

# [***California Raising Minimum Wage; RFK Jr.'s Third-Party Threat; Recovery Operations Continue After Baltimore Bridge Collapse; Hunter Biden Attorney Argues For Tax Case Dismissal***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BN7-KR81-F072-X29M-00000-00&context=1516831)

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**Body**

NEIL CAVUTO, FOX NEWS ANCHOR: All right, we have got a lot more on that market.

FOX on top of two other big developing stories, however. We are live at Los Angeles, where Hunter Biden's attorney is trying to fight those tax charges and get him off the hook. And we're live in Baltimore, Maryland, where investigators are looking for answers and they're on the hunt.

First to Baltimore, and here's what we know right now. Divers are searching for the bodies of six construction workers, presumed dead, after that bridge collapsed. About a dozen ships are unable to get out of the port as shipping traffic remains pretty much halted. Transportation Secretary Pete Buttigieg says it is way too soon to tell when the port will reopen and fears major impact on our supply chain.

And the costs are mounting through all of this. One estimate has insured losses going up to $4 billion. Wow. And that's just for starters.

Welcome, everybody. I'm Neil Cavuto.

Let's get right to it to Griff Jenkins in Baltimore with the very latest.

Hey, Griff.

GRIFF JENKINS, FOX NEWS CORRESPONDENT: Hey, Neil. Good afternoon.

We are on the Patapsco River on a boat here. And we're getting a much closer look at really the magnitude of what happened to this bridge and the challenge of those divers we have watched going in and out. You can see actually here closest to us just a few hundred yards away the little boat with the blue lights.

That's Maryland's Department of Natural Resources. They're part of this recovery effort trying to get the bodies of those six presumed dead to bring closure to those families. You come over here to this open area, Neil, you can see the debris in the middle of that section. There were boats there and divers all morning long there.

Clearly, that is an area that they believe possibly some of those workers and their vehicles may have been. And then keep coming over here heading sort of south down along the bridge. You can see that 1,000-foot ship with some nearly 5,000 containers still sitting there, the Dali.

And we know now from that White House briefing earlier, Neil, according to the vice admiral of the Coast Guard, that there are some 50-plus containers on that ship with hazardous material, not posing a threat right now, but nevertheless on it.

Thankfully, it wasn't near the bow, where you see the section span of the bridge collapsing, because, obviously, that is the worst damage. It appears to be a little farther back towards the pilot house. But it is the first day, Neil, of the NTSB's really on the ground with boots in their investigation.

A lot of questions as to why this happened. We were able to speak with the chairwoman, Jennifer Homendy, about what the investigation is going to tell us, that data recorder that they're now in possession of, and I asked her about a Wall Street Journal exclusive piece that suggested that possibly dirty fuel could have played a part into the ship losing power.

Here's what she said, Neil.

(BEGIN VIDEO CLIP)

JENKINS: There's -- The Wall Street Journal is reporting exclusively today there may have been issues with dirty fuel. Can you tell us anything about that?

JENNIFER HOMENDY, CHAIR, NATIONAL TRANSPORTATION SAFETY BOARD: Yes, I -- we don't know that right now, but we will look into it. To be honest, I have not seen those reports, so I'd have to get some context, but we would have to look at that. And, of course, having the right fuel, making sure it's clean fuel certainly would contribute to the operation of the vessel, but we have an entire engineering team here that will really look into that.

(END VIDEO CLIP)

JENKINS: And one final last look, Neil.

What really hits home for me being this close is just what a silver lining it was that the harbor Maryland pilots coordinated in real time in a short span of minutes as that ship lost power and began to drift towards this bridge. They coordinated the harbor pilots with the Maryland Transportation authorities and they closed this bridge down, because, as you look at that bridge, where it just stops, imagine being a car driving in the dark at night at 1:30 a.m.

You would have just driven right into the river and likely plunged to your death. So it is likely, as Governor Wes Moore says, countless lives were saved because of the quick coordination between those harbor pilots and the Maryland Transportation authorities that closed that bridge almost instantly when they learned about the danger -- Neil.

CAVUTO: Wow. Talk about quick thinking.

Griff, thank you very much for that.

Griff Jenkins in Baltimore.

We get any more developments, we will take you back there.

In the meantime, I want to go to Sal Mercogliano. He's a former merchant mariner and a maritime expert.

Sal, very good to have you and thank you for taking the time.

What do you make of what you're learning thus far, Sal? I guess they have this black box off the ship, so they have to analyze that. What would be on that?

SAL MERCOGLIANO, FORMER MERCHANT MARINER: So, Neil, that -- thank you for having me.

That black box would be the vessel data recorder. So it would have all the readings from the engine room, everything that potentially led to the loss of power on the vessel. It would also have all the instrumentation from the bridge. And probably most interesting for everybody is a voice recorder that records the conversations on the bridge, that conversation between the ship's pilots that were on board helping to navigate the vessel and the ship's master.

CAVUTO: You know, Sal, a lot of people do some Monday morning quarterback on these things, I think always dangerous, but wondering when the ship was listless and then the power was going out, why didn't they just drop anchor right then and there?

Is that something that is powered? You need electricity to make that happen?

MERCOGLIANO: No.

I can tell you as a former mariner that the sound of silence is the most scariest sound on a ship.

CAVUTO: Wow.

MERCOGLIANO: And so right then and there they would have to think about what to be done. But, fortunately, the anchors do not require power. They're brakes, so you just have to release them.

But you have to think about the moment and when did they want to release it? A ship at eight knots, about 10 miles an hour, 115,000 tons, an anchor is going to have a hard time stopping it. It really is not like in the movies, where do you see that.

CAVUTO: Is that right? OK. Well, that answers that. I appreciate that.

Another thing I wanted to bounce over to you, Sal, is, this is the third ship that has hit a bridge. The two others were in different countries. And you don't want to tie them together. The other two were nothing like this. But does it have something to do with the size? Is it cargo ships that are much bigger now, passenger ships that are much bigger now?

Royal Caribbean's Icon of the Seas is a monster of a ship. It can't even go to all the ports it's assigned to. And I'm thinking there's going to be a ship next year that's going to be bigger than that one. Now, again, that's a passenger ship versus cargo ships. But these things are getting bigger and bigger, it seems.

MERCOGLIANO: Yes.

I mean, you're dealing with a bridge that was built in 1977. A ship the size of the Dali wasn't even envisioned. And Dali is not a big container ship.

CAVUTO: Really?

MERCOGLIANO: I mean, the Ever Given was twice the size of this.

And what we're doing on the oceans right now is increasing the volume of transportation, but we're also increasing the velocity. And that doesn't give you a lot of time and slack in the system for an error, so that, when something goes wrong, it tends to go wrong very quickly and unfortunately in this case very catastrophically.

CAVUTO: You know, Sal, another thing I was curious about, maybe you can help me out with this, is that cargo crew members were interviewed today. I don't know if they were all interviewed today. I don't know if the interviews were finished today.

What are authorities asking them, the ticktock on what they did, what they were doing over the weekend? What?

MERCOGLIANO: Well, I think one of the things that they want to find out, was there systematic problems in the operation of the ship? Maybe it was a command structure. Maybe there was maintenance issues.

They really want to get a feel for them to tell them things that may not be in the written documents. And, of course, they want to find out, what were the actions taken during that?

While we will have a voice recording of the bridge, we will not probably have a voice recording down in the engine room. And when that power went out, you are down in the engine room of the ship, there is no power. There's no lights. You have got emergency lights, maybe a handheld light.

What were the actions that you were taking? What did you do during that period of time to help mitigate the incident that eventually led to the collapse of the bridge?

CAVUTO: Sal, thank you very much. You answered a lot of very dumb questions on my part, but very interesting.

Sal Mercogliano, he is a former merchant mariner, maritime expert, knows of what he speaks.

All right, want to draw your attention to what happened at the corner of Wall and Broad today, three losing sessions were finally stopped, as the major market averages all advanced today, in the case of the Dow, a stunning 477-point gain. I guess we have one more day of trading on this month and quarter.

Remember, Friday, for Good Friday, the markets are closed. But they are putting in a heady performance, not only for the month, but at this rate for the quarter as well. In fact, dating back to 1970, this looks like it could potentially be the best first quarter for stocks since 1971. So we keep an eye on that.

Also keeping an eye on Hunter Biden and what's going on there with him. He's in a Los Angeles courtroom, not he, but his lawyer is, to try to argue with dropping some charges.

Let's go to Jonathan Hunt, who's there -- Jonathan.

JONATHAN HUNT, FOX NEWS CORRESPONDENT: Hey, Neil.

The hearing just got under way without Hunter Biden. He has decided for some reason to skip what is a critical hearing as he attempts to get all the tax charges against him dismissed.

After the break, we will tell you what he's arguing and how the prosecution is responding -- coming up.

(COMMERCIAL BREAK)

CAVUTO: All right, want to take you to Los Angeles right now, where Hunter Biden's attorney, Abbe Lowell, is filing motions at this hour to remove those tax charges from the various other complaints against the president's son.

I don't know where that stands, but I have a feeling that Jonathan Hunt does -- Jonathan.

HUNT: Neil, the hearing got under way just about 12 or 13 minutes ago.

Hunter Biden has decided to skip it, somewhat surprisingly to many legal observers, given that this is a critical hearing in which his attorneys are trying to get all of the nine tax-related charges against him dismissed. His lead attorney, Abbe Lowell, arrived here just about an hour ago, alone this time.

Hunter Biden was here for the first hearing back in January. Now, Lowell is going to argue that this case against Hunter Biden is -- quote -- "selective and vindictive and is politically motivated." He's also going to argue that a plea deal that Biden had struck with prosecutors that was rejected by a judge last summer should actually still be binding on the prosecution.

In his motion, Abbe Lowell wrote -- quote -- "As part of that agreement, he," Biden, "sacrificed valuable rights in exchange for the prosecution's agreement not to prosecute the very sort of indictment that it has brought here. This court should require the prosecution honor its agreement and dismiss the indictment."

Now, special prosecutor David Weiss has said that that agreement was rejected and therefore doesn't apply anymore. He wrote in his response to the Biden filing -- quote -- "Because the agreement never went into effect, the government was free to withdraw it, which it did in writing on August 9, 2023. Therefore, the defendant's motion to dismiss the indictment returned by the grand jury is meritless and should be denied."

So now it will be up to Judge Scarsi to hear the arguments today. He has just said, according to our producer in the courtroom, Lee Ross, that he is going to consider carefully each one of the eight motions filed by Biden's legal team. So we're likely to be here for a couple of hours at least, I would think, Neil.

If ultimately Judge Scarsi throws out those motions to dismiss and rules the trial should go ahead, it is scheduled to begin on June 20, height of election campaign season, and Hunter Biden, by the way, could face up to 17 years in prison -- Neil.

CAVUTO: All right, Jonathan, thank you very much. I look forward to going back to you.

Let's get the latest, though, on the implications of this with John Yoo, back with us, the former deputy assistant attorney general, Sol Wisenberg, the former deputy independent counsel, contributors both.

Gentlemen, thank you.

John Yoo, to you on what you think goes down here. Let's say those tax charges are not removed. Nothing's changed then, right?

JOHN YOO, FORMER DEPUTY ASSISTANT ATTORNEY GENERAL: I think you're going to see a trial start in June. Hunter's bringing two kinds of challenges.

One, he is saying selective prosecution, that all these political pressures on the prosecutors caused them to bring charges against Hunter when he shouldn't have been charged. Neil, that's exactly the same kind of claim that President Trump is trying to raise and losing on repeatedly too. That's because these selective prosecution claims never really work.

Judges are very, very reluctant to ask, why did the Justice Department charge this person, but not that person? And then his second claim, Hunter's second claim, that, oh, the plea bargain has to be obeyed, I should be given immunity, I'm not sure that works either because, as we remember, the judge in Wilmington, Delaware, rejected that plea bargain, said there was something fishy about it.

And so the judge didn't approve it. I don't see why it should go into effect and why Hunter should get the benefit of that plea bargain.

CAVUTO: Sol, I assume it's the same judge. It's Mark Scarsi, right?

SOL WISENBERG, FOX NEWS CONTRIBUTOR: No, no, the judge that Jonathan is talking about was the judge in Delaware, because, remember, originally, it was supposed to be a deal, a diversion agreement and a plea agreement that settled everything.

But I think it's important to note that the diversion, it's -- what the defense is claiming, what Hunter Biden's lawyers are claiming is, it's not the original plea agreement that is no longer in effect, but it's the diversion agreement that was signed. Hunter Biden's people say it was in effect, it didn't require the judge to approve it. And, in fact, diversion agreements are typically not approved by the judge.

The prosecution is countered and said, yes, but it did depend upon the probation officer approving it and she refused to approve it. That's really the issue there. I think it's probably the best of all of Hunter Biden's motions to dismiss. I don't think it'll win, but I don't think it's a slam dunk for the prosecution by any means.

CAVUTO: So, John Yoo, the fact that Hunter Biden isn't there and we're told that his absence wasn't explained, does that mean anything?

YOO: I'm sure he's a busy guy. He's got a lot of other investigations to respond to too.

I think when you really want to see him, of course, is when the trial actually starts. He has to be there. These kinds of pretrial motions, they don't really have to be there. And, actually, we have seen President Trump go to a lot of these. He didn't have to go to those either. The thing that Trump did is he somehow used those appearances to his own political benefit even while it was legally killing him.

Maybe Hunter took the lesson from that and decided I'm not going to show up in court. I don't want to cause trouble. I don't want to make my legal case worse off.

CAVUTO: I'm just wanting to have far this goes then, Sol.

One of the key arguments is that, in any of these probes, Hunter Biden has said there's been no evidence that the president, his father, was personally involved.

I mean, is anything at stake here bring us to any clarity there?

WISENBERG: No, because it's very clear that the assistant U.S. attorney in charge of the investigation didn't want -- as the whistle-blowers have shown and said and supported with some evidence, the AUSA didn't want anything to do, the investigation to go into Joe Biden at all.

But I think that a really important takeaway from this motion to dismiss, based on the fact that the diversion agreement is in effect, none of this would have been necessary if Weiss had operated in the way a normal prosecutor would operate.

This was a -- this combination of a plea agreement and a diversion agreement, as the prosecution admitted in court in front of the Delaware judge that day, Judge Noreika, it was totally unprecedented. It was a Rube Goldberg concoction. And it was unnecessary.

And so Weiss -- Weiss bears the blame for that, unquestionably.

CAVUTO: Let's get back to Hunter Biden's defense lawyer, Abbe Lowell.

Now, he has argued in court, the first to speak, we're told, today, saying that: "The government is involved in the least ordinary prosecution a person could imagine."

John Yoo, I think you were the first to say this. Does ring of some of the Donald Trump protest about the legal strategy politically motivated against him. You said that that doesn't go very far. So will this go very far?

YOO: I don't think so.

And here's a big difference between the Trump and Biden cases. Trump has some very good legal claims about why the prosecutions against him don't really fit the crimes. Here, in this case, it's hard to see Hunter having a defense. I mean, remember, the indictment, it showed that Hunter had concealed $1.4 million in income. He was using the money he should have paid to the IRS to live high on the hog.

There's no real -- he has no real defense. And so I don't think that that he's going to be kind of as good a shape on the merits of the case as Trump is. I think what the best thing they can do is just try to get the trial pushed farther and farther back, so that it doesn't become an issue in the election.

CAVUTO: Sol, let me ask you. If the tax charges were all dropped and the 13 to 15 to 17 years, I don't know what it is, if he found -- was found guilty on all of them, what are we left with and potential prison time if found guilty on those?

WISENBERG: Well, I don't understand. You mean on the gun or the tax charges?

CAVUTO: The tax charges, the ones that ideally they want to drop today, or his lawyer wants to drop today. We're left back to the gun stuff.

WISENBERG: Oh, of course.

CAVUTO: And that won't be nearly as onerous prison time if it ever came down to being convicted on that.

WISENBERG: Right.

Well, don't pay any attention to the statutory maximum. Even if he's convicted of these tax charges, I would not expect him to do more than two or three years in prison, at most. It'll be decided by a judge looking first to the sentencing guidelines.

And criminal tax cases are notorious for judges doing what's called a downward departure or a downward variance and reducing the sentences. Tax crimes just generally people don't do as much time as for other white- collar crimes.

CAVUTO: Fascinating.

Gentlemen, thank you both very much. I appreciate it.

Again, they're still in the courtroom there. When we get any news, we will pass it along. Our David Spunt is in that courtroom, so we will keep you up to date on the very latest.

In the meantime, just letting you know that, in this Baltimore shipping tragedy, where Maryland Governor Wes Moore is going to be having a press conference a little over an hour from now, 5:30 p.m., he has already updated us on a number of other developments, that there are certainly problems getting into and out of the area.

It's a frozen shipping zone there right now, and the impact is real, also on looking for the bodies of those six presumed victims from this disaster, probably a construction crew that was working on the bridge at the time it collapsed. So we will keep you posted on that.

Also keeping you posted on the reverberations right now of how all of this is going down, not only in Baltimore, but elsewhere, as we start to weigh the cost and the impact of this shipping disaster.

Hillary Vaughn on that.

HILLARY VAUGHN, FOX NEWS CORRESPONDENT: Hi, Neil.

Well, that tragedy closing one of the busiest ports in the country, the Port of Baltimore. We will have the latest on the recovery of those bodies, of those fallen construction workers, as well as the investigation and this effort to rebuild and reopen to get this local economy back online -- after the break.

(COMMERCIAL BREAK)

CAVUTO: All right, more good news for Donald Trump. That TRUTH Social stock of his zoomed again today. It's up 32 percent in two days. It's driven his net worth to more than $7 billion.

Now the bad news. He can't tap it any time soon -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, the true damage of that ship disaster in Baltimore is just being realized, not only the economic impact, but what could be something for the nation to deal with, like now,.

Hillary Vaughn in Dundalk, Maryland, with the latest -- Hillary.

VAUGHN: Hi, Neil.

Well, we're still in the recovery and investigation phase of things here. Investigators are still trying to figure out everything that led up to the cargo ship crashing into this bridge that ultimately ended up killing six construction workers. Those bodies in the water still need to be recovered to give closure to their families.

But, after that, the next step is cleanup and rebuilding. There are still 4,700 containers on the ship that needs to be unloaded, including 1.5 million gallons of fuel and lubricant oil. And with the bridge down and port closed, this will impact shipments by boat and by truck. Nearly 5,000 semitrucks traveled this bridge every day.

The American Trucking Association says there will be delays and extra costs to shipments. And until the port is back open, the main artery for Baltimore's industry is shut down.

(BEGIN VIDEO CLIP)

PETE BUTTIGIEG, U.S. TRANSPORTATION SECRETARY: Port of Baltimore is an important port. So, for our supply chains and for all the workers who depend on it for their income, we're going to help to get it open as soon as safely possible, between $100 million and $200 million of value that comes through that port every day, and about $2 million in wages that are at stake every day.

(END VIDEO CLIP)

VAUGHN: But the problem is global.

This port serves as a critical lifeline for the auto and coal industries. GM and Ford will reroute their cars and trucks, and every other business that relies on this port is going to have to figure out how to reroute their products.

(BEGIN VIDEO CLIP)

GOV. WES MOORE (D-MD): We're talking about a port that's responsible for over 51 million tons of foreign cargo. That's the largest in the country. The Port of Baltimore is responsible for cars, heavy vehicles, agricultural equipment, the largest amount in the entire country.

So this is not just going to impact Maryland. This is impacting the farmer in Kentucky. It's impacting the auto dealer in Michigan. We have got to get that bridge rebuilt and we have to get this port reopened.

(END VIDEO CLIP)

VAUGHN: Neil, the other big economic question is, could this impact inflation with supply chain hiccups, as goods are being rerouted to other ports?

But Secretary Buttigieg said today he doesn't expect this to have a huge impact on inflation. He thinks that the supply chain issues here are more specialized and localized than what we saw during the pandemic. So they don't expect this to impact inflation broadly nationwide -- Neil.

CAVUTO: Got it. Hillary Vaughn, thank you very much.

And, to Hillary's point, if the markets were panicking about any of this, they had a funny way of showing it, the Dow getting closer and closer to 40,000, a gain of 477 points today, inflation not a worry from this.

Alan Knuckman, Bullseye Option chief market strategist.

Alan, do you agree with that, that, for now, the inflation worries, they're out there, but they have yet to materialize, might not materialize to the degree some fear?

ALAN KNUCKMAN, BULLSEYE OPTION: Right.

You have always got to be aware of any sort of disruption, especially in a momentum market. A momentum market is all about physics. And a market will continue to move in one direction until acted upon by an outside force.

So, if this was a Suez Canal closing or something of that nature that could have global effects -- this is going to have intermediate effects. And you talked about Ford. Ford's up near its breakout point, pushing around the $13 level. Amazon, which has a distribution center across the bridge, so now they have to go all the way around, that hasn't impacted their stock at all.

It will impact some coal exports, from what I read, and $15 million of disruption in a day.

But we're in an almost-everything-bull market. So there's -- everything is rallying. And now we have seen actually energy prices have a full comeback after we saw that the Nasdaq, the S&P, the Dow, the Russell.

CAVUTO: Right.

KNUCKMAN: Now you're seeing energy prices play catchup. So it looks like everybody's in a bull market until acted upon by some sort of major disruption.

CAVUTO: Yes. And you think about it, this is global when you think of supply chain disruptions.

KNUCKMAN: Right.

CAVUTO: This might be the latest example, albeit limited, nothing like what's happening on the Red Sea, where ships are having...

KNUCKMAN: Right.

CAVUTO: ... a devil of a time getting around Houthi rebel attacks and the like.

But it weighs on people who fear that, the more it drags on, the more there are product delays. You're already hearing the likes of Carnival and other cruise lines talking about...

KNUCKMAN: Right.

CAVUTO: ... the cost up to $10 million, depending on how long this drags out. How do you weigh all that?

KNUCKMAN: Well, as a trader, you have to look at any disruptions as opportunity.

So, in the summertime, if things are too hot, the grain markets can be disrupted because that impacts the growing yield. So there's always opportunity from whatever happens from an economic standpoint. And one thing that I'm looking for, we just talked about oil, and oil is up about 25 percent in the last year of trade, even though it's still at a very, very low level in historical terms.

Look at something like natural gas. Natural gas is 40 percent off its -- down in the last year and down at near-10-year lows. So if we get some sort of disruption over the summer, really hot weather, an electricity spike, that could curb and shift the sentiment, and these kinds of disruptions can change markets. And that offers opportunity.

CAVUTO: All right. We will watch closely.

Alan, thank you very much.

KNUCKMAN: Thank you.

CAVUTO: All right, think fast. RFK Jr. and George Wallace, what do they have in common? I will explore and explain -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, to hear the White House on this RFK Jr.-Nicole Shanahan ticket, well, you actually wouldn't hear anything, because officially they're not saying much. It's what's going on behind the scenes that reveals, well, a little bit more anxiety, to put it mildly.

Jacqui Heinrich at the White House -- Jacqui.

JACQUI HEINRICH, FOX NEWS CORRESPONDENT: Hey, Neil.

RFK Jr. is only on the ballot in one state right now. That's Utah. But since naming his V.P. pick, he can start collecting signatures to get on the ballot in 23 more states. And the DNC does not want that to happen. They filed a complaint with the FEC, accusing a pro-Kennedy super PAC of breaking election laws.

But the reason they're doing all of this really dates back to 2016.

(BEGIN VIDEO CLIP)

STATE SEN. MALLORY MCMORROW (D-MI): But in a state like ours, in a state like Pennsylvania, you don't need significant support to throw an election to Donald Trump. We saw this play out in 2016, where Jill Stein got 50,000 votes and Hillary Clinton lost by 10,000 votes in Michigan.

(END VIDEO CLIP)

HEINRICH: Democrats are sharpening their attacks on Kennedy in case he is on the ballot, painting him as the black sheep of the family, which supports Biden.

The president emphasizing that statement in a photo with 50 of them at the White House. And Biden's campaigns reportedly building out an operation dedicated entirely to RFK Jr. attacks, the theme, Trump and Kennedy are cut from the same cloth and maybe even share a common goal.

(BEGIN VIDEO CLIP)

REP. ROBERT GARCIA (D-CA): This is a person that is a tinfoil hat conspiracy theorist. He is anti-vaccine. He is anti-science. He is anti- truth. He's likely interested in trying to get Donald Trump elected. Maybe that's what this is about.

LT. GOV. AUSTIN DAVIS (D-PA): The truth is that he was drafted into this race by Donald Trump's top supporters and is being financed in this race by Trump's largest donor. That isn't merely a coincidence.

(END VIDEO CLIP)

HEINRICH: Trump is not embracing Kennedy. His campaign says RFK Jr. "is a radical leftist, an environmental whack job who loves E.V. mandates, wants to end gasoline-powered engines. He's no independent."

But Kennedy is polling better than any independent since Ross Perot in 1992, grabbing 13 percent approval in a recent FOX News poll. So it's conceivable that he could pull votes from either Trump or from Biden, but team Biden is certainly so concerned about this that they're saying the best line of defense is really to paint him as a stalking horse for Trump, Neil.

CAVUTO: Got it. Jacqui, thank you so much.

Jacqui Heinrich.

Well, Jacqui did mention Ross Perot, but there might be a more significant so-called spoiler in American history and one who garnered a lot of electoral votes. I'm talking George Wallace back in 1968, who won a whole bunch of Southern states and picked up 48 electoral votes in the process, many argue denying those votes that potentially could have gone to Hubert Humphrey, the Democratic candidate, Richard Nixon barely slipping by to get elected president of the United States back then.

Could the same thing play out right now?

Julia Manchester, The Hill national ***politics*** reporter, Doug Schoen, Democratic pollster.

We forget, Doug, that in the case of George Wallace, he did win a lot of electoral votes, and the consensus was that he took those from Hubert Humphrey. It's a little harder to tell with Robert F. Kennedy, but what do you think?

DOUG SCHOEN, FORMER BILL CLINTON POLLSTER: I think, first, just on Wallace, I go back that far. I know you do too, Neil.

CAVUTO: Careful.

SCHOEN: And he did. George Wallace took working-class Democrats away from Hubert Humphrey. And that is precisely the concern of the Biden campaign, that the anti-Trump vote will be split and that working-class Democrats will vote for Robert F. Kennedy Jr., not for Joe Biden, making Donald Trump more electable.

That's the fear. That's the history with Wallace and that's why they are doing what Jacqui Heinrich reported just now.

CAVUTO: So, Julia, if you think about it, the history aside, that a third- party candidate might affect the outcome, but not change the outcome.

Of course, if you think about it, Abraham Lincoln was effectively a new party candidate and emerged. So there is that history. But, that aside, I'm wondering, Julia, about this dismissive view we have of a potential third- party candidate could not only siphon votes away, but let's take the leap here that he somehow manages to get an all 50 state ballots, maybe runs as a Libertarian.

I don't know what would make that happen. But the reality is, you just have to get one vote more than the other guys, right, and you win in most cases all that state's electoral votes. It's not crazy, is it?

JULIA MANCHESTER, NATIONAL POLITICAL REPORTER, THE HILL: It's not crazy.

But I think with RFK Jr., we're looking at him more as someone who could absolutely have an impact on the results, but it's a very slim chance that he would actually win this thing. I think it's just a question of, who does he ultimately take away votes from, Trump or Biden?

It's so interesting listening to Democrats and Republicans about how they're reacting to RFK Jr., because I get the sense that they're nervous. There was a Quinnipiac poll that was released earlier today that showed Biden narrowly leading Trump when a third-party vote or candidate was factored in.

But at the same time, you see the DNC and Democrats and the Biden campaign really hitting back against RFK Jr. So we don't really know who he's going to pull from, but what's so interesting about RFK Jr. -- and it's true -- he certainly has that populist flair as a part of his candidacy.

CAVUTO: Yes.

MANCHESTER: And it's Trumpian in many ways, and he certainly has some former Trump supporters on his bandwagon now.

But going to RFK events and talking to RFK supporters, it's actually quite a bit more diverse than that. There's people who voted for Clinton in 2016 or voted for Biden in 2020. It really is sort of this ideological melting pot in many ways.

CAVUTO: Yes.

You know, on that point, Doug, when I had Robert F. Kennedy Jr. with me not too long ago, he raised the possibility with people who realize when they're staring at a ballot and they have got a replay of what they had four years ago or a new fresh face, they're -- a lot of them are going to go for the new, fresh face. That's his hope, at least.

What do you think of that?

SCHOEN: And I think there's some poll evidence to support that.

He's polled anywhere from 5 percent or 6 percent up to as high as 20 percent. He's at 13 percent, I think, in the RealClear averages now. And he has one thing we haven't mentioned, which is both obvious, but critically important, the Kennedy name. He will probably be in the debates. And if he is in the debates, he is a compelling speaker.

And I think, while it is more likely than not that he takes votes from Biden than Trump, he really is a wild card because he's on the left on environmental issues...

CAVUTO: Right.

SCHOEN: ... on the right on a number of issues. So it's really a wild card.

And I think, as a Democratic president, Biden is being prudent taking this as seriously as he appears to be.

CAVUTO: All right, final word on that, Doug.

And you should never reveal that you could remember the 1968 election.

SCHOEN: I understand, but...

CAVUTO: That's a fatal, fatal kind of admission there.

SCHOEN: I understand.

CAVUTO: But, yes, Julia, meanwhile, saying, what? OK. So young.

(LAUGHTER)

CAVUTO: All right, guys, thank you.

SCHOEN: Yes, yes, yes, she's way, way after us.

CAVUTO: Forget it. Forget it.

Thanks, guys, very much.

All right, they're raising the minimum wage in California. You probably know it's coming on April 1. Is it coincidence that it's April Fools' Day? Twenty an hour, a lot of restaurants, big ones, are going to have to pay their workers, but one who's pretty upset about that -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, next Monday, it happens, April 1, a $20 minimum wage mandate hitting the state of California, or most of the restaurants there, the bigger ones. And it's not an April Fools' thing. It's really going to go into effect.

Andrew Gruel is not happy about it, celebrity chef and much more, a restaurant owner extraordinaire.

Andrew, what do you think of this?

ANDREW GRUEL, SLAPFISH RESTAURANTS: Yes, I mean, I have said this on multiple occasions. This bill is just another way in which they're giving more power to a group of unelected officials in California.

The majority of what's in this bill is actually already in place, so it's somewhat redundant, based on PAGA, wage and hour violations, and the labor commissioner's broad control over businesses, both small, medium, and large, in California.

But let's actually go through and play the game and suggest that this is really about paying workers more and treating them better and making sure that they have got the protections in place. Well, the $20-an-hour thing is nothing more than the distraction.

This is about the fast food council that's part of this bill that they're actually putting over businesses that are going to control not just wage an hour and all of those pay-related issues, but training, vacations, scheduling, all the granular details that are involved in running a business.

So imagine you put millions of dollars into running your business and the state elects nine representatives that are now going to control the way in which you run your business day in and day out. Now, I know two of the nine are actually supposed to represent the businesses, but seven of the nine have just been named by Gavin Newsom.

And what a coincidence. Seven of the nine are either Democrats or unregistered. Actually, one of them has never even voted before, registered to vote. So, once again, this is just about broad powers that are being given to unelected bureaucrats in California. It's not going to help the workers, because, if this was about helping the workers, then cut the payroll taxes, because they're already making really $20 an hour.

CAVUTO: So, what do you do then, Andrew? I mean...

(CROSSTALK)

GRUEL: So, that's the headline that's being talked about, but it's inefficient.

CAVUTO: I apologize.

You're exempt from this. I don't know where this kicks in and where it doesn't, but a lot of restaurants, even those who are, have to recognize the fact they have to compete for those higher wages. So they're already laying off some workers. They're already making some cutbacks.

So how do you play this?

GRUEL: Well, I mean, as a business, you don't necessarily play it because you don't have a choice. That's where we are in California, but you got to speak up about it.

You have got to talk about the truth of this bill and what it's all about-, because it's starting with these 60 plus unit businesses, but it's going to distill all the way down. That's the playbook in California, is they start with these big businesses.

Then, what they're doing now is, they're establishing these carve-outs. So if this was really about treating the workers better, why would carve-outs exist? They have got carve-outs now for restaurants and museums and airports and amusement parks, carve-outs for if you bake bread. What a coincidence. Panera.

So this isn't about the fundamentals or the actual philosophy behind it. It's just about establishing another layer of power where they rip apart businesses in California.

CAVUTO: So what do restauranteurs do?

GRUEL: Well, they're going to have to automate all of their operations, number one. That's going to end up laying workers off, which is going to cost the state of California more money because they're going to have to pay them unemployment benefits, as opposed to getting income tax on them.

And we're going to have to keep talking and talking and talking about this. Every restauranteur needs to tell their experience. It can't just be a one- man show, although I love doing these shows.

(LAUGHTER)

CAVUTO: And we love having you on.

Andrew Gruel, thank you very much. Very good seeing you. Keep us posted on this. We'd love to have you back, whether you like to do it or not, Andrew. Very good stuff.

All right, in the meantime, we believe that the main part of this trial to see if some charges can be dropped against Hunter Biden has concluded.

David Spunt running out of that Los Angeles courthouse to give us the latest -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, as we have been saying, Hunter Biden isn't there, but his lawyer sure is in a Los Angeles courtroom trying to dismiss some felony tax-related charges. I don't know how that's going.

But David Spunt short does. He joins us from Los Angeles.

David, how's it going right now?

DAVID SPUNT, FOX NEWS CORRESPONDENT: Well, Neil, it's fairly newsy, a lot of it tedious legal arguments, but Hunter Biden was charged with nine different counts here in Los Angeles for failing to pay his taxes in due time.

His attorney, Abbe Lowell, trying to dismiss eight of those counts. He filed eight motions to dismiss. They're an hour into court. And right now they're still arguing about the first one. So, to give everyone kind of a 40,000-foot view, Hunter Biden entered into this what's called a plea deal or diversion agreement with the government last year, which would have put these tax charges as misdemeanors, as tax violations.

That blew up in a very public way. Here we are right now. Special counsel David Weiss, who's charging Hunter Biden, is in the room. Abbe Lowell, Hunter Biden's attorney, has made several arguments in front of this judge arguing that this plea agreement and this diversion agreement should still be intact.

Special counsel David Weiss' team saying it's not intact because it was not signed by the probation officer from last summer. So, the bottom line here, Neil, is, we're dealing with eight different motions to dismiss the case. This right now is going before -- or going to trial June 20. That's just in a couple of months, right in the middle of the political season, just a couple of months before Hunter's dad accepts the nomination.

And here we are. We may find out today that this case will get moved back later. We may find out that some charges get dropped, but clearly some tension in this room, even though Hunter Biden's not in the room, the special counsel himself and Hunter Biden's lead attorney, Abbe Lowell, both completely on opposite sides of this case -- Neil.

CAVUTO: To that point, David, I know Abbe Lowell has said that these tax charges are all politically motivated. It sounds like a defense I have heard from someone else, but they usually don't carry much weight in the end.

What are we learning about that?

SPUNT: Well, it just depends on what the actual sentence would be if Hunter Biden was actually found guilty here.

I mean, as of right now, and it's surprising most of us court watchers, this appears to be heading to trial. Some would ask why Hunter Biden would agree to move forward and go forward with the risk of being convicted just a couple of months before his dad accepts the nomination?

So it's unclear what the actual punishment would be here, but, as of now, this appears that both sides are very far apart. And you have to remember, Neil, Hunter Biden also going to trial in Delaware. That's penciled in for early June...

CAVUTO: Right.

SPUNT: ... for lying on a federal gun form, when he said that he was not under the influence of drugs and alcohol when he purchased a gun.

So his legal problems certainly continue.

CAVUTO: So it's possible that trials relating to Hunter Biden could be synonymous, but -- and exactly at the same time as those, at least one, for Donald Trump?

SPUNT: Yes, that's exactly right.

Donald Trump's trials, we're waiting to see when those will be as far as the Jack Smith special counsel trials, the one on the documents and the one on the alleged attempts to overturn the election. Those likely will be later this summer.

The only trial Donald Trump has on his calendar right now is April 15 in New York.

CAVUTO: Right.

SPUNT: But they're all colliding, no question.

CAVUTO: Got it. Tax Day, no less.

David Spunt in Los Angeles, thank you.

That will do it for us. Here comes "The Five."

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