

SUPREME COURT
CRIMINAL TERM

NEW YORK COUNTY
PART 59

THE PEOPLE OF THE STATE OF NEW YORK

INDICTMENT #
71543/2023

-against

Falsifying Business
Records First Degree

DONALD J. TRUMP,

Defendant.

-----:

100 Centre Street
New York, New York 10013
May 10, 2024

B E F O R E: HONORABLE JUAN M. MERCHAN,
JUSTICE OF THE SUPREME COURT

A P P E A R A N C E S:

FOR THE PEOPLE:

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(The following proceedings were preceded by a sealed proceeding.)

THE COURT: All right. Let's get the witness, please.

THE COURT OFFICER: Witness entering.

(The witness, Madeleine Westerhout, enters the courtroom and resumed the witness stand.)

THE COURT: Good morning, Ms. Westerhout.

You are reminded that you are still under oath.

THE WITNESS: Yes.

THE COURT: All right.

Let's get the jury, please.

THE COURT OFFICER: All rise. Jury entering.

(Jury enters.)

THE COURT: Please be seated.

THE CLERK: Will both parties stipulate that all jurors present and properly seated?

MR. STEINGLASS: Yes.

MS. NECHELES: Yes.

THE COURT: Good morning, jurors. Welcome back. Counsel.

MS. NECHELES: Thank you, your Honor.

1 CONTINUED CROSS-EXAMINATION

2 BY MS. NECHELES:

3 Q Good morning.

4 A Good morning.

5 Q We spoke a little yesterday about the travel schedule.

6 Do you recall that -- or I'm sorry, withdrawn.

7 We spoke a little bit yesterday about the campaign?

8 A Yes.

9 Q And you were working on the RNC Hearing; right?

10 A Yes.

11 Q What is the RNC?

12 A The Republican National Committee.

13 Q And there came a point where President Trump won the
14 Republican nomination; right?

15 A Yes.

16 Q And after that, am I correct, that the RNC and the
17 campaign worked extremely closely together?

18 A Yes.

19 Q Because at that point, President Trump is the
20 presumptive Republic -- is the Republican nominee, and the
21 RNC wants, just like the campaign wants, to get him nominated;
22 right?

23 A Absolutely. Yes.

24 Q So you guys were basically one unit; right?

25 A That's right.

1 Q And am I correct that everyday the RNC and the campaign
2 would jointly create a travel schedule or document that there
3 was a travel schedule for President Trump?

4 A Whenever the President-Elect was traveling, yes,
5 uh-huh.

6 Q And it would -- so it included everything that he was
7 going to be doing on that day; correct?

8 A Yes.

9 Q And I want to show you and the Prosecutors what has
10 been marked as L -- Defendant's Exhibit L8 and L9.

11 (Displayed for the aforementioned parties only.)

12 MS. NECHELES: I apologize. I might not have set
13 this up.

14 (Pause.)

15 MS. NECHELES: Your Honor, if it's okay, I will
16 come back to it.

17 THE COURT: Yes, of course.

18 MS. NECHELES: We will come back to that.

19 Q So I want you to look, then, at People's Exhibit 69 in
20 evidence.

21 (Displayed.)

22 Q And the Prosecutor asked you about this on direct; do
23 you recall that?

24 A Yes.

25 Q And Rhona Graff gave you this list; right?

1 A Yes.

2 Q And that was the list of contacts that Rhona Graff said
3 that prior to the time that President Trump became President,
4 that these were contacts he used in his business; right?

5 A That's right.

6 Q And these are people that were personal friends and
7 also business acquaintances, you know, that he worked with;
8 right?

9 A That's right.

10 Q And that's what Rhona Graff created for you; right?

11 A Yes.

12 Q But there were many people on that list and, to your
13 understanding, is that these were people that President Trump
14 spoke to a lot before he became President; right?

15 A Spoke to before he became President or might be
16 interested in speaking to, to invite them to the White House or
17 something.

18 Q And there were many people on that list who never
19 called the Oval Office; right?

20 A Many, yes.

21 Q And, to the best of your knowledge, there were many
22 people on that list that President Trump never called while he
23 was in the Oval Office; right?

24 A That's correct.

25 Q And I want to turn to People's Exhibit 70, which is an

1 email from you to Rhona Graff.

2 (Displayed.)

3 Q And that was -- you sent that to Rhona Graff; right?

4 A Yes.

5 Q And you were asking whether she could pass on a
6 newspaper clipping; right?

7 A Yes.

8 Q And if you turn to the next page, there is that
9 newspaper clipping; right?

10 (Displayed.)

11 A Yes.

12 MS. NECHELES: And if we could blow up the top
13 part.

14 (Displayed.)

15 Q It's a picture of the President the first time he
16 boarded Air Force One; right?

17 A Yes.

18 Q Kind of an exciting thing; right?

19 A Yes. Exciting, yeah.

20 Q And he sent it to his family?

21 A Uh-huh.

22 Q Right?

23 A Yes.

24 Q Did he send that to a lot of people?

25 A Yeah, uh-huh.

1 Q He was proud?

2 A He was. He was proud, yeah.

3 Q And he would write a little note to the people on it;
4 right?

5 A Uh-huh, yes.

6 Q And that was something that President Trump did a lot?

7 A Yes.

8 Q Sending newspaper clippings; right?

9 A Yes, quite often.

10 Q And, in fact, you probably saw him do this thousands of
11 times; right?

12 A Yes.

13 Q He would send newspaper clippings of something that
14 happened to people that he knew; right?

15 A That's right.

16 Q And he would write a little note on them; right?

17 A Yeah.

18 Q So, once he sent one to Allen Weisselberg; right?

19 A That's right.

20 Q Like thousands of times he sent them to other people;
21 right?

22 A Yes.

23 Q And you were asked on many -- and so, when you were
24 asked on direct, you were asked the question whether it was not
25 unusual for him to have sent this newspaper clipping; do you

1 recall that?

2 A Uh-huh, yes.

3 Q What you meant by that was, it wasn't unusual for him
4 to send them to everybody, newspaper clippings; right?

5 A That's right.

6 Q But with respect to sending them to Allen Weisselberg,
7 do you recall what happened other times?

8 A Not that I can recall, no.

9 Q This might have been the only time that he was
10 President that he sent something like this to Allen Weisselberg;
11 right?

12 A It could have been, yes.

13 Q And you were asked if Allen Weisselberg -- you spoke to
14 Allen Weisselberg during when he was President; do you recall
15 that, about checks?

16 A Yes.

17 Q And, am I correct, that you do not have any specific
18 recollection of Allen Weisselberg and the President -- and
19 President Trump speaking during the first year that President
20 Trump was in office?

21 A That's correct, yes.

22 Q And you have a vague recollection that at some point
23 they might have spoken about a check?

24 A Yes, vaguely, uh-huh.

25 Q But you're not even sure that that's true; right?

1 A No.

2 Q And, in fact, you really don't recall any calls
3 specifically between him and Allen Weisselberg; right?

4 A No. He spoke to so many people.

5 Q And I want to turn back to --

6 MS. NECHELES: I think we're ready for -- to look
7 at the L8 and L9 for the witness and the parties only.

8 (Displayed for the aforementioned parties only.)

9 MS. MANGOLD: Your Honor, we object to this and we
10 ask to approach.

11 THE COURT: Sure.

12 (AT Sidebar.)

13 *****

14 THE COURT: Yes? I'm happy to get to see you all
15 so much.

16 (Handed.)

17 MR. STEINGLASS: We have several papers with this
18 exhibit.

19 I broke this again, Judge. I'm sorry.

20 I think maybe some glue. I'm going to bring some
21 glue.

22 THE COURT: Good idea.

23 MR. STEINGLASS: I think that there are several
24 problems with this.

25 First of all -- and I think that this is unlike

1 some of the exhibits that the defense used on
2 cross-examination because they were responsive.

3 This is totally outside of the scope of the direct.
4 And this is exactly the problem that we identified at the
5 beginning of this trial, which is, that they hadn't
6 designated any exhibits, and that your Honor had precluded
7 any exhibits that -- directed, you know, case in chief
8 exhibits that were not designated by the following day.

9 They didn't designate any.

10 So -- and we specifically raised the spectre of the
11 defense trying to make our witnesses their own and back door
12 that preclusion by trying to put in nonresponsive exhibits,
13 which are really case in chief exhibits, under the guise
14 that this is cross-examination.

15 Now, this is fully beyond the scope of the direct
16 examination.

17 We didn't ask a single question about the
18 President's travel schedule or the President-Elect's travel
19 schedule.

20 And to top it all off, these travel schedule
21 exhibits are from October.

22 She testified she wasn't even there at Trump Tower
23 or working with the defendant until after Election Day.

24 So, this is -- this should be precluded, this
25 entire area.

1 MS. MANGOLD: I would just add to that, that she
2 also never testified that she worked on the travel schedule.
3 She said that she scheduled things in Trump Tower.

4 THE COURT: Ms. Necheles, what's the purpose of
5 this?

6 MS. NECHELES: So, your Honor, we are just putting
7 it in evidence.

8 We are not going through them.

9 She testified on direct about his schedule, and
10 they have been talking about his schedule.

11 We just are interested in what happens, actually,
12 on one of those days, actually, October 26th.

13 And this is a document that was created jointly by
14 the campaign and the RNC.

15 She was working at the RNC that day.

16 She received these documents every day at the RNC.
17 On those days -- she received these every day when she was
18 working.

19 And they were made and kept in the ordinary course
20 of business.

21 THE COURT: What's the purpose of this?

22 MS. NECHELES: It is to show what he was doing on
23 that one day --

24 THE COURT: Why?

25 MS. NECHELES: -- on October 26th.

1 Because it's an issue in this trial in terms of the
2 People are putting in phone documents about it, about what
3 happened, his conversations with Michael Cohen.

4 And this explains what he was doing with Michael
5 Cohen.

6 It's one document, your Honor.

7 THE COURT: I appreciate that, but --

8 MS. NECHELES: Yes.

9 THE COURT: Why don't you just ask her about that
10 day?

11 MS. NECHELES: What's the People's objection to
12 this document?

13 THE COURT: Why don't you just ask: Do you know --
14 do you know what Donald Trump was doing on October 26th?

15 MS. NECHELES: She doesn't recall.

16 THE COURT: She doesn't?

17 MS. NECHELES: Your Honor, but the business records
18 can establish it and she can establish this as a business
19 record.

20 THE COURT: She was there at the time?

21 MS. NECHELES: Yes, she was there at the time. She
22 worked for the RNC.

23 THE COURT: Who created this?

24 MS. NECHELES: The RNC and the campaign jointly
25 created it.

1 THE COURT: She didn't say that.

2 MS. NECHELES: She will. I haven't been able to
3 ask her questions about it yet.

4 THE COURT: You are getting close?

5 MS. NECHELES: Yes, I haven't been able to ask her
6 about this yet.

7 We weren't able to put it up on the screen. I was
8 about to establish a business record foundation.

9 That's what I'm doing, what I was going to do right
10 now.

11 MR. STEINGLASS: This is exactly the problem.

12 We did not ask a single question about scheduling
13 or the work that she did prior to the election.

14 Ms. Necheles asked about scheduling and meetings in
15 January.

16 But this door is not opened. This is -- this is
17 vintage, and an end run around your Honor's ruling, and it
18 should not be countenanced.

19 MS. NECHELES: Judge, I have to say also, these
20 documents are not like a surprise to the People.

21 They came to us in discovery.

22 It's not like I'm showing documents that they have
23 never seen before.

24 THE COURT: But the issue is whether you intended
25 to put them in all along.

1 MS. NECHELES: I actually just thought about this
2 last night.

3 We never intended to put it in before. I thought
4 of this last night.

5 I never thought of putting it in before then.

6 THE COURT: You need to lay a rock solid
7 foundation. If you can even lay the foundation for this,
8 then I will allow it.

9 But if you are unable to, then it's not coming in.

10 MS. HOFFINGER: Those are ours. Thanks.

11 (Side bar concluded.)

12 *****

13 CONTINUED CROSS-EXAMINATION

14 BY MS. NECHELES:

15 Q Ms. Westerhout, do you recognize that document in front
16 of you?

17 A I do, yes.

18 Q And are -- were those -- is that a travel schedule that
19 was created by the Trump campaign and the RNC jointly?

20 A It appears to be, yes.

21 Q And were those travel schedules created every day that
22 President Trump was traveling during the campaign?

23 A Yes.

24 Q And were they shared with the RNC and the campaign?

25 A I believe so, yes.

1 Q And you were working at the RNC at that point; am I
2 correct?

3 A Yes.

4 Q And would you receive these travel schedules?

5 A I don't believe I personally received them.

6 Q But, would you see them?

7 A Probably, yes.

8 Q And you saw them during the course of the -- when you
9 were working at the RNC; right?

10 A Yes.

11 Q And when you say "probably," you are not sure whether
12 you saw these exact ones; correct?

13 A That's right, uh-huh.

14 Q But you saw the travel schedules on a regular basis;
15 right?

16 A Uh-huh, yeah.

17 Q And you knew that they were created in the ordinary
18 course of business of the RNC and the campaign; correct?

19 A Yes.

20 Q And you knew that they were kept in the ordinary course
21 of business of the RNC and the campaign; right?

22 A That's right.

23 Q And it was the ordinary course of business for the
24 RNC and the campaign jointly to create and keep these records;
25 correct?

1 A Yes.

2 MS. NECHELES: I offer them in evidence, your
3 Honor.

4 MS. MANGOLD: May I voir dire, your Honor?

5 THE COURT: Yes.

6 *****

7 VOIR DIRE EXAMINATION

8 BY MS. MANGOLD:

9 Q Ms. Westerhout, do you have any specific recollection
10 of seeing these documents?

11 A Umm, yes.

12 Q These particular documents in front of you?

13 A Yes. My lawyer showed it to me.

14 Q But, in --

15 A I'm sorry.

16 Q During -- contemporaneously with the underlying events
17 in October of 2016, do you have an independent recollection of
18 receiving these personally?

19 A No.

20 Q When did your lawyer have you review these?

21 And, please, when you answer, don't go into any discussion
22 that you had with your lawyer.

23 A This morning.

24 MS. MANGOLD: We object.

25 THE COURT: Please approach.

1 (At Sidebar.)

2 *****

3 THE COURT: So the People called this witness;
4 right?

5 I don't know how they got them this morning? How
6 did they get them this morning?

7 MS. NECHELES: I sent them this morning. I called
8 them and then I sent it this morning.

9 THE COURT: Because you intended to present it to
10 the witness?

11 MS. NECHELES: It just happened that I thought of
12 it last night.

13 MR. STEINGLASS: And we didn't even get notice of
14 this until the witness was on the stand in the middle of
15 questions.

16 I mean, this is just sandbagging.

17 MS. NECHELES: Judge, I just sent them this morning
18 and then maybe ten minutes before I walked in here that I
19 was able to talk to them.

20 She did recognize many them. She said it.

21 This is really a very last minute thing.

22 THE COURT: But you were trying to lay a
23 foundation.

24 You already knew that she didn't see this, and you
25 already knew her answer.

1 And this is not even your witness.

2 MS. NECHELES: Your Honor, of course, I did.

3 I, of course, I tried to present it to her.

4 THE COURT: This is something that the People asked
5 for months before this trial, that you did not give notice
6 of, what the exhibits were that you were going to use.

7 So for two reasons I'm keeping it out:

8 Reason number one, you should have given it to the
9 People. You did not present it to them prior to her
10 testifying.

11 And, two, her answers are far from that which she
12 can establish this as a business record.

13 I'm not allowing it in.

14 MR. BOVE: Judge, may I respond on one issue?

15 We are getting the flip side of this with exhibits
16 that are being created and sent to us the night before.

17 Judge, they are summarily giving us exhibits in
18 that way --

19 THE COURT: We can discuss that later.

20 MR. BOVE: -- so it should be reciprocal.

21 THE COURT: We can discuss that later.

22 (Side bar concluded.)

23 *****

24 CONTINUED CROSS-EXAMINATION

25 BY MS. NECHELES:

1 Q Okay. Thanks. So I want to --

2 THE COURT: I'm sorry, your motion to introduce
3 this into evidence is denied.

4 MS. NECHELES: Thank you, your Honor.

5 Q I want to turn your attention to the questions that you
6 were asked about checks,

7 A Uh-huh.

8 Q All right. And you were asked a lot of questions about
9 how checks were sent.

10 Do you recall that?

11 A Yes.

12 Q And I want to show you what is Exhibit 66 in evidence.

13 (Displayed.)

14 MS. NECHELES: And that can be shown to everybody.

15 Q So this is an email chain about how -- about addresses,
16 about how to send stuff to the White House; right?

17 A Yes.

18 MS. NECHELES: And if we can blow up the bottom
19 most part, the bottom entry.

20 (Displayed.)

21 *****

22 MS. NECHELES: Thank you.

23 Q And there were questions being asked about how to --
24 oh, that was John McEntee saying, "Can you put me in touch with
25 Rebecca because Keith is leaving and checks need to be sent to

1 him;" right?

2 A Correct.

3 MS. MANGOLD: Objection.

4 THE COURT: Overruled.

5 Q And that occurred at some point along the lines when
6 you were sending -- you know, Keith Schiller was leaving the
7 White House; right?

8 A Yes.

9 Q And I want to move a little bit back.

10 MS. NECHELES: And we can take that down.

11 Q And I want to move a little bit back to the first time
12 when you started, when you got to the White House.

13 And you said, yesterday, you didn't know anything when you
14 got there; right?

15 A No.

16 Q You had been working on the transition team, but there
17 was really no transition for you; right?

18 A That's right.

19 Q And you walked into the White House and you didn't know
20 how President Trump would get personal items; right?

21 A No, I did not.

22 Q And you didn't know how his wife would get personal
23 items; right?

24 A No.

25 Q And there was a lot of security about things that get

1 sent to the White House; wasn't there?

2 A Yes.

3 Q And that includes checking any mail or items that get
4 received; right?

5 A That's right, uh-huh.

6 Q So at some point you were told that there was a Post
7 Office Box that had been set up for the President to get
8 personal items; right?

9 A That's right.

10 Q And that was also true for the First Lady; correct?

11 A Yes.

12 Q And then it turned out that that was a really a slow
13 way to receive things; right?

14 A Yes.

15 Q And because of the security; correct?

16 A Yes, uh-huh.

17 Q And am I correct that it was also slow because things
18 would get lost; right?

19 A Yeah, uh-huh.

20 Q And that some people --sometimes you would find out
21 that things had been sent to the White House and that
22 President -- for President Trump personally, and he never
23 received it; right?

24 A Yes, uh-huh.

25 Q And President Trump told you that friends of his were

1 feeling that he was being disrespectful to them; right?

2 MS. MANGOLD: Objection.

3 THE COURT: Sustained.

4 Q Well, he was, President Trump was upset that he was not
5 getting personal emails or personal information -- personal
6 documents and letters from friends of his; right?

7 MS. MANGOLD: Objection.

8 THE COURT: Sustained.

9 Q Well, wasn't that a problem, about getting mail to
10 President Trump through the White House?

11 A Yes.

12 Q And he, President Trump, liked to return calls
13 promptly, you testified yesterday?

14 A Yes.

15 Q And you testified yesterday that he felt like it was
16 disrespectful if he didn't return calls promptly; right?

17 A Yes.

18 MS. MANGOLD: Objection.

19 THE COURT: Overruled.

20 Q And so, you all tried to figure out a way that he could
21 get his mail promptly; right?

22 A That's right.

23 Q And the same for the First Lady, that she could get
24 things promptly; right?

25 A That's right.

1 Q And it was the same problem for Ivanka Trump, right,
2 that she could get personal things promptly; right?

3 A I don't have specific knowledge of Ms. Trump, but
4 probably.

5 Q And the idea was -- had come up that things would be
6 sent to Keith Schiller?

7 A Yes.

8 Q Right?

9 A Yes.

10 Q And that is how it came to be that Keith Schiller
11 started to receive these checks personally; right?

12 A That's right, yes.

13 Q And when Keith Schiller -- and he received other mail
14 that was personal for President Trump; right?

15 A Right.

16 Q And he also received things that were personal for
17 Melania Trump; right?

18 A Yes.

19 Q Melania Trump?

20 A The First Lady; right.

21 Q Because the First Lady also had the same problem;
22 right?

23 A Yes.

24 Q And then Keith Schiller would bring in these items and
25 give them to you; right?

1 A That's right.

2 Q And you would give them to President Trump; right?

3 A Yes.

4 Q And when Keith Schiller left, it was transferred to
5 another person that the email got sent, that we just saw;
6 right?

7 A Yes.

8 Q And then when that other person left, it became your
9 job; right?

10 A That's right.

11 Q And that's what this whole testimony about Fed Ex
12 packages was about; right?

13 A Yes.

14 Q It was a way that items could be sent to you and you
15 could get them promptly to President Trump; right?

16 A That's right.

17 Q And is it your understanding that this work-around
18 existed in prior administrations as well?

19 MS. MANGOLD: Objection.

20 THE COURT: Sustained.

21 Q Well, wasn't it a new work-around that you all came up
22 with; was it?

23 MS. MANGOLD: Objection.

24 THE COURT: Overruled.

25 MS. NECHELES: Judge, can we approach?

1 Thank you.

2 Q It wasn't a new work-around that you all came up with;
3 was it?

4 Was it your understanding that this problem with getting
5 items promptly to the President of the United States existed for
6 everybody who is in that Office?

7 MS. MANGOLD: Objection.

8 THE COURT: Overruled.

9 A I don't have any knowledge of what it was like in
10 previous administrations, but I can't imagine it would have been
11 any different.

12 Q Now, when you received -- you know, just focusing --
13 when you received whatever packages there was, you would give
14 them to President Trump or to the First Lady; correct?

15 A Yes.

16 Q And you had nothing to do with giving documents or
17 packages to Ms. Trump, Ivanka Trump?

18 A No, uh-uh.

19 Q And do you know how she got them?

20 A Ummm, I don't.

21 Q And you would leave whatever items came for President
22 Trump on his desk; right?

23 A That's right.

24 Q And with respect to the checks, they came in a folder;
25 am I correct?

1 A Yes.

2 Q And if you had -- if he had the time when you gave them
3 to him, he would sign them?

4 A Yes. If he had the time and if he was in the office,
5 yes.

6 Q And you said he signed a tremendous amount of items;
7 right?

8 A Yes.

9 Q And there were proclamations that he was signing?

10 A Yes, commissions, proclamations, executive orders,
11 memos, letters.

12 Q And that would take up many hours of his day; right?

13 A Yes.

14 Q Because he didn't not like to have that in printed
15 form; right?

16 A No.

17 Q He felt that if someone was getting his signature, they
18 deserved his real signature; right?

19 A Yes, absolutely.

20 MS. MANGOLD: Objection.

21 THE COURT: Sustained.

22 MS. MANGOLD: Move to strike.

23 Q And --

24 MS. MANGOLD: Move to strike.

25 THE COURT: Stricken from the record.

1 Q And, were there times, you know, with all these --
2 would you say it was hundreds of documents that he was signing?

3 A Not every day. But sometimes, uh-huh.

4 Q And this was in between other things that he was doing;
5 right?

6 A Oh, yes, uh-huh.

7 Q And so, would you see him signing things without
8 reviewing them?

9 A Yes.

10 Q And would you see him signing checks without reviewing
11 them?

12 A Yes.

13 Q And you would see him signing checks while he was on
14 the phone; right?

15 A Yes.

16 Q Would you see him sometimes signing checks when he was
17 meeting with people?

18 A Yes.

19 Q And there were different types of people that he was
20 meeting with; right?

21 A Yes.

22 Q Sometimes he was meeting with the top foreign leaders
23 in the world; right?

24 A Yes, uh-huh.

25 Q And other times he was meeting with you?

1 A Yeah, uh-huh.

2 Q And so, he wouldn't be signing the checks when he was
3 meeting with the top people in the world?

4 A Yes.

5 Q But maybe when he was meeting with you, talking about
6 something else, he would also be signing documents?

7 A Yes, talking about the schedule or anything that had
8 been going on.

9 Q The Chief of Staff that he would be meeting with?

10 A Yes.

11 Q And other people, he would be doing that?

12 A That's right.

13 Q He was a person who multitasked; right?

14 A Definitely.

15 Q And now, I want to ask you about some other items that
16 we are showing.

17 MS. NECHELES: If we could show Exhibit 71. And
18 that's in evidence. People's Exhibit 71. We can show it to
19 everybody.

20 (Displayed._

21 Q And Madeleine Westerhout sent you this, right -- oh,
22 you sent this to her and it says: "Rhona, can you help me with
23 this?" Right?

24 A Yes.

25 Q And if we can turn to the next page. It's an invoice;

1 right?

2 A Yes.

3 Q And this is a personal expense of President Trump;
4 right?

5 A Right.

6 Q And it was sent to you, and with the question from
7 Rhona; right?

8 A Yes.

9 Q And she wanted to know what to do with this; right?

10 A Right.

11 Q And in your experience, Rhona Graff was very careful
12 about not wanting to spend the President's money without his
13 approval; right?

14 A Yes. Uh-huh.

15 Q And so she wanted to check with him; right?

16 A Yes.

17 Q It's his money; right?

18 A Yes.

19 Q And so, she would send you this kind of thing and ask
20 him?

21 A Uh-huh, yes.

22 Q And he answered it with one word; right?

23 A Right.

24 Q Just "pay;" right?

25 A Right.

1 Q Boom! It was off his desk; right?

2 A Right.

3 Q Because he was extremely busy; right?

4 A Yes.

5 Q And I want to turn your attention now to another
6 exhibit.

7 MS. NECHELES: I'm sorry, I just don't know the
8 exhibit number.

9 (Pause.)

10 MS. NECHELES: People's Exhibit 75.

11 (Displayed.)

12 *****

13 Q Yes. And do you recall being shown this on direct,
14 this is a series of emails about President Trump's -- about a
15 frame that President Trump wanted?

16 A Yes.

17 Q And, again, Rhona Graff was asking questions about the
18 price of the frame; right?

19 A Right.

20 Q And just to be clear, this was -- President Trump was
21 putting in the credenza, in back of where he sat, a number of
22 photographs; right?

23 A Yes.

24 Q And they were photographs of people who were important
25 to him; right?

1 A Yes, his family.

2 Q He had a photograph of his father?

3 A Uh-huh.

4 Q He had a photograph of his wife and children; is that
5 correct?

6 A Yes, uh-huh.

7 Q And he wanted a photograph of his mother?

8 A Yeah.

9 Q And so he wanted a nice frame?

10 A That's right.

11 Q And those frames -- those photographs, when he would be
12 sitting at the Resolute Desk, they would be right behind him;
13 right?

14 A That's right.

15 Q And often pictures that were taken would show the
16 photographs behind him; right?

17 A That's right, uh-huh.

18 Q And so, he was looking for a very nice frame; right?

19 A Yes.

20 Q But Rhona Graff, again, was not comfortable spending
21 the President's money; right?

22 A To my understanding, yes.

23 Q And so you said on direct you made an executive
24 decision to just okay this; right?

25 A Yes. I don't remember specifically, but that could

1 have very well been the case.

2 Q Because when President Trump was in the White House,
3 you understood he was too busy to be dealing with this kind of
4 thing; right?

5 A Yes.

6 Q His life may have been different before when he was
7 just running a major company in the United States, but it was
8 different when he was running the United States; right?

9 MS. MANGOLD: Objection.

10 THE COURT: Overruled.

11 A That's right.

12 Q Now, you were asked some questions about -- or -- you
13 were in the White House, am I correct, when there came -- there
14 was a story about Stormy Daniels; right?

15 A That's right.

16 Q And you were working with President Trump, very closely
17 with him at that point; right?

18 A Yes.

19 Q And did there come a time when there was a story about
20 Stormy Daniels in the paper?

21 A Yes.

22 Q And did you have a conversation with President Trump
23 about that?

24 A Yes, I did.

25 Q And based on that conversation, what was your

1 understanding of his feelings about this story?

2 A That he was very upset by it.

3 Q And why?

4 A Ummm, my understanding is that he knew it would be
5 hurtful to his family.

6 Q And that was based on what he said to you; was that
7 your understanding?

8 A Ummm, I don't believe he specifically said that, but I
9 could just tell that the whole situation was very unpleasant.

10 MS. MANGOLD: Objection.

11 Move to strike.

12 THE COURT: Sustained.

13 The answer is stricken.

14 Q Well, when you say he didn't specifically say that, he
15 spoke about his family?

16 A Meaning, he didn't specifically speak about his family
17 in that conversation.

18 Q Okay.

19 MS. NECHELES: If I may have a moment.

20 (Defense counsel confer.)

21 MS. NECHELES: I have no further questions.

22 THE COURT: Any redirect?

23 MS. MANGOLD: Yes, your Honor.

24 *****

25 REDIRECT EXAMINATION

1 BY MS. MANGOLD:

2 Q Good morning, Ms. Westerhout.

3 A Good morning.

4 Q So, on cross-examination Ms. Necheles was just asking
5 you about the method of sending checks via Fed Ex to the White
6 House; right?

7 A Yes.

8 Q And you testified that there were certain standard
9 security protocols in place at the White House where normal --
10 for normal channels of mail?

11 A Yes.

12 Q Was the method of sending checks through Fed Ex to
13 somebody's personal address an end run around the White House
14 security protocols?

15 A No. Not to my understanding, no. It was just a way to
16 get things to him faster.

17 Q And they wouldn't go through the typical screening
18 process for mail at the White House; right?

19 A That's right.

20 Q Now, you did not meet Mr. Trump for the first time
21 until after the election; right?

22 A That's right.

23 Q And was that in November of 2016?

24 A Yes.

25 Q And you testified on cross-examination that you really

1 had not spent any time with Mr. Trump until January of 2017;
2 right?

3 A Yes, not a significant amount of time.

4 Q And in the period of November 2016 through
5 January 2017, in that transition period, you testified that you
6 worked out of Trump Tower?

7 A Yes.

8 Q Did you sit on a different floor from Mr. Trump?

9 A Yes.

10 Q And did the RNC leadership in general sit on a
11 different floor from Mr. Trump?

12 A Yes.

13 Q On cross-examination, Ms. Necheles didn't ask you if
14 you had spoken to her before; right?

15 A She did not.

16 Q Have you spoken to Ms. Necheles before?

17 A I have.

18 Q How many times?

19 A Once.

20 Q And when did you last speak to her?

21 A Two nights ago, Wednesday night.

22 Q On cross-examination you told Ms. Necheles that
23 Mr. Trump did not freak out about the Access Hollywood tape;
24 right?

25 A Uhhhh. Did I? I don't recall saying that.

1 Q The tape came out in October of 2016; right?

2 A Yes.

3 Q And you did not meet Mr. Trump until after the election
4 in November of 2016; right?

5 A That's right.

6 Q And you didn't spend any real time with him until
7 January 2017; right?

8 A Not a significant amount of time, yes.

9 Q So you have no firsthand knowledge about his reaction
10 to the Access Hollywood tape; right?

11 A No firsthand knowledge, no.

12 Q And you testified on cross-examination that while
13 serving as President, Mr. Trump signed commissioned
14 proclamations, executive orders, memos and other documents;
15 right?

16 A Yes.

17 Q And it is your testimony that Mr. Trump signed those
18 documents without reviewing them?

19 A Not all of them. But, he had people who did that for
20 him that he trusted to prepare documents for his signature, so
21 by the time they got to his desk, it was ready for his
22 signature.

23 Q And you testified on direct that you worked at a
24 geopolitical consulting firm?

25 A Yes.

1 Q Is that American Global Strategies?

2 A Yes.

3 Q And I think you testified that you are the Chief of
4 Staff for the Chairman?

5 A Yes.

6 Q Who is the Chairman?

7 A Ambassador Robert O'Brien.

8 Q Was he the -- was he President Trump's National
9 Security Advisor from 2019 to 2021?

10 A Yes, he was.

11 MS. MANGOLD: No further questions.

12 THE COURT: Any recross?

13 MS. NECHELES: Yes, your Honor.

14 *****

15 RECROSS-EXAMINATION

16 BY MS. NECHELES:

17 Q You were asked just whether you met with me prior to
18 this?

19 A Yes.

20 Q And we met for about an hour?

21 A That's right.

22 Q By Zoom the other night?

23 A That's right.

24 Q Did you meet with the Prosecutor before this?

25 A I did.

1 Q How many times?

2 A Three.

3 Q And when was the most recent time?

4 A Wednesday morning.

5 Q And those were for hours?

6 A Yes.

7 Q And just to reiterate, President Trump was very close
8 to his family; right?

9 A Yes.

10 Q And it was your impression that he was very upset with
11 this all?

12 MS. MANGOLD: Objection.

13 THE COURT: Sustained.

14 MS. NECHELES: No further questions, your Honor.

15 THE COURT: Anything else?

16 MS. MANGOLD: Nothing further, your Honor.

17 Thank you.

18 You can step down.

19 (Witness excused.)

20 *****

21 THE COURT: People, your next witness?

22 MR. CONROY: Judge, the People call Daniel Dixon.

23 THE COURT OFFICER: Witness entering.

24 (The witness, Daniel Dixon, entered the courtroom
25 and stepped up to the witness stand.)

THE COURT OFFICER: Step to the other officer.

Step this way, sir.

THE WITNESS: Okay.

THE COURT OFFICER: Step up here.

Remain standing. And raise your right hand and
face the court clerk.

D A N I E L D I X O N, a witness called on behalf
of the People, having been first duly sworn was examined and
testified as follows:

THE CLERK: Thank you.

THE COURT OFFICER: Have a seat, please.

Just state your first and last name, and spell your
last name.

THE WITNESS: Daniel Dixon, D-I-X-O-N.

THE COURT OFFICER: And your county of residence?

THE WITNESS: Broward County, Florida.

THE COURT: Good morning, Mr. Dixon.

You may inquire.

MR. CONROY: Thank you.

DIRECT EXAMINATION

BY MR. CONROY:

Q Mr. Dixon, I'm just going to ask you if you can kind of

1 pull your chair in a little bit and speak into the microphone.

2 Mr. Dixon, are you employed?

3 A Yes.

4 Q Where do you work?

5 A AT&T.

6 Q And what kind of company is AT&T?

7 A Telecommunications company.

8 Q And what is your job title there?

9 A Lead Compliance Analyst.

10 Q How long have you been a Lead Compliance Analyst?

11 A Roughly six to seven years.

12 Q What are some of your duties and responsibilities as a
13 Lead Compliance officer?

14 A I assist with complying with legal demands.

15 I help analysts query records.

16 And I also help with law enforcement interpreting our
17 records.

18 Q In your role at AT&T, have you become familiar with
19 AT&T's recordkeeping practices?

20 A Yes.

21 Q Do you understand that you are testifying today as a
22 custodian of records for AT&T?

23 A Yes.

24 Q Are you here because AT&T received a subpoena?

25 A Yes.

1 Q Does AT&T have counsel?

2 A Yes.

3 Q Is that counsel here in the courtroom today?

4 A Yes.

5 Q Related specifically to its phone business, does AT&T
6 keep subscriber and call detail records?

7 A Yes.

8 Q What are -- generally, what are call detail records?

9 A Call detail records are the records for usage between a
10 device and another device.

11 Q About how long does AT&T retain call detail records?

12 A Generally, three years.

13 Q And when you say communication between a device and
14 another device, is that sort of phone calls between people?

15 A Yes, mobility records.

16 Q And could you tell us a little bit about what
17 subscriber records are?

18 A Subscriber records is the customer information for the
19 account.

20 Q Does AT&T make and keep these records in the regular
21 course of its business?

22 A Yes.

23 Q Is it the regular course of AT&T's business to make and
24 keep these records?

25 A Yes.

1 Q Before testifying today, did you have opportunity to
2 review a thumb drive containing a set of electronic documents?

3 A Yes.

4 MR. CONROY: Can I hand the witness a thumb drive.
5 (Handed.)

6 Q Is that the thumb drive that you reviewed?

7 A Yes.

8 Q How do you know?

9 A It has my initials and the date.

10 Q And does that thumb drive contain a set of AT&T records
11 that have been marked for identification as People's
12 Exhibit 400?

13 A Yes.

14 Q Are the records contained in People's 400 for
15 identification call detail and subscriber records?

16 A Yes.

17 Q How many different phone numbers do they relate to?

18 A Six numbers that belong to AT&T and eleven numbers that
19 were just on our network for roaming or was in contact with an
20 AT&T number.

21 Q Okay. So there are records -- tell me if I get this
22 right. There are records for 17 different phone numbers?

23 A Yes.

24 Q Of which six belong to customers of AT&T?

25 A Yes.

1 Q And the other eleven are just call records that AT&T
2 captured because it used the AT&T system?

3 A Correct.

4 Q Were those records for the non-AT&T customer records,
5 do those call detail records only reflect calls that were
6 transmitted through AT&T cell towers or calls made to or
7 received from an AT&T customer?

8 A Yes.

9 Q Do all of these phone records, both the subscriber and
10 the call detail records, relate to the general time period of
11 2015 to 2018?

12 A Yes.

13 Q Did AT&T make and keep this subscriber and call detail
14 records contained in People's 400 for identification in the
15 regular course of its business?

16 A Yes.

17 Q Was it the regular course of AT&T's business to make
18 and keep these particular records?

19 A Yes.

20 Q Are the entries made on these documents made at the
21 time that the recorded events or transactions took place or
22 within a reasonable time thereafter?

23 A Yes.

24 Q Is the data contained in these reports captured through
25 an automated process and stored in an electronic database?

1 A Yes.

2 Q Does AT&T rely on the accuracy of that automated
3 process and the access to that database?

4 A Yes.

5 Q And can AT&T employee capture data from the electronic
6 database, and are they under a business duty to do so
7 accurately?

8 A Yes.

9 MR. CONROY: Judge, at this point, I would offer
10 this as People's 400.

11 MR. BOVE: No objection.

12 THE COURT: People's 400 is accepted into evidence.
13 (So marked in evidence.)

14 *****

15 MR. CONROY: And just, just for the record, this is
16 subject to the Sealing Order that was dated April 19th.

17 THE COURT: Okay.

18 MR. CONROY: Now, if we could pull up three pages
19 from this exhibit that have been redacted.

20 And beginning with page -- with Bates stamp DANY
21 GJ and then 60 and the number 38.

22 (Displayed.)

23 Q Do you recognize this?

24 A Yes.

25 Q What is this?

1 A A subscriber report.

2 Q Is this a representative sample of an AT&T subscriber
3 record?

4 A Yes.

5 Q Do the pages you are viewing on the screen contain
6 redactions?

7 A Yes.

8 Q Did you have a chance to compare the redacted pages
9 that we see here to the original pages that are not redacted,
10 but that are in evidence as People's 400?

11 A Yes.

12 Q Were the redacted and unredacted pages the same, but
13 for the redactions?

14 A Yes.

15 Q I just want to ask you about a few of the boxes in
16 here.

17 What does "financially liable party" mean?

18 A It's the person responsible for paying the bill.

19 Q What is the billing party?

20 A The billing party is where the bill is mailed to.

21 MR. CONROY: And if we could pull up the user
22 information.

23 (Displayed.)

24 A That's the registered user for the account.

25 Q So is it -- could it be different -- could the billing

1 party be different from the user information?

2 A Yes.

3 Q Why is that?

4 A Because the person who pays the bill is not necessarily
5 the one using the phone number.

6 Q Is that something you might often see in a situation
7 where a business gives phones to employees?

8 A Yes.

9 Q So the business might be the billing party, but the
10 individual employee who uses the phone might be in the user
11 information?

12 A Yes.

13 Q What is the MSISDN?

14 A That's the phone number on the account.

15 Q And what does "MSISDN Active" mean?

16 A The date it was active.

17 Q So, it's sort of a date range?

18 A Yes, a date range.

19 MR. CONROY: If we could take that down.

20 And if we could -- I want to pull up now an
21 example of call detail records.

22 (Displayed.)

23 Q Do the call detail records within People's Exhibit 400
24 contain three different types of reports?

25 A Yes.

1 Q What are those three reports?

2 A Mobility, wireline, and international.

3 Q Starting with mobility.

4 What is a mobility report?

5 A Mobility is the communication between a mobile and --
6 any mobile device and a mobile device, two mobile devices.

7 Q So a phone call from a cell phone to a cell phone?

8 A Yes.

9 Q What is "International"?

10 A That's when the international network was used to make
11 or help receive a phone call.

12 Q And what is wireline?

13 A Wireline is the use of AT&T's wireline-side of the
14 network to help make or receive a phone call.

15 Q Is that sometimes called hardline?

16 A I'm sorry?

17 Q Is that sometimes called hardline? Or is that --

18 A Yes. Landline.

19 Q Landline, sorry. That's what I meant, landline.

20 Is the mobility report further subdivided into different
21 categories of data?

22 A Yes.

23 Q And do those include invoice usage, data usage, SMS
24 usage and SMS email usage?

25 A Yes.

1 Q Can you briefly describe what invoice usage means?

2 A Invoice usage shows the transactional logs between
3 phone calls.

4 Q What does SMS usage mean?

5 A That also shows the transactional logs between text
6 messages.

7 Q Does -- would that include text messages made through
8 encrypted apps?

9 A No.

10 Q Do they include iMessages?

11 A No.

12 Q Generally speaking, for the two iPhone users that are
13 messaging one another, would you expect to see those
14 transactions in the call detail records?

15 A It would be a transaction that's captured in a data
16 session.

17 Q In a data session?

18 A A data session, yes.

19 Q And when you -- what does that mean? Can you explain
20 what that means?

21 A So, on our data records, we show logs of different
22 sessions.

23 Just a length of the session, we are unable to determine
24 what took place during those sessions.

25 Q Okay. And, actually, the next thing we are going to

1 talk about is, what does data usage mean.

2 What are some of the types of activity that would be
3 captured in a data usage report?

4 A Streaming movies. Anything related to the internet.

5 Q And when you look at a data usage report, do you just
6 see amounts of data that was used, or do you see what that data
7 was used to do?

8 A Only amounts of data being used.

9 Q So, you have no way of understanding, you just know
10 X amount of data was used, but you don't know if somebody was
11 streaming a movie or iMessaging or something else?

12 A Correct.

13 Q Can you briefly tell us what SMS email usage means?

14 A SMS email is just basically a text to or from an email
15 address.

16 Q For all of the different types of call detail records
17 you just described, what time zone are AT&T's records recorded
18 in?

19 A UTC.

20 Q And what is UTC?

21 A Universal Time Coordinated.

22 Q And is that true for all types of AT&T records?

23 A Yes.

24 MR. CONROY: If we could now pull up another
25 redacted page from this exhibit.

1 And this page bears Bates stamp DANY GJ 00002822.

2 Q Mr. Dixon, is this a representative sample of an AT&T
3 invoice usage record?

4 A Yes.

5 Q And I just want to ask you about a few of the columns.
6 What does "CONN" stand for?

7 A Connection.

8 Q And what is Seizure Time?

9 A "Seizure Time" is the moment a person hits call up
10 until the recipient answers the phone.

11 Q And are both Connection and Seizure Time in UTC, as we
12 just discussed?

13 A Yes. The connection times is a timestamp.

14 Q What is "ET?"

15 A "ET" is the length of the connection.

16 Q And does "ET" stand for elapsed time?

17 A Elapsed time.

18 Q And is that in minutes and seconds?

19 A Yes.

20 Q What does originating number and terminating number
21 mean?

22 A That means, originating is who made the call.
23 Terminating is who received the call.

24 Q Is one single phone call sometimes reflected on more
25 than one row in the call detail records?

1 A Yes.

2 (Whereupon, at this time, Principal Court
3 Reporter Susan Pearce-Bates relieved Senior Court
4 Reporter Lisa Kramsky as the official court reporter.)

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 Lisa Kramsky,
 Senior Court Reporter

1 (Continued from the previous page.)

2 Q Could you briefly explain why that is?

3 A So, these reports are used for network and billing
4 purposes. They show the raw records, how that call flows
5 through the network.

6 Q So, if it had more than one entry, would that just
7 mean it hit different parts of the network while the call was
8 going on?

9 A Correct.

10 MR. CONROY: I have no further questions.

11 THE COURT: Your witness.

12 MR. BOVE: Thank you, Judge.

13 THE COURT: You may inquire.

14 MR. BOVE: Thank you.

15 CROSS-EXAMINATION

16 BY MR. BOVE:

17 Q Good morning, Mr. Dixon.

18 My names is Emil Bove and I represent President Trump,
19 who is over here to the left.

20 I just want to talk in a little bit more detail about
21 some of the records we just covered to make sure I understand
22 them.

23 A Okay.

24 Q I would like to start with the subscriber record.

25 MR. BOVE: And, Mr. Bernik, if we can bring up

1 the same page that the Government had up from Government's
2 Exhibit 400 with Bates ending 038.

3 Can we ask the Government to bring up that page?

4 If you can zoom in, please, on the box that has
5 the MSISDN.

6 Thank you.

7 Q So, Mr. Dixon, in the top left, that is MSISDN, which
8 is the phone number you said?

9 A Yes.

10 Q To the right of that cell it says, IMSI.

11 Do you see that?

12 A Yes.

13 Q And that stands for International Mobile Subscriber
14 Identity, right?

15 A Yes.

16 Q And the IMSI is linked to an AT&T's user account,
17 right?

18 A Well, it's the serial number of a SIM card.

19 Q Right. So, it is a SIM card that is linked to the
20 AT&T account that we are looking at?

21 A At that time, yes.

22 Q And a SIM card can be pulled out of one phone, one
23 device, and put into another, correct?

24 A Yes.

25 Q And so, this IMSI is not necessarily linked to a

1 particular physical device, right?

2 A Correct. It can be taken out. It's just the serial
3 number of a SIM card.

4 MR. BOVE: If we can zoom in on status changes
5 there at the bottom, please.

6 Q Mr. Dixon, I wanted to ask about the cells that read
7 XMKT Move.

8 Do you see that?

9 A Yes.

10 Q And that means that that is a cross market move,
11 right?

12 A I believe so.

13 Q That is a situation where the user's account
14 transitions from one account number to another within AT&T's
15 records, right?

16 A Usually, yes.

17 Q So, here this record indicates that on January 23,
18 2017, this was a cross market move associated with this Michael
19 Cohen account?

20 A Yes.

21 Q And so, for the record that we are looking at, this
22 user account, the subscriber information begins January 23,
23 2017?

24 A Can you repeat that?

25 Q Because of the cross market move field that we are

1 looking at, what that suggests is that the subscriber
2 information we are looking at begins on that period?

3 A We would have to look in the other boxes because this
4 is -- the status change history only shows changes of the
5 account. So, it could have been created before and something
6 took place on January 23, 2017.

7 Q Right. The account could have been created before and
8 then the phone number transitioned onto this account by a cross
9 market move?

10 A Possibly.

11 Q Do you want to look at a different piece of this page
12 to try to figure that out?

13 A Could you zoom back out?

14 So, it was -- it would seem as if on January 23rd, the
15 number left this account.

16 MR. BOVE: And if we can zoom back in on that
17 box, please.

18 Thank you.

19 Q Do you see that the top two rows, contract accepted
20 and contract acceptance required?

21 A Yes.

22 Q What does that indicate?

23 A I am not familiar with it.

24 MR. BOVE: Now, we can take that down.

25 Thank you.

1 Q I want to talk a little bit about the AT&T billing
2 records.

3 And those are, basically, records of calls involving
4 this phone number over AT&T's network, right?

5 A Yes.

6 Q And you can't tell from the records themselves who
7 actually spoke, right?

8 A Correct.

9 Q And, obviously, these records don't reflect the
10 contents of the calls, right?

11 A Correct.

12 Q And you are familiar with the concept of a pocket
13 dial, right?

14 A Correct.

15 Q So, it's possible that that could happen, somebody
16 picks up the phone, the phone gets picked up on the other end
17 but there is no communication, right?

18 A Yes.

19 Q In these records, there is a lot of data here, but the
20 data also has limits, right?

21 A It's showing the transactional logs.

22 Q Transactional logs meaning the amount of time that the
23 one phone number was connected to the other, right?

24 A Yes.

25 Q And also that period of time where the one phone

1 number was dialing the other?

2 A Yes.

3 MR. BOVE: And if we can bring up the redacted
4 mobility logs that we were looking at.

5 Thank you.

6 Q You see on the right side there is a column, IMEI on
7 there?

8 A Yes.

9 Q That's International Mobile Equipment Identity, right?

10 A Yes.

11 Q And that is, actually, a number that is linked to a
12 physical device, right?

13 A Yes.

14 Q So that IMSI, travels with a SIM card you pulled out
15 from another phone, right?

16 A Yes.

17 Q But on this record, where it says IMEI on it, that is
18 a specific reference to a particular phone, correct?

19 A A device, yes.

20 MR. BOVE: There is one unredacted page that I
21 would like to show just the witness, Judge, if that is all
22 right.

23 THE COURT: Sure.

24 MR. BOVE: So, Mr. Bernik, this is for the
25 parties, the Court and the witness, part of Government

1 Exhibit 400 that ends with Bates 1093, please.

2 Q And I just want to make sure that I understand the
3 Feature column, and so, we are going to go through a couple of
4 these, and I am going over to the table so I can see as well.

5 MR. BOVE: And so, let's -- if we could zoom in
6 on the Feature column for item seven and eight on this
7 page.

8 Q And, Mr. Dixon, while we are doing that, are you
9 familiar with the codes in the Feature column?

10 A Yes.

11 Q And so, do you see where it says, NIOP?

12 A Yes.

13 Q And that's Call Number Identity Presentation, right?

14 A Yes.

15 Q Basically an incoming call?

16 A Correct.

17 Q And then do you see where it says, CFNA?

18 A Yes.

19 Q Calling Number Identity Presentation, right?

20 A No. CFNA is Call Forwarding No Answer.

21 Q And then the next one is VM, Voice-mail?

22 A Yes.

23 Q So, am I understanding this right, that when I see
24 something like this in the Feature column, what I am looking at
25 is a call that is dialed and then it goes to voicemail, right?

1 A Yes.

2 Q And in the AT&T records, each account has a separate
3 phone number for voicemail, right?

4 A Not each account, but each voicemail magistrate. So,
5 there is another number entailed with voicemail.

6 Q Was it voicemail magistrate that you said?

7 A Voicemail box.

8 Q And so, that an incoming call to the number associated
9 with this account, again, gets forwarded to that voice-mail
10 inbox, right?

11 A Yes.

12 MR. BOVE: Now, if we can stay on these two rows,
13 items seven and eight, and if you can zoom in on
14 Originating Number and Terminating Number.

15 Q And so, you see here there is a D in parentheses?

16 A Yes.

17 Q That stands for dialed, right?

18 A Yes.

19 Q And so, there is an originating number that dialed
20 that 0114 number, right?

21 A Yes.

22 Q And then where you see the F in parentheses --

23 A Yes.

24 Q -- that is the number getting forwarded to the
25 voicemail inbox, correct?

1 A Yes.

2 Q And that's what the F means?

3 A Yes.

4 MR. BOVE: I have nothing further, Judge.

5 THE COURT: Any redirect?

6 MR. CONROY: I have nothing, Judge.

7 Thank you.

8 THE COURT: Thank you, sir.

9 You can step down.

10 (Witness is excused.)

11 THE COURT: Would you like to call your next
12 witness?

13 MR. CONROY: Yes, Judge.

14 At this time the People call Jennie Tomalin.

15 COURT OFFICER: Witness entering.

16 (Whereupon, the witness entered the
17 courtroom.)

18 COURT OFFICER: Good morning.

19 Step up. Remain standing, please.

20 Raise your right hand and face the Clerk.

21 THE CLERK: Do you solemnly swear or affirm that
22 the testimony you are about to give before this Court will
23 be the truth, the whole truth and nothing but the truth?

24 THE WITNESS: Yes, I do.

25 THE CLERK: Thank you.

1 COURT OFFICER: State your full name and spell
2 your last name.

3 THE WITNESS: It's Jennie Tomalin, T-O-M-A-L-I-N.

4 COURT OFFICER: Your county of residence.

5 THE WITNESS: Mercer County.

6 THE COURT: Good morning.

7 You may inquire.

8 J E N N I E T O M A L I N,
9 called as a witness on behalf of the People, being first duly
10 sworn by the Clerk of the Court, was examined and testified as
11 follows:

12 Q Good morning, Ms. Tomalin.

13 Are you employed?

14 A Yes, I am.

15 Q Where do you work?

16 A Verizon.

17 Q What kind of company is Verizon?

18 A We are a telecommunications company.

19 Q What is your job title?

20 A I am a Senior Analyst in Executive Relations.

21 Q How long have you been in that role?

22 A Since 2017; so, seven years.

23 Q And what are your duties and responsibilities in that
24 role?

25 A My duties include appearing in court as a custodian of

1 records to testify to records previously produced in response
2 to subpoenas, court orders and search warrants.

3 Q What did you do at Verizon before you were in that
4 role?

5 A I was a Subpoena Compliance Coordinator of the Verizon
6 Security Assistance Team.

7 Q How long have you been at Verizon?

8 A Eighteen years.

9 Q And in your time at Verizon, have you become familiar
10 with Verizon's recordkeeping practices?

11 A Yes, I have.

12 Q And you understand that you are here today testifying
13 as a custodian of records for Verizon?

14 A Yes, I do.

15 Q And are you here because Verizon received a subpoena
16 asking for custodian testimony?

17 A Yes, I am.

18 Q Relating, specifically, to its phone business, does
19 Verizon keep subscriber and call records?

20 A Yes, we do.

21 Q Generally, what are call records?

22 A Call records for the wireless side are billable
23 incoming and outgoing calls. On the wired-line side, call
24 records will be tolls or billable outbound calls.

25 Q And what are subscriber records?

1 A Records that contain the financial responsible party
2 for the line of service or account, including any contact
3 information, address, et cetera.

4 Q Does Verizon make and keep subscriber and call records
5 in the regular course of its business?

6 A Yes, we do.

7 Q And is it the regular course of Verizon's business to
8 make and keep such records?

9 A Yes, it is.

10 MR. CONROY: I am going to ask that the witness
11 be handed a thumb drive.

12 Thank you.

13 Q Ms. Tomalin, if you take a look at that thumb drive,
14 does that thumb drive contain a set of Verizon records that
15 have been marked for identification as People's Exhibit 401?

16 A Yes, it does.

17 Q And before coming to court today, did you have a
18 chance to review the records on that thumb drive?

19 A I did.

20 Q And is that the thumb drive you reviewed?

21 A Yes, it is.

22 Q How do you know that?

23 A Because I initialed and dated the thumb drive.

24 Q Are the records contained in People's 401 for
25 identification on that thumb drive call and subscriber records?

1 A Yes, they are.

2 Q How many different phone numbers do they relate to?

3 A Twelve.

4 Q Do those phone numbers all belong to Verizon
5 customers?

6 A Yes.

7 Q Do all of the phone records, both subscriber and call
8 records, relate to the general time period of 2015 to 2018?

9 A Yes.

10 Q Did Verizon make and keep the subscriber and call
11 records contained in People's Exhibit 401 for identification in
12 the regular course of its business?

13 A Yes.

14 Q Was it the regular course of Verizon's business to
15 make and keep these particular records?

16 A Yes.

17 Q Are the entries made on these documents made at the
18 time of the recorded events or transactions took place or
19 written a reasonable time thereafter?

20 A Yes.

21 Q Is the date contained in these reports captured -- I
22 am sorry. Is the data contained in these reports captured
23 through an automated process and stored in the electronic
24 database?

25 A Yes.

1 Q Does Verizon rely on the accuracy of that automated
2 process and electronic database?

3 A Yes.

4 Q Can Verizon employees run reports that capture data
5 from the electronic database?

6 A Yes.

7 Q Are they under a business duty to do so accurately?

8 A Yes.

9 MR. CONROY: At this point I am going to offer
10 People's Exhibit 401 into evidence.

11 MR. BOVE: No objection.

12 THE COURT: It's accepted into evidence.

13 (Whereupon, People's Exhibit 401 is received into
14 evidence.)

15 MR. CONROY: If we can now pull up -- I think I
16 am running a little behind here. If we can pull up a
17 redacted page from one of the call records.

18 Q Displayed in front of you and for the room is a
19 redacted page from People's 401 which bears the Bates stamp
20 DANY GJ, triple 0, 64777.

21 Is this a representative sample of a call record for a
22 Verizon phone number?

23 A Yes, it is.

24 Q Does this page that we are looking at contain
25 redactions?

1 A Yes, it does.

2 Q Did you have a chance to compare this redacted page to
3 the original page that is part of what's in evidence as
4 People's 401?

5 A Yes, I did.

6 Q But for the redactions, are the pages identical?

7 A Yes.

8 Q Could you just walk us through the columns on this
9 page and explain what each one is?

10 A Yes. Starting on the left, the Date column identifies
11 the date that the call began.

12 The Time column identifies the time the call began.

13 The Number column will identify the telephone number
14 that the target telephone number was communicating with.

15 The Rate and Usage Type columns identify what portion
16 of a customer's calling plan will be applied to these calls.

17 The Origination column identifies the geographical
18 area for which we are billing the target telephone number while
19 making or receiving the telephone call.

20 The Destination Call Logs for FM calls, identified by
21 the home area of the telephone number being called.

22 For Incoming Calls it will reflect incoming CL or any
23 other code that is needed with that call.

24 The Min column, identifies the length of the call in
25 minutes.

1 Air Time Charges, Long Distance/Other Charges and
2 Total, those three columns identify any financial charges
3 assessed to that call respectively.

4 Q Just a couple of quick questions.

5 In the MIN column, is that minutes?

6 A Yes, it is.

7 Q And how does that work?

8 Does it reflect seconds, or does Verizon round in a
9 standard direction?

10 A On the bill we round up.

11 Q And with respect to the time shown for each of those
12 calls, what timezone does Verizon keep its records in?

13 A They -- the timezone should be the timezone for the
14 City and State reflected in the origination column.

15 Q So, when we look at the date and time columns,
16 together with the origination column, that should tell us the
17 timezone that that call is being reflected in?

18 A Yes.

19 MR. CONROY: Thank you.

20 I have no further questions.

21 THE COURT: You may inquire.

22 MR. BOVE: Thank you, Judge.

23 CROSS-EXAMINATION

24 BY MR. BOVE:

25 Q Good morning, Ms. Tomalin.

1 A Good morning.

2 Q My name is Emil Bove and I represent President Trump,
3 who is over here on my left.

4 I want to talk a little bit about the subscriber
5 records that are part of Exhibit 401 if we could.

6 A Yes.

7 MR. BOVE: Because they are not redacted, I am
8 just going to ask --

9 THE COURT: Sure.

10 MR. BOVE: So, Mr. Bernik, this is just for the
11 Court, the parties and the witness.

12 Q Take a look at the spreadsheet with Bates ending
13 64591.

14 And Ms. Tomalin, do you see that in Column D it says,
15 MTN?

16 A Yes.

17 Q That's Mobile Telephone Number in Verizon records,
18 right?

19 A Yes.

20 Q The phone number linked to the account, correct?

21 A Yes.

22 Q And so, if you look at cell D3, Column D, row three,
23 that row relates to telephone number ending 5361?

24 A Yes.

25 Q And if you look, staying on that row, at Columns F and

1 G, the subscriber name is Keith Davidson linked to this number?

2 A Yes.

3 Q So that when you say, subscriber name, that's
4 information that somebody provided to Verizon saying that I am
5 a person who is linked to this account, right?

6 A Yes.

7 MR. BOVE: And Mr. Bernik, if we could scroll
8 over to Column AA, please.

9 Q Do you see where it says, MTN Effective Date?

10 A Yes.

11 Q So, that's a Mobile Telephone Number Effective Date,
12 right?

13 A Correct.

14 Q That indicates the date on which this phone number was
15 linked to the account, right?

16 A That's right.

17 Q So, for this row, what does it say for this row?

18 I am sorry. I can't see.

19 A That was row three, correct?

20 Q Yes. Thank you.

21 A April 30, 2010.

22 Q So, for this record, as of April 30, 2010, going
23 forward, this number was linked to the particular account
24 that's reflected in this subscriber information, right?

25 A Correct.

1 Q And for purposes of this record, prior to April of
2 2010, this record doesn't have anything to say about that,
3 correct?

4 A Correct.

5 Q And phone numbers can shift from account to account
6 and person to person, right?

7 A Yes.

8 Q And so, you know, it's entirely possible that
9 pre-April 2010, this number belonged to somebody else, right?

10 A Yes.

11 Q I just -- I have one question about the toll records
12 that we looked at in Government Exhibit 401. Those sorts of
13 looked like the phone bills that I might get for my cellphone,
14 right?

15 A Yes.

16 Q And you said Verizon rounds up on the Duration field?

17 A Yes.

18 Q So, if there was a call that lasted 15 seconds, does
19 that bump up to one minute?

20 A Yes.

21 Q And if a call lasted one second, it bumps up to one
22 minute also?

23 A Yes.

24 MR. BOVE: Thank you.

25 THE COURT: Anything else?

1 MR. CONROY: No, Judge.

2 THE COURT: Thank you.

3 You may step down.

4 THE WITNESS: Thank you.

5 (Whereupon, the witness is excused.)

6 THE COURT: All right, jurors. Let's take our
7 morning recess.

8 Please remember my admonitions. See you in a few
9 minutes.

10 COURT OFFICER: All rise.

11 (Whereupon, the jury exited the courtroom.)

12 THE COURT: You may be seated.

13 People, is there anything you want to discuss at
14 this time?

15 MR. STEINGLASS: No. We have to modify the
16 exhibit as we discussed before.

17 THE COURT: I believe there was also an objection
18 from the Defense.

19 MR. BOVE: Yes, Judge.

20 THE COURT: Is this a good time to take up the
21 objection?

22 MR. BOVE: Yes, your Honor.

23 THE COURT: Let's do that.

24 MR. BOVE: So, Government Exhibit 411, it would
25 be 411-B is the proffered exhibit, is an excerpt of -- an

1 excerpt of an -- excuse me, excerpt of an interview of
2 President Trump by Larry King in 1999.

3 And, in substance, there is a question, what are
4 your views on campaign finance reform?

5 And part of what President Trump said in response
6 to that in 1999 is that he is very experienced with the
7 campaign finance laws, and I think the clip is limited to
8 just about that.

9 Our position is that that is not relevant with
10 respect to President Trump's state of mind in 2016 and 2017
11 because there has been extensive revisions to the campaign
12 finance laws in the intervening period, both statutory and
13 in the Supreme Court.

14 Whatever President Trump may have said in 1999
15 about his knowledge of the campaign finance laws is not
16 probative of his state of mind in 2016 and 2017.

17 MS. MANGOLD: Your Honor, we disagree. We think
18 that Defendant's admission that he has extensive knowledge
19 of campaign finance laws is obviously directly relevant to
20 the case.

21 We understand that there were, as Mr. Bove noted,
22 extensive changes to campaign finance laws in 2002. We
23 believe that's a reference to the McCain/Feingold Act.

24 However, the separate contribution ban, which is
25 the one that's relevant here, has been part of campaign

1 finance laws since 1907, so close to 90 years before
2 Mr. Trump made the admission in that video.

3 And to the extent that defense counsel argues
4 that the clip predates the relevant time period, that's an
5 issue that goes to weight and not admissibility.

6 THE COURT: Do you have any other argument?

7 MR. BOVE: No. That's our position, Judge.

8 THE COURT: All right.

9 I will rule after the break.

10 (Short recess is taken.)

11 SERGEANT: Remain seated. Come to Order.

12 Part 59 is back in session.

13 THE COURT: All right.

14 Two things regarding the People's application, I
15 understand what you are saying, that the laws did not
16 change between 1999 and 2017. I still feel that that's
17 pretty attenuated.

18 Plus, you are asking the jurors to draw an
19 inference that because he knew the laws in 1999, he still
20 knew them in 2015 and 2017. I think that's a lot of
21 speculation.

22 I am going to side with the Defense and preclude
23 you from introducing that.

24 Regarding scheduling today, we have two more
25 witnesses, right, today?

1 MR. STEINGLASS: Yes.

2 THE COURT: And how long do you expect the
3 witnesses to be?

4 MS. MANGOLD: I think we probably have an hour in
5 total.

6 THE COURT: In total?

7 MS. MANGOLD: In total.

8 THE COURT: So, are we okay working until one
9 o'clock, or maybe a little bit longer than one o'clock, so
10 we will end in the morning and not come back in the
11 afternoon?

12 MR. BLANCHE: Yes, your Honor.

13 MS. MANGOLD: Yes.

14 MR. STEINGLASS: Your Honor, I have a legal
15 matter about an exhibit that we can take up after the
16 witnesses are done.

17 I don't think it will take long.

18 THE COURT: Let's get the jury, please.

19 SERGEANT: All rise, jury entering.

20 (Whereupon, the jury entered the courtroom.)

21 THE COURT: You may be seated.

22 THE CLERK: Case on trial continued.

23 All jurors are present and properly seated.

24 THE COURT: Jurors, before we call the next
25 witness, I wanted to talk about the schedule for the rest

1 of the day.

2 I am told that we only have two more witnesses
3 that are relatively short. Today's plan is we are going to
4 work until about one o'clock or whatever time we get done
5 so you don't have to come back in the afternoon.

6 Let's call the next witness, please.

7 MS. MANGOLD: The People recall Georgia
8 Longstreet.

9 (Whereupon, the witness resumed the stand.)

10 THE COURT: Ms. Longstreet, you are still under
11 oath.

12 You may inquire.

13 MS. MANGOLD: Thank you, your Honor.

14 G E O R G I A L O N G S T R E E T,
15 called as a witness, being previously sworn, was examined and
16 testified further as follows:

17 Q Welcome back, Ms. Longstreet.

18 Can you remind everyone where you work and what your
19 position is?

20 A Yes. I work for the New York County District
21 Attorney's Office, and I am a paralegal.

22 Q The last time you were here, I believe you testified
23 that your duties and responsibilities include locating and
24 saving social media posts relevant to the case?

25 A Yep.

1 Q Is that your primary job function, or do you have many
2 other duties and responsibilities in addition to that one?

3 A Many other duties and responsibilities.

4 Q Do your other duties and responsibilities include
5 analyzing materials produced to the District Attorney's Office
6 in response to subpoenas?

7 A Yes.

8 Q Does that include analyzing records of communications
9 like text messages and call messages?

10 A Yes.

11 Q Does that include analyzing contact information?

12 A Yes.

13 Q Does it include matching contact information to text
14 and call records?

15 A Yes.

16 Q Do your duties and responsibilities also include
17 locating and reviewing filings from other court proceedings
18 that may be relevant to this case?

19 A Yes.

20 Q And do they also include keeping track of key events
21 related to the case?

22 A Yes.

23 Q Now, you previously testified that you were assigned
24 to work on a matter involving Donald Trump about a year and a
25 half ago, right?

1 A Yep.

2 Q Are you the only paralegal who works on this matter?

3 A I am not.

4 Q Who else works on the matter with you in the paralegal
5 capacity?

6 A There are two other paralegals, Nishant Bhaumik and
7 Jaden Jarmel-Schneider.

8 Q In addition to your own work, are you familiar with
9 the work done by the other paralegals on the case?

10 A Yes.

11 Q How are you familiar with that?

12 A I like to think we all work as one. We all kind of do
13 the same things.

14 Q And do you know what work they do in addition to your
15 own?

16 A Yep.

17 Q As part of your role on the matter involving Donald
18 Trump, are you, Mr. Bhaumik and Mr. Jarmel-Schneider
19 responsible for reviewing materials produced to the DA's Office
20 in response to subpoenas?

21 A Yes.

22 Q And does that include analyzing records of
23 communications like text messages and phone calls?

24 A Yes.

25 Q Does that include analyzing contact information that

1 is relevant to this case?

2 A Yes.

3 Q And does that include matching contact information to
4 text and call records for this case?

5 A Yes.

6 Q Are the records provided to the District Attorney's
7 Office for this case in multiple different formats?

8 A Yes.

9 Q Are you, Mr. Bhaumik and Mr. Jarmel-Schneider required
10 to analyze and work with the data in all of those different
11 formats?

12 A Yes.

13 Q And is the data provided in different timezones?

14 A Yes.

15 Q And are you, as part of your job, required to convert
16 timezones in order to analyze the data?

17 A Yes.

18 Q In total, approximately, how many pages of text
19 messages have you, Mr. Bhaumik and Mr. Jarmel-Schneider
20 reviewed in connection with the case?

21 A Pages, I would say, maybe like 2500.

22 Q How many have you personally reviewed?

23 A Probably around a hundred.

24 Q Approximately, how many pages of call records have
25 you, Mr. Bhaumik and Mr. Jarmel-Schneider reviewed in

1 connection with the case?

2 A Over 10,000 pages.

3 Q And how many have you personally reviewed?

4 A Probably around two to 3,000.

5 Q Approximately, how much contact information have you
6 and the other paralegals reviewed in connection with the case?

7 A Probably around 300 to 500 pages.

8 Q And how many have you personally reviewed?

9 A One hundred to 200.

10 Q Approximately, how many contacts have you and the
11 other paralegals have had to match with text and phone records?

12 A About 50.

13 Q Did you and Mr. Bhaumik and Mr. Jarmel-Schneider also
14 review and save public court filings that could be relevant to
15 the case?

16 A Yes.

17 Q Approximately, how many legal proceedings did you and
18 the other paralegals review and save items from?

19 A Approximately, 75 different cases.

20 Q Approximately, how many individual court filings,
21 total, did you and the paralegal team review and save?

22 A About 500.

23 Q Through your work on the case, are you familiar with
24 an important -- I am sorry -- dates of important court filings?

25 A Yes.

1 Q Before testifying today, did you have an opportunity
2 to review files marked for identification as People's Exhibits
3 407-F, 407-G, 407-H and 407-I?

4 A Yes.

5 Q Are they public posts from the Twitter handle
6 @realDonaldTrump.

7 A Yes.

8 Q Who retrieved and saved those posts?

9 A I did.

10 Q Did you save them in a particular way?

11 A I did.

12 Q And did you save them in the same way that you saved
13 the previous Twitter posts that we discussed last time?

14 A Yes.

15 Q Can you briefly remind the jury what that was?

16 A Yes. So, I just used the platform or the tool that we
17 have to screenshot, and I then screenshot the post, save it to
18 a folder that was relevant to the post and then hashed the
19 post.

20 Q And hashing, again, is a way to uniquely identify each
21 post?

22 A Yeah.

23 Q Are these exhibits exact copies of the public posts
24 that you saved and hashed?

25 A Yes.

1 MS. MANGOLD: The People now offer into evidence
2 Exhibits 407-F, G, H and I.

3 MR. BLANCHE: Your Honor, the same objection as
4 discussed last week.

5 THE COURT: Your objection is noted and
6 overruled. People's Exhibits 407-F, G, H and I are
7 accepted into evidence.

8 (Whereupon, People's Exhibits 407-F, G, H
9 and I were received into evidence.)

10 MS. MANGOLD: All right.

11 Can you please display what's now in evidence as
12 People's Exhibit 407-F?

13 BY MS. MANGOLD:

14 Q Ms. Longstreet, is this a Twitter post?

15 A Yes.

16 Q And I think last time you explained some aspects of
17 the social media platform Twitter and how it operated in 2016?

18 A Yep.

19 Q In addition to those questions, can you explain what a
20 thread is?

21 A Yes. So, Twitter has a character limit which only
22 allows you to put a certain amount of characters for one tweet.
23 So, a way that some users are able to get around the character
24 limit is by posting multiple tweets in the same thread so they
25 are kind of connected to each other in a sense.

1 Q And is this an example of a thread?

2 A Yes.

3 Q Is the first post -- I am sorry -- is the top post
4 shown here the first one in time?

5 A Yep.

6 Q Were all of these posts made the same day?

7 A Yes.

8 Q What Twitter handle was used to make these posts?

9 A @realDonaldTrump.

10 Q What's the date and time shown for the top post?

11 A April 21st, 2018 at 9:10 am.

12 Q Can you please focus on just the top post?

13 Can you read the top post to the jury?

14 A Yes.

15 The New York Times and a third-rate reporter named
16 Maggie Haberman, known as a Crooked H flunkie, who I don't
17 speak to and have nothing to do with, are going out of their
18 way to destroy Michael Cohen and his relationship with me in
19 the hope that he will flip. They use -- dot, dot, dot.

20 MS. MANGOLD: Can you pull up the bottom two
21 posts, please?

22 Q Can you read those?

23 A Non-existent sources and a drunk slash drugged up
24 loser who hates Michael, a fine person with a wonderful family,
25 Michael is a businessman for his own account slash lawyer who I

1 always liked and respected. Most people will flip if the
2 Government lets them out of trouble, even if it means lying or
3 making up stories. Sorry, I don't see Michael doing that
4 despite the horrible Witch Hunt and the dishonest media.

5 Q What's the date for all three of the posts?

6 A April 21, 2018.

7 MS. MANGOLD: You can take that down.

8 Q Did the court filings that you reviewed include a
9 Federal criminal case for Michael Cohen?

10 A Yes.

11 Q Was one of the court filings the paralegal team saved
12 for that case a guilty plea?

13 A Yes.

14 Q Do you know the date of that guilty plea?

15 A I believe it was August 21, 2018.

16 MS. MANGOLD: Now, can we please display what is
17 in evidence as People's Exhibit 407-H?

18 Q Can you see that, Ms. Longstreet?

19 A Yes.

20 Q Is this another Twitter post?

21 A Yes.

22 Q What Twitter handle was used to make this post?

23 A @realDonaldTrump.

24 Q And what is the date and time for this post?

25 A It ends August 22, 2018 at 8:44 a.m.?

1 Q Can you please read this to the jury?

2 A If anyone is looking for a good lawyer, I would
3 strongly suggest that you don't retain the services of Michael
4 Cohen.

5 Q And is there an explanation point end of that post?

6 A Yes. Sorry.

7 MS. MANGOLD: And can we take this down and
8 display what's in evidence as People's Exhibit 407-I.

9 Q Is this another Twitter post that you pulled and
10 saved?

11 A Yes.

12 Q What is the Twitter handle used to make this post?

13 A @realDonaldTrump.

14 Q What is the date and time shown for this post?

15 A August 22, 2018, at 9:21 a.m.

16 Q And is that the same day as the last post we just saw?

17 A Yes.

18 Q How long after the post we just saw was this one
19 posted?

20 A I would have to see the timestamp.

21 Q It's fine. But it was posted the same day?

22 A Yes.

23 Q Can you read this post to the jury?

24 A Yes.

25 I feel very badly for Paul Manafort and his wonderful

1 family. Justice took a 12-year-old tax case, among other
2 things, applied tremendous pressure on him and unlike Michael
3 Cohen he refused to break, make up stories in order to get a
4 deal. Such respect for a great man. Explanation point.

5 MS. MANGOLD: All right.

6 We can take that down.

7 Now, finally, can we display what's in evidence
8 as People's Exhibit 407-G, please?

9 Can you flip through the pages of this Exhibit
10 quickly?

11 Q Ms. Longstreet, is this another Twitter post that you
12 saved?

13 A Yes.

14 Q Is this another example of a thread?

15 A Yes.

16 Q And how many parts does this thread have?

17 A Three.

18 Q What was the Twitter handle used to make these posts?

19 A @realDonaldTrump.

20 Q And what is the date and time shown for the top post?

21 A May 3rd, 2018 at 6:46 a.m.

22 Q And can you please read the post for the jury?

23 A Mr. Cohen, an attorney, received a monthly retainer,
24 not from the campaign and having nothing to do with the
25 campaign, from which he entered into through reimbursement a

1 private contract between two parties, known as a Non-Disclosure
2 Agreement or NDA. These agreements are -- dot, dot, dot.

3 MS. MANGOLD: Then move to the second post to the
4 thread.

5 A Very common amongst celebrities and people of wealth.
6 In this case it is in full force and effect and will be used in
7 arbitration for damages against Ms. Clifford, Daniels. The
8 agreement was used to stop the false and extortionist
9 accusations made by her about an affair --

10 Q And is this now the final post in the thread?

11 A Yes.

12 Despite already having signed a detailed letter
13 admitting that there was no affair, prior to its violation by
14 Ms. Clifford and her attorney, this was a private agreement.
15 Money for the campaign or campaign contributions played no role
16 in this transaction.

17 MS. MANGOLD: Thank you.

18 Can we take that down, please?

19 Now, can we show everyone what's already in
20 evidence as People's Exhibit, 171 A?

21 Q Ms. Longstreet, do you recognize this?

22 A Yes.

23 Q And how do you recognize it?

24 A This was something that the paralegal team had to
25 analyze in response to subpoena compliance.

1 Q So this was produced -- this is a document that was
2 produced to the DA's Office pursuant to a subpoena?

3 A Yes.

4 Q And you and the paralegal team analyzed the document
5 after it was received?

6 A Yes.

7 Q Do you --

8 MS. MANGOLD: Can you please blow up the two
9 middle columns?

10 Q And do you see contact information in those middle
11 columns?

12 A Yes.

13 Q Based on your work on the case, can you identify the
14 individuals associated with the contact information provided
15 there?

16 A Yes.

17 Q So, looking first on the left, there is something
18 redacted, and then it says, @dylanhoward.com.

19 Is that an email address?

20 A Yes.

21 Q Do you know who that email address is associated with?

22 A Yes.

23 Q Who is it?

24 A Dylan Howard.

25 Q And do you see just below that there is an email

1 address that ends, @wideeyecommunications.com?

2 A Yes.

3 Q Based upon on your work on the case, can you identify
4 the individual associated with that email address?

5 A Yes.

6 Q Who is it?

7 A Dylan Howard.

8 Q Looking now to the other column, do you see where it
9 just has the letter G?

10 A Yes.

11 Q And there are the last four digits of the phone number
12 shown there?

13 A Yeah.

14 Q Based on your work on the case, can you identify the
15 individual associated with that phone number?

16 A Yeah.

17 Q Who is it?

18 A Gina Rodriguez.

19 (Whereupon, Principal Court Reporter, Susan
20 Pearce-Bates was relieved by Senior Court
21 Reporter Theresa Magniccari.)
22
23
24
25

1 (Whereupon, the proceedings were continued from
2 the following page:)

3 ****

4 CONTINUED DIRECT EXAMINATION

5 BY MS. MANGOLD:

6 Q. Now, if we take a look at the second page of the PDF.
7 The same two columns.

8 MS. MANGOLD: Can we show both the blue and green
9 portions near the top.

10 (Displayed.)

11 Q. So, which column -- here is the "to" column, and which
12 is the "from" column?

13 A. The "to" column is on the left and the "from" column is
14 on the right.

15 Q. Is that typical or is it more standard to have those
16 columns switched?

17 A. It's more standard to have them switched.

18 MS. MANGOLD: Now, can we look at the text -- a
19 few of the text messages on the right, please.

20 Q. Ms. Longstreet, based on your analysis of the various
21 calls and text messages, can you tell what time zone this is
22 in?

23 A. Yes.

24 Q. What time zone is that?

25 A. UTC.

1 Q. What is UTC time?

2 A. UTC time is a standardized time zone for everybody.
3 So I don't remember exactly what UTC stands for. It's three
4 hours ahead based -- depending on when Daylight Savings is.

5 Q. Does it correspond with time zones in London?

6 A. Yes.

7 Q. So the New York time zone for these might depend on
8 whether it was Daylight Savings Time or not?

9 A. Yes.

10 MS. MANGOLD: If we can zoom back out.

11 Q. Do you see there are portions of this exhibit that have
12 been redacted?

13 A. Yes.

14 Q. Who redacted this?

15 A. I did.

16 Q. All right.

17 Now, turning back to the first page of the document.
18 Focusing on the first five text messages on the right and
19 showing the "to" and "from" column.

20 Were all of these text messages sent on the same date?

21 A. Yes.

22 Q. What date is that?

23 A. April 7, 2016.

24 Q. Can you please read these text messages to the jury
25 identifying who they're from and who they're to?

1 A. So this first one is from Mrs. Rodriguez to Mr. Howard,
2 and it says: Stormy Daniels was his mistress.

3 Then from Mr. Howard to Ms. Rodriguez: I bet she was.

4 From Mr. Howard to Ms. Rodriguez: Can you email me
5 what you have on that.

6 From Ms. Rodriguez to Mr. Howard: Yes. I will send
7 you what I have.

8 From Mr. Howard to Ms. Rodriguez: Great.

9 MS. MANGOLD: Can we now turn to Page 2 of the
10 PDF, and focus on the last five text messages shown in the
11 document.

12 (Displayed.)

13 Q. Were these all sent on the same date?

14 A. Yes.

15 Q. What date was that?

16 A. June 28, 2016.

17 Q. Can you please read these to the jury, include who
18 they're from and who they're to?

19 A. Yes.

20 So this first one is from Ms. Rodriguez to Mr. Howard:
21 Stormy Daniels.

22 From Ms. Rodriguez to Mr. Howard: I have her.

23 From Mr. Howard to Ms. Rodriguez: Is she ready to
24 talk?

25 From Mr. Howard to Ms. Rodriguez: I thought she

1 denounced it previously.

2 From Ms. Rodriguez to Mr. Howard: She said she will do
3 it under two conditions.

4 MS. MANGOLD: And can we turn now to the next page
5 of the PDF.

6 (Displayed.)

7 Q. I know the font is pretty small, but are you able to
8 see the date of all of the text messages on this page?

9 A. Yes.

10 Q. Are they all the same date?

11 A. Yes.

12 Q. And what is that date?

13 A. June 28, 2016.

14 Q. The same date as the page before?

15 A. Yes.

16 Q. And can you please read the top text message on the
17 page?

18 A. Yes.

19 From Ms. Rodriguez to Mr. Howard: She never did.

20 MS. MANGOLD: And can you pull up -- we'll skip
21 the next text, and pull up the following four.

22 (Displayed.)

23 Q. Can you please read these to the jury?

24 A. Yes.

25 From Ms. Rodriguez to Mr. Howard: She doesn't want to

1 go on record about it, but will tell the story through a source.

2 She will take a -- she's had sex with him. She wants 100K.

3 From Mr. Howard to Ms. Rodriguez: Once or ongoing
4 relationship?

5 From Ms. Rodriguez to Mr. Howard: A couple of times.
6 And he promised her a condo, a spot on The Apprentice. She went
7 to the Miss America Pageant. He got her in.

8 From Ms. Rodriguez to Mr. Howard: He never did
9 anything for her.

10 MS. MANGOLD: Can you pull up the bottom two text
11 messages on the page.

12 (Displayed.)

13 Q. Can you read those to the jury?

14 A. Yes.

15 From Ms. Rodriguez to Mr. Howard: She met him at a
16 celebrity golf tournament. She was there with Wicked Pictures.

17 From Mr. Howard to Ms. Rodriguez: Okay. Let me get
18 back to you.

19 Q. Turning now to the next page of the document. Can you
20 see text messages starting on the date, June 29, 2016?

21 A. Yes.

22 MS. MANGOLD: And can we please pull up the first
23 three text messages from that date.

24 (Displayed.)

25 Q. And can you read those to the jury once they're up.

1 A. Yes.

2 From Ms. Rodriguez to Mr. Howard: Any word on Stormy?

3 From Ms. Rodriguez to Mr. Howard: Question mark.

4 From Mr. Howard to Ms. Rodriguez: Have got to discuss
5 it with the Chief.

6 MS. MANGOLD: Now, can we blow up the last two
7 text messages on that page.

8 (Displayed.)

9 Q. What is the date of these text messages?

10 A. July 23, 2016.

11 Q. And can we please read those to the jury?

12 A. Yes.

13 From Ms. Rodriguez to Mr. Howard: What happened with
14 the Stormy Daniels interview on Trump?

15 From Mr. Howard to Ms. Rodriguez: Let's discuss it
16 this week.

17 Q. Now, turning to the next page of the PDF. Turning to
18 the top six text messages on that page.

19 Are these all from the same date?

20 A. Yes.

21 Q. Same date as the page before?

22 A. Yes.

23 Q. That's July 23, 2016?

24 A. Yes.

25 Q. And can you read these to the jury?

1 A. Yes.

2 From Ms. Rodriguez to Mr. Howard: Okay. She is
3 asking.

4 From Mr. Howard to Ms. Rodriguez: Let's talk
5 face-to-face.

6 From Ms. Rodriguez to Mr. Howard: Okay.

7 From Ms. Rodriguez to Mr. Howard: What day this week?

8 From Mr. Howard to Ms. Rodriguez: I am there Sunday
9 night through Wednesday, maybe Thursday.

10 From Ms. Rodriguez to Mr. Howard: Let's meet Thursday.

11 MS. MANGOLD: Can we skip a couple of text
12 messages, then show the next two.

13 (Displayed.)

14 Q. Can you please -- I am sorry, what is date of these
15 text messages?

16 A. July 29, 2016.

17 Q. Can you please read these to the jury?

18 A. Yes.

19 From Mr. Howard to Ms. Rodriguez: I'm trying to get
20 Cohen here on Monday on something, so stand by. Will know
21 tomorrow. Keep that between us.

22 From Ms. Rodriguez to Mr. Howard: Okay. If you do, I
23 want to come Monday too.

24 MS. MANGOLD: Can we turn to the next page of the
25 PDF, please. If can we show just the top portion of the --

1 I am sorry, just the second text message on the page.

2 (Displayed.)

3 Q. What is date of this text message?

4 A. July 31, 2016.

5 Q. Who is it from?

6 A. Ms. Rodriguez.

7 Q. And can you read this to the jury?

8 A. Yes.

9 Whatever happened with the Stormy Daniels interview?

10 MS. MANGOLD: And can we take that down.

11 Q. Ms. Longstreet, do you see any other text messages from
12 that date?

13 A. No.

14 MS. MANGOLD: Can we please pull up the next three
15 text messages.

16 (Displayed.)

17 Q. Were these all sent on the same date?

18 A. Yes.

19 Q. What date?

20 A. August 8, 2016.

21 Q. Can you please read these to the jury.

22 A. Yes.

23 From Ms. Rodriguez to Mr. Howard: Call me.

24 From Mr. Howard to Ms. Rodriguez: It will have to be
25 later on. Wall to wall meetings for a few hours.

1 From Ms. Rodriguez to Mr. Howard: Okay.

2 MS. MANGOLD: Now, can we pull up the last four
3 text messages on that page.

4 And, actually, before we do that, can we flip to
5 the next page of the PDF.

6 (Displayed.)

7 Q. Do you see the date for the text messages on this
8 page?

9 A. Yes.

10 Q. And what is the date for the top set of text messages?

11 A. October 8, 2016.

12 Q. And do you see the timestamps?

13 A. Yes.

14 Q. What are the timestamps for the top few text messages?

15 A. 23:39:52 in UTC time.

16 Q. How about the text messages on the bottom of that page?

17 A. The timestamp?

18 Q. What is the date?

19 A. October 9, 2016.

20 Q. And what does the timestamp show?

21 A. They are all between 0017 and 0019.

22 Q. And is that in UTC time?

23 A. Yes.

24 Q. So what would the dates for all of these text messages
25 be in New York?

1 A. October 8, 2016.

2 MS. MANGOLD: Can we now go back to the previous
3 page and blow up the bottom four text messages.

4 (Displayed.)

5 Q. Are these from October 8, 2016?

6 A. Yes.

7 Q. Can you read these to the jury?

8 A. Yes.

9 From Ms. Rodriguez to Mr. Howard: Stormy Daniels and
10 Trump with her is up on The Dirty, and Fox News has been
11 calling. Stormy has not confirmed or spoken. Are you
12 interested?

13 From Mr. Howard to Ms. Rodriguez: She will confirm on
14 record. Question mark.

15 From Ms. Rodriguez to Mr. Howard: Yes.

16 From Mr. Howard to Ms. Rodriguez: Can you email me the
17 pitch on Stormy. I need to elevate it to my CEO.

18 MS. MANGOLD: Can you flip to the next page and
19 show the top three text messages.

20 (Displayed.)

21 Q. And can you read these to the jury?

22 A. Yes.

23 From Mr. Howard to Ms. Rodriguez: He likely will pay.

24 From Ms. Rodriguez to Mr. Howard: Yes, I will send to
25 you.

1 From Ms. Rodriguez to Mr. Howard: Okay.

2 MS. MANGOLD: And can we please pull up the next
3 five text messages.

4 (Displayed.)

5 Q. And can you please read these to the jury?

6 A. From Mr. Howard to Ms. Rodriguez: How much for Stormy?

7 From Ms. Rodriguez to Mr. Howard: 250K.

8 From Mr. Howard to Ms. Rodriguez: You have that bid?

9 From Ms. Rodriguez to Mr. Howard: Yes, working on it.

10 From Ms. Rodriguez to Mr. Howard: GMA wants her too.

11 Q. Turning now to the next page of the PDF. And looking
12 at the date and timestamps of the text messages on this page.

13 What is the date shown for all of these text messages?

14 A. October 9, 2016.

15 Q. And what is the timestamp range for these?

16 A. 0019 to 0021 in UTC time.

17 Q. And what date would these be in New York?

18 A. October 8, 2016.

19 Q. Same as the ones we just looked at?

20 A. Yes.

21 Q. Focusing on after the first text messages, the
22 following three, can you read these to the jury?

23 A. Yes.

24 From Ms. Rodriguez to Mr. Howard: Daily Mail too.

25 From Mr. Howard to Ms. Rodriguez: Well, I would buy it

1 but I ain't got 250K. LOL. GMA can't pay her. They can license
2 pics, et cetera. I will tie it up ASAP if we can get realistic
3 price.

4 From Ms. Rodriguez to Mr. Howard: How much?

5 MS. MANGOLD: Can we please blow up the bottom
6 four text messages on that page.

7 (Displayed.)

8 Q. Can you please read these to the jury.

9 A. Yes.

10 From Mr. Howard to Ms. Rodriguez: I can get 100.

11 From Ms. Rodriguez to Mr. Howard: LOL.

12 From Ms. Rodriguez to Mr. Howard: Okay. What about
13 150K?

14 From Mr. Howard to Ms. Rodriguez: 110.

15 MS. MANGOLD: Can we please go to the next page.
16 Can we please blow up the top four text messages.

17 (Displayed.)

18 Q. Can you read these to the jury?

19 A. Yes.

20 From Ms. Rodriguez to Mr. Howard: 125K.

21 From Mr. Howard to Ms. Rodriguez: LOL.

22 From Mr. Howard to Ms. Rodriguez: 120.

23 From Ms. Rodriguez to Mr. Howard: Sold.

24 Q. And leaving this up for a second, do you see the date
25 and timestamps for these text messages?

1 A. Yes.

2 Q. What is the date of all of them?

3 A. October 9, 2016.

4 Q. What is the timestamp range for these?

5 A. 00:21:27 to 00:21:50 UTC time.

6 Q. And is it your understanding that these are all
7 October 8, 2016 in New York time?

8 A. Yes.

9 MS. MANGOLD: Can we please pull up the next four
10 text messages. I am sorry, the next three text messages.

11 (Displayed.)

12 Q. Can you please read -- I am sorry. Withdrawn.

13 What are the dates of the top two text messages here?

14 A. October 9, 2016.

15 Q. And were they sent shortly after the text messages we
16 just saw?

17 A. Yes.

18 Q. Can you please read these to the jury?

19 A. From Mr. Howard to Ms. Rodriguez: I'm at dinner. I
20 will email contract when back at hotel or first thing in a.m.

21 From Ms. Rodriguez to Mr. Howard: Okay.

22 Q. And what is the third text message there, what is the
23 date and timestamp of that one?

24 A. October 9, 2016 at 18:54:31 UTC time.

25 Q. What would the date for this one be in New York?

1 A. October 9, 2016.

2 Q. Can you read this one to the jury?

3 A. From Ms. Rodriguez to Mr. Howard: Daily Mail is
4 offering 200.

5 MS. MANGOLD: Thank you.

6 You can take that down.

7 Moving on to the next page of the PDF. Can you
8 please highlight the top two text messages on the page.

9 (Displayed.)

10 Q. Ms. Longstreet, what are the dates of these text
11 messages?

12 A. October 9, 2016.

13 Q. Can you read these to the jury?

14 A. Yes.

15 From Ms. Rodriguez to Mr. Howard: I haven't told them
16 anything except what I put in email yesterday.

17 From Ms. Rodriguez to Mr. Howard: They signed NDA and
18 sent over. I haven't responded.

19 MS. MANGOLD: We can take those down.

20 Can we please blow up the following two text
21 messages.

22 (Displayed.)

23 Q. What is the date of these text messages?

24 A. October 10, 2016.

25 Q. Can you read these to the jury?

1 A. Yes.

2 From Ms. Rodriguez to Mr. Howard: Never heard from you
3 and Stormy leaves tomorrow to go back home. D.M. wants it too.

4 From Mr. Howard to Ms. Rodriguez: Okay. I'll call him
5 in a few hours.

6 MS. MANGOLD: Can we pull up the next six text
7 messages, please.

8 (Displayed.)

9 Q. What is the date of these?

10 A. October 17, 2016.

11 Q. And can you read these to the jury?

12 A. From Ms. Rodriguez to Mr. Howard: We're not doing the
13 Trump deal.

14 From Mr. Howard to Ms. Rodriguez: Keith gave me a
15 heads up. What happened?

16 From Ms. Rodriguez to Mr. Howard: They didn't pay when
17 they said they would and they keep trying to buy more time.
18 Daily Mail wants it bad, so we're doing it.

19 From Mr. Howard to Ms. Rodriguez: Fair call.

20 From Mr. Howard to Ms. Rodriguez: Their loss.

21 From Ms. Rodriguez to Mr. Howard: Agreed.

22 MS. MANGOLD: Turning now to the next page of the
23 PDF. Can we blow up the fifth text message down and the
24 five text messages there.

25 (Displayed.)

1 Q. What is date of these text messages?

2 A. October 19, 2016.

3 Q. Can you read these to the jury?

4 A. From Ms. Rodriguez to Mr. Howard: Spoke to Keith last
5 night and we're all good.

6 From Mr. Howard to Ms. Rodriguez: Okay.

7 From Mr. Howard to Ms. Rodriguez: Sorted out.

8 From Ms. Rodriguez to Mr. Howard: Redacted.

9 From Mr. Howard to Ms. Rodriguez: Good.

10 MS. MANGOLD: And can we please pull up the next
11 two text messages.

12 (Displayed.)

13 Q. What is date of these text messages?

14 A. October 25, 2016.

15 MS. MANGOLD: Turning now to the next page of the
16 PDF.

17 Q. Are all of the text messages on this page also that
18 same date?

19 A. Yes.

20 MS. MANGOLD: Going back one page and pulling up
21 the bottom three text messages.

22 Q. Can you read the top two to the jury?

23 A. From Ms. Rodriguez to Mr. Howard: On phone with Katie
24 and Stormy.

25 From Mr. Howard to Ms. Rodriguez: Okay. I blew a

1 gasket at his people and told them not to fuck with people.

2 Message made and heard.

3 MS. MANGOLD: Turning now to the next page. Can
4 you highlight the bottom five text messages on this page.

5 (Displayed.)

6 Q. Can you read these to the jury?

7 A. Yes.

8 From Mr. Howard to Ms. Rodriguez: I had to apologize
9 to my CEO.

10 From Mr. Howard to Ms. Rodriguez: I explained that two
11 people saved his ass today and meeting his call with his people
12 and I am going to tell them how it's going to be.

13 From Ms. Rodriguez to Mr. Howard: Thank you so much.
14 You think it will happen?

15 From Mr. Howard to Ms. Rodriguez: Yes. They were told
16 in no uncertain terms.

17 From Mr. Howard to Ms. Rodriguez: I'm not going to
18 burn my lifelong contact for these fuckers.

19 MS. MANGOLD: And turning to the next page of the
20 PDF. Starting with the text message -- the first text
21 message, dated October 26, 2016. Can you pull up those
22 first three.

23 (Displayed.)

24 Q. Can you read these to the jury?

25 A. From Ms. Rodriguez to Mr. Howard: They didn't pay and

1 she doesn't believe it and she's doing her press conf. in the
2 morning. She hired another attorney.

3 From Mr. Howard to Ms. Rodriguez: What deadline did
4 they have?

5 From Ms. Rodriguez to Mr. Howard: This morning.

6 MS. MANGOLD: And can we turn to the next page of
7 the PDF, please. And highlight the last text message on
8 the page.

9 (Displayed.)

10 Q. What is the date of that text message?

11 A. October 26, 2016.

12 Q. And can you read that to the jury?

13 A. From Mr. Howard to Ms. Rodriguez: Good news I hear.

14 MS. MANGOLD: I have no further questions.

15 THE COURT: Your witness.

16 CROSS EXAMINATION

17 BY MR. BLANCHE:

18 Q. Good morning again, Ms. Longstreet.

19 How are you?

20 A. Good. How are you?

21 Q. We spoke last Friday; correct?

22 A. We did.

23 Q. So I am not going to re-ask all the questions that I
24 asked last Friday about the work that you did.

25 The first was talking about the tweets and the Truth's

1 that you reviewed. I believe you testified last week, but
2 correct me if I am wrong, that you reviewed thousands of tweets
3 and Truths as part of your work on this case?

4 A. I did.

5 Q. And the tweets that we saw today, again, you didn't
6 select which ones to put up out of the thousands that you
7 reviewed, for example; the table here and to my right selected
8 them; right?

9 A. That's correct.

10 Q. And since you testified last Friday, have you been
11 tasked with doing any additional social media reviews of anybody
12 involved in this case?

13 A. Like additional review that wasn't already being done
14 before?

15 Q. Yes.

16 A. No.

17 Q. So you're still not reviewing Mr. Cohen's TikTok?

18 A. Not currently, no.

19 Q. You're not aware of something that he TikTok'd two
20 nights ago, for example, on Wednesday night?

21 MS. MANGOLD: Objection.

22 THE COURT: Overruled.

23 A. I am not.

24 Q. Turning to the number of text messages that you just
25 read back and forth, you've been in court every day during this

1 trial; correct?

2 A. Correct.

3 Q. And you were here when Mr. Pecker testified?

4 A. Yes.

5 Q. And you're aware that he was shown a number of text
6 messages that he was a participant in; correct?

7 A. Yes.

8 Q. And when he was shown text messages that he was a
9 participant in, you recall questions being asked of him about
10 what he meant by that or what his understanding was of what
11 somebody else sent to him?

12 A. Yes.

13 Q. And you agree that the text messages that you just
14 read, you have no personal knowledge about the reason they were
15 sent or even whether they were accurate when they were sent by
16 either of the folks, Ms. Rodriguez or Mr. Howard; do you?

17 A. No personal knowledge, no.

18 Q. When, for example, Ms. Rodriguez talks about offers
19 from the Daily Mail and the timing of those offers, you have no
20 knowledge about whether she was telling the truth; do you?

21 A. No.

22 Q. And you have no knowledge about any of the -- no
23 knowledge about the truthfulness or the reasoning behind the
24 text that Mr. Howard sent in response, or because of whatever
25 Ms. Rodriguez said; correct?

1 A. Can you ask that again.

2 Q. Sure.

3 You have no personal knowledge about either the
4 communications that Mr. Howard initiated or that he responded to
5 in the series of text messages that you were -- that you just
6 read to the jury; correct?

7 A. Correct.

8 Q. It's a long way of saying, you just read what was
9 written on the exhibit; correct?

10 A. Yes.

11 Q. And that's different, would you agree, than when
12 Mr. Pecker was asked about the reasoning behind text messages
13 and what he meant by that; correct?

14 A. Yes.

15 Q. And same with Ms. Hicks?

16 A. Yes.

17 MR. BLANCHE: Excuse me, your Honor.

18 (Brief pause.)

19 Q. Now, by the way, the same with the text messages of
20 Mr. Cohen, correct, meaning, you didn't read any today, but you
21 have reviewed as part of your work on this case text messages
22 sent and received from Mr. Cohen as well; correct?

23 A. Yes.

24 Q. Now, going back briefly to the social media that you
25 reviewed, were you also tasked with reviewing Ms. Daniels'

1 social media over the last couple of years?

2 A. Yes.

3 Q. And are you continuing to review it during this trial?

4 A. Yes.

5 Q. Did you review it, for example, this week or last
6 night?

7 A. Not last night, but I think earlier in the week at some
8 point, yeah.

9 Q. And as part of that review, not limiting it to
10 Ms. Daniels, but to all the parties that your reviewing, when
11 you observe something that you believe to be interesting, what's
12 the process that you use to alert that to your team?

13 A. Well, I think it depends. I think there are some
14 things that I just know for a fact we would want to have saved
15 to our case file.

16 There are other things I have a question about, I will
17 call one of the attorneys and ask them if they think I should
18 pull it or not.

19 Q. Basically, not to -- but based upon the information you
20 provide them, the Prosecutors that you work with decide whether
21 to use it or not use it; correct?

22 A. Basically, yeah.

23 MR. BLANCHE: No further questions, your Honor.

24 THE COURT: Anything else?

25 MS. MANGOLD: No, your Honor.

1 (Witness excused.)

2 ***

3 THE COURT: Your next witness.

4 MR. CONROY: Judge, the People call Jaden
5 Jarmel-Schneider.

6 (Witness entering courtroom.)

7 ***

8 THE CLERK: Do you solemnly swear or affirm that
9 the testimony that you are going to give before this Court
10 and jury shall be the truth, the whole truth, and nothing
11 but the truth, do you so swear or affirm?

12 THE WITNESS: I do.

13 J-A-D-E-N J-A-R-M-E-L--S-C-H-N-E-I-D-E-R, called as a witness
14 on behalf of the People, was duly sworn by the Clerk, upon being
15 examined, testified as follows:

16 THE CLERK: Have a seat.

17 COURT OFFICER: State your full name for the
18 record, spelling your last name.

19 THE WITNESS: Jaden Jarmel-Scheider, J-A-R-M-E-L,
20 S-C-N-N-E-I-D-E-R.

21 COURT OFFICER: County of residence?

22 THE WITNESS: New York County.

23 THE COURT: Good afternoon.

24 You may inquire.

25 MR. CONROY: Thank you.

1 DIRECT EXAMINATION

2 BY MR. CONROY:

3 Q. Good afternoon, Mr. Schneider.

4 Where do you work?

5 A. I work at the New York County District Attorney's
6 Office.

7 Q. How long have you worked there?

8 A. Coming up on two years.

9 Q. And what is your current position there?

10 A. I am a paralegal.

11 Q. What are some of the things that you do as a paralegal
12 at the DA's office?

13 A. It really runs the gamut. But, in general, we help the
14 attorneys: Sending out subpoenas and kind of organizing and
15 analyzing whatever records we receive in response.

16 Q. In your work as a paralegal at the District Attorney's
17 office, were you assigned to an investigation involving Donald
18 Trump?

19 A. Yes.

20 Q. As part of your role in that investigation, were you
21 tasked with analyzing phone records pertaining to the case?

22 A. Yes.

23 Q. Was it phone records and also other kinds of records?

24 A. Yes.

25 Q. Did the phone records include the AT&T records that are

1 contained in what was admitted earlier today in People's Exhibit
2 400?

3 A. Yes.

4 Q. Did it also include the Verizon records that were
5 admitted into evidence earlier today as People's Exhibit 401?

6 A. Yes.

7 Q. Can you tell us, generally, what is contained within
8 those phone records?

9 A. So we generally get two kinds of records.

10 Subscriber records review basic information about the
11 user associated with the phone record.

12 Call detail records, which are kind of a log of all the
13 incoming and outgoing calls associated with whatever number was
14 subpoenaed.

15 Q. What format are the phone records in when you get
16 them?

17 A. Depends on the phone carrier.

18 So, for AT&T, we got them as PDF text files, image
19 files.

20 For Verizon, we get them as Excel spreadsheets and Word
21 documents and PDF.

22 Q. In your work reviewing various phone records, did you
23 also review information contained in data extractions from
24 Michael Cohen's phones?

25 A. Yes.

1 Q. What did you review?

2 A. I reviewed Cellebrite reports, which is the application
3 used to review the data that is extracted on call logs, contact
4 lists, calendar invites, various pieces of metadata, et cetera.

5 Q. Did that include what is in evidence -- contact
6 information from those phones, that is in evidence currently as
7 People's 263 and 264?

8 A. Yes.

9 Q. Did it include text messages that are in evidence as
10 People's 249 through 251, 255 through 260 and 262?

11 A. Yes.

12 Q. Did it include call logs that are in evidence as
13 People's 261?

14 A. Yes.

15 Q. Did you also review subscriber information contained in
16 People's 400 and 401?

17 A. Yes.

18 Q. Did you also review a contact list contained in
19 People's 69B in evidence?

20 A. I did.

21 Q. In your work on the investigation, did you prepare a
22 summary report -- several summary reports or -- withdrawn.

23 Let me rephrase that.

24 In your work on the investigation, did you prepare a
25 summary report of contact information?

1 A. I did.

2 Q. What information did you rely on in making that
3 report?

4 A. So I looked at the subscriber records that I mentioned
5 from AT&T and Verizon. I also looked at other pieces of
6 documentary records; text messages, records, email signatures,
7 contact lists produced by The Trump Organization. I also looked
8 at the contact lists that were extracted from Mr. Cohen's cell
9 phones.

10 Q. What was the purpose of creating this report?

11 A. We wanted to give the jury a sense of how we figured
12 out which phone numbers were associated with which people. Kind
13 of where the phone numbers would show up in the evidence that we
14 ultimately used.

15 Q. Are the records that you relied on in making this chart
16 all in evidence in this case?

17 A. Yes.

18 MR. CONROY: If we can pull up for the Court and
19 parties and the witness, but not the jury, what's been
20 marked as People's 416 for identification.

21 Q. Do you recognize what that is?

22 A. Yes.

23 Q. What is it?

24 A. This is the phone key I was just talking about.

25 Q. You created this?

1 A. I did.

2 Q. Are there redactions in this chart?

3 A. Yes.

4 Q. What is redacted?

5 A. The first six digits of all the phone numbers.

6 Q. Other than that, is this an exact copy of the key that
7 you created?

8 A. Yes.

9 MR. CONROY: At this time, I would offer People's
10 416 into evidence.

11 MR. BOVE: No objection.

12 THE COURT: 416 is accepted into evidence.

13 (Whereupon, People's Exhibit 416 was accepted into
14 evidence.)

15 MR. CONROY: If we can display that to the jury.

16 (Displayed.)

17 Q. Can you walk us through what we're looking at?

18 A. Sure.

19 So in the right column under the heading "Exhibit," it
20 shows what the source document was and what exhibit number it
21 came from.

22 In the left column called "Phone Number," it is the
23 phone number.

24 And the next column is the name as it appears on the
25 source document, on the exhibit.

1 Under the "source column," it's just the kind of
2 record; email, text, contact list, et cetera.

3 Q. For some of the rows, there is one name associated with
4 a number, but then there are multiple sources; why is that?

5 A. A lot of the phone numbers we saw in several different
6 places, so we put various documents that we found them on just
7 to corroborate that the phone number did belong to the person
8 that is listed next to them.

9 MR. CONROY: Okay. We can take that down.

10 Q. I now want to talk about another part of the work that
11 you did with the phone records here. Did you create a number of
12 summaries of phone records?

13 A. Yes.

14 Q. What was contained in those summaries?

15 A. These are just logs of phone calls between pairs of
16 people.

17 Q. You mentioned that you received the records that we
18 just discussed earlier in a number of file formats, particularly
19 the records now in People's 400 and 401 from AT&T and Verizon.

20 Starting with the AT&T records, how did you go about
21 putting data in the summary?

22 A. We have a software that reads through the text files,
23 the AT&T files. It allows us to file and sort by phone number,
24 date, caller, et cetera.

25 We uploaded the text files, filtered and sorted and

1 formatted them to look pretty.

2 Q. What did you do with the Verizon records?

3 A. So the Verizon records were a particular year. They
4 came in as a PDF. We made them text readable, uploaded the text
5 into Excel, wrote simple scripts to extract the information that
6 was put into a format that was file readable. Then we just
7 filtered again by date and time, caller phone number, et cetera.
8 Then formatted them.

9 Q. In addition to what's in evidence as People's 400 and
10 401, did you include any other records in the call summaries?

11 A. Yes.

12 Q. Do you recall what date?

13 A. In some cases we put calls that were taken off of the
14 call log that is in evidence as 261, which is calls pulled from
15 Mr. Cohen's phone.

16 Q. What was the purpose of creating these summaries?

17 A. So, as you might have seen, the phone records are
18 somewhat hard to decipher. They don't list which caller is
19 associated with the phone number. They're all different time
20 zones.

21 And kind of, more importantly, they include a lot of
22 extraneous outside calls of people that are not relevant. We
23 wanted to create summaries that were a bit more digestible and
24 easy and by time zone.

25 Q. You mentioned different time zones; how did you

1 standardize the records for the time zones?

2 A. So it differed between AT&T and Verizon.

3 For AT&T, all the time zones were in UTC. We were able
4 to mass convert them to Eastern Standard Time. We accounted for
5 Daylight Savings Time.

6 For Verizon, the time zone depended on the location
7 they were in when they made or received the call. We went
8 through and determined the location, which was listed on the
9 call detail records, and converted them to all New York time,
10 which is to say, we standardized everything to New York time.

11 Q. Now, are the summaries of the phone records based
12 solely on the information contained in exhibits already in
13 evidence?

14 A. Yes.

15 Q. And are those the exhibits we already discussed?

16 A. Yes.

17 Q. In preparing the summaries of the phone records, did
18 you ensure that the information you were including in the
19 summaries fairly and accurately reflected the information in the
20 exhibits in evidence?

21 A. Yes.

22 Q. How did you do that?

23 A. So after we made the summaries, we went through
24 line-by-line and compared to the underlying call detail record.

25 Q. Have you reviewed what's been marked previously as

1 People's 337 through 342 and 344 through 349 for identification?

2 A. Yes.

3 Q. And is People's 337 calls between Michael Cohen and
4 Keith Davidson?

5 A. Yes.

6 Q. Is People's 338 calls between Michael Cohen and Hope
7 Hicks?

8 A. Yes.

9 Q. Is People's 339 calls between Michael Cohen and Dylan
10 Howard?

11 A. Yes.

12 Q. Is People's 340 calls between Michael Cohen and David
13 Pecker?

14 A. Yes.

15 Q. Is People's 341 calls between Michael Cohen and Keith
16 Schiller?

17 A. Yes.

18 Q. Is People's 342 calls between Michael Cohen and Allen
19 Weisselberg?

20 A. Yes.

21 Q. Is People's 344 calls between Keith Davidson and Gina
22 Rodriguez?

23 A. Yes.

24 Q. Is People's 345 calls between Dylan Howard and Keith
25 Davidson?

1 A. Yes.

2 Q. Is People's 346 calls between Dylan Howard and David
3 Pecker?

4 A. Yes.

5 Q. Is People's 347 calls between Dylan Howard and Gina
6 Rodriguez?

7 A. Yes.

8 Q. Is People's 348 calls between The Trump Organization
9 and Michael Cohen?

10 A. Yes.

11 Q. Is People's 349 calls between the Defendant and Michael
12 Cohen?

13 A. Yes.

14 Q. And are those the phone summaries that you created?

15 A. Yes.

16 MR. CONROY: At this time, I offer People's 337
17 through 342 and 344 through 349 into evidence.

18 MR. BOVE: No objection.

19 THE COURT: 337 through 342 and 344 through 349
20 are received into evidence.

21 MR. CONROY: Thank you.

22 (Whereupon, People's Exhibits 337 through 342
23 and 344 through 349 were received and marked into
24 evidence.)

25 MR. CONROY: If we can pull up what's in evidence

1 as People's 342 for everybody.

2 (Displayed.)

3 Q. And if you could, again, sort of explain to us about
4 what the different columns are and what we're seeing.

5 Is this a representative example of one of the
6 summaries that you created?

7 A. Somewhat short one, but, yes.

8 Q. But, basically, they all look the same; some may be
9 longer?

10 A. Yes.

11 Q. Is this call between Michael Cohen and Allen
12 Weisselberg?

13 A. Yes.

14 Q. Do we see that on the top left of the chart?

15 A. Yes.

16 Q. We saw some redactions. What is redacted in these
17 charts?

18 A. The first six digits of every phone number.

19 Q. What are the numbers next to Michael Cohen and the name
20 Allen Weisselberg?

21 A. Michael Cohen has 0114 and Allen Weisselberg has 7224
22 and 4509.

23 Q. Can you walk us through what this chart demonstrates?

24 A. So the left column is the date and time in Eastern
25 Time.

1 The second column is the date and time in UTC, which is
2 how it was originally recorded in the AT&T records.

3 The "time" column tells whether the call is a text or
4 voicemail.

5 The "from" tells you who the call is from, the phone
6 number.

7 And the "to" column tells you who the call is to.

8 The "duration: Is how long the call was, the minutes.

9 The "source: Column tells you which phone carrier or
10 where we got the records from.

11 Q. Thank you.

12 And, again, I am not going to walk through all of the
13 exhibits we admitted. Do they all have the same format?

14 A. Yes.

15 MR. CONROY: Thank you.

16 You can take that down.

17 Could we now pull up what is in evidence as
18 People's 247.

19 (Displayed.)

20 Q. Do you recognize what this is?

21 A. I do.

22 Q. What is it?

23 A. This is a Cellebrite report showing the metadata
24 associated with the recording that was extracted from Michael
25 Cohen's phone.

1 Q. Can you see on this report the approximate time that
2 the recording ended?

3 A. Not exactly, but you can figure it out. The timestamp
4 of the recording is 10:56 and 42 seconds a.m. in New York time.
5 And the duration of the recording is 2 minutes and 51 seconds.
6 If you add them together, the recording ended at 10:59 and about
7 30 seconds a.m. in New York City time.

8 MR. CONROY: Okay. We can take that down.

9 Q. Did you also review the call records already in
10 evidence as People's 400 and 401?

11 A. I did.

12 Q. Did you review records relating to the phone ending in
13 0114?

14 A. Yes.

15 Q. Who did that phone number belong to?

16 A. Michael Cohen.

17 Q. Did you identify incoming calls to that phone number
18 that began at approximately the same time as the recording
19 ended?

20 A. Yes.

21 MR. CONROY: Could we pull up from People's 400
22 the page, Bates Number DANY ID DJ00002726, which is
23 redacted, to be displayed.

24 (Displayed.)

25 Q. Do you see the call that we just talked about on here?

1 A. Yes.

2 Q. What line number is that call on this report?

3 A. It's line 6126192.

4 Q. And what was the connection time on that call?

5 A. This is 2:59 and 53 seconds in UTC time. At that time
6 of year, that would have been at 10:59 and 53 seconds New York
7 City time.

8 Q. How long was the seizure time on this call?

9 A. Twenty-three seconds.

10 Q. And what is the time of this call in relation to when
11 the recording ended that we just looked at on People's 247?

12 A. So the recording ended at 10:59 and about 30 seconds
13 a.m. Eastern Time. So this call was connected about 20, 22, 23
14 seconds later.

15 MR. CONROY: Thank you.

16 We can pull that down.

17 Now, can we pull up just for the parties and the
18 witness and the Judge what has been marked as People's 350
19 for identification.

20 Q. Do you recognize this?

21 A. I do.

22 Q. What is this?

23 A. This is a summary chart of what's in evidence as
24 People's Exhibits 1 through 34.

25 Q. Did you review and confirm People 350 for

1 identification?

2 A. I did.

3 Q. Can you describe how you did that?

4 A. So I looked at the chart and I went back to each
5 exhibit that it references and cross-referenced to make sure
6 everything was accurately reflected.

7 Q. What kinds of documents are People's 1 through 34?

8 A. They are invoices, vouchers from The Trump
9 Organization's Multi Data System and checks.

10 Q. And does the information in the chart that we
11 designated People's Exhibit 350 for identification exactly
12 reflect information taken from People's Exhibit 1 through 34 in
13 evidence?

14 A. Yes.

15 MR. BOVE: I do have an objection. If we can go
16 to sidebar.

17 (Whereupon, proceedings were held at sidebar:)

18 MR. BOVE: Judge, our objection is just -- our
19 objection is to the text on the bottom right, "false
20 business records," or something like to that effect.

21 Some things popped up on the screen.

22 Has it been modified?

23 MR. CONROY: No.

24 MR. BOVE: They're doing it advance. They're
25 anticipating my objection.

1 MR. CONROY: You said your objection --

2 MR. BOVE: Judge, this is unduly argumentative.

3 MR. CONROY: This is a summary of the 34 business
4 records, and essentially it's to assist the jury in
5 associating the specific business records with counts.

6 We have no problem with some kind of instruction
7 to the jury that the title is not in evidence, but these
8 are records that we're alleging are business records.

9 THE COURT: What is the purpose for introducing it
10 into evidence now?

11 You can probably do it on summation. You can do
12 it in summation. I think it would be perfectly appropriate
13 at that time.

14 MR. CONROY: So could we -- I am just trying to
15 think how we can modify it.

16 Can we call it "alleged false business records?"

17 MR. BOVE: There is a title. It says, "The
18 Counts." I think if you can keep the text on the top,
19 just redact the title on the bottom. Just get the summary
20 in.

21 THE COURT: You have it.

22 I think for summation you won't have an argument.
23 Okay?

24 MR. CONROY: Okay.

25 (Whereupon, the following proceedings were held in

1 open court:)

2 THE COURT: Mr. Bove, we resolved your objection
3 as discussed at the bench.

4 MR. BOVE: Thank you, Judge.

5 MR. CONROY: If we can -- when you are ready,
6 display just for the parties, the Court and the witness the
7 summary chart again.

8 Judge, at this time the People offer People's 350
9 for identification into evidence.

10 MR. BOVE: As modified, no objection.

11 THE COURT: Subject to redaction.

12 (Whereupon, People's Exhibit 350 was received into
13 evidence.)

14 MR. CONROY: If we can display that for everybody.

15 (Displayed.)

16 CONTINUED DIRECT EXAMINATION

17 BY MR. CONROY:

18 Q. Can you just walk us through, again -- first of all,
19 what is this summarizing?

20 A. This is summarizing People's Exhibits 1 through 34 in
21 evidence.

22 Q. And are there three different rows?

23 A. Yes.

24 Q. Can you tell us what each row indicates?

25 A. The top row are invoices. The middle row are vouchers.

1 And the bottom row are the checks.

2 Q. And, then, are there columns by month?

3 A. Yes.

4 Q. Starting with the invoices, is there only one invoice
5 for the months of January and February?

6 A. Yes.

7 Q. And below that, for January and February, are there two
8 vouchers?

9 A. Yes.

10 Q. What information is included in this chart for the
11 vouchers?

12 A. The dollar amount of the voucher entry in some of the
13 months, and all of the months the number associated with the
14 voucher entry.

15 Q. Just going back up to the invoice, what information is
16 included in the invoice row?

17 A. The date of the invoice and the dollar amount requested
18 on the invoice.

19 Q. And then below those two things, there is something
20 called "count number," what is that?

21 A. Each of these exhibits is associated with a count in
22 the indictment. So, the red "count number" corresponds to that
23 count.

24

25 (Whereupon, Theresa Magniccari, Senior Court Reporter

was relieved by Laurie Eisenberg, Senior Court Reporter.)
Theresa Magniccari

1 Q And if we could just continue going down January and
2 February, those two columns, we talked about the one invoice,
3 two vouchers; and is there only one check?

4 A Yes.

5 Q How many invoices were there, in total, on this chart?

6 A Eleven.

7 Q And can you just read which counts they're associated
8 with?

9 A Counts 1, 5, 8, 11, 14, 17, 20, 23, 26, 29 and 32.

10 Q After January and February, is there one invoice for
11 each month for the rest of the year?

12 A Yes.

13 Q Going down to vouchers, same question. Could you just
14 read the count number for each of the vouchers?

15 A Sure.

16 Counts 2, 3, 6, 9, 12, 15, 18, 21, 24, 27, 30 and 33.

17 Q And is there one voucher for every month in 2017?

18 A Yes.

19 Q And, finally, in checks, could you read the count
20 number for each check?

21 A Sure.

22 It's counts 4, 7, 10, 13, 16, 19, 22, 25, 28, 31 and 34.

23 Q And after January and February, is there one check for
24 each of the remaining months in 2017?

25 A Yes.

1 Q And if we look at the column -- the column all the way
2 on the right where there are just three blue boxes, can you
3 tell us what those are?

4 A It's just tallying up the number of each category of
5 record.

6 Q And then, at the bottom where it says "business
7 records"?

8 A This is the total number of business records.

9 Q Is that also the total number of counts in the
10 indictment?

11 A Yes.

12 MR. CONROY: I have nothing further.

13 THE COURT: Mr. Bove, please.

14 MR. BOVE: Thank you, Judge.

15 May I inquire?

16 THE COURT: Yes.

17 MR. BOVE: Thank you.

18 CROSS-EXAMINATION

19 BY MR. BOVE:

20 Q Mr. Schneider or Mr. Jarmel-Schneider?

21 A Whichever is easier for you.

22 Q What's your preference?

23 A Jarmel-Schneider.

24 Thank you.

25 Q Mr. Jarmel-Schneider, you testified about some call

1 summary charts; right?

2 A Yes.

3 Q That sounded like a lot of work.

4 A Yes.

5 Q At times, arguably, tedious work?

6 A Could be.

7 Q The tolling.

8 A Honestly, I kind of enjoyed it.

9 Q I hear that.

10 Respect.

11 (Laughter from the audience.)

12 Q A lot of that work had to take place before the trial;
13 right?

14 A All of it.

15 Q Because you've been sitting over here (indicating) the
16 whole trial; correct?

17 A Yes.

18 Q So, you know that there were summaries that were sort
19 of finalized from a quality control perspective, from your
20 standpoint, and then produced to President Trump before the
21 trial; right?

22 A What do you mean?

23 Q Versions of those charts that were marked as exhibits,
24 produced and marked as exhibits, were produced to the defense
25 before the trial; right?

1 A Yes.

2 Q Those are the ones that passed muster, from your
3 perspective?

4 A I would like to think they all did.

5 Q Right.

6 The ones that were produced before the trial?

7 A Yes.

8 Q Just so we're clear, the ones that are in evidence now
9 are not actually summaries of every toll between the
10 participants on the chart; right?

11 A No. That would be tens of hundreds of thousands of
12 calls.

13 Q Just as an example, going to Exhibit 337 is a call
14 summary chart, calls between Michael Cohen and Keith Davidson.

15 A Yes.

16 Q And the one that's admitted in evidence is not a
17 summary of every toll that you have between those two
18 individuals; right?

19 A Right.

20 We narrowed down by a time period.

21 Q So, there were some deletions from the charts made
22 this week; right?

23 A Uh, I guess so.

24 Q When you say "narrowed down", some things were cut?

25 A Yes.

1 Q And so, for Mr. Cohen and Mr. Davidson, there's about
2 a page-and-a-half of calls cut from 2018; right?

3 A I don't know from the top of my head.

4 Q Let me think about the best way to do this.

5 I want to show you what's been marked for identification as
6 Defense P-1.

7 MR. BOVE: Mr. Bernik, this is just for the
8 parties, the Court and the witness.

9 (Whereupon, the exhibit is shown on the screens
10 of the witness and the parties.)

11 MR. BOVE: If we could flip to the page that has
12 Government Exhibit 337.

13 (Whereupon, an exhibit is shown on the screens of
14 the witness and the parties.)

15 Q You see that?

16 A Yes.

17 MR. BOVE: If you can hold on one second. I think
18 we're having technical difficulty.

19 (Whereupon, the Defense confers.)

20 (Whereupon, an exhibit is shown on the screens of
21 the witness and the parties.)

22 Q This is the Government's Exhibit List, right; you
23 recognize that?

24 A This is some version of it, yes.

25 MR. BOVE: Can we take a look at the first page,

1 please.

2 (Whereupon, an exhibit is shown on the screens of
3 the witness and the parties.)

4 Q You see it's dated April 16, 2024?

5 A Yes.

6 Q That's right after the trial started; right?

7 A Yes.

8 MR. BOVE: If we can go back to the part that
9 reflects Exhibits 336 and 337.

10 (Whereupon, an exhibit is shown on the screens of
11 the witness and the parties.)

12 Q There's Bates ranges in the far-right column; right?

13 A Yes.

14 Q Those are, basically, the page numbers that were on
15 this exhibit when it was given to the Defense; right?

16 A Yes.

17 Q Do you have a hard copy of 336 up there?

18 A I do not.

19 MR. BOVE: Can I trouble the Government for a
20 hard copy of 337?

21 (Whereupon, the People give documents to
22 Mr. Bove, who then gives the document to the court officer
23 to give to the witness, and the witness reviews the
24 document.)

25 Q People's Exhibit 337 has Bates numbers, and I'll use

1 it to compare -- just a few pages; right?

2 A That's right.

3 Q Because some pages were deleted; right?

4 A Yes.

5 Q And they're from 2018; correct?

6 A Yes.

7 Q And you were here during the cross-examination of
8 Keith Davidson; right?

9 A I was.

10 Q And you were here when the Defense admitted recordings
11 of conversations between Keith Davidson and Michael Cohen;
12 right?

13 A I was.

14 Q And then, a subsequent decision was made to delete
15 toll records from the summary chart in 2018?

16 A No. I don't think that's correct.

17 Q You don't think that time sequence is correct?

18 A I think the time sequence is correct --

19 Q I'm not going to ask you about the purpose.

20 I'm just asking about the time sequence.

21 You were here early this morning when there were some text
22 messages read between Dylan Howard and Gina Rodriguez; right?

23 A Yes.

24 Q You admitted a call summary marked Government
25 Exhibit 344 of marked call records of Keith Davidson and Gina

1 Rodriguez; right?

2 A Yes.

3 Q That's another exhibit where, this week, a significant
4 number of calls were removed; right?

5 A I don't know about "significant", but they were
6 shortened.

7 Q Three pages worth?

8 A I don't know off the top of my head.

9 MR. BOVE: Mr. Conroy, do you have a copy of 344?

10 MR. CONROY: I need the Bates number.

11 Who is it between?

12 MR. STEINGLASS: Rodriguez and Davidson.

13 MR. BOVE: 4269.

14 Q Just to try to move along, you remember deleting
15 several pages from 344; correct?

16 A Yes.

17 Q Now, you also testified about some call summaries
18 relating to Michael Cohen; correct?

19 A Correct.

20 Q And one of the phone numbers that you looked at with
21 respect to Michael Cohen ended in 0144; right?

22 A 0114.

23 Q That's the attention to detail I was talking about.

24 Thank you.

25 So, that's a number that you had to get familiar with

1 because it cut across a bunch of these charts; right?

2 A Yes.

3 Q You testified that you also familiarized yourself with
4 the electronic phone evidence that's been presented here at the
5 trial; correct?

6 A Yes.

7 Q And that came in through Mr. Daus; right?

8 A Correct.

9 Q And he testified about the contents of two cell
10 phones; right?

11 A Yes.

12 Q He called them CP1 and CP2.

13 Do you remember that?

14 A Yes.

15 Q CP1 was associated with the phone number 0114 was his
16 testimony; right?

17 A That's correct.

18 Q And you looked at those -- the data extracted from
19 those phones to help prepare the summaries; right?

20 A Yes.

21 Q Do you recall what that IMEI number was associated
22 with -- you can say no -- with CP1?

23 A It's like a 20-digit code. I don't know.

24 MR. BOVE: If we could bring up for the witness,
25 the parties, and the Court, Defense Exhibit G-10.

1 Go to Page 3, please.

2 (Whereupon, an exhibit is shown on the screens of
3 the witness and the parties.)

4 Q Do you see it says "IMEI" labeled at the bottom? It
5 ends in 997431; correct?

6 A Correct.

7 Q So, that's the IMEI associated with the device
8 Mr. Daus talked about as CP1; right?

9 A That's my understanding, yes.

10 Q He said it had the number ending 0114; correct?

11 A Correct.

12 MR. BOVE: If we could take a look at Government
13 319. It's in evidence. Everybody can look at this one.

14 (Whereupon, an exhibit is shown on the screens.)

15 Q You remember some testimony about this.

16 It's a screenshot of a text message; right?

17 A Yes.

18 Q And there were some questions about whether there were
19 phone calls around the time of that bottom message.

20 Do you see what that message says?

21 A Yes.

22 Q "The President wants to know if you called David
23 Pecker again?"

24 Do you see that?

25 A Yes.

1 Q At this trial, you're sort of the guardian of the toll
2 records; right?

3 A I don't know if I'd say that, but if you say so.

4 Q There are no toll records in evidence that reflect
5 calls between Hope Hicks and David Pecker around this time
6 period; are there?

7 A I don't think that's true, but I would have to look at
8 the underlying records.

9 Q Do you know what they're marked?

10 A It would be in either People's 400 or 401.

11 Hope Hicks wasn't a part of the Verizon records, so it
12 would be in 401.

13 Q And there's no call summary chart between the phone
14 calls between Hope Hicks and David Pecker; is that correct?

15 A That's correct.

16 Q The last thing I want to talk about the Government
17 Exhibit 247, which is in evidence.

18 MR. BOVE: If you could bring that up, please.

19 (Whereupon, an exhibit is shown on the screens.)

20 MR. BOVE: Zoom in as best we can.

21 Q So, this is that recording file off the physical
22 device marked CP1; right?

23 A Yes.

24 Q And you said based on the file name -- there's that
25 timestamp, time field, that it is dated September 6, 2016?

1 A Yes. That's the timestamp.

2 Q And then we looked at Government Exhibit 400 for a
3 call that you said came in around this time?

4 A Around the time that the recording ended.

5 MR. BOVE: And so, if we could bring up
6 Government Exhibit 400 with the Bates ending 2726, please.

7 If we could ask the Government to do this so we
8 could have the right redactions.

9 (Whereupon, an exhibit is shown on the screens.)

10 MR. BOVE: This can be for everybody.

11 We can zoom in on rows 2691 and 92, please.

12 (Whereupon, an exhibit is shown on the screens.)

13 Q Mr. Conroy asked you some questions about the second
14 one, 26192; right?

15 A Uh-huh. Yes.

16 Q And -- but, the one above it, 26191, is related;
17 correct?

18 A It's the same call.

19 Q It's the call that goes to a voicemail; right?

20 A The first one?

21 MR. CONROY: Objection.

22 THE COURT: Overruled.

23 Q 26191 is a missed call that goes to a voicemail,
24 reflected in 26192; correct?

25 A That's not my understanding.

1 Q Were you here this morning when Mr. Dixon testified?

2 A Yeah.

3 Can I explain?

4 Q I'm just going to ask you some questions.

5 A Yes, I understand.

6 Q You can be questioned again by Mr. Conroy.

7 You were here when he testified; correct?

8 A Yes.

9 Q I asked him some questions on the feature call on the
10 right.

11 A Yes.

12 Q You see where it says "VM"?

13 A Yes.

14 Q For voicemail?

15 A Yes.

16 Q That's the way he explained it; correct?

17 A Yes.

18 Q That's what he said?

19 A Yes.

20 Q So, this call, then -- the call reflected in 26192,
21 according to Mr. Dixon's testimony, reflects a voicemail; does
22 it not?

23 A If that's what he said.

24 I -- I don't want to testify to something I'm not an expert
25 in.

1 Q But, you were here when he said VM means voicemail;
2 right?

3 A Yes.

4 MR. BOVE: If we could zoom out, please. Just to
5 get oriented.

6 (Whereupon, an exhibit is shown on the screens.)

7 Q The three columns there, the right side there's a
8 field that says IMEI; right?

9 A Yes.

10 MR. BOVE: If we could zoom in on the IMEI column
11 of this whole page, please.

12 Q You were here when Mr. Dixon said the IMEI is the
13 number associated with the physical device itself; right?

14 A Yes.

15 I think you're blowing up the wrong column, but that is my
16 understanding also.

17 Sorry.

18 Q Thank you.

19 Do we have the IMEI up now?

20 A Yes.

21 Q So, you were here when Mr. Dixon said this IMEI number
22 is the number associated with the physical device itself;
23 right?

24 A Yes.

25 Q So, this IMEI associated with the two calls, the

1 missed call and the voicemail that we just talked about, ends
2 4913; right?

3 A That's correct.

4 Q You just reminded us, did you not, that the IMEI
5 associated with the CP1 phone ends 4731?

6 A That's correct.

7 Q So, it's a different device; right?

8 A That's right.

9 Q So, it's a voicemail; correct?

10 A If you say so.

11 Q Well, it's "VM"?

12 A Yes.

13 Q You were here when Mr. Dixon said it; right?

14 A Yes.

15 Q So, it's a voicemail to a different physical device
16 than the one Mr. Daus testified about; right?

17 A To a different physical device, yes.

18 MR. BOVE: Nothing further, Judge.

19 THE COURT: Thank you.

20 Any redirect?

21 MR. CONROY: Just a few questions.

22 REDIRECT EXAMINATION

23 BY MR. CONROY:

24 Q I just want to talk, first, about the summary charts
25 that you did.

1 All of the calls on those charts are in evidence in other
2 places; is that right?

3 A Yes.

4 Q Does that include the calls that Mr. Bove was talking
5 about that when we cut down on the charts, those calls are all
6 still in evidence; correct?

7 A Yes.

8 Q Why, if you know -- if you know, why were those
9 exhibits shortened?

10 A My understanding is that the decision was always going
11 to be that we would admit the parts of the call summaries that
12 were related to what had come out in trial. That's the point of
13 doing summary charts.

14 We're pretty far down the road now, so we made decisions
15 about which parts of them to include.

16 Q And you were asked a couple of questions about the
17 fact that you knew that the charts -- the original summary
18 charts had been turned over to the Defense; is that right?

19 A Yes.

20 Q And you know that the new versions had also been
21 turned over to the Defense; right?

22 A That's correct.

23 Q And were you aware that there was no objection to
24 those charts coming into evidence?

25 A Yes.

1 MR. CONROY: If we could pull up what we were
2 just looking at, the page from People's 400 with the Bates
3 ending 2726.

4 (Whereupon, an exhibit is shown on the screens.)

5 MR. CONROY: If we could pull up the same two
6 lines we were just looking at, 26191 and 92.

7 (Whereupon, an exhibit is shown on the screens.)

8 Q I believe, earlier, or just a minute or two ago on
9 cross-examination, there was something you wanted to explain
10 about what you saw in this call that interrupted the call
11 that's in evidence as 246.

12 Can you explain that for us?

13 A Sure.

14 So, Mr. Bove -- Bove -- sorry -- asked me if these were two
15 related calls and if the first one was a missed call.

16 My understanding is this was one call that had two legs.
17 I'm not sure exactly where it went. But, this is how AT&T
18 reported a single call that hit multiple stop points through
19 their system before being connected.

20 That was the clarification.

21 Q Okay.

22 If you know, do people sometimes get new phones and keep
23 the same phone number?

24 A I do.

25 Q Meaning, you do get a new phone and keep the same

1 phone number?

2 A Yes.

3 MR. CONROY: I have nothing further.

4 Thank you.

5 THE COURT: Mr. Bove?

6 MR. BOVE: Yes.

7 Just briefly.

8 If we could just bring that back up on the
9 screen.

10 (Whereupon, an exhibit is shown on the screens.)

11 RECROSS-EXAMINATION

12 BY MR. BOVE:

13 Q The significance of this call is that the recording
14 from the phone CP1 cut off; right?

15 A Correct.

16 Q Cuts off mid-conversation; correct?

17 A I don't know if it cut off mid-conversation or at the
18 end of the conversation.

19 Q It cuts off at some point in the conversation; right?

20 A It ends.

21 Q Right.

22 And it ends before the President is done speaking to
23 Mr. Cohen; correct?

24 MR. CONROY: Objection.

25 THE COURT: Sustained.

1 Q You just gave, essentially, what is a hypothesis about
2 these two calls on the screens; right?

3 A I am just describing the timestamps on the calls.

4 Q But, you're not accounting for what's on the right
5 side that says voicemail?

6 A I don't think that's true.

7 I apologize. I don't think I'm not accounting for it.

8 I mean, the significance of the call is the timestamp.

9 Q Well, that's part of the significance.
10 The other part is whether or not the phone call was
11 actually answered.

12 A Not necessarily.

13 I'm not sure if the recording would have actually cut off
14 whether it was answered or not. Could have been it just came
15 in, cut off automatically. I don't know.

16 Q Right.

17 You were here during Mr. Daus' testimony; correct?

18 A Yes.

19 Q You were here when I asked him: You could not do any
20 forensic analysis to determine the interplay between an
21 incoming call and the voice recording data; right?

22 MR. CONROY: Objection.

23 THE COURT: Sustained.

24 Q You are aware the recording cuts off, and that's why
25 you were looking for a toll like this?

1 A Yes.

2 MR. BOVE: Nothing further.

3 THE COURT: Anything else?

4 MR. CONROY: Nothing further.

5 THE COURT: Thank you, sir.

6 You can step down.

7 (Whereupon, the witness is excused.)

8 THE COURT: People, is that it for today?

9 MR. STEINGLASS: Yes, Judge.

10 THE COURT: All right.

11 Jurors, we're going to stop at this time.

12 Before I excuse you, I am required to give you
13 these admonitions:

14 I remind you to please not talk either among
15 yourselves or with anyone else about anything related to
16 the case.

17 Please continue to keep an open mind.

18 Do not form or express an opinion about the
19 defendant's guilt or innocence until all the evidence is
20 in, I have given my final instructions on the law, and I
21 have directed you to begin deliberations.

22 Do not request, accept, agree to accept or
23 discuss with any person the receipt or acceptance of any
24 benefit or payment in return for supplying information
25 concerning the trial.

1 (Whereupon, the Defense confers.)

2 THE COURT: Are you done?

3 MR. BOVE: Sorry.

4 THE COURT: Report directly to me any incident
5 within your knowledge or attempt by anyone to improperly
6 influence you or any member of the jury.

7 Do not visit or view any of the locations
8 discussed in the testimony.

9 Do not use any program or electronic device to
10 search for and view any location discussed in the
11 testimony.

12 Do not read, nor listen to any accounts or
13 discussions related to the case. That includes the reading
14 or the listening to the reading of any transcripts in the
15 trial or the reading of posts on any court sites.

16 Do not attempt to research any fact, issue or law
17 related to the case.

18 Do not communicate with anyone about the case by
19 any means, including by telephone, text messages,
20 telephone, or the internet.

21 Do not Google or search for any information about
22 the case, the law which applies to the case, or the people
23 involved in the case.

24 Have a good weekend.

25 See you Monday at 9:30.

1 COURT OFFICER: All rise.

2 (Whereupon, the jurors and the alternate jurors
3 are excused.)

4 THE COURT: Please be seated.

5 Mr. Blanche, I was going to ask the People if I
6 could have a copy of People's 350. I think it would be
7 helpful to the Court in preparing the jury charges.

8 I wanted to ask if there's any objection to my
9 receiving that now.

10 MR. BLANCHE: May I just have one moment?

11 THE COURT: Sure.

12 (Whereupon, the Defense confers.)

13 THE COURT: Was that the number of the document
14 chart, 350?

15 MR. CONROY: Yes, Judge.

16 (Whereupon, the Defense confers).

17 MR. BLANCHE: Your Honor, we're fine with that.

18 THE COURT: Okay.

19 MR. BLANCHE: On the same topic, our intention
20 was to submit it to the Court, as the Court might have
21 some proposed charges as well.

22 There's certainly no objection to the Court
23 reviewing that.

24 THE COURT: Thank you. I appreciate that.

25 That was going to be my next thing.

1 You should feel free to start submitting any
2 special instructions that you want.

3 We will definitely have a pre-charge conference
4 at the appropriate time. I will make my final decisions
5 then.

6 You can start bringing matters to my attention
7 now, if you like.

8 Tell me about scheduling for next week.

9 MR. STEINGLASS: Um, we expect to call --

10 THE COURT: Two witnesses?

11 MR. STEINGLASS: Yes.

12 Potentially, two witnesses; and I think it's
13 entirely possible that we will rest by the end of next
14 week.

15 THE COURT: Okay. All right.

16 MR. STEINGLASS: Also, there was one other
17 evidentiary matter that Mr. Conroy wanted to raise with
18 the Court if this is a good time.

19 THE COURT: Sure. It is.

20 MR. CONROY: This relates to an exhibit numbered
21 People's 79, which is a copy of a Severance Agreement for
22 Allen Weisselberg.

23 We've had, I think, some conversation with
24 Counsel about this.

25 My understanding -- but I'm sure they'll let me

1 know if I'm wrong -- is that while they object to it
2 coming into evidence, if your Honor finds it admissible,
3 they will not -- we will not need to call a witness to put
4 it in.

5 Is that accurate?

6 It's sort of a relevance objection.

7 MR. BOVE: Right.

8 We just want to resolve our other legal
9 objections.

10 It will come in authenticity-wise subject to the
11 Court's ruling.

12 THE COURT: Can I take a look at it?

13 MR. CONROY: Sure.

14 Actually, your Honor, I'll hand up a copy of the
15 chart that's in evidence as 350 with that, as well.

16 THE COURT: Thank you.

17 (Whereupon, the People give the Court documents.)

18 THE COURT: Mr. Bove, what's your objection?

19 MR. BOVE: Judge, this is the Separation
20 Agreement between The Trump Organization and
21 Mr. Weisselberg.

22 Mr. Weisselberg's absence from this trial is a
23 very complicated issue.

24 I wouldn't be surprised if there ends up being a
25 foundation for a missing witness instruction about the

1 uncalled witnesses being equally unavailable to both
2 sides.

3 His posture in this trial is as a hearsay
4 declarant, which the Government is using, basically, in
5 that capacity as a witness.

6 Their theory is he conspired, I think, with
7 Mr. Cohen; that he gave instructions to Mr. McConney.

8 He is in that way, I submit, an uncalled
9 Government witness.

10 To offer this Agreement, which I think would be
11 offered as a way to sort of impeach their own hearsay
12 declarant and suggest there's some kind of bias and motive
13 that he has to either not be here or acting in a certain
14 way, raises a number of complexities in light of
15 Mr. Weisselberg's overall situation.

16 We think it's unduly prejudicial.

17 And it's not particularly relevant, especially in
18 a situation where they are offering -- where the
19 Government is offering his statements.

20 I think this would look differently if we had
21 sought to offer hearsay from him.

22 That's not what we were doing.

23 THE COURT: So, it's a hearsay objection?

24 MR. BOVE: Not quite.

25 Because, as I said, just to make sure, there's no

1 business records hearsay objection.

2 If your Honor overrules this right now, we're
3 going to stipulate.

4 Our objection is to relevance and undue
5 prejudice.

6 We don't think it's relevant that he entered into
7 this Agreement after-the-fact.

8 And we think it's unduly prejudicial and
9 confusing in light of the fact that Mr. Weisselberg is in
10 prison right now and not available to anyone.

11 THE COURT: So, I understand the relevance of the
12 objection.

13 Help me understand the undue prejudice objection
14 a little bit more.

15 MR. BOVE: As a result of Mr. Weisselberg's legal
16 situation, I think that he would, likely -- if either side
17 tried to call him, he would, likely, invoke.

18 We are not able to elicit testimony because of
19 those circumstances. We're not able to elicit testimony
20 that would, potentially, impeach some of the hearsay that
21 has been offered.

22 And I think the Government is probably in a
23 similar situation.

24 He is, in effect, their witness at this trial as
25 a hearsay declarant.

1 In that way, we don't think the Government is
2 able to impeach their own hearsay declarant, even in this
3 form of impeachment, that he entered into a Settlement
4 Agreement after-the-fact, based on a host of situations
5 that we don't think is relevant at this trial.

6 We think those two considerations require that
7 this not come in because of the confusion it would add.

8 THE COURT: Thanks.

9 People?

10 MR. CONROY: Judge, as the Court is aware, there
11 has been -- there probably will be more discussion of
12 Mr. Weisselberg and various things related to him in the
13 case.

14 And what we are looking to do is explain, from
15 our perspective, why he's not here.

16 I am sure there will be arguments made by Counsel
17 about whether he should have been here and what not being
18 here means.

19 I think we need this Agreement.

20 Our view is that Mr. Weisselberg's interests
21 right now are very aligned with the Defendant's. I think
22 this Agreement points that out.

23 Among other things, there are three payments due
24 Mr. Weisselberg during this calendar year for \$250,000
25 each; one in June, one in September, and one in December.

1 Also, if you take a look at the Agreement,
2 particularly in Section 3, Employee Promises, in 3(B): The
3 employee promises not to verbally or in writing disparage,
4 criticize or denigrate the company or any of its current
5 or former entities, directors, managers, employees, owners
6 or representatives.

7 In Sub D, under 3: The employee promises that,
8 except for acts or testimony directly compelled by
9 subpoena or other lawful process issued by a court of
10 competent jurisdiction, he will not communicate with,
11 provide information to or otherwise cooperate in any way
12 with any other -- with any other person or entity,
13 including his counsel or other agents having or claiming
14 to have any adverse claims against the company, or any
15 person or entity released by this Agreement with regard to
16 the adverse claims, or to take any action to induce,
17 encourage, instigate, aid, abet, or otherwise cause any
18 person or entity to bring or file a complaint, charge,
19 lawsuit or other proceeding of any kind against the
20 company or any person or entity released by this
21 Agreement.

22 Those are just a couple of the provisions.

23 And Counsel referred to trying to impeach his
24 credibility.

25 We're not trying to do that.

1 What we're trying to do is explain his absence.

2 I think, or I would submit, that this Agreement
3 offers a real explanation for why he is not going to be
4 here in this trial.

5 MR. BOVE: We just, respectfully, disagree with
6 that.

7 This Agreement is not the reason that
8 Mr. Weisselberg is not at this trial.

9 Jeff McConney has a substantial similar Agreement
10 that is in evidence, but he testified at this trial. And
11 his availability or lack thereof is much more
12 straight-forward, has similar terms.

13 Nobody tried to invoke that Agreement to prevent
14 him from testifying.

15 That's just not the case. That's not the reason
16 Mr. Weisselberg is not here.

17 The reason Mr. Weisselberg is not a witness to
18 either side is because the District Attorney's Office
19 initiated a perjury prosecution in the lead-up to this
20 case.

21 Even that sentence, I know, is a very complicated
22 sentence, Judge.

23 My point is, to get into any of this, it would
24 all have to come out.

25 It's just a rabbit hole that I think is

1 unnecessary for -- and it is being offered to impeach
2 Mr. Weisselberg.

3 It's being offered to show a bias and a motive
4 that the Government's own hearsay declarant, they're
5 saying, has.

6 It's a much more complicated situation than that.

7 For those reasons, we don't think it's relevant.

8 And if it is, it should not come in because of
9 the prejudice.

10 MR. CONROY: Very quickly, Judge, with respect to
11 Mr. McConney, I believe he's gotten all of his payments,
12 and his Agreement has sort of ended.

13 The other thing I would say is, if Counsel
14 prefers, we would be willing to stipulate that
15 Mr. Weisselberg is in jail for perjury if that solves the
16 problem.

17 THE COURT: I think that that would be one way to
18 solve the problem.

19 My question is, has anyone attempted to get him
20 to come in in some way, by serving him with a subpoena
21 or -- in other words, try to compel his testimony?

22 MR. CONROY: Judge, the People have not.

23 THE COURT: And have you?

24 You have an obligation.

25 MR. BOVE: No.

1 THE COURT: You referred to how "both sides" are
2 having difficulty with this issue.

3 MR. BOVE: If I said it that way, I mis -- my
4 point is, I think there's an equally shared access issue.

5 They have chosen to call or not call him.

6 We, obviously, have no burden here.

7 We have not taken steps to try and call him at
8 this trial.

9 It's just -- it would not resolve the situation
10 if we stipulated that he was in prison for perjury.

11 I think it actually further supports my
12 point, which is, there are a host of reasons that
13 Mr. Weisselberg is not going to be a witness in this case.

14 They, the Government, have chosen to not take
15 steps to call him.

16 It's a very complicated situation.

17 It's not completely explained by this document.

18 It would be misleading to allow this document in
19 by itself.

20 It would be further prejudicial -- I'm not
21 suggesting your Honor is requiring for us to stipulate --
22 for us to stipulate to some negotiated statement about the
23 perjury situation.

24 And we think that all of this is sort of a
25 sideshow for somebody that is -- the Government's hearsay

1 declarant, who they shouldn't be permitted to impeach in
2 the first place.

3 MR. CONROY: The last thing -- hopefully the last
4 thing, it's not that it's the reason, but it's a reason,
5 and it's a significant reason that helps explain why he's
6 not here.

7 THE COURT: I think it would be helpful to me
8 making my decision if I could see that some efforts were
9 taken to compel his appearance.

10 I don't have to do this right now; right?

11 MR. CONROY: No.

12 THE COURT: Let me think about it.

13 Right now, it seems to me that we're kind of
14 trying to jump the gun.

15 We want to explain why he's not here, without
16 having made every effort to get him here.

17 Section 3(C) -- actually, it's 3(D), it says:
18 Except for acts or testimony directly compelled by
19 subpoena or other lawful process issued by a court of
20 competent jurisdiction.

21 It seems to me, if I'm understanding correctly,
22 that that step has not yet been taken. Not that it has to
23 be taken.

24 It's a factor for me in making this decision.

25 MR. STEINGLASS: Can I just say one thing on

1 that, Judge?

2 THE COURT: Sure.

3 MR. STEINGLASS: While it's true that we could
4 subpoena him and put him up there cold, the Agreement
5 seems to preclude us from talking to him or him talking to
6 us at the risk of losing \$750,000 of outstanding severance
7 pay.

8 So, while it is, theoretically, our prerogative
9 to try to subpoena him, put him up, and see if he would
10 take the Fifth Amendment in real-time, but do this cold,
11 is a -- I don't think is really the entire point. Even if
12 it's -- even if it's relevant, I don't think it's the
13 entire point.

14 I think that that Agreement has a very palpable
15 connection to why that could be an exercise in futility or
16 a strategically bad decision, to put a witness on the
17 stand who is under an Agreement like that.

18 THE COURT: Right.

19 I think one way to possibly deal with that is to
20 do it out of the presence of the jury and put him on the
21 stand.

22 He can have counsel present.

23 He can be asked a few questions, and he can say,
24 "I'm not going to answer the questions," and then we can
25 go through the steps that are required for me to find that

1 he's either unavailable or unwilling to testify.

2 MR. STEINGLASS: We could do that, Judge, but
3 then we would still be under the situation of calling the
4 witness to the stand who's under no obligation with us.

5 THE COURT: Right.

6 Then it would be on the record and I've seen it.

7 MR. STEINGLASS: Right.

8 THE COURT: Right now, we're speculating. We're
9 speculating he would honor an Agreement. We're
10 speculating the degree to which this Agreement dictates he
11 could not speak to you. We're speculating to the advice he
12 may or may not be given by counsel.

13 It's difficult to rule like that.

14 MR. BOVE: I want to make one last point, because
15 we're contemplating a lot of process around this.

16 Mr. Weisselberg has never been on the
17 Government's witness list.

18 So, to suddenly try and create this procedure to
19 get around a way to admit this document -- I think we were
20 procedurally barred this morning from offering an exhibit.

21 I think there are procedural problems with trying
22 to add him to the witness list at this point, as well.

23 THE COURT: I don't see what one thing has to do
24 with the other.

25 We're not creating any procedure.

1 This is done. This is done with some frequency.

2 I've had people produced from jail testify. I've
3 had other people, who were unwilling to, testify.

4 But, the only way to know that is to put them on
5 the stand, out of the presence of the jury, on the record,
6 under oath.

7 MR. BOVE: My point is slightly different, is
8 that even if Mr. Weisselberg came to this trial and was
9 now willing to testify for any number of reasons he might
10 decide to, we were entitled to notice of that long before
11 this trial started.

12 That's the point I was making.

13 THE COURT: Did you think there was a possibility
14 that at some point the People might call Allen Weisselberg
15 to testify?

16 MR. BOVE: Not based on the witness list, no.

17 THE COURT: Is there anything else?

18 MR. STEINGLASS: No, thank you.

19 MR. BLANCHE: Your Honor, we have an application
20 with respect to Mr. Cohen.

21 It's -- we've been pushing the Court, at the risk
22 of stating the obvious, regarding the Gag Order.

23 Mr. Cohen continues to speak publicly about this
24 trial and about President Trump.

25 As recently as, I believe, Wednesday night, he

1 was on TikTok, this time talking extensively about -- he
2 was wearing a white T-shirt with a picture of President
3 Trump behind bars, wearing an orange jumpsuit, and
4 discussing about how he's now announcing he's running for
5 Congress.

6 Our request is, now that we have one week left in
7 the trial, that he be prohibited from talking. The same
8 way President Trump is.

9 The case law speaks to your Honor having the
10 power to do this.

11 Sheppard v. Maxwell explicitly states: There may
12 be instances where the Court not only needs to stop
13 extrajudicial statements from the parties and the lawyers,
14 but also from the witnesses or court officials.

15 Your Honor, it's Friday. We have a couple of days
16 left.

17 It's now becoming -- it's becoming a problem
18 every single day that President Trump is not allowed to
19 respond to this witness, but this witness is allowed to
20 continue to talk.

21 He has stated on social media that he's going to
22 stop talking a couple of different times, and he doesn't.

23 So, our request is that the Court order -- order
24 the Government to instruct the witness to not talk about
25 President Trump or -- or this case until the case is over.

1 THE COURT: Mr. Steinglass?

2 MR. STEINGLASS: Judge, we have repeatedly
3 instructed all of the witnesses in this case, to the
4 extent that we have any control over it, to refrain from
5 making public statements.

6 The fact of the matter is, we have no control
7 over what they do. We have repeatedly, repeatedly asked
8 the witnesses not to do that. Not just Mr. Cohen. All the
9 witnesses.

10 The fact of the matter is, these witnesses are
11 not subject to the Gag Order, and we have no remedy if
12 they engage in those activities.

13 So, all we can do -- if the Court is -- if
14 Mr. Blanche is asking the Court to order the People to
15 order the witnesses not to do something, we have already
16 done that. Or, to the extent that we have already asked,
17 we have no power to order.

18 And, there's nothing, really, more to say about
19 that.

20 THE COURT: It might be a little bit of a new
21 answer, but I would direct the People to communicate to
22 Mr. Cohen that the judge is asking him to refrain from
23 making any more statements about this case, about
24 Mr. Trump, or about anything related to this case or the
25 process; that that comes from the Bench and that you are

1 communicating that on behalf of the Bench.

2 MR. STEINGLASS: We will do so.

3 Thank you.

4 MR. BLANCHE: Thank you, your Honor.

5 THE COURT: Thank you.

6 I'll see you Monday.

7 (Whereupon, the case is adjourned to 5-13-2024 at
8 9:30 AM.)

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