] do it."

11 And that was where it ended. I
12 haven't spoken to her since then.

13 Oh, she did actually say -- she
14 wanted to know what to say about any
15 conversations she had with me, and I said
16 "Tell the truth." That was it.

17 Q. So you recommended [REDACTED] before you
18 recommended Mitra or --

19 A. I didn't recommend Mitra because
20 I didn't think Mitra was in a position to
21 represent [REDACTED]. I thought Mitra -- I don't
22 know what -- what the governor's office was
23 doing with respect to former employees, if
24 they were doing anything.

25 And I said, "Mitra would have the

1 answer to that question, and I don't like the
2 idea of my calling Mitra to find out that
3 answer for you. I don't want to be in the
4 middle of this."

5 So I said, "You can either call
6 Mitra. She's perfectly pleasant. You don't
7 have to tell her much. She knows you were a
8 former employee -- I think she knew you were a
9 former employee -- or you can have Dan do it."

10 And that's how I left it.

11 Q. Had you told anyone about what
12 ██████████ told you about what she saw when
13 she was in the executive chamber?

14 MR. SHECHTMAN: Other than me and
15 Rebecca.

16 A. I don't believe so.

17 Q. Did you tell Melissa DeRosa?

18 A. No.

19 Q. The governor?

20 A. No.

21 Q. Mitra?

22 A. Don't recall.

23 MR. GRANT: Why not?

24 THE WITNESS: Why not with
25 respect to which one of these?

1 MR. GRANT: I don't recall the
2 full list.

3 Q. Any of them.

4 A. Look, I wasn't sure what to make
5 of it. She was now out of the office. I
6 wasn't in the office. It was -- by the time
7 she was telling me this, months had gone by.

8 In terms of Mitra -- again, I
9 don't recall, I may have said something to
10 Mitra. But what I didn't want to do was, you
11 know, in any way get involved in what this
12 inquiry was or put ██████ in a bad spot, given
13 that I suspected you'd be talking to her.

14 And it may -- I don't recall if
15 she said -- she may well have said that she
16 didn't want me to mention it to anybody. I'd
17 be surprised if she didn't. But, you know,
18 that's the best I can reconstruct my thinking
19 at the time. That was it.

20 Q. Did she reach out to you in
21 December of 2020 after Lindsey Boylan's
22 tweets?

23 A. She may have contacted me -- I
24 don't recall specifically -- because a
25 reporter may have tried to reach her. And I

1 have a vague recollection that she contacted
2 me, not because of the Lindsey Boylan tweets,
3 but because maybe she got a LinkedIn message
4 or some kind of message from a reporter.

5 I think that may have been the
6 outreach.

7 Q. What did you do with that
8 information?

9 A. I don't recall, although around
10 that time, a question came up about -- they
11 were, I think, looking at various people who
12 had worked in the governor's office.

13 And there was -- there
14 was -- they knew reporters were calling
15 around. And I think somewhere in there -- I
16 don't know if I was asked about it or if it
17 came up somehow. It may have come through
18 Robert Mujica who had a [REDACTED]
19 [REDACTED].

20 And so I spoke to [REDACTED] about the
21 outreach from the reporter, I believe. And it
22 may have come up in a broader conversation
23 about people that are being contacted.

24 Q. Did you inform Melissa DeRosa or
25 anyone else about the outreach?

1 A. I may have, but I don't -- as I
2 sit here, I don't recall.

3 Q. You can take a look at Tab 15.

4 A. 5-0?

5 Q. Yeah -- oh, no, 1-5.

6 Do you see it's a -- looks like a
7 LinkedIn outreach --

8 A. Yeah, this is what I remember.

9 Q. -- from [REDACTED] to
10 [REDACTED].

11 And you forwarded it to Judy
12 Mogul, Melissa DeRosa, Linda Lacewell.

13 A. Yeah. So I have no recollection
14 to this, but -- I mean, other than what I told
15 you a second ago, which I have a vague
16 recollection that there was some kind of
17 LinkedIn outreach. And, obviously, according
18 to this, I forwarded it on to Melissa and
19 whoever else is on here.

20 And, again -- I mean, I don't
21 have a firm recollection of this -- there's a
22 good chance that I asked [REDACTED] if it was okay
23 that I do that. But I don't -- again, sitting
24 here, I don't have a clear recollection of
25 this.

1 Q. And do you remember having any
2 discussions with any of them about [REDACTED]

3 [REDACTED]
4 A. I think they thought she was
5 spreading a rumor that the -- this is what got
6 brought up to me. They were worried about her
7 because -- "worried" is probably not the right
8 word, but there was some notion that she had
9 been the purveyor of a rumor that the governor
10 and Senior Staffer #1 were having an affair.

11 And that's, kind of, you know,
12 all I knew. And I think there was a general
13 question about, sort of, [REDACTED] and should we
14 reach out to her. And I said no. I said, you
15 know, I don't think you have to be, you know,
16 overly concerned about [REDACTED].

17 She -- you know, if somebody
18 talks to her, I don't think she's going to
19 talk to a reporter. If -- and then
20 ultimately, you know, my view is that the AG
21 is going to talk to her, she's going to tell
22 her story.

23 And whatever it is struck me as
24 very different in nature from the Lindsey
25 Boylan allegations and Charlotte Bennett

1 allegations. So I think that's where it was
2 left.

3 Q. Did you tell them what [REDACTED]
4 [REDACTED] had told you about her experience in the
5 chamber?

6 A. No.

7 Q. Did you tell them that she had
8 seen the governor on the couch with Senior [REDACTED]
9 Staffer #1?

10 A. I don't believe so.

11 Q. Any discussions with anyone else
12 you had about [REDACTED]?

13 A. I may have mentioned it to Josh
14 Vlasto because he also knew [REDACTED]. I
15 certainly mentioned it to my counsel. That's
16 all I can recall.

17 Q. So we were talking about Kaitlin
18 [REDACTED]. So you -- any discussions you had with
19 anyone in chambers about Kaitlin [REDACTED]'s
20 allegations?

21 A. I apologize. The allegation
22 being that Kaitlin [REDACTED] was hired after an
23 event and that wasn't qualified for the job
24 that she had been hired for?

25 Q. Yeah.

1 A. I think I characterized -- most
2 of what I can recall about it was a general
3 notion, which also applied to -- I don't know
4 the woman's name that was hired after the
5 Dorian's event, but that, you know, people get
6 hired different ways all the time, and that
7 this is not a job that requires a high degree
8 of experience, that we hire young people for
9 these jobs. That's what I recall.

10 Q. How about someone by the name of
11 Anna Liss? Do you know her?

12 A. No.

13 Q. Do you remember reading about her
14 allegations? And you can look at Tab 52.

15 A. 52?

16 Q. Yeah. You know what? If you
17 want to look at 53, there's a link to that
18 article in the commentary. You say:

19 "I don't mean to make light, but
20 any allegations of winking"?

21 What did you mean by that?

22 A. So -- and again, I haven't found
23 the specific allegation here, although I
24 assume this was the he kissed her hand.

25 Q. Kissed her hand, yeah, and

1 comments.

2 A. Yeah, and, look, I thought -- I
3 don't mean to make light of any of these
4 things. They're serious. Certainly,
5 workplace behaviors are important and setting
6 the appropriate tone, especially if you're the
7 governor of the State of New York it is
8 important. And not only is it important, it's
9 what the law requires.

10 But what my flippant e-mail was
11 in response to is that I thought that we were
12 getting to a place where things were being
13 reported on that really were very different in
14 terms of nature than what the allegations from
15 Lindsey Boylan and Charlotte Bennett were.

16 And that was -- you know, that
17 led to me making a, you know, a flippant
18 comment about it.

19 But with respect to Anna Liss, I
20 don't know Anna Liss. And other than a
21 conversation that may have taken place in a
22 privileged context, I don't really recall any
23 discussions about what to make of this conduct
24 other than, I mean, you see my flippant
25 remark.

1 Q. Did there come a time after this
2 when you learned about the allegations of a
3 executive assistant who said the governor had
4 groped her in the mansion?

5 A. Yes.

6 Q. How did you learn about that?

7 A. You know, I don't specifically
8 recall whether it was a lawyer who called me
9 or Melissa who called me. It quickly became a
10 series of conversations I had with the
11 lawyers, and by now there were outside
12 lawyers.

13 I think Paul Fishman had been
14 engaged. I think Mitra Hormozi had been
15 engaged. So although I may have originally
16 heard about the allegation because it was
17 going to be reported on, and I think that's
18 how it came up -- no, I may be wrong.

19 I think it may have come up
20 because somebody reported it to Beth Garvey,
21 in which case, without getting into
22 detail -- and stop me when you need to stop
23 me -- I think I would have heard about it from
24 Beth.

25 If I'm remembering the series of

1 events correctly, that that's how it became --
2 came to the chamber. It wasn't a reporter.
3 It was -- I think some assistants had brought
4 it to Beth's attention.

5 Q. And did Beth or others consult
6 you on how to respond to --

7 A. Yes.

8 Q. -- the allegations?

9 A. Yeah, they did.

10 MR. KIM: And I can ask the
11 substance or is it --

12 MR. SHECHTMAN: I think it's
13 privileged, yeah. At least that's what
14 we've been told.

15 Q. And do you know what they did
16 with that?

17 A. I believe they reported it to the
18 Albany Police Department.

19 Q. Did you know the person --

20 A. No.

21 Q. Have you -- have you heard the
22 name of the person who they think it is?

23 A. Yeah, I think I have heard the
24 name.

25 MR. SHECHTMAN: I think from me,

1 Joon.

2 Q. Yeah. Brittany?

3 A. Yeah.

4 Q. Did you know her, Brittany
5 Commisso?

6 A. No. And by the way, just to be
7 clear and so there's no misunderstanding --
8 and I don't know if this is true with
9 Brittany -- there are -- there should be
10 e-mails where some of these people who are
11 usually scheduling related -- and, again, I
12 don't know a lot of these people -- but
13 sometimes they're on the chain.

14 And so, you know, it could be
15 that I have, you know, received an e-mail
16 from, you know, Brittany or somebody else
17 because it's a scheduling matter, although I'm
18 not exactly sure what Brittany's
19 responsibilities were prior to all of this.

20 But I did not know Brittany. To
21 my knowledge, I never met Brittany. And I
22 don't think I've ever spoken to Brittany.

23 Q. You would get sometimes invites
24 or calls, Brittany Commisso, Alyssa McGrath,
25 **Executive Assisant #3**, names like that?

1 A. EA #3 certainly, EA #2

2 certainly.

3 Q. EA #2

4 A. And EA #2 -- I mean, EA #2 has
5 been around a while. EA #2 has been around,
6 I mean, at least a couple of years. And so,
7 you know, I wouldn't say I have a real
8 relationship with EA #2. I don't think I've
9 ever met her. But I'll say hello to EA #2
10 when she's setting up a conference call.

11 So I'm more mindful -- I'm more
12 aware when EA #2 is on that e-mail chain.
13 Oftentimes, you'll get an e-mail from EA #2
14 saying, "The line is open, please join the
15 call." So, you know, that's the nature of it.

16 Q. Do you remember that the governor
17 was having a press conference on the day this
18 article came out?

19 A. Which article?

20 Q. Or the allegations about groping
21 at the mansion?

22 A. I don't recall specifically.

23 Q. If you can take a look at Tab 58.

24 A. Yeah.

25 Q. This is another similar group.

1 And it says:

2 "I just don't want his answer
3 was," says Lis Smith.

4 And then you say:

5 "I believe he misspoke. I think
6 he was trying to say I did not know of
7 the claim at the time. It came out as I
8 don't know about it now."

9 A. Yeah. Yeah, again, I mean, have
10 a -- now that I read this, I have a general
11 recollection of the issue, which was the
12 governor would have been asked about it, and
13 he says, "I don't know about the claim."

14 And clearly he did know about the
15 claim. And I think I may have gone back and
16 listened to what he said or somebody sent it
17 to me or I don't remember, and my sense was
18 what he meant to say was, not that I don't
19 know about the claim. There'd be no benefit
20 to him saying "I don't know about the claim."

21 He was saying I didn't
22 know -- that "I didn't know about it at the
23 time." I don't know what the time is that's
24 being referred to. But if we went back and
25 looked at the Q and A with the reporter, I

1 think it would probably clarify what I was
2 saying.

3 Q. So you weren't there. Were you
4 listening or --

5 A. No.

6 Q. Real time or no?

7 A. No.

8 Q. Just whatever it was, it would
9 have been --

10 A. Yeah, I think somebody called me
11 and said, you know, there was this back and
12 forth. It may have even been Lis. I just
13 don't remember. I don't know what she's
14 saying:

15 "I just don't what his answer
16 was."

17 I don't -- and again, we may have
18 spoken. I may have spoken to Jeff Pollock. I
19 mean, at the time I was spending a lot of
20 time -- it's probably -- it's not the case, but
21 I did talk to Jeff and Lis a lot about this.

22 Q. "About this"?

23 A. About the situation generally.

24 Q. Okay. If you can turn to Tab 59.

25 A. Yeah.

1 Q. Beth Garvey sends you a section
2 of a document called "Combating Harassment and
3 Discrimination in State Agencies."

4 Do you remember why she was
5 sending this to you?

6 A. Yes, I do.

7 Q. Why was she sending this to you?

8 MR. SHECHTMAN: Go ahead. And
9 then we'll stop it.

10 A. Yeah. So if we were discussing
11 the allegations involving the woman who
12 alleged that she was groped, and a question
13 were asked of me, what should we do, the
14 natural question I would have asked is, well,
15 what are your policies and what does the state
16 law require?

17 I mean, I can tell you, sort of,
18 off the cuff what I think I would do. But
19 that's not really where we need to start. We
20 need to start with understanding what are your
21 obligations.

22 And so if I were to have said
23 that, it is likely somebody, Jeff in this
24 instance, would have sent me what I was asking
25 for, which was a copy of that thing that I

1 needed to review to understand how to respond.

2 Q. And had you spoken to the
3 governor about these allegations of groping?

4 A. I did at some point. I don't
5 know if it was before or after this. I think
6 I can say that I that certainly spoke to
7 him --

8 THE WITNESS: Can I say that I
9 spoke to him before it was reported?

10 MR. SHECHTMAN: Did you?

11 THE WITNESS: Well, if I can say
12 I did, then I did.

13 MR. SHECHTMAN: Why don't we do
14 this, Joon? If you're comfortable,
15 we'll take one last break. I hope
16 that's an accurate statement.

17 MR. KIM: I think so. Maybe a
18 little after 6, but not too much.

19 THE WITNESS: I'm being verbose
20 because I'm tired and I apologize.

21 MR. SHECHTMAN: Yeah, we'll take
22 one last break, and then we'll check on
23 the privilege on this, and then we'll
24 come back.

25 MR. KIM: Okay.

1 MR. SHECHTMAN: So give us five
2 minutes.

3 THE VIDEOGRAPHER: The time is
4 5:16. This concludes Media 9. Off the
5 record.

6 (Recess taken from 5:16 p.m. to
7 5:28 p.m.)

8 THE VIDEOGRAPHER: The time now
9 is 5:28 p.m. This begins Media 10. On
10 the record.

11 MR. SHECHTMAN: Joon, the
12 discussions of how to respond to
13 Brittany's complaint, which Steve
14 learned about before it was public
15 because it had been reported in before
16 it was public.

17 But the discussions on how to
18 respond, we're told are privileged. You
19 should know two things that aren't
20 privileged:

21 One is, as a result of those
22 discussions, a call was placed to the
23 attorney general's office. I don't
24 think it came in to you directly, but a
25 call was placed.

1 And two, a call was placed to the
2 local police department. And they were
3 the result of discussions that are
4 covered by the privilege.

5 MR. KIM: How about a referral to
6 GOER?

7 MR. SHECHTMAN: I don't know the
8 answer to that. What I know is two
9 directions: You, which I think came in
10 from Mitra; and the police department,
11 which I think came in from Beth Garvey.

12 MR. KIM: And can he answer the
13 question, did -- have you had
14 conversations with the governor about
15 Brittany Commisso's allegations without
16 getting into the substance?

17 MR. SHECHTMAN: I think the
18 answer is yes.

19 MR. KIM: And when were those?

20 MR. SHECHTMAN: Before it was in
21 the newspapers and not unrelated to what
22 I discussed with you as to what the
23 response had to be.

24 MR. KIM: That's fair.

25 THE WITNESS: That's fair.

1 BY MR. KIM:

2 Q. So looking at this document, 59,
3 at the bottom she writes:

4 "This is a crime, so if reported
5 this way to GOER, they would say this:
6 This is conduct which constitutes a
7 crime. It needs to be reported to law
8 enforcement, and we will take your
9 report and hold it in abeyance until
10 they pursue or conclude their
11 investigation."

12 What did you understand Beth
13 Garvey to be saying here? Or beyond the words,
14 what did you understand about what -- you know,
15 what information she was conveying? Was it her
16 own thoughts? Was it views she had received
17 from others?

18 A. I -- as I sit here today, I don't
19 recall who Beth had spoken to during the
20 course of our conversations. I know that she
21 had -- I think I can say this. I know that
22 she had reached out to other -- I don't know
23 if it was to lawyers or to GOERs.

24 But by the time -- I shouldn't go
25 down this path, because I'm going to go

1 exactly into the --

2 Q. You'll go into the substance?

3 A. Yeah.

4 Q. That's fine.

5 Then did you get involved, then,
6 in drafting or helping to draft a response
7 from the governor on Brittany -- the
8 allegations of groping?

9 A. I'm sure that whatever he decided
10 to say was run by me. And I suspect that,
11 given the nature of these -- these
12 allegations, I would have read it very
13 carefully. And I probably would if it was
14 not -- if I had concerns, I would have voiced
15 them about what they were proposing.

16 Q. So if you can turn to Tab 60.

17 A. Okay.

18 Q. It says:

19 "As I said yesterday, I've never
20 done anything like this. The details of
21 this report are gut-wrenching and
22 completely untrue. I'm not allowed to
23 defend myself publicly because of the
24 review, but I'm confident in the result
25 of the attorney general's report."

1 Stephanie Benton sends this.

2 What was your understanding of who had drafted
3 this?

4 A. I don't know. And, again, this
5 could have been that, in this instance -- and,
6 again, I'm not expert in these practices.
7 What I know is, kind of, from my outside
8 observations.

9 So it is either the governor and
10 Melissa working on this and giving it to
11 Stephanie, or somebody sending it to Stephanie
12 to review with the governor and then it's
13 being forwarded on. But I just -- at the
14 time, I didn't know which it was. Sitting
15 here today, I don't know which it was.

16 Q. And you say, "Take out completely
17 untrue."

18 A. Yeah.

19 Q. Why did you say that?

20 A. Because there were -- we had a
21 conversation about this not too long ago as
22 part of this session, which is everything that
23 I understood that Ms. Commisso was alleging
24 was not untrue.

25 I mean, clearly, she had

1 interactions with the governor. Clearly, she
2 had been, as I understood it, I think, in the
3 mansion. And so when you say "completely
4 untrue," it suggests that everything she's
5 saying is untrue.

6 And you then leave yourself open
7 for the kind of exchange you and I had earlier
8 today, where when somebody parses it, they're
9 able to say, "But this piece is, in fact,
10 true."

11 And so my thought at this time
12 was do not say "completely untrue" given that
13 reality.

14 Q. Did you have any discussions with
15 anyone about the relationship between Brittany
16 Commisso and the governor?

17 A. Other than the governor?

18 Q. Other than the governor.

19 A. I recall there were conversations
20 with the governor and other people present,
21 and I'm not exactly sure who, about, generally
22 speaking, Brittany, her request for additional
23 overtime. Then again, I don't think I knew at
24 the time her name was Brittany.

25 The fact that she was getting a

1 divorce, that she was, I think, a single
2 mother. And so there were discussions of that
3 nature and how she had continued to request
4 overtime. And specifically, if I'm not
5 mistaken, had wanted to do more overtime in
6 the executive mansion over the weekends, I
7 think is what I had heard.

8 And I've said it. I believe that
9 wasn't in a privileged context, but again,
10 there were a number of conversations, some of
11 which were exclusively with the governor. I
12 don't think that one was.

13 Q. Were there any discussions about
14 how, after these allegations of sexual
15 harassment, but -- the other allegations of
16 sexual harassment, but before Brittany
17 Comisso's allegations became public, of the
18 governor or anyone else having Brittany
19 Comisso not come to the mansion anymore for
20 weekend coverage or otherwise?

21 A. Before I learned of the
22 allegation, or after I learned about the
23 allegation but before it was public?

24 Q. At any point, did you hear anyone
25 talking about Brittany Comisso not

1 being -- not coming to the mansion anymore --

2 A. So let's --

3 Q. -- but before it becomes public?

4 A. Yeah. So I think the easiest way
5 to do this is just to say, first and foremost,
6 before I learned of the allegation, I was
7 unaware of who Brittany Commisso was. So the
8 answer is, in that situation, no.

9 After the allegation, but before
10 it was public, there would have been
11 conversations, and I can't remember if they
12 would have been in a privileged context.

13 And by that I mean, I certainly
14 remember conversations with Beth and the
15 governor, with Beth and Mitra. I think there
16 was a conversation with Mitra, Beth, and the
17 governor.

18 I think there may have been one
19 with Mitra, Beth, and Judy Mogul. All of
20 those, as I understand, are privileged.

21 I don't recall a conversation
22 where it would not have been in that kind of
23 context, which I think the -- there's an
24 assertion of privilege. But I will say that
25 one of the things that was being grappled

1 with -- and I don't think --

2 THE WITNESS: Paul, throw your
3 iPhone at me if I'm stepping over a line
4 here.

5 A. I don't think it's unfair to say
6 or violating any kind of privilege to say, one
7 of the questions you have to deal with in this
8 situation is: What does the law require?

9 You now have a situation that's
10 very awkward. Somebody's made a very specific
11 kind of allegation. And the question then
12 becomes: Well, what do you do about it given
13 the close working relationship?

14 And I think, again, without
15 speaking to the advice I gave or these
16 conversations, you know, my understanding is
17 that the law is pretty clear. And the law
18 says you can take no adverse action with
19 respect to a person who has either raised a
20 claim or has a claim that you're aware of.

21 And, you know, my view would have
22 been, again, without getting into the
23 privilege, you've got to follow the law. And
24 that's the law.

25 So, you know, again, I don't

1 recall -- and again, that was all
2 hypothetical, but I don't recall if that took
3 place exclusively in a privileged context.

4 Just the nature of these
5 conversations, especially since they were on
6 the phone, I don't have a clear recollection
7 of who was and who wasn't on the call.

8 Q. Are you aware of any discussions
9 following Charlotte Bennett's allegations --
10 not publicly, but the -- her allegations made
11 privately before they became public -- any
12 practice put in place to not have any female
13 staffers be alone or staff the governor alone?

14 A. I don't specifically recall if I
15 would have had such a conversation, if it took
16 place in a context that wasn't privileged.
17 And I'm not sure what more to say than that.
18 I'm just not sure.

19 Q. If you take a look at Tab 86 --
20 again, this is out of order, but it's the same
21 day, March 10, and this -- Melissa DeRosa
22 sends a screenshot of essentially the same
23 statement.

24 A. Yeah.

25 Q. And then you say separately: "I

1 would" --

2 On the second page --

3 A. Yeah.

4 Q. (Reading:)

5 "Drop untrue."

6 A. On the second page?

7 Q. Yeah. At the bottom.

8 A. (Document review.)

9 Again, this is exactly, I think,
10 the same advice I had given previously, which
11 is don't say "completely untrue."

12 Q. And right above, it
13 says -- Stephanie Benton asks: "Is that from
14 Sharon and Robbie"?

15 A. Yeah.

16 Q. And you write back on line 317:

17 "No Sharon. Can't Robbie.

18 Trying her again."

19 Who's Sharon?

20 A. Hold on one second. You say line
21 317. I've got a bunch of 317s.

22 Q. Oh, sorry. Yeah, at the top of
23 page 3.

24 MR. SHECHTMAN: Top of page 3.

25 Q. Yeah. They all say 317.

1 When she asks -- when Stephanie
2 asks "Is that from Sharon and Robbie," who's
3 she referring to?

4 A. So Sharon is Sharon Nelles, a
5 partner at Sullivan & Cromwell. And Robbie is
6 Roberta Kaplan.

7 Q. And at this point, had
8 Sharon -- Sharon Nelles had already been
9 retained to represent the governor?

10 A. Yes.

11 Q. And had you spoken to Sharon
12 Nelles about this statement?

13 A. I don't recall if I spoke to her
14 about it, but I knew that Sullivan & Cromwell
15 did not want Sharon Nelles to play a
16 public-facing role. And as a result,
17 I -- again, I may have spoken to Sharon, I
18 just don't recall.

19 But this would have been a
20 public-facing role. So I knew, whether I
21 got -- I was able to talk to Sharon or not,
22 the answer would be that she can't. That was
23 not the understanding we had with Sullivan &
24 Cromwell.

25 Q. And how about Robbie Kaplan?

1 A. My understanding was that Robbie
2 was not representing the governor. And, I
3 mean, there was a broader question here about
4 whether or not lawyers should be making these
5 kind of public statements at all.

6 And my guess is trying -- Robbie
7 was me trying to get ahold of Robbie to talk
8 to her about the issue.

9 Now, at this point -- and you
10 know this, but for purposes of the
11 record -- Robbie is Kaplan Hecker. They're
12 retained, I think -- again, I'm not sure of
13 the dates, but my guess is by this point, they
14 may have been retained to represent Melissa
15 DeRosa.

16 So they are in the case. But,
17 you know, I was probably as confused then as I
18 am now about what various roles people could
19 and couldn't play. And I was trying to work
20 that true.

21 And I was trying to be careful,
22 because I was worried that if somebody had put
23 this out and hit send, you'd have a lot of
24 lawyers who would be internal -- internal? --
25 lawyers representing various parties in this

1 who would be very unhappy. And I wanted to
2 make sure we did not go down that path.

3 Q. And are you at this point playing
4 an active role in identifying counsel for the
5 governor?

6 A. I'm involved. I mean, an active
7 role? I think by this point, Walden Macht was
8 on board, I think. I think maybe Arnold --
9 maybe Arnold & Porter wasn't involved, on
10 board yet. Certainly Sharon was on board. I
11 suspect Rita Glavin was not.

12 So I would have been involved in
13 making recommendations about, you know, who
14 potentially could represent various parties.

15 Q. And are there, sort of, group
16 calls that are going on in this time period?

17 A. I'm sure there are.

18 Q. If you look at Tab 87. Melissa
19 says:

20 "Are you on?"

21 "Not yet. I need a few minutes.

22 "This is really important."

23 A. Just so you know, the "Back too
24 you soon" with the little phone is sort of the
25 automatic reply that, you know, I get a call

1 or I get an e-mail -- a text and --

2 Q. And you just hit that --

3 A. I just hit that because I didn't
4 want to deal with it. I -- 3:10 at 10 -- it's
5 not 10 o'clock. It's --

6 Q. It would have been in the
7 morning, yeah.

8 A. 3 o'clock, I would assume. I'm
9 not exactly sure. Let me keep reading what
10 this is all about. I think it's -- I mean, in
11 hindsight, this seems borderline malicious
12 that I keep hitting "Back to you soon."

13 I don't know who
14 [REDACTED]@gmail.com is.

15 (Document review.)

16 Other than the reference to
17 Amelia Schonbek -- and I'm wrong. I thought
18 this was the New Yorker. It's not, it's New
19 York Magazine. I don't --

20 Q. You don't remember?

21 A. Yeah, I don't remember.

22 Q. You don't remember what this
23 exchange --

24 So the second-to-last page of
25 this, you say, "On with [REDACTED]."

1 Do you know who that's a
2 reference to?

3 A. Yeah, [REDACTED] would be [REDACTED]
4 at Greenberg Traurig who represents the
5 governor's campaign. And I was probably
6 conferring with [REDACTED] to understand -- I don't
7 think this is privileged -- but to try to
8 understand how and out of what funds various
9 lawyers in various parts of this case can be
10 paid.

11 And so, obviously, in the midst
12 of this is a campaign issue. If you're
13 saying, well, campaign funds are available, I
14 didn't know if they were or weren't. I wasn't
15 going to do the research.

16 [REDACTED] knows that stuff, so
17 I called [REDACTED]. And he is the
18 campaign's lawyer.

19 Q. If you can turn to Tab 66. This
20 is another -- this is a statement that
21 Stephanie Benton sends around, but it's "Draft
22 GAMC."

23 Is this something that you
24 remember working on?

25 A. No. And as you no doubt have

1 noticed, a lot of these things become quite
2 repetitive. So it's hard for me to recall any
3 one of these specifically. So I don't recall
4 this.

5 Q. And it says -- the second
6 paragraph says:

7 "There are often many motivations
8 for making an allegation. That is why
9 you need to know the facts before you
10 make a decision."

11 We've talked about the
12 discussions that people had about the
13 motivations of Lindsey Boylan.

14 What discussions were you a part
15 of about the motivations of Charlotte Bennett?

16 MR. SHECHTMAN: I think that's
17 privileged.

18 THE WITNESS: Okay.

19 MR. KIM: Okay.

20 Q. Any discussions about that other
21 than with executive chamber -- involving
22 executive chamber counsel?

23 A. With respect to Charlotte
24 Bennett?

25 Q. Yeah.

1 A. No.

2 Q. How about with respect to
3 Brittany Commisso?

4 A. I think all those conversations
5 were either with the governor directly or with
6 counsel for the governor, sometimes with the
7 governor. I just don't recall -- I don't
8 recall if those conversations were separate.

9 And I don't know who would have
10 raised it. I think I can say this, but I
11 think there was speculation -- and again, I
12 don't know by whom -- that perhaps
13 Ms. Commisso was going to file a civil claim.

14 But again, I think that probably
15 came up separate and apart from the
16 conversations that are privileged. And I
17 can't speak to what came up in the privileged
18 context.

19 Q. And was -- were the discussions
20 with respect to each of the complainants about
21 their motivations, assuming they're
22 untrue -- right? -- that the allegations were
23 untrue?

24 A. Yeah. But just to clarify, I
25 mean, so the Lindsey Boylan discussions, by

1 this point in time, it sort of -- there wasn't
2 a lot of discussion about Lindsey Boylan that
3 I recall at this point.

4 I don't recall, other than by
5 instances in which it might have been within a
6 privileged context, conversations about
7 Charlotte Bennett.

8 And I've told you about what I
9 had, sort of, generally discussed or heard --
10 "heard" is probably the better
11 characterization -- with respect to
12 Ms. Commisso.

13 And, yes, the assumption with
14 respect to that theory was that it wasn't
15 true.

16 Q. Other than in the privileged
17 context, were there any discussions -- or did
18 anyone say, in effect, "Maybe some of them are
19 telling the truth"?

20 A. That would have taken place, if
21 it did, in a privileged context. There
22 weren't a lot of senior staff members. And I
23 distinguish the senior staff members who are
24 lawyers from the other senior staff members.

25 There are not a lot of senior

1 staff members who were speculating, surmising,
2 or engaged in a discussion that would suggest
3 or would assume that any of these allegations,
4 in their core, with respect to the actual
5 claims as opposed to some of the things
6 surrounding them, were true.

7 The lawyers behaved as you would
8 expect lawyers to behave. And so, again,
9 without disclosing any privileges, it was a
10 different environment and a different set of
11 conversations with the lawyers.

12 MR. GRANT: So am I correct that
13 there was questioning of the veracity of
14 Ms. Commisso's claim because she may
15 file a civil lawsuit?

16 MR. SHECHTMAN: In a
17 nonprivileged setting.

18 THE WITNESS: Yeah, I think it
19 was more in the order of speculation as
20 to what might be motivating it. I
21 wouldn't put it as a challenge to her
22 credibility. It wasn't that developed
23 and it wasn't that pointed. But along
24 the lines of, why would she be doing
25 this.

1 Well, maybe she's going to file a
2 civil claim. She has a civil lawyer.
3 Maybe that's what this is all about.

4 That's what I recall.

5 BY MR. KIM:

6 Q. Were there any discussions about
7 whether the reaction or response at that point
8 in time, including responses to media
9 inquiries or reporters, could be considered
10 retaliation?

11 A. No, I don't recall those
12 discussions.

13 Q. So if you could turn to Tab 73.
14 And there's a lot of e-mails that go around,
15 people are responding to this -- this was the
16 Ronan Farrow article that he's working on.

17 By the way, did you ever speak to
18 Ronan Farrow?

19 A. No, but I spoke to his fact
20 checker.

21 Q. And who did you -- were you alone
22 when you spoke to the fact checker?

23 A. Yeah.

24 Q. And what did you talk to him
25 about?

1 A. Her.

2 Q. Her.

3 A. I was in the story in one place,
4 and it related to the notion that I was part
5 of a conversation -- I think that is a
6 conversation about the release of information
7 related to Lindsey Boylan's departure from the
8 governor's office. I think that's what it
9 was.

10 And the fact checker called me to
11 ask whether or not I could confirm the truth
12 of that. And I believe I asked, number one,
13 "Am I in the article anywhere else, or is this
14 what I'm responding to?" And she said "No,
15 that's it."

16 And I said, "Off the record, just
17 so you know, you're reporting as if there was
18 one conversation. There were more than one
19 conversation with different people involved."

20 I said, "But I've got a bit of a
21 predicament here, because I suspect that
22 people will be taking the position that I am a
23 lawyer and that my participation in these
24 conversations as well as some other people led
25 it to it being a privileged conversation.

1 "If I'm confirming something on
2 the record to you, then I think there's an
3 argument that I've just waived that claim. So
4 I understand your job and I don't want to make
5 your life difficult.

6 "So you can feel free to note
7 that you reached me and that I would not
8 confirm it, but I did not deny it."

9 And she said, "Thank you very
10 much," and I think that was the end of the
11 conversation.

12 Q. And had you discussed that
13 response with the executive chamber before you
14 gave it?

15 A. I don't recall. I actually spoke
16 to Josh Vlasto about it. And I called Josh to
17 just get his take on should I even bother to
18 respond.

19 And I think his reaction was, you
20 might as well call because you're not really
21 engaging, but, you know, you just never know.
22 You may learn something by calling. You may,
23 you know -- it's just worth throwing a call in
24 to see.

25 I'm sure at some point I let them

1 know that I had called. And I think I had
2 been discussing back and forth with Peter
3 Ajemian the fact that it seemed to be an odd
4 characterization of what happened as it was
5 distilled in this article.

6 My guess is, because I was
7 talking to him, I probably told him I was
8 going to just call and not say anything of
9 substance but respond. And, again, that's not
10 100 percent sure that's how it went.

11 Q. So in this exchange, Beth Garvey
12 writes in the middle, "We don't have to make
13 news with that answer. It can be spun as
14 retaliatory."

15 MR. SHECHTMAN: And, Steve, I
16 think that answer is at -131 at
17 the -- Bates -131.

18 MR. KIM: 123. Oh, you're saying
19 the answer is at -131?

20 MR. SHECHTMAN: I think that's
21 what -- that is the answer that can be
22 spun.

23 THE WITNESS: Which? I'm having
24 trouble finding which is the one.

25 MR. SHECHTMAN: Go to Bates -131.

1 THE WITNESS: Yeah.

2 MR. SHECHTMAN: And the very last
3 answer, I think, is what is being
4 referred to.

5 THE WITNESS: Oh, I got you.

6 A. I don't recall responding to
7 this.

8 Q. How about if you -- you want to
9 look at Tab 74, the next document. It's
10 another chain. Or maybe it's further along in
11 the chain.

12 Beth Garvey says, second
13 paragraph:

14 "If, like you said, there's no
15 there there with this story, we are just
16 pushing back on an anecdote, you
17 acknowledged to all of us earlier as
18 true. We are just creating new
19 liability for a retaliation claim."

20 A. Where are you?

21 Q. Second paragraph of the first
22 page, -114 of Tab 74.

23 A. -114.

24 MR. SHECHTMAN: Tab 74.

25 A. Yeah, I think I'm in Tab 74. And

1 this is my response?

2 Q. No, it's Beth Garvey.

3 A. Oh.

4 Q. So my question is whether you
5 recall discussions about whether certain
6 answers to reporters would be retaliation?

7 A. I don't recall this. And this is
8 about the Ronan Farrow piece?

9 Q. Mm-hmm.

10 A. Yeah, I don't recall this. And I
11 do recall that there was a lot of back and
12 forth, and I didn't have a particular interest
13 in weighing in on this.

14 MR. GRANT: Do you recall,
15 besides any conversations you may have
16 had exclusively with the governor or any
17 conversations with just the lawyers, was
18 there any discussion as to whether
19 making certain comments to the press may
20 be deemed defamatory; meaning, for
21 instance, saying something isn't true or
22 saying that somebody was lying when they
23 were not?

24 THE WITNESS: Yeah. Look, I, you
25 know -- this wasn't every conversation,

1 and it wasn't all conversations. But,
2 you know, from time to time, and you see
3 the example of it in writing when I
4 said, "Don't say completely untrue."

5 And, you know, I would have
6 encouraged people to make sure that they
7 stick to the facts and stick to facts
8 that they are confident are true.

9 It doesn't mean you can't
10 respond. It doesn't mean you have to
11 respond. But if you're going to speak,
12 be careful.

13 And by the way, there were times
14 when I'm specifically sent something,
15 and they say, "Take a look at this."
16 And when I do, it's normally because I
17 think they have some concern that there
18 is going to be, you know, a potential
19 problem with what they've drafted.

20 BY MR. KIM:

21 Q. Are you aware of any attempts to
22 gather negative information on any of the
23 complainants?

24 A. Putting aside the Lindsey Boylan
25 issue with respect to her campaign and her

1 fundraising and information that was sent to
2 me that was publicly available, which I assume
3 was about -- I didn't actually look at it -- a
4 [REDACTED] that I assume was somehow
5 related to Charlotte Bennett, as I sit here
6 today, I can't think of anyone else.

7 Q. Did anyone ask you to help gather
8 negative information?

9 A. No.

10 Q. And so if you look at Tab 71.

11 A. Yeah.

12 Q. Do you remember getting this text
13 from Chris Cuomo?

14 A. I don't specifically recall
15 getting it from Chris, although I think this
16 is what I received on a prior occasion. It
17 may not have been a prior -- on a different
18 occasion from, I think it was, Madeline Cuomo.

19 I think those are the -- that's
20 the [REDACTED] I was referring to before, which
21 is the [REDACTED]. But again, you
22 know, I don't recall getting it from Chris,
23 but clearly, Chris Cuomo sent it to me and a
24 number of people.

25 Q. And if you look at Tab 69. Brian

1 O'Donoghue sends an e-mail about [REDACTED]
2 involving Charlotte Bennett when she was in
3 [REDACTED].

4 A. Yup. That -- you know, same
5 thing.

6 Q. Okay. And you said you
7 forwarded -- "Passed on to lawyers for what
8 it's worth."

9 A. Right.

10 Q. Who did you pass that on to?

11 A. If I'm correct, by that point,
12 Rita Glavin had been retained, I think. If
13 not Rita, then Sharon Nelles, but I sent it to
14 them and said, you know --

15 Q. And are you aware of if any work
16 was done to look into [REDACTED]
17 [REDACTED]?

18 A. I have no idea. And I thought it
19 was -- it wasn't worth my time, is what I
20 thought.

21 Q. Were those part of the
22 discussions you had about talking about
23 Charlotte Bennett's motivation other than in
24 privileged context, her experiences in
25 college?

1 A. No, never came up, other than
2 things like this. I think there may have been
3 one conversation maybe with Madeline Cuomo
4 where, you know, I didn't know what to make of
5 it and I wasn't going to do anything about it.

6 I think that there was a real
7 understanding of the sensitivity of the fact
8 that no one disputed that Charlotte Bennett,
9 as I understood it and as I learned it, was a
10 sexual assault victim.

11 So the notion that you would be,
12 sort of, mucking around in that history was
13 not something that I thought was either
14 worthwhile or appropriate. And I thought that
15 view was shared with the other lawyers on the
16 case, although again, I didn't follow up with
17 them, so I don't know.

18 Q. And you are aware that part of
19 Charlotte Bennett's allegations was that in
20 that conversation -- in one of the
21 conversations she had, the governor kept
22 repeating, "You were raped, you were raped,
23 you were raped." That was part of her
24 allegations?

25 A. Yeah, I understand that. I read

1 that in the Times.

2 Q. And were there discussions about
3 whether those allegations were true?

4 MR. SHECHTMAN: Those
5 allegations --

6 Q. Or did anyone -- did anyone deny
7 that the governor had said that to her?

8 A. I had conversations in a
9 privileged context about that. Outside of
10 that context, I don't recall anybody saying
11 that's not true.

12 I think, you know, my
13 understanding was that I think people thought
14 that there was an explanation for that and
15 that you needed more information. But what I
16 knew about that, I learned in what I thought
17 was a privileged context.

18 Q. And how many of the conversations
19 that you were on or calls that you were on
20 involved Chris Cuomo?

21 A. Let's distinguish between group
22 calls and calls where I spoke to Chris
23 one-on-one. There were probably a half dozen
24 calls where I spoke to Chris one-on-one.

25 There were -- it's hard for me to

1 figure out, for the reasons I said earlier,
2 how many of those group calls Chris was on,
3 although it certainly was -- you know, it was
4 more than three. I think it was probably less
5 than ten.

6 But again, if you came and told
7 me it's 15, it wouldn't surprise me.

8 Q. And the conversations that you
9 had with him one-on-one, what did you talk
10 about?

11 A. He was concerned about the
12 response of not being aggressive enough. He
13 was concerned that we had the right lawyers on
14 the case. He was concerned that at one point
15 the governor hadn't faced the press, and Chris
16 thought that he needed to.

17 He was concerned that the
18 governor's office or the lawyers weren't
19 putting out an explanation or a narrative that
20 told the governor's story. I mean, that was
21 the gist of the conversations with Chris.

22 Q. And what did you say?

23 A. On some of it, I agreed with him,
24 and I told him I agreed, that I thought -- I
25 mean, I said it earlier -- that I really did

1 think that he needed to get out and respond,
2 that he couldn't be in a bunker.

3 On some of it I disagreed with
4 him in terms of the lawyer. Some of it was
5 just sort of conversation for the sake of
6 having conversation, I mean, in the sense that
7 you were, you know, you were talking through
8 these issues.

9 I mean, there was also a point at
10 which -- trying to remember specifically. I
11 can't remember as I sit here. There was
12 another line -- there was another vein of
13 conversation, but I'm -- sitting here, I just
14 don't remember what it was.

15 Q. Did you talk to him about what
16 your assessment -- did you tell him about your
17 assessment of the truthfulness of Charlotte
18 Bennett's allegations?

19 A. I don't believe so. What I would
20 have said is that I didn't believe that much
21 of what Charlotte Bennett was saying was in
22 dispute. I thought that it was a question of
23 what to make of it.

24 And I think I said this to Chris,
25 if not I said it to other people, that that

1 wasn't really the issue with Charlotte
2 Bennett. Charlotte Bennett stood in a very
3 different place in my mind than these other
4 allegations.

5 And that the question would
6 ultimately be with respect to, you know, a
7 large portion of the Charlotte Bennett
8 allegations, what's the governor's explanation
9 of them.

10 Now, there may be a dispute over
11 20 percent of what she says or, you know, I
12 don't know how to properly quantify that, but
13 that really much of it was, in the context of
14 the middle of COVID, in that office, those
15 conversations, you're going to have to explain
16 it. And I think I would have shared my view
17 of that with Chris.

18 The others -- the other claims, I
19 think the general view was they're not
20 accurate.

21 Q. Did you share that view about
22 Charlotte Bennett with him before March 14
23 when he sent you [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]?

25 A. I don't recall. And to be clear,

1 that view of it, my view of, sort of, the
2 assessment of the Charlotte Bennett situation,
3 if it would have come up earlier -- and again,
4 I don't know when it came up -- that was my
5 assessment. That's not something that I sort
6 of, you know, three weeks after the fact it
7 dawned on me.

8 But once I read the claims and
9 generally had a sense of what this was about,
10 it just struck me, this was not a, you know,
11 to use the usual parlance that he said she
12 said, this was what do you make of these
13 facts.

14 Q. Did you have any discussions with
15 anyone about looking for or getting negative
16 information about the investigators in our
17 investigation?

18 A. You guys?

19 Q. Yes.

20 A. Yeah, no, no.

21 Q. Did anyone ask you to do that?

22 A. No.

23 Q. Are you aware of what -- what do
24 you understand the term "opposition research"
25 to mean?

1 A. Opposition research is to look
2 for negative information on your opponent.
3 That's opposition research.

4 Q. And had anyone asked you to do
5 opposition research on any of the
6 investigators --

7 A. No. And if it was an e-mail or
8 text saying otherwise, I missed it, but no.

9 Q. Did you tell anyone that you had
10 been asked to do opposition research?

11 A. I don't recall ever telling
12 anybody that.

13 Q. Did you have any discussions with
14 Josh Vlasto, Maggie Moran, or Rich Bamberger
15 about opposition research?

16 A. I may have but not that I recall.

17 Q. Is that something that in your
18 experience you had done for -- either for the
19 governor either when he was attorney general
20 or running for governor, opposition research?

21 A. I think in 2002 there was an
22 analysis done of Carl McCall's who was running
23 for governor in the primary, Carl McCall's
24 conduct and investment choices as the New York
25 State controller. You could characterize that

1 as opposition research.

2 I looked into it. I actually
3 thought it was not what people commonly think
4 of as opposition research. And nothing ever
5 came -- I mean, whatever I gathered, nothing
6 ever came of it.

7 In 2006 I think there was a good
8 amount of work done on Carl McCall. It was
9 done out of the campaign, though. And I might
10 have known about it, but I didn't work on it.

11 Q. Any discussion about the
12 motivations or the political motivation of the
13 attorney general in overseeing this
14 investigation?

15 A. Any discussion?

16 Q. Yeah.

17 A. There may have been, but I didn't
18 frankly take it seriously. I mean, there was
19 also issues raised about your involvement in
20 the US Attorney's office, issues raised about,
21 sort of, where the Moreland investigation
22 ended, none of which I took very seriously.

23 Q. Who raised the issue about my
24 involvement while at the US Attorney's office?

25 A. Putting aside conversations I may

1 have had in a privileged context, I think it
2 came up with Azzopardi. It likely came up
3 with Melissa DeRosa. I don't recall it
4 being -- I don't -- those are the ones that I
5 think are the most likely.

6 Q. And what did Azzopardi say?

7 A. Questioned whether this was a
8 question of, you know, you being selected
9 because you had a history. That was, sort of,
10 the gist of it. What your relationship was
11 with Preet, on how Preet felt about the
12 governor. I mean, that was sort of, the gist
13 of it.

14 Q. And was it just that something
15 that could be used to attack or undermine the
16 investigation or --

17 A. Well, when it was being
18 discussed, I think that there was sort of a
19 notion of what do you do now that this has
20 been announced. And, you know, I think that
21 ultimately there was a decision to embrace the
22 AG's investigation, which I think is reflected
23 in the governor's comments.

24 Further conversations that may
25 have taken place I think were in a privileged

1 context about how do you respond to an
2 investigation.

3 Q. How about with Melissa DeRosa,
4 what were the conversations about?

5 A. It would have been the same, I
6 mean, essentially it was the same type of
7 conversation.

8 Q. And so if I just understand the
9 privilege, the conversations with Melissa
10 DeRosa and Azzopardi are not privileged, but
11 it's the conversations with the governor that
12 are privileged?

13 MR. SHECHTMAN: That's where
14 we've drawn the line. I mean, I know
15 the conversations with the governor are
16 because I know there are instructions on
17 that. The others we've answered.

18 A. It would have been the governor,
19 in certain instances, the governor and other
20 lawyers.

21 Q. And were there discussions, other
22 than in the privileged context, of a decision
23 at some point to change strategies from
24 accepting the investigation to going on the
25 offensive?

1 A. I wouldn't put it -- as you
2 presented it in your question, it is -- it's
3 too refined and too specific in terms of the
4 thought process. I think that as you get
5 further along in this kind of investigation
6 there is anxiety.

7 And so the question that people
8 are considering, again, staying away from the
9 privileged issue is, are we going to have a
10 problem? Are we going to get a fair shake?
11 And if we don't, what's our response going to
12 be? And I think that is what people are
13 thinking about.

14 Q. And that was in the context,
15 then, of the discussion about Moreland and
16 Preet?

17 A. Yeah, although that came up
18 earlier. I mean, that came up shortly after
19 you were named. And then, you know,
20 periodically that theme percolates up.

21 Q. And that's early on in the
22 appointment, essentially right away it begins?

23 A. Right away probably not, in the
24 sense that it's not it was announced and then
25 suddenly this was discussed. I think it was

1 within the first couple of days. There was a
2 conversation as to whether or not this was a
3 good choice from the standpoint of the
4 governor's office, and whether or not you came
5 to this with a predisposition.

6 Q. And in those contexts, were there
7 any discussions about identifying negative
8 information by anyone?

9 A. No, not to my knowledge.

10 MR. GRANT: Besides conversations
11 in a privileged context, was there any
12 conversation about Anne Clark?

13 THE WITNESS: No. No, although I
14 know, you know, your partner. I've
15 dealt with Ms. Vladik. And, you know, I
16 had a conversation, or somebody may have
17 had a conversation and reported back on
18 [REDACTED] experiences. So there was
19 sort of a general, sort of, effort to
20 understand what Anne Clark's experience
21 was and where she came from. But beyond
22 that, I don't recall anything, and --
23 yeah.

24 BY MR. KIM:

25 Q. Do you know if at some point Josh

1 Vlasto was asked if he would, sort of, lead
2 the public response?

3 A. Yes.

4 Q. What do you know about that?

5 A. I know Josh was asked whether or
6 not he would be willing to leave his firm
7 Kivvit, take a leave, and sort of be in charge
8 of -- in charge of the communications effort.

9 Q. And whose idea was that?

10 A. I don't know.

11 Q. And do you know who conveyed that
12 request to him?

13 A. I think it was Melissa.

14 Q. And what did he -- did you
15 discuss it with him?

16 A. After the fact, and all he said
17 was "I'm not going to do it."

18 Q. Did he say why?

19 A. He's busy, he's building his own
20 business. He was tired of this, he's tired of
21 being dragged into these things. There's very
22 little upside for him, and he just didn't want
23 to participate.

24 Q. Did he say anything about his
25 view of the direction that the response was

1 going?

2 A. I don't recall that. He may
3 have, but I just don't recall it.

4 Q. Okay. Can you turn to 88 which
5 is the last -- I think one of the last --

6 A. 88 is the last.

7 Q. Yes, so this is some BlackBerry
8 pins and you're referenced. You're not on
9 them, but I wanted to see if you knew
10 or -- what this was about. February 14.

11 I believe this is a pin from the
12 governor, sent to Steve Cohen after Daily -- I
13 will cite it, hold on:

14 "Send to Steve Cohen after Daily
15 news moves on line this morning who we
16 can get as an ethics lawyer or former
17 prosecutors to tweet or do statements."

18 There's a reference to:

19 "Todd Kaminsky, Gianaris, Biaggi
20 lawyers could be sanctioned by the bar."

21 And then it responds:

22 "Off the top of his head he's
23 going to come up with ideas. [REDACTED]

24 [REDACTED] (Columbia professor
25 but leaked piece to times)."

1 A. Yeah, so as best I recall, this
2 was related to I think what was going on with
3 Ron Kim in the legislature. And I
4 think -- and again, I may get this wrong, but
5 I think the notion was that the legislature
6 was going to use the governor's conduct or the
7 threats of an investigation or the threat of
8 an impeachment to gain an advantage in the
9 budget negotiations.

10 And so the question was, for the
11 lawyers in the legislature, whether or not
12 that was either unethical, or whether it
13 would've constituted an extortion under New
14 York law. And putting aside the substance,
15 because there may have been a privileged
16 conversation, talking about --

17 THE WITNESS: I think I can say
18 this --

19 A. -- the relevant laws and how to
20 think about this, this may have followed that.
21 I just don't recall the sequencing because
22 obviously I'm not on this.

23 I did get a call, maybe it was
24 from Stephanie, saying "Are there lawyers who
25 can help think about this?" And I, off the

1 top of my head, gave, you know, two lawyers
2 that I think that are very good, that I think
3 are ethical, credible, and that are more than
4 willing to say "I looked at it and there's
5 nothing to do here."

6 And I think ██████████ had
7 called me and was looking to get involved
8 somehow, so that's why his -- he came to mind.
9 I hadn't dealt with ██████████ in a good long
10 while, but ██████████ had just -- I don't remember
11 what case he just tried. He just tried a big
12 case.

13 And then ██████████, for me, you
14 can't get better than ██████████. And as I said, I
15 didn't want them to be surprised that he came
16 up in the context of the Jim Comey leak to
17 the -- you know, of the Trump notes. So I put
18 that in, just so you know, that's who ██████████ is.

19 And after this, I don't recall
20 having any further conversations, nor did I
21 ever hear of any outreach to those lawyers. I
22 mean, it just -- I think it went away.

23 Q. So the inquiry was whether
24 legislators who would use impeachment in the
25 budget on negotiations or if they could tie it

1 could say that's extortion and --

2 A. Yeah, for leverage.

3 Q. -- lawyers?

4 A. And I don't know if it was
5 impeachment. It may also have been a threat
6 to hold hearings -- right? -- and I'm now
7 doing what he doesn't want me to do, but to
8 give you context, it could have been, we're
9 going to hold hearings on pick your topic,
10 unless you agree that we are going to fund
11 this project of ours in the budget.

12 Which there's actually a legal
13 issue embedded here about when log rolling,
14 sort of classic log rolling, which is not
15 illegal, goes beyond it and could conceivably
16 be viewed as extortion. I thought that is a
17 very hard case and a very hard claim to make.

18 You know, during the budget
19 proceedings, I from my perspective, there was
20 a very heightened sensitivity running the
21 other way as well. Governor is trying to get
22 a budget, people are asking for things, these
23 may be the very same people who are involved
24 in an impeachment proceeding and may sit as
25 jurors.

1 And so, you know, they asked me
2 for my advice. I gave my advice about the
3 area. They asked me for lawyers and I gave
4 them two people that I thought were smart,
5 reputable, and capable of giving an opinion
6 that was accurate, direct, and showed some
7 judgment.

8 Q. Since you left the executive
9 chamber, have you received sexual harassment
10 training that -- or state-run sexual
11 harassment training?

12 A. State-run?

13 Q. Yeah or -- yeah. Other than
14 your --

15 A. I -- I may have -- I'm not in a
16 position where it would be required. Let me
17 begin by saying that. Because as a board
18 member, typically, I think there's no
19 requirement that you participate because
20 you're not really interacting with staff
21 members.

22 It may have been that as part of
23 my training, that as part of, sort of,
24 requirements, I did it.

25 I actually watched some of the

1 state's presentation on diversity. I think it
2 was on diversity, but I don't recall sexual
3 harassment training. And in addition, I've
4 had sexual harassment training. I had it, you
5 know, at MacAndrews.

6 Q. Right. But for your board
7 positions and your involvement at ESD, that
8 you haven't had to have state sexual
9 harassment training?

10 A. I'm going to answer carefully.
11 I'm not sure of what the obligations are. I
12 do know because I at some point checked, for
13 reasons unrelated to all of this, whether I
14 was up to date on everything that I needed to
15 do.

16 And I was told, yeah, you're up
17 to date. There were a number of things that I
18 wasn't required to do, and I asked what those
19 were and had difficulty accessing them.

20 But I did look, I think as I
21 said, at the diversity training. I was
22 curious what we were offering in diversity
23 training. But I don't -- I mean, unless I'm
24 mistaken -- number one, I'm fairly certain
25 that I'm up to date on what I need to be up to

1 date on. And I don't believe I'm required to
2 go through sexual harassment training.

3 Q. How about at MacAndrews and
4 Forbes, were you given sexual harassment
5 training there?

6 A. Yeah, I was the general counsel
7 chief administrator officer, and the
8 compliance folks reported to me. And so we
9 had a sexual harassment training program. And
10 then in 2019, I think it was in 2019, the
11 program was revamped. And I took the
12 training.

13 MR. GRANT: And when you worked
14 in the executive chamber?

15 THE WITNESS: I don't recall in
16 the executive chamber. I don't recall
17 if it was required. And I was there for
18 a relatively short period of time.

19 I do know that we had, you know,
20 a fairly -- I delegated it to a group of
21 three. Two of them were [REDACTED]
22 and [REDACTED]. I don't recall a
23 decade or more later, sort of, what was
24 required at the time.

25 But I do know when we came in

1 2007 I took a look at what was required,
2 what the reporting process was, how you
3 filed a claim, and who the claim could
4 be and should be filed with. And -- but
5 I just don't remember.

6 I don't think there was sexual
7 harassment training. I don't remember
8 it at the US Attorney's office either.
9 But, again, it's long enough ago that I
10 think the best practices have changed.

11 And certainly at MacAndrews I,
12 sort of, watched those changes and we
13 rolled out a new program.

14 MR. GRANT: And at the state
15 attorney general's office?

16 THE WITNESS: Yeah, it's what I
17 was referring to. It's not the
18 governor's office, it was the state
19 attorney general's office that we, when
20 we came in, we took a look at what we
21 were doing.

22 And again, I don't remember. I
23 know we revamped certain things, but I
24 don't recall beyond that.

25 BY MR. KIM:

1 Q. Do you know [REDACTED]?

2 A. I do.

3 Q. Who is she?

4 A. She is the deputy secretary for
5 economic development.

6 Q. Any discussions you had with her
7 about any sexual harassment allegations
8 against the governor?

9 A. I think I asked her -- I mean,
10 again, when I was talking about that when I
11 would run into people, I had general
12 conversations with them, I would've with
13 [REDACTED]. She was in Lindsey Boylan's old
14 job. And I didn't know if she overlapped with
15 Lindsey.

16 And so I do believe I asked her
17 if she had dealt with Lindsey, if she
18 overlapped with Lindsey, I don't think she
19 really did, and if she knew something about
20 the allegations, I may have asked her what her
21 experiences were.

22 Now that you mention it,
23 I -- probably in the course of all of this,
24 you know, I probably would have had a similar
25 conversation with [REDACTED] Not sure with

1 [REDACTED]. But these are people that I'm
2 dealing with on a fairly regular basis and
3 that I like and trust.

4 Q. And what did [REDACTED] say about
5 her experience?

6 A. Tough place to work but nothing
7 like what she heard Lindsey Boylan describe.

8 Q. What about [REDACTED]?

9 A. Similar. I mean, [REDACTED] actually
10 went up to meet with the governor about, sort
11 of, what she wanted to do. She was very
12 involved in what was called the Schmidt
13 Commission, which came out of New York
14 Forward, that, you know, that reopening group.

15 So the governor met with her and
16 then invited her to go to a press conference
17 with Schmidt up in Buffalo. And I'm sure in
18 that context I would have asked her in what I
19 think was probably a non-intrusive way, you
20 know, how was it, what went on? Any trouble?
21 Any problems?

22 And she said, no, it was fine
23 would have preferred not to have been dragged
24 up to Buffalo. The governor, she said, was
25 very gracious to her and asked her what she

1 wanted to do next, and talked to her about his
2 not unusual view that you should be, you know,
3 running something. You should be doing
4 something, you know. You shouldn't be focused
5 on policy, you should be focused on
6 accomplishments. That is what Kate said.

7 MR. KIM: Let me take a quick
8 moment. I don't even know if we need to
9 go off the record. Okay. I think I'm
10 30 minutes over what I promised. And we
11 do give an opportunity -- we have been
12 giving opportunities for witnesses to
13 give a statement not necessarily in
14 response to a particular question.

15 So, you know, if you would like
16 to make a general statement of some
17 kind, we'll give you the opportunity to
18 do that.

19 THE WITNESS: I think I've said
20 enough. The one thing I will note is I
21 recognize that my recollection is far
22 from perfect, and that this was a fairly
23 intense and clustered period of time.
24 And I apologize to the extent that my
25 recollection is not better and my

1 ability to recount these episodes in a
2 chronological order is not better,
3 but --

4 Q. Is there anything else that we
5 have failed to ask that is relevant to the
6 sexual harassment allegations and the
7 circumstance surrounding you think we should
8 know?

9 A. My counsel advises me the answer
10 is no.

11 MR. SHECHTMAN: And I think the
12 answer is no. I mean, in terms of what
13 we thought would be covered, you've
14 covered it. There were texts that we
15 hadn't seen, which disappointments me in
16 terms of my own preparation, but I think
17 you asked the appropriate questions.

18 MR. KIM: A lot of them came from
19 other sources.

20 MR. SHECHTMAN: Okay.
21 Understood.

22 MR. KIM: Okay. Well, that
23 concludes it for us. Thank you for your
24 time.

25 THE WITNESS: Thank you.

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NASSAU)

I, PATRICIA A. BIDONDE, a Notary Public within and for the State of New York, do hereby certify:

That STEVEN M. COHEN, the witness whose deposition is hereinbefore set forth, was duly sworn by me, and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this day, July 6, 2021.

Patricia A. Bidonde

PATRICIA A. BIDONDE
Stenographer
Registered Professional Reporter
Realtime Certified Reporter