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2 THE CLERK: This is the People of the State of New

3 York against Donald J. Trump, Indictment 71543 of '23.

4 Appearances.

5 By the People first, please.

6 MR. STEINGLASS: For the People, ADAs Joshua

7 Steinglass, Christopher Conroy, Susan Hoffinger, Matthew

8 Colangelo, Becky Mangold and Kathy Ellis.

9 THE COURT: Good morning.

10 MR. BOVE: Good morning. Emil Bove for Donald

11 Trump, who is seated to my left.

12 And I am joined with Todd Blanche, Susan Necheles

13 and Kendra Wharton.

14 THE COURT: Good morning, everyone.

15 Before we put the witness on the stand, there is

16 one issue that I did want to clarify.

17 And I'm addressing this to Mr. Trump.

18 It came to my attention that there may be a

19 misunderstanding regarding the Order restricting

20 extrajudicial statements and how it impacts upon Mr. Trump's

21 right to testify at trial.

22 I think it's important that I clear up any

23 misunderstanding that might exist.

24 I want to stress, Mr. Trump, that you have an

25 absolute right to testify at trial, if that is what you

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1 decide to do after consultation with your attorneys.
2 That is a constitutional right that cannot be
3 denied or abrogated in any way.
4 It is a fundamental right that cannot be infringed
5 upon.
6 Just as you have the absolute right not to testify,
7 if that is what you decide to do after consultation with
8 your lawyer.
9 The Order is restricting extrajudicial statements.
10 That does not prevent you from testifying in any way.
11 It does not prohibit you from taking the stand, and
12 it does not limit or minimize what you can say from the
13 witness stand.
14 In fact, as the name of the Order indicates, it
15 only applies to extrajudicial statements; that is,
16 statements that are made outside of court.
17 It does not apply to statements made from the
18 witness stand.
19 Please let your attorneys know if you have any
20 lingering doubts or questions that need to be clarified, and
21 I will try to answer them for you.
22 MR. TRUMP: Thank you.
23 THE COURT: You're welcome.
24 Anything else?
25 MR. BLANCHE: Your Honor, not with respect to this

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1 witness, but I do believe that we will have some evidentiary
2 objections to what we believe will be the next witness,
3 which we can handle now or after this witness, which ever.

4 THE COURT: Why don't you start.

5 MR. BLANCHE: Sure.

6 So we understand that the next witness is a summary
7 witness and intends to get in a number of exhibits that we
8 have — business records — foundational objections to for
9 all of them.

10 But then we have other objections for three of
11 them, your Honor.

12 So the first one, I can start with the business
13 records exemption.

14 So we understand that the proffered evidence
15 include two Truths, alleged Truths by President Trump; a
16 handful of tweets by President Trump; and a tweet by the
17 Washington Post; and then a news article by the Washington
18 Post.

19 We believe there are hearsay problems with each of
20 these exhibits without the proper business record foundation
21 being laid.

22 So with respect to the Truths, it may be that by a
23 preponderance of the evidence, the statement — that the
24 Truth itself could be allowed into evidence without a
25 statement of the defendant.

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1 But there is a lot of information on every tweet,
 2 for example, the name @realDonaldTrump, the time it was sent
 3 and other information, that's hearsay.
 4 And that hearsay, we don't believe, is admissible
 5 through just a summary witness who doesn't have any
 6 foundational expertise to talk about the basis for how the
 7 date is put on the tweet, how — you know, the typical
 8 things that you would expect for any type of business
 9 records.
 10 The same thing with the Truths, your Honor, the
 11 same exact problem.
 12 There is content within the Truth that purportedly
 13 they will argue are President Trump's statements.
 14 But there is a lot of stuff in that exhibit that is
 15 pure hearsay, and it is an out-of-court statement that will
 16 be offered for the truth of the matter asserted: The date,
 17 the time, the handle.
 18 And without a proper foundation, we object to that
 19 coming in.
 20 The straight — and the same is true of the
 21 Washington Post tweet for the same reasons.
 22 And the same is true of the Washington Post article
 23 for the same reasons.
 24 Separately, for three of the exhibits, putting
 25 aside the hearsay objection, we don't believe they should

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1 come into evidence.
2 Turning first to 405A and B.
3 405A is the Washington Post article dated
4 October 7, 2016 laying out the purported Access Hollywood
5 tape.
6 Your Honor's ruling a couple of different times,
7 including from the motions in limine, about what would be
8 and what would not be allowed in with respect to the Access
9 Hollywood tape, the original ruling said no tape, but
10 witnesses could testify about it at the beginning of the
11 trial.
12 There is now going to be an email introduced that
13 has a transcript of a portion of that Access Hollywood
14 tape.
15 What the People want to introduce now under 405A is
16 the full — what amounts to a full transcript from the
17 Washington Post article.
18 And, sure, there can be an instruction that says
19 it's not offered for the truth, but there are quotation
20 marks around the entire article.
21 And so, the danger of unfair prejudice is extreme
22 in this situation.
23 Remember, the only reason why the Access tape —
24 Hollywood Access tape is coming in at all in this trial,
25 under the Court's ruling, is to show intent and motive and

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1 to show what — how the campaign responded and why they
2 responded the way it did.
3 There is already a ton of evidence about,
4 already, about the Access Hollywood tape from Mr. Pecker,
5 from Mr. Davidson.
6 I expect there will be a witness today that will
7 testify extensively about the reasons why the Access
8 Hollywood tape, even on the fringes, are allowed.
9 THE COURT: What are you asking me to do?
10 MR. BLANCHE: To exclude 405A, which is the
11 article.
12 (Indicating.)
13 MR. BLANCHE: And to exclude 405B, which is a tweet
14 that went on at the same time, on October 7, 2016, at
15 4:05 p.m., that has a photograph of President Trump and
16 Billy Bush and one of the women that was part of the
17 interview.
18 And it says: "Breaking. Trump recorded having
19 extremely lewd conversation about women in 2005."
20 And then it says: "Trump recorded having extremely
21 lewd conversations about women in 2005" actually in the
22 photograph as well.
23 I mean, at this point, you know — and we are happy
24 to address the Weinstein decision.
25 The Weinstein decision, as it pertains to this,

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1 but what the Court has already done, and what the Court
2 should do, in light of the Weinstein decision, is be very
3 careful about the letting in this kind of evidence.
4 THE COURT: When you say "the Weinstein decision,"
5 are you referring to the Court of Appeals reversal?
6 MR. BLANCHE: That just came down, your Honor.
7 THE COURT: That's a decision that deals with
8 Sandoval and Molineux.
9 I don't see it having any impact on my ruling.
10 MR. BLANCHE: Well, your Honor is letting this in
11 on, at least in part, on a Molineux.
12 THE COURT: The Court of Appeals didn't lay out any
13 new law, they simply ruled on the facts of that case.
14 But the Molineux ruling, the law that applies to
15 Molineux, the law that applies to Sandoval, it remains the
16 same.
17 And that's the same standard that I applied when I
18 made my decisions.
19 MR. BLANCHE: Judge, agreed. Even under that
20 application that you applied, it would be extremely unfair
21 and extremely prejudicial, given the Court's ruling already,
22 to now extend it more to say that there is only going to
23 be testimony — there is only going to be multiple
24 witnesses.
25 THE COURT: I don't necessarily disagree with you,

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1 I'm just saying that the Weinstein decision doesn't
2 necessarily factor into this.

3 MR. BLANCHE: Well, want do you want me to do?
4 Do you want me to do the final exhibit or wait
5 until later?

6 THE COURT: No, go ahead.

7 MR. BLANCHE: The final Exhibit is 4088. It's an
8 alleged Truth that was — that is dated August 4th of last
9 year, at 4:16 p.m.
10 It says: "If you go after me, I'm coming after
11 you."
12 This Truth has been extensively discussed and
13 briefed in the D.C. case.
14 And the absolute reality is — and there are news
15 articles that I'm happy to pass up to the Court that make
16 this plain, that —
17 (Handed.)

18 MR. BLANCHE: — that this —

19 THE COURT: Thank you.

20 MR. BLANCHE: This Truth had nothing to do with
21 witnesses, had nothing to do with the case; it had to do
22 with what had been going on for a month in July and
23 leading up to the beginning of August within the Republican
24 Party.
25 There was a massive movement by certain packs and

1 certain individuals to vocally tell everybody within the
2 Party, we're going to spend a lot of money to make sure that
3 President Trump doesn't get re-elected.
4 And the campaign, not surprisingly, reacted
5 forcefully in articles, in statements, and then ultimately
6 with this Truth.
7 It had nothing to do with witnesses.
8 And, by the way, there has been oral argument in
9 D.C., there were briefings where the Prosecutors in D.C.
10 suggested that this is one of the reasons why Protective
11 Orders should be put in place and then later a Gag Order,
12 but when pressed, there has been no proof to disprove that,
13 so when the context of it comes into evidence here, there is
14 no basis for it.
15 They may be able to prove up the theory they have
16 about President Trump's — some of President Trump's Truths
17 and tweets and how it may or may not affect witnesses, but
18 not this one.
19 This one has nothing to do with witnesses.
20 THE COURT: So I appreciate that you have given me
21 a sense of what it is that we are looking at.
22 I think we are going to have to devote a little bit
23 of time for this and we have the jurors waiting, so we will
24 take it up later.
25 There is just one of the issues that you raised

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1 that I would like to hear from the People on and that is the
2 photograph, the photograph of Mr. Trump.

3 MR. BLANCHE: Sure.

4 THE COURT: People, I would like to hear from you
5 as to why you feel that you need that?

6 MS. MANGOLD: Yes, your Honor.

7 With respect to 405B, I will just say that as your
8 Honor noted during the April 15th offer of proof, that's
9 Transcript Page 34 through 35, your Honor's ruling was that
10 we could not play the Access Hollywood tape itself, not that
11 And your Honor ruled that a full transcript of the
12 tape was, in fact, admissible under appropriate
13 circumstances.

14 This would just be a screen shot of the publication
15 of the underlying article via Twitter.

16 Secondly, your Honor, in any event, we are not
17 introducing this exhibit or 405A for their truth, but
18 merely for the date and time at which the article was
19 published.

20 If the Defense is going to stipulate to the date
21 and time, we will withdraw these.

22 THE COURT: I agree with everything that you said
23 as far as my rulings.

24 And you can introduce a transcript. I don't have a
25

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1 problem with that.

2 I don't see the need for this.

3 This goes to the reason why I kept the tape out in

4 the first place.

5 I don't want those words to be associated with

6 Mr. Trump's face or his voice.

7 It's just very powerful evidence. It's damning

8 evidence. And I don't think it's necessary.

9 You are going to get to read the transcript. You

10 are going to introduce testimony about it.

11 This is not necessary.

12 MS. MANGOLD: Your Honor, would you be amenable to

13 us introducing it if we block out the picture and just

14 introduce the date and time that the article is published?

15 THE COURT: And what is the purpose?

16 MS. MANGOLD: Just to establish the original date

17 and time that the Access Hollywood tape — story was

18 published.

19 (Mr. Blanche rises.)

20 THE COURT: One second, Mr. Blanche.

21 Is there no other way to establish the date and

22 time of this tape?

23 MS. MANGOLD: The other way would be through

24 Exhibit 405A, your Honor.

25 THE COURT: Which is what? I don't know it

1 offhand.

2 MS. MANGOLD: Which is —

3 (Handed.)

4 MS. MANGOLD: This is the original version of the
5 article, which was published or retrieved from a website
6 called "The Wayback Machine," which finds previous versions
7 of websites and shows the original date of publication.

8 THE COURT: All right. So the People do have a
9 right to establish the date that it was printed.

10 You may want to stipulate to that.

11 I don't know if you want to stipulate to that, but
12 if you don't, I do have to give them the opportunity to
13 establish that.

14 MR. BLANCHE: May I propose something — one
15 second — potentially.

16 If they show the witness, just the witness, either
17 the article or the — or the tweet and say: Was the article
18 published at, on this date, at this time, does that refresh
19 your recollection, we're not objecting, and the witness can
20 say yes.

21 I mean, that's all they're offering it for,
22 apparently.

23 Anyway, that's the way that you can get it in.

24 THE COURT: I will leave it to the People, if
25 that's satisfactory.

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1 They may want to have something more physical,
2 something more persuasive than just the witness having their
3 memory refreshed —

4 MR. BLANCHE: It's also in the email, your Honor.

5 THE COURT: — more than just having their memory
6 refreshed.

7 You can sort it out.

8 I think the People can establish and should
9 establish the date of the tape, and they should be given the
10 opportunity to do that.

11 I don't want this picture to come in, okay.

12 MR. BLANCHE: Thank you, your Honor.

13 MS. MANGOLD: Thank you, your Honor.

14 THE COURT: Thank you. Let's get the witness,
15 please.

16 MR. CONROY: Judge, can we approach very briefly on
17 an issue related to the witness on the stand?

18 THE COURT: Sure.

19 *****

20 (AT SIDEBAR.)

21 MR. CONROY: I just wanted to raise, so they handed
22 us exhibits yesterday, including what they have marked as G1
23 and G2, which are internal emails from the District
24 Attorney's office that relate to Jeremy Rosenberg.
25 They are basically HR emails about the issues

2 This witness has never seen these documents. He
 3 has no — he would have no knowledge of them.
 4 You know, he may have met Jeremy Rosenberg at some
 5 point.
 6 He doesn't know Jeremy Rosenberg. So I just want
 7 to be very careful, I mean, my view is they shouldn't be in
 8 any way read into the record or anything.
 9 I guess if they wanted to show them to the witness
 11 that.
 12 MR. BOVE: So we seek to ask the witness the
 13 questions to impeach the chain of custody on the two devices
 14 that he has testified about.
 15 And so, what I would like — and Mr. Rosenberg is
 16 the person who turned the phones over to HTAU for both
 17 phones.
 18 There was a delay in the period of time between
 19 when he picked the phones up and when he dropped them off.
 20 For one of the phones it was about four days. For another
 21 one it was overnight.
 22 That was part of the reason that Mr. Rosenberg is
 23 the —
 24 THE COURT: I understand why you want to impeach
 25 him.

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1 I don't have a problem with you wanting to impeach
2 Mr. Rosenberg. But I don't think that this is the right way
3 to do it.
4 You can ask the witness: Who did you get the phone
5 from? Who retrieved the phone? Who gave it to you? If you
6 would like that on the record that it was Mr. Rosenberg and
7 you can you ask him specific questions about the timing of
8 all that, but you can't show him HR documents.
9 MR. BOVE: I'm sorry. I didn't mean to cut you
10 off.
11 THE COURT: It's all right.
12 MR. BOVE: I don't plan to show him the documents
13 or to try and refresh him in any way.
14 I would ask permission to put questions to him
15 along the lines: Are you aware that Mr. Rosenberg was
16 disciplined on this basis?
17 THE COURT: I don't think that's appropriate.
18 MR. BOVE: If I could hand up —
19 THE COURT: Sure.
20 MR. BOVE: This is the Court of Appeals in People
21 v. Baez.
22 (Handed.)
23 MR. BOVE: And I'm focused on the language of —
24 beginning with Subsection 2 that talks about the defense's
25 ability to impeach on the basis of the gaps just like this.

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1 So just the fact that these things were violated —
2 they violated the District Attorney's Office policy to such
3 an extent that there was discipline on this basis.

4 THE COURT: But you can call the witness; can't
5 you?

6 You can call a witness if you want.

7 You don't have to use someone who is a technical
8 person to help you establish bias or prejudice or anything
9 like that with this witness.

10 You can ask him: Where did you get it? Who gave
11 it to you? How long did it take?

12 All of that is relevant to his testimony, but I'm
13 not going to allow it.

14 MR. BOVE: Just so I understand, then we will be
15 permitted to call a different witness from the Government to
16 establish the facts that led to the gaps in the chain of
17 custody?

18 Because these things —

19 THE COURT: Is that what I just said?

20 MR. BOVE: Well, that's why I'm asking, Judge,
21 because these things go to the reliability.

22 THE COURT: You can try to call any witness that
23 you want, and we will have to decide if it's relevant, if
24 there is a basis relevant to the case or not.

25 MR. BOVE: These things go to the reliability of

1 the evidence.

2 THE COURT: Mr. Bove, I'm not going to allow it.

3 MR. BOVE: Yes, Judge.

4 MR. CONROY: Thank you.

5 (Sidebar concluded.)

6 ***~k*~k*

7 THE COURT: Okay. Let's get the witness, please.

8 THE COURT OFFICER: Witness entering.

9 (The witness, Douglas Daus, enters the courtroom

10 and resumed the witness stand.)

11 *****

12 THE COURT OFFICER: Watch your step. Remain

13 standing.

14 Raise your right hand and face the court clerk.

15 THE COURT: You were already sworn in; right?

16 THE WITNESS: Yes.

17 THE COURT: All right. You can have a seat.

18 THE COURT OFFICER: All right. I'm sorry.

19 THE COURT: I remind you that you are still under

20 oath.

21 Let's get the jury, please.

22 THE COURT OFFICER: All rise. Jury entering.

23 (Jury enters.)

24 *****

25 THE COURT: Please be seated.

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1 THE CLERK: Do both sides stipulate that the jury
2 is present and properly seated?
3 MR. BOVE: Yes.
4 MR. STEINGLASS: Yes .
5 THE COURT: Good morning, jurors.
6 Welcome back.
7 I apologize for keeping you waiting.
8 I know that you got here a little bit early today
9 and I know that you were waiting for a little while, so
10 thank you.
11 But we are ready now.
12 Mr. Bove.
13 MR. BOVE: Thank you, Judge.
14 May I inquire?
15 THE COURT: Please.
16 *****
17
18 BY MR. BOVE:
19 Q Good morning, Mr. Daus.
20 A Good morning.
21 Q Yesterday we were talking about two cell phones that
22 you analyzed; right?
23 A Yes, sir.
24 Q And I think we were referring to them as CP1 for Cell
25 Phone 1 and CP2 for Cell Phone 2?

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1 A Yes.

2 Q And both phones were delivered to HTAU in that intake

3 process on January 23rd of 2023; correct?

4 A Yes, they were.

5 Q And searches of those phones were authorized pursuant

6 to a consent form signed by Michael Cohen; right?

7 A Yes.

8 Q And both of the devices, CP1 and CP2, were delivered to

9 HTAU by Jeremy Rosenberg; is that right?

10 A Yes.

11 Q And let's focus on CP1, which is the phone with the

12 gold backing; right?

13 A That's correct.

14 Q Do you recall that Mr. Conroy showed you the Consent

15 form that Michael Cohen signed, which is relating to that phone

16 yesterday?

17 A Yes.

18 Q And do you recall that Cohen signed that form on

19 January 19th of 2023?

20 A Yes.

21 Q That's the form relating to CP1?

22 A Correct.

23 Q And he signed — do you recall that he signed the form

24 about 9:05 that morning on January 19th?

25 A I believe so.

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1 Q And it's your understanding, is it not, that at
2 the time that he signed the form, he turned CPL over to
3 Mr. Rosenberg; correct?

4 A Yes.

5 Q And so, there is a gap there between the 19th, when
6 Mr. Rosenberg took possession of the phone, and the 23rd, when
7 it was delivered to HTAU; right?

8 A That's correct.

9 Q And we talked yesterday about the chain of custody; do
10 you remember that?

11 A I do.

12 Q And so, as far as you know, for this piece of the
13 chain, it's on Mr. Rosenberg for that period of about four days;
14 right?

15 A Correct.

16 Q And that, from a forensic perspective, I think what you
17 said is your ideal situation would be when the phone is
18 acquired, it's immediately delivered to HTAU so it can be in a
19 secure environment; right?

20 A Ideally.

21 Q And there is a gap, isn't there, in your understanding
22 of what happened with the phone during that period?

23 A There is.

24 Q And it's not ideal, from a forensic perspective, to
25 have a gap like that because you don't know what happened to the

1 data?
2 A Correct.
3 Q Getting back to that form, Mr. Rosenberg signed that
4 form; right?
5 A Yes.
6 Q And there was a second place on the form for a second
7 witness; right?
8 A Yes, there was.
9 Q With no signature; correct?
10 A I can't recall.
11 MR. BOVE: If we take — this is just, Mr. Bernik,
12 for the Court, the parties and the witness, if we could just
13 take a look at Defense Exhibit G15.
14 (Displayed for the aforementioned parties only.)
15 Q And if you could take a look at that.
16 The question is: Does that refresh your recollection about
17 the second witness spot in the form and the fact that it's
18 blank?
19 A That's correct.
20 MR. BOVE: And so, can we take that down. Thank
21 you.
22 Q So there wasn't a second witness on the form; right?
23 A There wasn't.
24 Q And that is not standard from a forensics perspective
25 either; correct?

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1 A Sometimes.

2 Q Meaning sometimes only one member of the District
3 Attorney's office collects the phone; is that right?

4 A Yes.

5 Q And in that situation, like the one we have here with
6 CP1, there is only one witness who knows what happened during
7 that collection process; right?

8 A Yes.

9 Q Well, there is one witness from the District Attorney's
10 office?

11 A One signature.

12 Q Mr. Rosenberg. And then there is another witness,
13 Michael Cohen; right?

14 A That's correct.

15 Q And the reason that is not an ideal way to handle it in
16 this fashion is that if there is a dispute about what happened
17 during the acquisition, it's sort of what Mr. Rosenberg said
18 versus what Mr. Cohen said; right?

19 A Theoretically.

20 Q And so, the reason that there is a second witness space
21 on that form is that in an ideal situation, from a forensic
22 perspective, you would have two witnesses in a position to say,
23 this is what happened when I picked up the phone?

24 A Ideally.

25 Q And we don't have that here?

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2 Q And so, during that period, the January 19th through
3 the 23rd, you don't know if the phone was powered on or off;
4 right?

5 A I do not.

6 Q You don't know if it was in a Faraday bag; correct?

7 A I do not.

8 Q You don't know if it was hooked up with the internet or
9 not; right?

10 A I do not.

12 process for phones, taking pictures of what the contents of the
13 phone are; right?

14 A Sometimes, yes.

15 Q And I asked you: Do you recall whether somebody at
16 HTAU did a manual review of CPL?

17 Do you remember that?

18 A I don't recall anybody at HTAU doing a manual review.

19 Q And I would like to show you —

20 MR. BOVE: Just, Mr. Bernik, this is for the
21 Court, the parties and the witness, Defense Exhibit G17,
22 please.

23 (Displayed to the aforementioned parties only.)

24 Q And I want to see if that refreshes your recollection
25 about a manual review process?

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1 A Okay.

2 (Pause.)

3 A So after we had taken an image, right, these are
4 snapshots that we take of the device after we do the
5 extraction.

6 We then load it into the same software, and we use the
7 software to take screen shots.

8 Q And so, these, on Defense G17, are images of the face
9 of the phone in different states at the time you got it on or
10 around January 23rd; is that your understanding?

11 A That would be correct, yes.

12 Q And so, you testified yesterday that you found a Signal
13 app on this phone; right?

14 A There was.

15 Q And you said that the Signal app allows users to
16 conduct encrypted communication; correct?

17 A Yes.

18 Q And to send something encrypted is communications which
19 allows users to send communications to explode or self-delete?

20 A On some of them you can do that, yes.

21 Q It's a user option; correct?

22 A It is.

23 Q And when that happens, when Signal is set up in that
24 fashion, it is — it becomes — and the messages are deleted by
25 the app, it is very difficult for a forensic technician like

1 yourself to recover the messages; right?

2 A It is very difficult.

3 Q And Telegram, which you said was on CP1; correct?

4 A Yes.

5 Q It has a similar function; right?

6 A It can, if set by the user.

7 Q It's a user option to set messages to delete or
8 disappear from the phone; right?

9 A You can.

10 Q And do you recall that Mr. Cohen had a, quote,
11 "self-destruct timer" set up in the Telegram app?

12 A I do not recall.

13 MR. BOVE: Mr. Bernik, this is for the parties, the
14 Court and the witness, please.

15 Q If you could take a look at Defense Exhibit G4?
16 (Displayed for the aforementioned parties only.)

17 Q And there is an entry where the numbers are in green.
18 Do you see that?

19 A I do.

20 Q And does that refresh your recollection about the
21 self-destruct timer that Mr. Cohen set up?

22 A Yes, there appears to be a self-destruct timer on that
23 particular conversation.

24 Q And at least for that conversation, it was set up to
25 self-destruct in seven seconds; do I have that right?

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1 A That's correct.

2 Q Do you recall that there was also an app installed on
3 CP1 called Dust?

4 A Dust? I do not recall.

5 MR. BOVE: Mr. Bernik, if you could please bring
6 up for the witness, the parties and the Court, Defense
7 Exhibit G3.

8 (Displayed for the aforementioned parties only.)

9 Q Does that refresh your recollection about the Dust app?

10 A Those are the apps that were running in the background;
11 correct.

12 It looks like it had not logged in.

13 It was prepared to be set up, maybe it was installed, but it
14 just was not set up.

15 Q Or it's possibly, like you said, right, in the
16 beginning of the answer, that he had logged out and just needed
17 to log back in; right?

18 A That's correct.

19 Q And were you familiar with the Dust app at the time of
20 this review?

21 A Not at the time of the review.

22 Q Are you now familiar with it?

23 A I am now.

24 Q And you are aware, are you not, that this is another
25 app with a function that allows a user setting to delete the

1 messages very quickly after they are set; right?

2 A You can.

3 Q You can set that up that the message self-deletes when
4 it's read by the other party; right?

5 A That's correct.

6 Q And in that instance, it would be virtually possible
7 for someone in your position to recover data on the phone
8 relating to those messages; correct?

9 A That's correct.

10 Q Now, I want to talk about the data you extracted from
11 CP1, okay?

12 A Yes.

13 Q You testified yesterday that you did not obtain copies
14 of the data that the FBI had seized from this same device;
15 right?

16 A I had not.

17 Q And we talked about hash values yesterday; correct?

18 A That's correct.

19 Q And so, in the absence of having that other copy, you
20 couldn't compare the hashes to see if the data had been
21 manipulated; correct?

22 A That's correct.

23 Q You could not compare the two different data sets to
24 determine if the data had degraded between 2018 and 2023;
25 correct?

Lisa Kramsky,
Senior Court Reporter

1 A I cannot.

2 Q Do you know what a factory reset is?

3 A I do.

4 Q What — for a cell phone, what is a factory reset?

5 A A factory reset is when you, let's say, got a new
6 phone, you want to retire your — this particular phone, you can
7 go in and set — many of you perhaps have iPhones — you can
8 actually go in and do a reset so it resets the phone back to the
9 factory settings.

10 Q And the factory reset setting can also be used to
11 essentially delete user data from a phone; correct?

12 A That is correct.

13 Q And it sometimes is called wiping the phone; right?

14 A Same thing as a wipe.

15 Q And by "wipe," you mean wipe all of the data off the
16 phone; correct?

17 A It does.

18 Q And yesterday you testified about an audio file that
19 you said had a date associated with it, September 6th, 2016. Do
20 you remember that?

21 A I do.

22 Q And you know the file that I'm talking about?

23 A I do.

24 Q Do you recall that there was a factory reset on, of CPL
25 on October 15th, 2016?

1 A Yes, there was.

2 Q So subsequent to the date associated with that file,

3 there was a wipe of CP1; correct?

4 A Yes, there was.

5 Q By the user of the phone; right?

6 A Correct.

7 Q And, as far as you know, that's Michael Cohen; right?

8 A Could have been.

9 Q Well, he was the user of the phone; right?

10 A He was the user.

11 Q And he provided the password to the phone; right?

12 A Yes.

13 Q You don't have any information that somebody else wiped

14 CP1; right?

15 Do you?

16 A I do not.

17 Q Just yes or no, that sequencing, the date associated

18 with that audio file, relative to the wiping of the phone,

19 raises some questions about that file; right?

20 A You have to then look at where that file came from.

21 Q Right. It raises some questions that require further

22 analysis; fair?

23 A That's correct.

24 Q Do you recall that there was some kind of backup loaded

25 onto CP1 in January of 2017?

Lisa Kramsky,
Senior Court Reporter

1 A I do.

2 Q And that was on January 25, 2017; correct?

3 A That's correct.

4 Q And on the same day, January 25, 2017, there was a sync
5 performed on the phone; right?

6 A That's correct.

7 Q And a sync is a situation where a user can connect a
8 phone to a laptop; right?

9 A That's correct.

10 Q And move data from the laptop onto the device; correct?

11 A Yes.

12 Q And in this instance, with CPL, in the sync that
13 happened in January of 2017, the phone was connected to a laptop
14 with a user named Michael-dot-Cohen; right?

15 A Yes.

16 Q And so, more than four months after the date that you
17 have associated with this audio file, there was some kind of
18 sync where Mr. Cohen plugged the phone into his laptop and
19 loaded some files from the laptop; right?

20 A Right. When you plug it into iTunes, it does a full
21 backup of whatever that backup is that you are restoring from
22 iTunes and restores everything back to that phone so that file
23 got restored at that time.

24 Q That's one way just to do a sync, right, but there are
25 many ways that that transfer process could have occurred;

1 correct?

2 A From what I know, it is generally a complete iTunes

3 backup. Normally people don't select things, they select the

4 entire thing.

5 Q But you don't know what happened here?

6 A An entire backup happened.

7 Q Right. And you don't know what that backup entailed;

8 correct?

9 A Meaning?

10 Q Meaning, you don't know what was transferred onto the

11 phone in January 2017?

12 A That file certainly.

13 Q We are going to come back to the metadata associated

14 with the, the September 6th file —

15 A Uh-huh.

16 Q — you — but I want to talk about this laptop a little

17 bit.

18 You didn't collect Michael Cohen's laptop; right?

19 A I did not.

20 Q And you know that Michael Cohen is cooperating with the

21 District Attorney's Office; correct?

22 A Sure. He's consenting to the phones. He's

23 cooperating.

24 Q He's going to testify at this trial on behalf of the

25 Government; right?

Lisa Kramsky,
Senior Court Reporter

1 A Yes.

2 Q And so, you know that there was the possibility to ask
3 Mr. Cohen for the laptop; right?

4 A There certainly could be.

5 Q Certainly, if you had the laptop, you could know with a
6 lot of precision all of the things that Mr. Cohen loaded on to
7 the phone in January of 2017; right?

8 A I could.

9 Q But that did not happen here; correct?

10 A No. It did not.

11 Q And so, you testified yesterday that there were 39,745
12 contacts saved on CPl; right?

13 A I did.

14 Q And I think you said that was unusual; correct?

15 A It is.

16 Q But isn't it a fact that that is entirely consistent
17 with Michael Cohen dumping a bunch of data from his laptop onto
18 this phone?

19 A It's the contacts that are assigned in his iCloud
20 account that over the years have accumulated to that many
21 contents.

22 Q Yes, over the years on the laptop; right?

23 A In whatever the account that he used to log in, yes.

24 Q And we can only guess, because neither of us have seen
25 the laptop; right?

Lisa Kramsky,
Senior Court Reporter

1 A That's correct.

2 Q But when you have testified that the number of contacts
3 was unusual, one potential explanation for the unusual nature of
4 the number of contacts is this laptop syncing; correct?

5 A It could be.

6 Q So let's talk some more about this audio file, all
7 right.

8 I think you had acknowledged yesterday that the file cuts
9 off mid conversation; correct?

10 A Towards the end of it.

11 Q Well, how do you know if it's towards the end of the
12 conversation?

13 A Because it — when you listened to the whole thing and
14 the last 46 seconds and then it cuts off.

15 Q Right. So you just mean the conversation cuts off at
16 the end of the audio file, just to clarify?

17 A That's correct.

18 Q You didn't — you don't know how long the conversation
19 continued; correct?

20 A No, I don't.

21 Q You are aware that a transcript of that audio file was
22 released to the public by Michael Cohen's lawyers in 2018;
23 right?

24 A I had heard.

25 Q Do you recall a news coverage relating to that release?

Lisa Kramsky,
Senior Court Reporter

1 A I don't.

2 Q I'm sorry?

3 A I don't.

4 MR. BOVE: Mr. Bernik, for the Court, the witness
5 and the parties, if we could please bring up Defense G19.
6 (Displayed for aforementioned parties only.)

7 Q I will ask you to take a look at that.

8 And I will ask you: Does this refresh your recollection as
9 to, in July 2018 Michael Cohen and his attorneys released what
10 purported to be a transcript of the recording that you testified
11 about?

12 MR. CONROY: Objection.

13 THE COURT: Overruled.

14 You can answer.

15 A Yeah. I don't certainly remember that article coming
16 out, but that appears to be the article about such event.

17 Q It looks like it happened; right?

18 A It does.

19 MR. CONROY: Objection.

20 THE COURT: Sustained.

21 Q So this indicates that they were — that Cohen and his
22 attorneys in 2018 were handling this file external to the phone;
23 correct?

24 MR. CONROY: Objection.

25 THE COURT: Overruled.

Lisa Kramsky,
Senior Court Reporter

1 A External to the phone?

2 Q Meaning, they sent it to the media in the Summer of
3 2018; right?

4 A Could have, yes.

5 Q And the file was out there; correct?

6 A And the file was out there.

7 Q And it looks like it was being — when I say it's
8 external to the phone, what I mean is, it was sent out to the
9 public and there was a process by which it was removed from the
10 phone to get it out there?

11 A It was copied off of it, apparently.

12 Q You testified yesterday that you heard that there was
13 an incoming phone call on a device around the time of this
14 recording?

15 A Yes.

16 Q And I just want to clarify, there is no exhibit that
17 you offered — that you, I'm sorry, you didn't offer anything —
18 there is no exhibit that you testified about that reflects an
19 artifact from CPL relating to that, this phone call that you've
20 heard about?

21 A Repeat that question, I'm sorry.

22 Q None of the exhibits that you offered reflect data from
23 the phone itself as relating to such a phone call; correct?

24 A No.

25 Q And so, your forensic analysis of the device did not

1 reveal any such call; right?

2 A That's correct.

3 Q And when I say "any such call," I mean a call that
4 could be interpreted to interfere with the recording that you've
5 testified about?

6 A That's correct.

7 Q And so, because that's the case, you were not in a
8 position to do any forensic analysis about the interplay
9 between the Voice Notes app and any purported phone call on
10 September 6, 2016 because the data just wasn't there; right?

11 A That's right.

12 MR. BOVE: Mr. Bernik, can we please bring up
13 Government 247, which is in evidence.

14 (Displayed.)

15 Q This is the metadata associated with this September 6th
16 recording; right?

17 A Yes, it is.

18 Q And this is metadata that you extracted from the
19 physical device, CP1; right?

20 A Yes, it is.

21 Q And this exhibit does not indicate when the audio file
22 was last modified; right?

23 A Last modified, the timestamp that it appears is the
24 name of the file so when the voice recording memo records the
25 file, an audio file, it actually embeds the timestamp that the

1 recording was made.
2 In this case, it would have been 2016, so September 6th at
3 approximately 10:56.
4 So wherever that file existed on an iPhone associated with
5 that account got restored, as mentioned before, back onto this
6 device.
7 One of the columns you look at is that source file
8 information. When that comes over from the backup, you will see
9 the same date and time.
10 If that recording was modified or edited at some point
11 later, and adding something or deleting something, you would
12 then have timestamps that reflect that time it was edited, but
13 in this case, this particular file shows the same metadata
14 information about the time.
15 MR. BOVE: Judge, I move to strike all of that as
16 nonresponsive.
17 THE COURT: Overruled.
18 Q You just testified about your theories of the timestamp
19 on the screen; right?
20 A I did.
21 Q That is your hypothesis; correct?
22 A It's my experience, yes.
23 Q And, look, you have a ton of experience with forensic
24 science; right?
25 A Yes.

Lisa Kramsky,
Senior Court Reporter

1 Q And so, you are testifying as a scientist who is trying
2 to draw some inferences from what you see on the screen; right?

3 A Correct.

4 Q This report — my question was, does this report
5 reflect a date modified at all?

6 A No. Just the timestamp when it was created.

7 Q Now, I would like to look at another metadata report
8 that's in evidence.

9 MR. BOVE: So, Mr. Bernik, if we could bring up
10 Government Exhibit 253 in the top pane and 252 at the
11 bottom.

12 (Displayed.)

13 Q And so, this is the photograph that you testified about
14 yesterday; right?

15 A It was.

16 Q And you said that's Michael Cohen at the top?

17 A Yes.

18 Q And in the bottom, Government's 252, that is a report
19 of the metadata associated with that file; right?

20 A Yes, it is.

21 MR. BOVE: And if we could zoom in on the sixth
22 column beginning "Modified Date," please.

23 (Displayed.)

24 Q Do you see those columns?

25 A I do.

Lisa Kramsky,
Senior Court Reporter

1 Q And so, that is information with respect to that image
2 about the date it was modified, created and accessed; right?

3 A That's correct.

4 Q And so, those are fields that were generated for this
5 image when you ran the report for the metadata associated with
6 the image; correct?

7 A That's correct.

8 Q And when you ran the report associated with the
9 metadata linked to the audio file, it did not generate those
10 fields; correct?

11 A It did not.

12 Q Do you recall that there was also a properties list
13 file associated with this audio file saved on the phone?

14 A There is a property list that contains information,
15 yes.

16 Q And there was a file associated with the audio file
17 entitled "Manifest.P list" or property list?

18 A Yes.

19 Q Do you recall that?

20 A Yes.

21 Q And that's a particular type of file that relates to a
22 phone sync; right?

23 A Yes.

24 Q And it reflects — it can provide some information
25 about the timing of a — this sync process that we talked about,

Lisa Kramsky,
Senior Court Reporter

1 between a laptop and a phone like CP1; correct?

2 A That's correct.

3 Q And so we've talked about it, a sync, that we know
4 occurred between CP1 and Michael Cohen's computer on January —
5 in January of 2017; right?

6 A That's correct.

7 Q Do you recall that there is a separate property list
8 file that reflects a date of October 17, 2020?

9 A I do not.

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

12 Q If you can take a look at Government Exhibit G11.
13 (Displayed for the aforementioned parties only.)

14 Q And so, just so we can get oriented here.
15 You are probably more familiar with this than I am.
16 This is a file list in the left pane, and you can see
17 highlighted is the audio files itself; right?

18 A Yes.

19 Q And so, this is metadata associated with the audio
20 file; correct?

21 A It is.

22 Q And so, in the right pane you see a "Last Access Time"
23 of January 25, 2017; correct?

24 A That's correct.

25 MR. BOVE: So let's take a look at Page 2,

Lisa Kramsky,
Senior Court Reporter

1 please.

2 (Displayed.)

3 Q And now, in that left pane, do you see there is a
4 folder with the name of the audio file?

5 A That's correct.

6 Q And in that folder is a file called "Manifest.P List."
7 Right?

8 A There is.

9 Q "P list" means property list; correct?

10 A Yes.

11 Q And you said a minute ago that that contained
12 information about the timing of a sync; right?

13 A It can, yes.

14 Q And so, if you see that on the right, in the right
15 pane, there is a window with file information associated with
16 the Manifest.P List file?

17 A I do.

18 MR. BOVE: Can I pause briefly to apologize to the
19 court reporter.

20 Q Do you see the date associated with that?

21 A I do.

22 Q And the dates are October 17, 2020; right?

23 A That's correct.

24 Q And so, this reflects another sync between a laptop and
25 this phone, CPL; right?

Lisa Kramsky,
Senior Court Reporter

1 A Yes.

2 Q And we — there is — you have presented no information

3 in the exhibits that have come in through the Government about

4 that sync; right?

5 A I have not.

6 Q And we — you testified that the first sync in 2017 was

7 from a laptop associated with Michael Cohen; right?

8 A That's correct.

9 Q A laptop you don't have; right?

10 A Yes.

11 Q A laptop you have not been able to examine; right?

12 A No.

13 Q And now we are talking about a sync in 2020 on this

14 phone, we don't — we don't know what it was from; correct?

15 A I do not.

16 Q You could only guess?

17 A Based on this file, I do not.

18 Q And we would have to take Michael Cohen's word for

19 whatever happened in October of 2020 with respect to this phone;

20 right?

21 A It seems so.

22 Q Do you recall if this phone was actually powered on in

23 September of 2020?

24 A September of 2020? It could have been. I do not know.

25 Q And I want to refresh your recollection about that, but

Lisa Kramsky,
Senior Court Reporter

1 first let's talk about the significance of the fact that you are
2 performing forensic analysis of a phone in January of 2023
3 relating to files in 2016; right?

4 A That's correct.

5 Q And there are these intervening events that we're
6 talking about; correct?

7 A That's correct.

8 Q And they present questions about the reliability of the
9 evidence; correct?

10 A It would seem so.

11 Q And that is these — as a practitioner in your science,
12 these are questions to be addressed; right?

13 A Certainly.

14 Q So let's take a look.

15 MR. BOVE: Mr. Bernik, this is for the Court, the
16 party and the witness, please, as Defense Exhibit G12.
17 (Displayed for the aforementioned parties only.)

18 Q And do you recognize this as being from the timeline
19 review of the Cellebrite report relating to CPL?

20 A Yes.

21 Q And there is a highlighted row here.

22 Do you see that?

23 A Yes, I do.

24 Q Would it — tell me if you need me to zoom in on
25 anything?

Lisa Kramsky,
Senior Court Reporter

1 A I can see.

2 Q Okay.

3 This shows that the phone was not only turned on, but
4 actually used in 2020; right?

5 A Yes, it does.

6 Q September 30, 2020; correct?

7 A That's correct.

8 Q And if you look at the source file information, that's
9 calling for the highlighted cell, there is a file, I can't
10 really see it?

11 A Shine2.M4A.

12 Q Thank you.

13 That's an audio file; right?

14 A It is.

15 Q That's an extension associated with an audio file?

16 A Yes, it is.

17 Q And so, in September of 2020, this is well after 2016,
18 well after the FBI searches in 2018 and long before you were
19 given the phone, this phone was on — being used to do something
20 with the recording; correct?

21 A It was.

22 Q And we don't know what; right?

23 A I do not.

24 Q And we would have to take Michael Cohen's word for it;
25 correct?

Lisa Kramsky,
Senior Court Reporter

1 A It would seem so.

2 Q Do you recall that this phone was turned on again in
3 2022?

4 A I do not.

5 MR. BOVE: Mr. Bernik, this is for the Court, the
6 parties and the witness. And if we could take a look at
7 Defense G 13.

8 (Displayed to the aforementioned parties only.)

9 *****

10 Q And I will ask you to take a look at that. And the
11 question is: Does this refresh your recollection that the
12 device was turned on again in — on March 28th, 2022?

13 A Yes, it was.

14 Q And this is a situation, is it not, where the device
15 was used to make a recording; right?

16 A Yes, it was.

17 Q And if you look at the recording pane on the far right
18 side, that says there is a recording that was created that was
19 40 minutes and 50 seconds; right?

20 A That is correct.

21 Q So this phone was turned on in 2022 again; right?

22 A That's correct.

23 Q Used by Michael Cohen; correct?

24 A Yes, it was.

25 Q To make a recording; correct?

Lisa Kramsky,
Senior Court Reporter

1 A To make a recording.

2 Q And you don't know what he was doing; do you?

3 A I do not.

4 Q And this is far from ideal, from a forensic
5 perspective, if you are trying to determine in a reliable
6 fashion what went on with this phone in 2016; correct?

7 A If something happened in 2016 on the device, that file
8 is going to be saved on that device.

9 Q Right. And this phone has been synced multiple times,
10 turned on and off since that time, all sorts of things have
11 happened that create variables that in your ideal situation
12 would be investigated; correct?

13 A Certainly.

14 Q Including this laptop that Michael Cohen had, what's on
15 it, what got loaded onto the phone; right?

16 Those are questions from your perspective?

17 MR. CONROY: Objection.

18 THE COURT: Sustained.

19 Q The things that I've shown you this morning raise some
20 questions about how this phone was handled; right?

21 A Yes.

22 Q And this phone was not handled, through no — no fault
23 of your own, you took possession of this phone in January 2023;
24 right?

25 A That's correct. 2023.

Lisa Kramsky,
Senior Court Reporter

1 Q And you have extensive training in best practices for
2 how to handle electronic evidence like this; correct?

3 A I do.

4 Q And in your ideal situation, if you were asked to
5 analyze data from 2015 and 2016, the things that happened
6 subsequent to this phone — the FBI search, the syncing multiple
7 times, the factory reset, the phone being powered on and off by
8 the user, subsequent to all of these things, those all present
9 real challenges to understanding this data; right?

10 A It would have to be taken into account.

11 Q And in many ways, we are just going to have to take
12 Michael Cohen's word for it; aren't we?

13 A Yes.

14 MR. BOVE: Nothing further, Judge.

15 THE COURT: Thank you.

16 Any redirect?

17 MR. CONROY: Yes. Thank you, Judge.

18 *****

19 REDIRECT EXAMINATION

20 BY MR. CONROY:

21 Q Good morning, Mr. Daus.

22 A Good morning.

23 Q Good to see you again.

24 You were just asked a series of questions about if you knew
25 what Michael Cohen was doing at various points over the last

Lisa Kramsky,
Senior Court Reporter

1 five years.

2 I take it you are not a friend of Michael Cohen's?

3 A I'm not.

4 Q So you don't hang around with him to track what he's
5 doing on a daily basis?

6 A I do not.

7 Q You were also asked a series of questions about a phone
8 being turned on and turned off and used. Is it unusual for a
9 phone to be used?

10 A No.

11 Q Is it unusual for a phone to be used to make
12 recordings?

13 A No.

14 Q Now, you were asked a series of questions, just towards
15 the end of Mr. Bove's cross-examination, about other recordings
16 that were made on this phone; is that right?

17 A Yes.

18 Q But those are noted, the recordings that are at issue
19 here in this case; is that right?

20 A That's correct.

21 Q I want to talk for a minute — you were asked some
22 questions about the end of the phone call between the defendant
23 and Michael Cohen that we played the other day and sort of how
24 it ended and how it sort of cut off at the end?

25 A Yes.

Lisa Kramsky,
Senior Court Reporter

1 Q We talked — we also put into evidence some call logs
2 from the phone?

3 A Correct.

4 Q From a WhatsApp application; is that right?

5 A That's right.

6 Q If you wanted to see if a call came in to a particular
7 phone number at a particular time, a long time ago, what would
8 be the best thing to look at to see if that happened?

9 A A call detail record from the carrier.

10 Q So that's not something that resides on the phone
11 itself; is that right?

12 A That's correct.

13 Q You are talking about the phone records from Verizon or
14 AT&T?

15 A Yes.

16 Q That would be the best place to look to see if a phone
17 call came into a particular phone number at a particular time
18 that may have interrupted a recording?

19 A That's the best source.

20 Q Now, you were asked over the last couple of hours,
21 yesterday and today, a number of questions about things like
22 Faraday bags and special rooms and the care that has to be
23 taken, and it's all true, it's very important to be careful when
24 we are collecting evidence; correct?

25 A It is.

Lisa Kramsky,
Senior Court Reporter

1 Q Is there a difference when evidence is collected
2 pursuant to a search warrant and when it's collected pursuant to
3 a Consent form?

4 A Yes.

5 Q Can you tell us a little bit about what that is?

6 A Well, a Consent form is just simply a user is offering
7 their phones, they provide the code and we can perform the full
8 extraction of that device.

9 Q And what about when there is a search warrant?

10 A In a search warrant, you may not have the code. It may
11 be a hostile environment.
12 You have to, depending on exigent circumstances, do things
13 to a device with that search warrant that you may not from a
14 Consent form, different things.

15 Q And with a search warrant, the phone is often taken not
16 with the Consent form of the owner, if the phone is taken
17 pursuant to a Court order; is that correct?

18 A That's correct.

19 Q I want to go back to, again, the recording that we
20 played at the end of the day yesterday that had the defendant
21 speaking to Mr. Cohen, the evidence in this case that's in as
22 People's 246.

23 In the examination that you did — first of all, you were
24 working with a full forensic extraction of the device; is that
25 right?

Lisa Kramsky,
Senior Court Reporter

1 A That's correct.

2 Q And is that the gold standard as far as you are
3 concerned about what you can look at?

4 A Yes, it is.

5 Q And you looked at the metadata for that file, you
6 looked at various artifacts that were in that full forensic
7 extraction?

8 A Yes, I did.

9 Q Did you see any evidence of tampering or manipulation
10 on any of the data that you pulled related to the recording
11 that's in evidence as People's 246.

12 MR. BOVE: I object and ask to be heard at
13 sidebar.

14 THE COURT: Sure. Please.

15 (At Side Bar.)

16 *****

17 THE COURT: If I could just hear the question,
18 because I got a little distracted.

19 MR. BOVE: I'm sorry.

20 THE COURT: Can you read back the last question.

21 (Record read by the court reporter at the sidebar
22 conference for the parties only.)

23 THE COURT: Thank you.

24 Okay.

25 MR. BOVE: The objection, Judge, is that we are

Lisa Kramsky,
Senior Court Reporter

1 getting to a point where an expert opinion is being elicited
2 from this witness.

3 We are allowed to cross-examine and impeach the
4 reliability of the evidence through this witness. This is
5 that witness.

6 He's not an expert. He can't offer an opinion like
7 that.

8 MR. CONROY: He's, I think, talking about the facts
9 of what he saw and what he did in his examination.
10 And this is responsive to the cross-examination.
11 And he can talk about his training and experience, which is
12 extensive.

13 THE COURT: You did a very effective job of
14 cross-examining this witness.

15 I think the People have the right to try and
16 rehabilitate the witness and bring out some facts.
17 If I recall correctly, during your
18 cross-examination at one point, you even referred to him as
19 an expert.

20 The objection is overruled.

21 (Sidebar concluded.)

22 THE COURT: The objection is overruled.

23 *****

24

25 CONTINUED REDIRECT EXAMINATION

Lisa Kramsky,
Senior Court Reporter

1 BY MR. CONROY:

2 MR. CONROY: Could we have that last question read

3 back when you are ready.

4 (Record read by the court reporter in open court at
5 this time.)

6 A I did not.

7 Q Did you see any evidence of tampering or manipulation
8 with respect to any of the data on the phone related to any of
9 the exhibits that were put into evidence yesterday?

10 A I did not.

11 MR. CONROY: Just one moment, please.

12 (ADAs confer.)

13 *****

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

17 *****

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Lisa Kramsky,
Senior Court Reporter

1 (Continued from the previous page.)
2 MR. CONROY: Thank you very much, Judge.
3 I have nothing further.
4 THE COURT: Mr. Bove.
5 MR. BOVE: Yes, thank you.
6 RECROSS—EXAMINATION
7 BY MR. BOVE:
8 Q Mr. Daus, let me just ask you, you were just asked
9 questions about whether you observed evidence of tampering on
10 CPL, right?
11 A That's correct.
12 Q But my questions were more about variables that are
13 unanswered in connection with the data on that phone, right?
14 A Yes.
15 Q Unknowns, correct?
16 A Unknowns.
17 Q So, I am asking not about whether you saw affirmative
18 tampering. My question is, did you see gaps in the handling of
19 this data that created risks for such tampering?
20 A Yes.
21 Q This recording that we talked about a lot this
22 morning, September 6th of 2016, we can agree, can't we, that it
23 cuts off mid-conversation, right?
24 A Toward's the end.
25 Q The file towards the end has a disconnect between the

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1 conversation that is ongoing and the audio file stops?

2 A That is correct.

3 Q You don't know what happened in the conversation after
4 that?

5 A I don't know. There is no file.

6 Q And someone has told you about a phone call that
7 allegedly caused the recorder to cut off, right?

8 A Yes.

9 Q And that's your working understanding and part of the
10 basis for your testimony, right?

11 A That's correct.

12 Q And you were asked a question by Mr. Conroy, what's
13 the best source of evidence to figure out if that phone call
14 happened, right?

15 A Correct.

16 Q And you said, tools [sic], you go to the phone company
17 and you get the tools, right?

18 A The call detail records.

19 Q But there is no record of that call on the device
20 itself?

21 A That's correct.

22 Q So that is another variable, isn't it?

23 A It is.

24 Q And the variable, the thing that the tools [sic] does
25 not address is why there is a call at some phone company that's

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1 not reflected in the data itself that you looked at, right?

2 A That's correct.

3 Q That is an open question, right?

4 A Yes.

5 Q And we don't know?

6 A We don't.

7 Q And because we don't know, you were not able to look
8 at the way that the Voice Notes app interacted with the
9 incoming call function, right?

10 A Correct.

11 Q We don't know?

12 A Correct, we don't know.

13 MR. BOVE: Nothing further.

14 MR. CONROY: Very briefly.

15 REDIRECT EXAMINATION

17 Q Mr. Daus, would you — if I made a phone call seven
18 years ago from the phone in my pocket, would you expect to see
19 a log of that call on my phone, assuming that I used my phone?

20 A I would not.

21 Q You would not.

22 A No.

23 MR. CONROY: Thank you.

24 I have nothing further.

25 THE COURT: Thank you, sir.

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1 You can step down.
2 (Witness is excused.)
3 THE COURT: Counsel, please approach.
4 (Discussion is held at sidebar, on the
5 record.)
6 THE COURT: I just want to address something you
7 raised earlier.
8 Do we need to resolve those now, before the next
9 witness?
10 MR. BLANCHE: Yes. I haven't talked to my
11 co-counsel, or these guys, about what a stipulation would
12 look like, potentially, with the business records
13 objection.
14 Overall, it still exists. We are still in the
15 fundamental issue.
16 I believe that just the paralegal from the DA's
17 Office is going to try to admit tweets that have dates and
18 other information on them.
19 MS. MANGOLD: We are not seeking to admit those
20 as business records. There will be an adequate foundation
21 laid for those and that they are part of the —
22 MR. BLANCHE: Then the objection only remains for
23 the last one saying, you know, the tweet — the Truth that
24 was sent in August that says, if you come after me, I am
25 coming after you, that objection.

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1 THE COURT: And the grounds for that objection
2 were?

3 MR. BLANCHE: As we stated earlier, there is
4 extensive — it absolutely has nothing to do with the
5 witness.

6 THE COURT: I think we can proceed.

7 MS. MANGOLD: We are planning to admit that with
8 the next witness. To the extent your Honor would like to
9 hear argument —

10 THE COURT: So, over objection.

11 MR. BLANCHE: Just to be clear about a hearsay
12 objection, we continue to have a hearsay objection.
13 At this point, there is no information on the
14 tweet — on the Truth. No foundation has been laid as to
15 this witness's experience, the date, how the date ends up
16 on the Truths.

17 That's an out-of-court statement being offered
18 for the truth.

19 MS. MANGOLD: We plan to lay a sufficient
20 foundation that the witness has sufficient familiarity with
21 the social media platforms and is able to identify things
22 based on handling the data.

23 And as to the remaining objection that Mr.
24 Blanche noted to Exhibit 408-B, as in boy, as to that one,
25 we believe your Honor has already ruled that evidence of

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1 pressure on witnesses is admissible.
2 MR. BLANCHE: Judge, it's like saying an email
3 comes in because we all get emails.
4 THE COURT: Let's go ahead and get started and
5 see how far we get. Okay.
6 (Discussion at sidebar concluded, and the
7 following occurred in open court.)
8 THE COURT: The People, the next witness please.
9 MS. MANGOLD: The People call Georgia Longstreet.
10 (Witness approaches the witness stand.)
11 THE COURT: Remain standing. Face the Clerk.
12 THE CLERK: Do you solemnly swear or affirm that
13 the testimony you are about to give before this Court will
14 be the truth, the whole truth and nothing but the truth.
15 THE WITNESS: Yes.
16 GEORGIA LONGSTREET,
17 called as a witness on behalf of the People, being first duly
18 sworn by the Clerk of the Court, was examined and testified as
19 follows:
20 COURT OFFICER: In a loud, clear voice, state
21 your full name and the spelling of your last name.
22 THE WITNESS: Georgia Longstreet,
23 L-O-N-G-S-T-R-E-E-T.
24 COURT OFFICER: Your county of residence.
25 THE WITNESS: Kings County.

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1 THE COURT: Good morning.
2 MS. MANGOLD: May I inquire?
3 THE COURT: Yes.
4 DIRECT EXAMINATION
5 BY MS . MANGOLD:
6 Q Good morning, Ms. Longstreet.
7 A Good morning.
8 Q Can you tell everyone where you work?
9 A I work for the New York County District Attorney's
10 Office.
11 Q What is your position at the New York County District
12 Attorney's Office?
13 A I am a paralegal.
14 Q And what are some of your duties and responsibilities
15 as a paralegal at the New York County District Attorney's
16 Office?
17 A As a paralegal, our main responsibilities are to
18 assist the attorneys in whatever cases or investigations we are
19 working on, whether that be administrative tasks or analytical
20 tasks.
21 Q Do some of those duties and responsibilities include
22 locating publicly available records relevant to the case?
23 A Yep.
24 Q In your capacity as a paralegal for the Manhattan DA's
25 Office, were you ever assigned to work on a matter involving

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1 Donald Trump?

2 A Yes.

3 Q How long have you worked on that matter?

4 A About a year-and-a-half.

5 Q As part of your role in the matter involving Donald
6 Trump, were you ever responsible for identifying publicly
7 available materials relevant to the case?

8 A Yes.

9 Q Did that include responsibility for reviewing and
10 saving publicly available social media posts that could be
11 relevant to the case?

12 A Yes.

13 Q Did that also include responsibility for reviewing and
14 saving publicly available news articles that could be relevant
15 to the case?

16 A Yes.

17 Q So looking now, specifically, at social media posts,
18 what social media platforms have you reviewed for public
19 information related to the case?

20 A That would be Instagram, Twitter, Facebook, LinkedIn
21 and Truth Social.

22 Q And, approximately, how many social media accounts
23 have you analyzed in connection with the case?

24 A Probably between like 25 and 30.

25 Q Do you analyze some of those with more regularity than

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1 others?

2 A Yes, absolutely.

3 Q How frequently do you review public data to locate
4 relevant social media posts?

5 A Every day. Usually, multiple times a day.

6 Q That's for the year-and-a-half that you have been on
7 the case?

8 A It is.

9 Q In total, how many social media posts have you
10 reviewed in connection with this case?

11 A Say anywhere between 5 and 10,000.

12 Q In total, how many social media posts have you saved
13 in connection with the case?

14 A Around 1500, give or take.

15 Q Do you save social media posts in a particular way?

16 A I do.

17 Q Can you describe that for the jury, please?

18 A Sure.

19 So, I use a tool that we have called Snagit, which is,
20 basically, just a way to screenshot something on the computer,
21 take a screenshot of whatever the post is, and then I save that
22 file to a folder, usually with the date and a few words about
23 what the post is about, and then I hash it.

24 Q Can you explain what hashing is for the jury?

25 A Sure.

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1 Hashing is a process used to preserve the integrity of
2 a file by creating what is called a hash value, which is,
3 essentially, a digital footprint.

4 Q And what is a hash value?

5 A So, a hash value is a unique string of characters that
6 captures both the date and time that the file was saved, as
7 well as the location on the computer where the file is saved.

8 Q You did that for the all the social media posts you
9 saved?

10 A I did.

11 Q Are you familiar with a social media platform called
12 Twitter?

13 A I am.

14 Q Do you know whether that company changed its name at
15 some point?

16 A It did.

17 Q What did it change its name to?

18 A X.

19 Q But is it still, functionally, the same platform?

20 A Yes.

21 Q What was the platform called in 2016?

22 A Twitter.

23 Q Can you, briefly, describe how Twitter works?

24 A Yes. So, users can put out a post or a tweet, and
25 that can consist of words, photos, videos, a link. And then

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1 you post that tweet for your followers to view.

2 Q And can you — are you familiar with the phrase,
3 Twitter handle?

4 A I am.

5 Q What's a Twitter handle?

6 A A Twitter handle is, basically, someone's user name.
7 So, like their at sign.

8 Q And are posts to Twitter, are they public or private?
9 Can they be either or both?

10 A They can be either. It's depends on the user.
11 You can make it so only people that follow you can
12 view your posts, or you can make your account public so anyone
13 that looks you up that has an account can see your posts.

14 Q Are you familiar with the term, verified account?

15 A I am.

16 Q What's a verified account?

17 A So the new Twitter, I think you can just buy a
18 verification status.

19 Back in 2016, the verification status used to be a way
20 of Twitter signaling that this was, in fact, the account that
21 belonged to someone like a politician, a celebrity, someone of
22 prominent status.

23 Q Did you review Twitter's user policies and help manual
24 to determine what a verified account was?

25 A Yes.

1 Q In connection with this case, were you asked to review
2 public posts made on Twitter from the Twitter handle, at Real
3 Donald Trump?

4 A Yes.

5 Q Was that a verified account?

6 A Yes.

7 Q Who did you understand the user of that account to be?

8 A Donald Trump.

9 Q Did you take any steps to verify that that Twitter
10 handle was associated with Mr. Trump?

11 A So, the National Archives maintains and preserves a
12 Twitter account that has the handle at POTUS 45, which reposted
13 numerous, if not all, of the posts from the at Real Donald
14 Trump account. That, combined with the verified status, gave
15 me an idea.

16 Q Do you have an understanding of what POTUS 45 refers
17 to?

18 A Yes. Yes. The 45th President of the United States.

19 Q In connection with the case, were you asked to review
20 public posts made on Twitter from the Twitter handle — I am
21 sorry.

22 Withdrawn.

23 And you mentioned that you are familiar with Truth
24 Social?

25 A I am.

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1 Q What is Truth Social?

2 A Truth Social works, basically, in the same way that
3 Twitter does. It is another social media platform where you
4 can make a post, or I guess a Truth, and put that out for your
5 followers to view.

6 Q You also reviewed Truth Social's help center and
7 information provided to Truth Social users?

8 A Yes.

9 Q Does Truth Social use verified accounts?

10 A They do.

11 Q And according to Truth Social, what is a verified
12 account?

13 A A verified account, according to them, means that
14 Truth Social on the back end has done their due diligence to
15 make sure that that account does, in fact, belongs to who it
16 said, and it is not an imposter or somebody else pretending to
17 be that person.

18 Q In connection with this case, were you asked to review
19 public posts made on Truth Social from the Truth Social handle
20 at Real Donald Trump?

21 A Yes.

22 Q Was that a verified account?

23 A Yes.

24 Q Who did you understand the user of that account to be?

25 A Donald Trump.

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1 Q Did you take any steps to verify if that Truth Social
2 handle was associated with Mr. Trump?

3 A On Mr. Trump's campaign site there is a Truth Social
4 icon that links directly back to that Truth Social account.

5 Q And are you familiar with the website called The
6 Wayback Machine?

7 A I am.

8 Q Can you describe what that is to the jury?

9 A Yes. So, The Wayback Machine is a digital archive. I
10 think it was founded in like 2001 or something. And it,
11 basically, allows users to, essentially, go back in time and
12 see what a website looked like on any day in the past.

13 Q Can you explain to the jury how you find a particular
14 website from a particular point in time?

15 A Yes. So, the way that I do it, for example, I take
16 that website's current viewer, the way it shows up if you were
17 to look it up today, and I enter it into The Way Back Machine
18 search engine, and it will allow you to view the different
19 months or days or years in the past that it has preserved that
20 website's content on. And then you can choose which day of the
21 past you would like to view.

22 Q In connection with this case, did you ever use The
23 Wayback Machine to retrieve previously posted versions of news
24 articles?

25 A I did.

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1 Q Before testifying today, did you have an opportunity
2 to review files marked for identification as People's Exhibits
3 407-A through 407-E?

4 A Yes.

5 Q Are those public posts from the Twitter handle at Real
6 Donald Trump?

7 A Yes.

8 Q Who created those exhibits?

9 A I did.

10 Q And did you create those exhibits using the hashed
11 versions that you retrieved?

12 A I did.

13 Q Before testifying today, did you have an opportunity
14 to review files marked for identification as People's Exhibits
15 408-A and 408-B?

16 A I did.

17 Q Were those public posts in the Truth Social handle at
18 Real Donald Trump?

19 A Yes.

20 Q And who created those exhibits?

21 A I did.

22 Q Did you create them based on the hashed versions of
23 the files that you created?

24 A I did.

25 Q By the way, before testifying today, did you have an

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1 opportunity to review the file marked for identification as
2 People's Exhibit 405-A?

3 A Yes.

4 Q Is 405-A a publicly available Washington Post article
5 that you retrieved using The Wayback Machine?

6 A Yes.

7 Q And is the file that is marked for identification as
8 405-A an exact copy of what you retrieved?

9 A Yes.

10 MS. MANGOLD: We now offer into evidence People's
11 Exhibits 405-A, 407-A through E, and 408-A and 408-B.

12 MR. BLANCHE: Objection to 408, and if we can
13 approach on one.

14 THE COURT: Let's take your morning recess.
15 Jurors, if you can step out please.

16 (Whereupon, the jury was excused.)

17 THE COURT: Thank you. Please be seated.

18 (Witness is excused.)

19 THE COURT: Okay. I want to make sure we have
20 the same exhibits.

21 I have 405-A, 407-A through E, 408-A and 408-B?

22 MR. BLANCHE: Yes .

23 THE COURT: Tell me what your objection is and to
24 which?

25 MR. BLANCHE: The objection for 405-A is just

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1 that given your Honor's ruling this morning, assuming you
2 overruled our hearsay objection, we would just like the
3 opportunity to speak with our client, and amongst ourselves
4 about the stipulation, which we haven't got a chance to do.

5 THE COURT: Do you want to take a minute to do
6 that now?

7 MR. BLANCHE: Sure.

8 THE COURT: You want to step out for a few
9 minutes?

10 MR. BLANCHE: Yes.

11 (Short recess is taken.)

12 THE COURT: Mr. Blanche.

13 MR. BLANCHE: Your Honor, we continue to have our
14 hearsay objection.

15 Assuming that's overruled, we have agreed with
16 the People to a stipulation, and we have agreed to it.
17 It's going to, assuming the Court allows this, we
18 will just read it to the jury. Then we will type it up and
19 mark it as an exhibit.

20 THE COURT: That's fine.

21 Now, can we pullup the exhibits that you have a
22 hearsay exception to?

23 I just want to look at them quickly.

24 MR. BLANCHE: Sure.

25 THE COURT: Let's go one by one.

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1 405-A.

2 MR. BLANCHE: 405-A. Well, I still have the

3 objection.

4 So, 405-A, which is the Washington Post —

5 THE COURT: When you say, hearsay, you are

6 referring to what specifically?

7 MR. BLANCHE: Well, the — it's the entire — for

8 what the People are offering it for, they are offering it

9 for the date, which is an out-of-court statement being

10 offered for the truth.

11 They are offering it for, I believe, the

12 Washington Post, which is an out of court statement being

13 offered for the truth.

14 They are offering it, assuming the content is

15 hearsay, and they are offering it for who authored it,

16 which is an out of court statement being offered for the

17 truth.

18 So, I will let the Government speak to what else

19 they —

20 MS. MANGOLD: Your Honor, we are offering to

21 withdraw this based on the stipulation.

22 THE COURT: Say that again.

23 MS. MANGOLD: We are offering to withdraw our

24 request to admit this based on the stipulation.

25 THE COURT: Okay.

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1 Let's go to 407.

2 MR. BLANCHE: Beginning with 407-A, so here, your

3 Honor, this would be, presumably, offered for — again,

4 everything on this document, there is, I think you can see

5 at the bottom, there is the date that it was posted. The

6 time that it was posted. That's an out of court statement

7 being offered for the truth of the matter asserted.

8 THE COURT: And let's look at B.

9 MR. BLANCHE: This is exactly the same thing.

10 Your Honor, just to be clear, I don't know

11 whether they are going to argue it, but there is a lot of

12 information in here including reposts, quotes, likes,

13 bookmarks, date, time.

14 THE COURT: And 407-A through E are these all

15 Truth Social posts?

16 MR. BLANCHE: Yes, it is.

17 I am sorry. They are tweets.

18 MS. MANGOLD: They are all Twitter posts.

19 THE COURT: What are you introducing these for?

20 MS. MANGOLD: We are introducing them for the

21 content of the statements made, as well as who they were

22 made by and the time and date that they were posted.

23 We do not need to admit the markings on the

24 bottom which indicate requotes, posts, likes and bookmarks.

25 THE COURT: Okay. Very well.

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1 And just to back up a little bit, I am satisfied
2 with the foundation that the witness laid as far as
3 reliability.

4 You know, we will take each exhibit one at a
5 time.

6 But, overall, I think that the foundation was
7 laid for establishing whose account it was, how she
8 determined that, and what steps she took.

9 Ultimately, the issue of hearsay is, is it
10 reliable. And for purposes of, at least having this
11 discussion, and whether I am going to accept each
12 individual exhibit, I am satisfied that it is reliable.

13 What's 408-A?

14 MR. BLANCHE: I mean, this is now Truth, your
15 Honor. It is same exact objection.

16 They are going to say to the jury at some point
17 on March 15, 2023, this Truth was sent and it is a business
18 record. It's being offered for the truth.

19 And there is a specific rule, which is 808, that
20 doesn't allow it to come in this way, with a witness who
21 hasn't said a word about her experience or how the business
22 maintains these records.

23 MS. MANGOLD: Your Honor, again, we are not
24 seeking to admit this as a business record. We are seeking
25 to admit this as a party admission.

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1 THE COURT: How do you get past hearsay of the
2 actual statement?

3 MS. MANGOLD: We believe, as already mentioned,
4 we believe that the witness we are seeking to admit this
5 through has made an adequate foundation and that there is
6 sufficient hallmarks of reliability.

7 THE COURT: What's the exception to hearsay?

8 MS. MANGOLD: Admission.

9 THE COURT: Okay.

10 And what's 408-8?

11 MR. BLANCHE: This one, your Honor, we have
12 exactly the same hearsay objection. But actually we have
13 an absolute relevance objection and an unduly prejudicial
14 objection for the reasons I stated this morning for the
15 information provided to the Court.

16 THE COURT: What's the relevance of that?

17 MS. MANGOLD: So, your Honor, the relevance of
18 this is the pressure that has been put on witnesses in
19 connection with testifying about the case.
20 This is the same issue that your Honor addressed
21 on Tuesday, when your Honor ruled that — this is
22 transcript pages 1651 to 1661 that the Defendant had opened
23 the door to arguments and evidence about the pressure
24 campaign that the Defendant put on witnesses.
25 And your Honor ruled that we could introduce this

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1 type of evidence for two purposes:
2 First, to offset the Defense claims that
3 witnesses are benefiting from a willingness to testify.
4 And second, to explain witnesses' initial denials
5 as to certain events in this case.
6 THE COURT: And it's offered as the exception to
7 hearsay?
8 MS. MANGOLD: Admission.
9 THE COURT: So, the People are withdrawing 405-A.
10 407-A through E are Twitter posts. They are
11 coming in as admissions.
12 408-A is a Truth Social post. It's coming in as
13 an admission.
14 408-B is coming in as an admission. I am
15 satisfied, again, as to reliability.
16 And going back to my earlier ruling, if you go
17 back to the motions in limine, I had ruled that we would
18 take this up later, that we would have to wait and see what
19 happens.
20 I had not at that time decided that these types
21 of things could come in. However, I subsequently ruled
22 that the door had been opened, and based upon that, I am
23 allowing them to come in.
24 All right. Let's get the witness.
25 MS. MANGOLD: Sorry, your Honor.

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1 Just to clarify, we are withdrawing 405-A subject
2 to the stipulation, not just generally.
3 COURT OFFICER: Witness entering.
4 (Whereupon, the witness entered the
5 courtroom and was properly seated.)
6 SERGEANT: Jury entering.
7 (Whereupon, the jury entered the courtroom
8 and was properly seated.)
9 THE COURT: Thank you.
10 You may be seated.
11 THE CLERK: Case on trial continued.
12 All jurors are present and properly seated.
13 THE COURT: People.
14 MS. MANGOLD: Before we resume, I have a
15 stipulation of the parties that I would like to read into
16 the record with the Court's permission.
17 THE COURT: Please.
18 MS. MANGOLD: The parties have stipulated that
19 the Access Hollywood tape referred to during this trial was
20 publicly released by The Washington Post on October 7,
21 2016, at 4:01 p.m., Eastern Standard Time.
22 The article was authored by David Fahrenthold.
23 THE COURT: Thank you.
24 Jurors, a stipulation is information that the
25 parties have agreed to without the need to call a witness.

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1 It's to be treated exactly the way you would treat any
2 other evidence.

3 MS. MANGOLD: Now, to resume, we offer into
4 evidence what has been marked for identification as Peoples
5 Exhibits 407-A through 407-E, and 408-A and 408-8.

6 MR. BLANCHE: Objection, your Honor.

7 THE COURT: Objection is overruled.

8 CONTINUED DIRECT EXAMINATION

9 BY MS. MANGOLD:

10 Q Can we now show the jury what is in evidence as
11 People's Exhibit 407-A?

12 (Whereupon, People's Exhibit 407-A, a video,
13 is played in open court.)

14 Q Ms. Longstreet, is this a post that you retrieved?

15 A Yes.

16 Q And what was the date and timestamp shown on the post?

17 A I believe it was October 8th at 12:19 a.m.

18 Q Can we please put that back up for the jury?

19 Without playing it.

20 A October 8, 2016 at 12:19 a.m.

21 Q What is the written content of the post?

22 A Here is my statement.

23 Q All right. Can we now display to the jury what is in
24 evidence as People's Exhibit 407-B.

25 Is this another post that you retrieved?

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1 A Yes.

2 Q What Twitter handle was this posted from?

3 A At Real Donald Trump.

4 Q What is the date and timestamp shown on the post?

5 A October 11, 2016 at 12:52 p.m.

6 Q Can you read the content of the post to the jury?

7 A Yes.

8 The very foul mouthed Senator John McCain begged for

9 my support during his primary. I gave. He won. Then dropped

10 me over locker room remarks.

11 Q We now show the jury what's in evidence as People's

12 Exhibit 407-C.

13 Is this another Twitter post that you received?

14 A Yes.

15 Q What Twitter handle did it come in?

16 A At Real Donald Trump.

17 Q What is the date and timestamp shown on the post?

18 A October 15, 2016 at 2:29 p.m.

19 Q Can you read the content of the post to the jury?

20 A Nothing ever happened with any of these women.

21 Totally made up nonsense to steal the election. Nobody has

22 more respect for women than me.

23 Q And can you now show the jury what is in evidence as

24 People's Exhibit 407-D.

25 Is this another Twitter post that you retrieved?

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1 A Yep.

2 Q What handle is this post from?

3 A At Real Donald Trump.

4 Q What is the date and timestamp shown on the post?

5 A October 16, 2016 at 7:36 a.m.

6 Q Can you read the content of the post to the jury?

7 A Polls close, but can you believe I lost large number

8 of women voters based on made up events that never happened.

9 Media rigging election.

10 Q And can we show the jury what's in evidence as

11 People's Exhibit 407-E?

12 This is another Twitter post that you retrieved?

13 A Yes.

14 Q What is the handle it came from?

15 A At Real Donald Trump.

16 Q What is the date and time shown on the post?

17 A October 17, 2016, at 8:15 a.m.

18 Q Can you read the content of the post to the jury?

19 A Can't believe these totally phony stories.

20 100 percent made up by women, many already proven false and

21 pushed big time by press. Have impact.

22 Q Thank you.

23 And can we please show the jury what is in evidence as

24 People's Exhibit 408-A?

25 Now, is this another social media post?

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Principal Court Reporter

1 A Yes.

2 Q Is this — can you tell what social media platform
3 this is from?

4 A Yes. This is from Truth Social.

5 Q And what handle was used for this post?

6 A At Real Donald Trump.

7 Q What is the date and timestamp shown on the post?

8 A March 15, 2023 at 11:32 p.m.

9 Q Can you please read the content of the post to the
10 jury?

11 A I did nothing wrong in the horseface case. I see she
12 showed up in New York today trying to drum up some publicity
13 for herself. I haven't seen or spoken to her — I haven't seen
14 or spoken to her since I took a picture with her on a golf
15 course in full golf gear, including a hat, close to 18 years
16 ago.

17 She knows nothing about me, other than her conman
18 lawyer Avenatti and convicted lawyer and felon jailbird Michael
19 Cohen may have schemed up.

20 Never had an affair with her. Just another false
21 acquisition by a sleazebag. Witch hunt.

22 Q And, finally, can we show People's Exhibit 408-B,
23 already in evidence to the jury?

24 Is this another Truth Social post that you retrieved?

25 A Yes.

1 Q What handle is used?

2 A At Real Donald Trump.

3 Q And what is the date and timestamp on this?

4 A August 4, 2023 at 4:16 p.m.

5 Q Can you please read the content of the post to the
6 jury?

7 A If you go after me, I am coming after you.

8 MS. MANGOLD: No further questions.

9 THE COURT: Your witness.

10 CROSS-EXAMINATION

1 1 BY MR . BLANCHE:

12 Q Good morning, Ms. Longstreet.

13 A Good morning.

14 Q Just a few questions.

15 So, you testified that one of your assignments was to
16 review, I think you said, 25 to 30 separate social media
17 handles or accounts, is that right?

18 A That's about how many I have reviewed in the course of
19 this case.

20 Q And you reviewed those because you were instructed to
21 do so by one of the prosecutors?

22 A Yes.

23 Q Is one of the handles you reviewed the handle for
24 Michael Cohen?

25 A Yes.

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Principal Court Reporter

1 Q And did you review Michael Cohen's X account?

2 A I did.

3 Q Have you reviewed Michael Cohen's TikTok?

4 A Not really, no.

5 Q How about — well, let me ask you this, what other
6 social media handles or sites did you review with respect to
7 Michael Cohen?

8 A Twitter. I don't know if you can call the podcast
9 social media, but that, and that might be it.

10 Q The podcast, you are talking about the podcast that
11 Michael Cohen hosts?

12 A Yes.

13 Q Are there two of them?

14 A I am only talking about one.

15 Q Are you talking about one called Mea Culpa?

16 A Yes.

17 Q And have you listened to all of the Mea Culpa
18 podcasts?

19 A Absolutely not.

20 Q Fair.

21 How did you determine which Mea Culpa podcast to
22 listen to?

23 A I think some were more relevant than others, and some
24 we were instructed to listen to.

25 Q And as far as Mr. Cohen's Twitter, did you focus on

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Principal Court Reporter

1 particular tweets or comments or just follow his handle
2 regularly?

3 A Both.

4 Q And was it part of your responsibility to report to
5 the prosecutors what you observed?

6 A Yes.

7 Q And did you?

8 A I did.

9 Q Did you — I believe you also testified that overall
10 there were — well, how many thousands or tens of thousands of
11 different tweets or Instagram or podcasts do you think you
12 reviewed in connection with this case that you have talked
13 about this morning?

14 A I couldn't give you an exact number. I would say
15 anywhere between 5 and 10,000 posts.

16 Q Was there a timeframe that you were assigned to look
17 at?

18 A Well, the timeframe of the activity at the center of
19 this case. But, also over the last year, since I have been
20 added to the case.

21 Q So, around 2015 to 2017, is that fair?

22 A Yep.

23 Q And then during the course of this investigation, so
24 since the beginning of 2023, is that right?

25 A Yep.

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Principal Court Reporter

1 Q Was it earlier than that, or is that when you started?

2 A I think I started in December of 2022, so just around
3 that time.

4 Q So — and of all the thousands that you reviewed,
5 today we looked at seven a few minutes ago, correct?

6 A Yep.

7 Q And did you decide which seven to show today, or was
8 it the prosecutors who decided?

9 A I am just a paralegal. I apologize.

10 Q So it was the prosecutors?

11 A Yes.

12 Q And with respect to the seven exhibits we just looked
13 at that you read into the record, you have never worked at
14 Twitter or X, correct?

15 A Correct.

16 Q And you never worked for Truth Social, right?

17 A Correct.

18 Q And so, when you were testifying about, for example,
19 the handle, the date and time of the X or the tweet and the
20 Truth Social posts, that was just from what you were observing
21 on the screen and what you describe as your experience on
22 social media, correct?

23 A I don't really understand.

24 Q Well, you don't have an independent knowledge from
25 working at Twitter or working at Truth Social of how they go

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1 about stamping a tweet or putting a timestamp or a date stamp

2 on a particular tweet before it goes out?

3 You don't have any expertise about that, do you?

4 A No.

5 Q The same thing with Truth Social?

6 A That's correct.

7 Q So you, like many of us, you just relied on your

8 experience having spent a lot of time reviewing social media in

9 this case?

10 A Yes.

11 With regard to Truth Social posts, those were made

12 while I was actively reviewing that account every single day.

13 Q So, during 2023, the two that we showed you were

14 actively reviewing, so you see when a post is posted and see it

15 when it happens, correct?

16 A Yes.

17 Q But, again, continuing that, you don't have any

18 independent knowledge, for example, of who actually wrote the

19 Truth Social or the X or the tweet, do you?

20 A That's true. I just know what account it was posted

21 from.

22 Q And, similarly, you don't have any independent

23 knowledge of why a particular post was made, correct?

24 A No.

25 Q So, for example, the last one that we just saw that

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1 said something like, if you come after me, I am coming after
2 you, you don't have any idea or knowledge about why that Truth
3 Social handle put that up, do you?

4 A I have my assumptions, but, no.

5 Q How long have you worked at the District Attorney's
6 Office?

7 A About to be two years.

8 Q Have there been any other — is this your primary
9 case?

10 A For the time being.

11 Q Has this been your only case this year?

12 A No.

13 Q Have there been other cases where you had to look at
14 25 to 30 different social media accounts as you have had in
15 this case?

16 A Not as many accounts. But other investigations that
17 required social media to be looked at, yes.

18 MR. BLANCHE: No further questions.

19 THE COURT: Any redirect?

20 MS. MANGOLD: Nothing, your Honor.

21 THE COURT: Okay. Thank you.

22 You may step down.

23 (Whereupon, the witness was excused.)

24 THE COURT: The next witness, People.

25 MR. COLANGELO: The People call Hope Hicks.

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1 MR. BOVE: Judge, there is one evidentiary
2 objection.
3 THE COURT: No speaking objections.
4 MR. BOVE: May I approach?
5 THE COURT: Sure.
6 (Discussion is held at sidebar, on the
7 record.)
8 MR. BOVE: Thank you.
9 Judge, I am sorry.
10 We want to put on the record our objection on
11 Presidential immunity grounds. I expect there will be
12 testimony from Ms. Hicks related to statements by President
13 Trump while he was President of the United States.
14 Unless you tell me it is necessary, I prefer not
15 to lodge the objections question by question.
16 We object to the subject of her testimony based
17 on the authorities we submitted, and our position being
18 that that testimony is evidence of official acts being
19 presented at a criminal trial against the President, and it
20 should be precluded.
21 MR. COLANGELO: I don't anticipate we will be
22 showing any exhibits that fall within that category.
23 We intend to elicit testimony, and we have
24 briefed at length the argument that the rule of
25 inadmissibility that Mr. Bove just described does not exist

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1 and is not a rule.
2 The inadmissibility rule was not a rule that was
3 ever recognized.
4 Several cases that we have cited has held the
5 exact opposite in the analogous context of consular
6 immunity.
7 As we cited in other papers holding that evidence
8 of otherwise immune conduct is nonetheless admissible in a
9 trial regarding criminal conduct for non-immune acts.
10 So, the testimony we intend to elicit involves
11 statements by the Defendant, and there is no doctrine that
12 would allow excluding it.
13 THE COURT: I believe I ruled on this as well.
14 So the objection is noted. I don't think you
15 need to object as to each question.
16 MR. BOVE: Thank you, Judge.
17 MS. MANGOLD: We want to note for the record that
18 we may recall Ms. Longstreet as a witness at a later point
19 in the trial.
20 We may recall Ms. Longstreet.
21 THE COURT: Thank you.
22 MR. BOVE: Can you address 218, the email?
23 MR. COLANGELO: We don't intend to admit the
24 parts you identified.
25 There was a question regarding an exhibit that we

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2 Defense counsel identified that objection for us
3 last night.
4 I have not yet had an opportunity to convey to
5 Defense counsels that we only intend to admit the part
6 after Exhibit T that the witness can lay a foundation for,
7 and we will exclude that part of the exhibit.
8 MR. STEINGLASS: For now.
9 THE COURT: Yes.
10 MR. COLANGELO: Yes, for now.
11 THE COURT: Thank you.
12 (Discussion at sidebar concluded, and the
13 following occurred in open court.)
14 THE COURT: They are getting the witness.
15 COURT OFFICER: Witness entering.
16 (Whereupon, the witness entered the
17 courtroom.)
18 COURT OFFICER: Remain standing. Raise your
19 right hand. Face the Clerk.
20 THE CLERK: Do you solemnly swear or affirm that
21 the testimony you are about to give before this Court will
22 be the truth, the whole truth and nothing but the truth?
23 THE WITNESS: I do.
24 HOPE CHARLOTTE HICKS,
25 called as a witness on behalf of the People, being first duly

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1 sworn by the Clerk of the Court, was examined and testified as
2 follows:

3 THE CLERK: Thank you.

4 COURT OFFICER: State your full name. Spell your
5 last name.

6 THE WITNESS: My name is Hope Charlotte Hicks,
7 and my last name is spelled H-I-C-K-S.

8 COURT OFFICER: Give your county of residence?

9 THE WITNESS: Washington, D.C.

10 THE COURT: Good morning, Ms. Hicks.

11 You may inquire.

12 MR. COLANGELO: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY MR. COLANGELO:

15 Q Good morning, Ms. Hicks.

16 Will you please describe your educational background?

17 A Sure, I have a — I have a BA in English from Southern
18 Methodist University, and that's it. Very brief.

19 Q Please describe your work history after you finished
20 college.

21 A After college I started working in different PR and
22 marketing jobs. The first notable one was with a firm called
23 Hiltzik Strategies, H-I-L-T-Z-I-K. And that was a PR firm that
24 specializes in crisis communications and working with
25 well-known individuals.

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1 After that, while I was working there, I met Ivanka
2 Trump and started to help with public relations surrounding her
3 personal brand. And after a little bit of time, I started to
4 work with the Trump family on some of the Trump hospitality
5 initiatives.

6 And I was enjoying it so much, that I was offered a
7 position at The Trump Organization and dubbed it as the
8 opportunity to join the company full time.

9 (Whereupon, Principal Court Reporter, Susan
10 Pearce-Bates, was relieved by Senior Court
11 Reporter, Theresa Magniccari.)

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

3 ***

4 CONTINUED DIRECT EXAMINATION

5 BY MR. COLANGELO:

6 Q. When did you begin work at the Trump Organization
7 fulltime?

8 A. In October of 2014.

9 Q. And I'm not sure you mentioned what year you received
10 your undergraduate degree, what year was that?

11 A. I graduated from college in 2010.

12 Q. You began working at The Trump Organization about four
13 years after you finished college?

14 A. That's right.

15 Q. And at some point after beginning to work at The Trump
16 Organization, did you also start working for the Trump
17 campaign?

18 A. Yes.

19 Shortly after I joined The Trump Organization,
20 Mr. Trump — at the time, Mr. Trump said that he would be
21 exploring a run for president. And we began doing that in
22 January of 2015.

23 And then just a few months later, in March of 2015, he
24 formed a formal Exploratory Committee and announced he was
25 running as a candidate for President in June of 2015.

Theresa Magniccari
Senior Court Reporter

1 Q. What do you currently do for work?

2 A. I am a Communications Consultant. So I have my own
3 company. I do what I have always done, which is, give advice to
4 individuals or companies looking for strategic communications
5 advice.

6 Q. Are you here today in response to a subpoena from the
7 District Attorney's office?

8 A. I am.

9 Q. Are you represented by counsel here today?

10 A. I am.

12 A. I am.

13 Q. In your current role as a consultant, is the defendant
14 Donald Trump a client?

15 A. He's not.

16 Q. Do you have any current professional relationship with
17 Mr. Trump?

18 A. I don't.

19 Q. When is the last time you were in communication with
20 Mr. Trump?

21 A. Sometime in the Summer, Fall of 2022.

22 Q. 2022?

23 A. Yes.

24 Q. Please move a little bit forward to the microphone so
25 we can all hear you.

Theresa Magniccari
Senior Court Reporter

1 A. Sorry.

2 Q. Now, you mentioned that you began working at The Trump
3 Organization in October of 2014; is that right?

4 A. Yes.

5 Q. What was your role at The Trump Organization?

6 A. I was the Director of Communications.

7 Q. What were some of the tasks and responsibilities you
8 held as Director of Communications at The Trump Organization?

9 A. Coordinated all of the public relations material,
10 marketing collateral for the real estate, hospitality and
11 entertainment businesses, which at the time were thriving.
12 This is very deep now that I can hear on the
13 microphone. I apologize. It's going to take a second to get
14 used to.

15 Worked a lot of events, different initiatives to help
16 publicize the various properties, the golf courses, and just the
17 growth of the business, as well as the executives of the
18 company, primarily Mr. Trump, Ivanka, Donald Jr. and Eric.

19 Q. In your job as Director of Communications at The Trump
20 Organization, did you have occasion to meet with Donald Trump?

21 A. I did.

22 Q. About how often did you meet with him?

23 A. Maybe once a week at first, usually observing, you
24 know, colleagues working with him.

25 And then as we transitioned just a few months later

Theresa Magniccari

Senior Court Reporter

1 into the political work, I met with him more regularly.

2 Q. As your experience at The Trump Organization grew and
3 as you began working on both Trump Organization matters and
4 campaign matters, eventually how often did you come to meet
5 with him in a typical day?

6 A. I probably met with him every day.

7 Q. And were those scheduled meetings, unscheduled
8 meetings, or both?

9 A. Both.

10 Q. Were you ever called into Mr. Trump's office when he
11 was meeting with other people?

12 A. Yes.

13 Q. Give us an example of how that might come about?

14 A. You know, he's just the kind of person — he is a very
15 good multitasker and a very hard worker. He is always doing
16 many things at once. He might be having a conversation with
17 someone and it will remind him to follow up on something else.
18 He'll want to share something with the group that he is
19 meeting with and want to provide them with — maybe if it's a
20 political meeting, he wants to provide them with poll numbers.
21 If it's a real estate meeting, he will want to provide them with
22 any positive press surrounding the property, the sales of the
23 property, the value of the property, things like that.

24 Q. In this period of time, 2015, was it unusual for you to
25 be in and out of his office during other meetings?

1 A. No.

2 Q. In your role as Director of Communications, did you
3 also speak to Mr. Trump by phone?

4 A. Yes.

5 Q. About how often did you speak to him by phone?

6 A. Well, again, once the campaign work started, my role
7 was a little bit different. If we're talking — rather than do
8 it by title, we will do it by date, if that works for you.
9 Beginning January 2015, I started to speak to him more
10 regularly. I would say about June of 2015 I spoke with him on
11 the phone every day if we weren't able to communicate in person.

12 Q. How did you reach him by phone when you spoke to him?

13 A. I would usually call the office and be connected, but
14 he had a cell phone or a home phone number as well.

15 Q. Focusing on your role as Director of Communications,
16 who did you report to at The Trump Organization?

17 A. Everybody that works there in some sense reports to
18 Mr. Trump.

19 It's a very big and successful company, but it's really
20 run like a small family business in certain ways. And Mr. Trump
21 and Don and Eric and Ivanka were very involved in the business
22 and so people reported to the four family members.

23 Q. You mentioned a few names there, I want to make sure
24 the record is clear who they are. You mentioned Don, Eric and
25 Ivanka. Can you say who they are?

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Senior Court Reporter

1 A. They're Mr. Trump's children.

2 Q. Is that Don Jr., Eric and Ivanka?

3 A. Yes.

4 Q. They also worked at The Trump Organization when you
5 worked there?

6 A. Yes.

7 Q. Are you familiar with someone named Keith Schiller?

8 A. Yes.

9 Q. Who is Mr. Schiller?

10 A. Keith was Mr. Trump's bodyguard.

11 Q. How do you know Mr. Schiller?

12 A. He attended events with us and really served as sort of
13 a security liaison for Mr. Trump at big public events and just
14 generally helping to keep him safe.

15 Q. Through your work, did you have occasion to observe the
16 kind of relationship that Mr. Schiller had with Mr. Trump?

17 A. Yes.

18 Q. How would you describe that relationship?

19 A. Close.

20 Q. Are you familiar with someone named Rhona Graff?

21 A. Yes.

22 Q. Who is Rhona Graff?

23 A. Rhona was Mr. Trump's Executive Assistant.

24 Q. How do you know her?

25 A. I worked with her during my time at The Trump

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Senior Court Reporter

1 Organization.

2 Q. As Mr. Trump's Executive Assistant, what did her role
3 involve?

4 A. She was crucial to how everything ran on the 26th
5 floor. She had a lot of institutional knowledge about different
6 projects and Mr. Trump's business relationships, his network,
7 his likes and dislikes in terms of scheduling. And she also was
8 helpful with his media engagements up to that point. She would
9 help facilitate those media engagements for him.

10 Q. You mentioned something about the 26th floor. Can you
11 tell the jury what you mean by that?

12 A. The floor in Trump Tower where Mr. Trump's office was
13 and Rhona's office was as well.

14 Q. And in addition to what you just said, did you have
15 occasion to observe Ms. Graff's relationship with Mr. Trump?

16 A. Yes.

17 Q. How would you describe that relationship?

18 A. One of mutual respect.

19 Q. Are you familiar with someone named Allen Weisselberg?

20 A. Yes.

21 Q. Who is Mr. Weisselberg?

22 A. Allen was the CFO of the Trump Organization.

23 Q. And by CFO, do you mean Chief Financial Officer?

24 A. Yes.

25 Q. How do you know him?

1 A. I worked with him during my time there.

2 Q. Can you describe, a little bit, what kind of work
3 related interactions you had with Mr. Weisselberg?

4 A. Sure. Anything that had to do with finances, Allen was
5 involved in. You know, during this time while we were starting
6 to work on the campaign, he was helpful in doing things, like
7 the personal financial disclosure that was required. He was
8 helpful — you know, Mr. Trump self-financed his campaign. He
9 would loan the campaign money. And Mr. Weisselberg, Allen, was
10 helpful in that process, in making sure that we had an accurate
11 description of that for the press.

12 Q. You mentioned a required financial disclosure in that
13 answer. Can you say a little bit more what you understood that
14 to be?

15 A. I don't really remember that much about it, just a
16 requirement of candidates to file a financial disclosure, share
17 their assets, their worth, I guess. I can't remember exactly,
18 but I know that was something we did. We put out a press
19 release in addition to the filing itself and Allen was helpful
20 with that.

21 Q. Did you have occasion through your work with
22 Mr. Weisselberg, to observe his relationship with Mr. Trump?

23 A. Yes.

24 Q. How would you describe that relationship?

25 A. So, mutual respect. He had been an employee at The

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Senior Court Reporter

1 Trump Organization for a long time and, so, you know, like
2 Rhona, he had a lot of institutional knowledge. He was a
3 trusted person there.

4 Q. Did Weisselberg report directly to Mr. Trump?

5 A. Yes.

6 Q. Are you familiar with someone named Michael Cohen?

7 A. Yes.

8 Q. Did Mr. Cohen work for The Trump Organization when you
9 began working there?

10 A. Yes.

11 Q. And that was around October 2014?

12 A. Yes.

13 Q. Had you met Mr. Cohen before you began working at The
14 Trump Organization?

15 A. I believe so. You know, there was about a six or eight
16 month period where I was working at a different PR firm on
17 hotels and golf-related projects for The Trump Organization. I
18 believe we met during that time.

19 Q. What was Mr. Cohen's role at The Trump Organization?

20 A. He was an attorney.

21 Q. Do you know what kind of work he did?

22 A. Not specifically, other than, I know he was involved in
23 a couple of the license deals for some of the hotel projects,
24 and maybe some of the entertainment pieces as well, like the
25 Miss Universe Pageant.

Theresa Magniccari

Senior Court Reporter

1 Q. You mentioned a minute ago that shortly after you
2 started working at The Trump Organization, you began to work for
3 Mr. Trump's campaign for President; is that right?

4 A. Yes.

5 Q. Can you say a little bit more about how that came
6 about?

7 A. Yes.

8 So, Mr. Trump, one day he said, "We're going to Iowa,"
9 and I don't really know why, but after that first trip to Iowa,
10 you know, obviously, it was clear he was exploring a potential
11 political run.

12 And we started to travel regularly over the next couple
13 of weeks and months to New Hampshire, South Carolina and
14 Washington. He would give speeches, meet with voters, attend
15 different panels and submit discussions, media interviews, et
16 cetera.

17 He eventually made the decision to formalize that, with
18 an Exploratory Committee at first, and then announced he was
19 going to run for President in June.

20 Q. Is that June of 2015?

21 A. Yes.

22 Q. Do you remember when that initial Iowa trip was?

23 A. Sometime in January of 2015.

24 Q. Did there come a time that you were offered an official
25 role in the campaign?

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Senior Court Reporter

2 around that first trip. Mr. Trump, I think he might have been
3 joking, but said I was going to be the Campaign Press Secretary.
4 You know, I had no experience and worked at the company, not on
5 the campaign, so I didn't take it very seriously.
6 But, eventually, I just started spending so much time
7 working on the campaign that I became a member of the campaign
8 team and I was the Press Secretary.

9 Q. Tell us a little bit about what your duties were as a
10 Press Secretary for the campaign?

11 A. Sure. So just helping communicate the campaign
12 message, a lot of work around press releases and planning
13 events, a lot of media interviews, and just kind of being a
14 liaison for all of those different things, and helping to
15 facilitate anything that was external facing for the campaign.

16 Q. In addition to external communications, were there
17 internal communications as well?

18 A. I'm not sure what you mean by that.

19 Q. Well, can you describe for the jury in a little bit
20 more detail what your interactions with the press and other
21 campaign staff involved?

22 A. Like I said, just trying to get the message out. A lot
23 of incoming questions about Mr. Trump, about his candidacy,
24 where we were going to be and when, what we were speaking about.
25 A lot of questions about his businesses. It was kind of a

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Senior Court Reporter

1 constant flow of incoming questions.

2 So I managed all of those and tried to respond to
3 everybody in a timely manner with accurate information.
4 But, yeah, that was a big part of it.

5 Q. Was there also a communications team for the campaign?

6 A. At that point, no, no. It was just me and Mr. Trump,
7 who is better than anybody at communications and branding.

8 Q. Eventually, did the campaign add communications staff?

9 A. Later in the general election we did have a larger
10 staff, yes.

11 Q. Did your role involve managing or leading that
12 communication staff?

13 A. I wasn't really managing them because I was on the road
14 every day, so I wasn't in the office sort of looking after the
15 rest of the group. But, you know, definitely getting guidance
16 where I could on, you know, daily team phone calls and other
17 things. We worked together as a team, and there were some other
18 people on board at that point that would stay in the office each
19 day and look after the team.

20 Q. In your role as Press Secretary, did you consider it
21 important to stay informed about what other political figures
22 were saying about Mr. Trump's candidacy?

23 A. Yes. Any news that was relevant to the campaign was
24 consumed regularly.

25 Q. And are you familiar with the term "talking points," is

Theresa Magniccari

Senior Court Reporter

1 that a term that is used in the campaign context?

2 A. Yes.

3 Q. What are "talking points"?

4 A. They're typically just a summary of messages in maybe a

5 bullet point format. Maybe they're for people to remember.

6 Kind of just like, you want to make sure everyone is on the same

7 page about something here, the talking points about a certain

8 topic. If you can work these into your conversations or your

9 media interview or your next event, here they are.

10 So they would change quite frequently. There were

11 some, you know, more general points, but we had — we would

12 update them daily based on what Mr. Trump was doing, what kind

13 of policy speeches he was giving, what kind of campaign speech

14 he was giving.

15 Q. Did you prepare or coordinate the coordination of those

16 talking points?

17 A. Sometimes, yes.

18 Q. You may already have answered this in your earlier

19 discussion, who did you report to as Press Secretary in the

20 campaign?

21 A. I reported to Mr. Trump.

22 Q. And how frequently during the campaign period in 2015,

23 did you speak with Mr. Trump as part of your role as the Press

24 Secretary?

25 A. Every day.

Theresa Magniccari

Senior Court Reporter

1 Q. Did you speak by telephone?

2 A. Yes.

3 Q. And in person?

4 A. Yes.

5 Q. In your experience, how involved was Mr. Trump in the
6 press aspects of his campaign?

7 A. He was very involved.

8 Q. Did he weigh in on media responses?

9 A. He did.

10 Q. And who on the campaign was responsible for the overall
11 messaging strategy?

12 A. I would say that Mr. Trump was responsible. He knew
13 what he wanted to say and how he wanted to say it and we were
14 all just following his lead.

15 So, you know, I think that he deserves the credit for,
16 you know, the different messages that the campaign focused on in
17 terms of the agenda that he put forth.

18 Q. Was Mr. Trump focused on press coverage of the
19 campaign?

20 A. Yes.

21 Q. And in your role as Press Secretary, did you often make
22 statements on behalf of the Trump campaign?

23 A. I did.

24 Q. Did you check with Mr. Trump before making statements
25 on behalf of the campaign?

Theresa Magniccari

Senior Court Reporter

1 A. Yes.

2 Q. Did you check with him before making statements about
3 him in particular?

4 A. Absolutely.

5 Q. Did you travel with Mr. Trump during the campaign?

6 A. Yes.

7 Q. How often?

8 A. Almost every day.

9 Q. Who else travelled with you and Mr. Trump during the
10 campaign?

11 A. A small group of staffers.

12 Q. Are there any particular staff members or types of
13 staff people that travelled regularly?

14 A. Yes.

15 You want me to name names?

16 Q. Just give us general job functions.

17 A. Someone that output social media. Someone that helped
18 a little bit with speech writing. And I am trying to think.
19 There was a very small group of us. It depends where we were
20 going. Maybe they would have someone, you know, that was more
21 on the fundraising end of things. The core staff was very
22 limited though.

23 Q. Did Keith Schiller travel with Mr. Trump during the
24 campaign?

25 A. Yes.

Theresa Magniccari

Senior Court Reporter

1 Q. If someone wanted to reach Mr. Trump while he was
2 travelling with the campaign, do you have an understanding of
3 who they would contact?

4 A. Yeah. Mr. Trump was reachable when he wasn't doing
5 rallies and interviews. He had a phone and he could be reached.
6 But Keith was also helpful in facilitating phone calls.

7 Q. And by "Keith," you are referring to Keith Schiller?

8 A. Yes.

9 Q. Did you send text messages in connection with the
10 campaign?

11 A. Yes.

12 Q. And receive text messages too?

13 A. Yes.

14 Q. What phone did you use to send and receive text
15 messages for the campaign?

16 A. The phone number?

17 Q. Well, why don't you tell the jury, did you use a
18 personal phone or campaign phone?

19 A. It was my personal phone.

20 Q. And without giving me anything other than the last four
21 digits, can you let us know the last four digits of the phone
22 number?

23 A. 0226.

24 Q. Did you also make phone calls in connection with the
25 campaign?

1 A. Yes.

2 Q. Did you receive phone calls as well?

3 A. Yes.

4 Q. Did you use your personal number for those
5 campaign-related phone calls?

6 A. Yes.

7 Q. And did you also send emails in connection with the
8 campaign?

9 A. Yes.

10 Q. Did you have a campaign email address?

11 A. Yes.

12 Q. What was the campaign email address you used?

13 A. I think it was HHicks@DonaldTrump.com.

14 Q. What was the campaign email domain: @DonaldTrump.com?

15 A. I believe so, yeah.

16 Q. Do you know someone named David Pecker?

17 A. Yes.

18 Q. How do you know Mr. Pecker?

19 A. I know him as the publisher of American Media. It's a
20 group of publications. And the editor of the National Enquirer.
21 I had been introduced to him in a previous job at Hiltzik
22 Strategies. I had met with him to talk about different
23 opportunities throughout his American Media Group for clients,
24 and then I reconnected with him at some point as he was a friend
25 of Mr. Trump's.

Theresa Magniccari

Senior Court Reporter

1 Q. So you were aware that Mr. Pecker and Mr. Trump had a
2 relationship?

3 A. I knew they were friends, yes.

4 Q. And how did you become aware of that relationship?
5 How did you become aware they were friends?

6 A. I don't recall specifically, but at some point I
7 realized that.

8 Q. You testified earlier that as part of your job, you
9 were sometimes in and out of Mr. Trump's office when he was
10 having other meetings; is that right?

11 A. Yes.

12 Q. Were you ever in and out of his office when Mr. Pecker
13 was meeting with Mr. Trump in Trump Tower?

14 A. I don't have a recollection of that, but it's certainly
15 possible.

16 Q. You have seen him in Trump Tower before, Mr. Pecker?

17 A. Yes.

18 Q. During the campaign, were you ever present for any
19 phone calls between Mr. Trump and Mr. Pecker?

20 A. Yes.

21 Q. Can you describe those phone calls?

22 A. One of them was, I think, shortly after the National
23 Enquirer published a piece about Ben Carson, and I just
24 overheard a conversation between Mr. Trump and Mr. Pecker, who
25 was on speaker phone, and Mr. Trump was congratulating him on

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Senior Court Reporter

1 the great reporting.

2 Q. What was the article about Dr. Carson about?

3 A. Medical malpractice.

4 Q. Did you hear Mr. Trump say anything in particular on
5 this phone call with Mr. Pecker?

6 A. I think he was just congratulating David on a great
7 investigative piece. You know, sometimes he would say things
8 like, "This is Pulitzer worthy." I kind of recall vaguely that
9 is something that he said.

10 Q. Was that the only time you heard or were present for a
11 phone call between Mr. Trump and Mr. Pecker in this time period?

12 A. It's the most vivid recollection of everything I have.
13 I think a similar conversation took place sometime a few months
14 later, also just praising some of the reporting that the
15 National Enquirer was doing. I think maybe around the time
16 there was a story about Ted Cruz.

17 Q. Do you recall what the coverage about Senator Cruz
18 involved?

19 A. I think it was something about how his father may have
20 been involved with Lee Harvey Oswald, or something like that.

21 Q. What, if anything, did you hear Mr. Trump say during
22 that phone call?

23 A. Nothing remarkable. Just similar to what he had said
24 the last time I had overheard a conversation; great reporting.

25 Q. At some point during the campaign, did Mr. Trump become

Theresa Magniccari

Senior Court Reporter

2 A. Yes.

3 Q. Do you remember when that was?

4 A. July 19th of 2016.

5 Q. And so moving forward in time from the July 2016 period
6 to the Fall, were you still Press Secretary for the campaign?

7 A. Yes.

8 Q. Had your responsibilities changed since the beginning
9 of the campaign?

10 A. Just a little bit because we had more people to be
11 helpful. So there were more hands on deck. It wasn't just a
12 solo operation. But in terms of my role with Mr. Trump, nothing
13 had changed.

14 Q. So how frequently were you interacting with Mr. Trump
15 during this time period?

16 Now we're in the Fall of 2016.

17 A. We were travelling every day for the campaign.

18 Q. Describe for the jury what a typical day was like in
19 this time period?

20 A. Sure.

21 So we were based here in New York, and we would usually
22 leave Trump Tower at about 7 in the morning. We would go to
23 La Guardia and get on Mr. Trump's plane and we could make, you
24 know, somewhere between two and four, sometimes five stops in a
25 day. Typically a couple of rallies and then maybe one or two

Theresa Magniccari

Senior Court Reporter

1 other events, like going to visit small business. Just getting
2 out, meeting the voters. He was doing a lot of rallies,
3 interviews, all day, every day.

4 Q. And did you typically return to New York City at the
5 end of the day?

6 A. Yes. Most of the time we did. There were some
7 occasions where we were heading to the West Coast, it was going
8 to make more sense to stay overnight somewhere. But most days
9 we would come back to Trump Tower at the end of the day. You
10 know, midnight or something like that.

11 Q. Are you familiar with something that came to be known
12 as the Access Hollywood tape?

13 A. Yes.

14 Q. When did you first find out about the Access Hollywood
15 tape?

16 A. It would have been in the afternoon of October 7th.

17 Q. Of 2016?

18 A. Yes.

19 Q. How long before the general election was that?

20 A. A month; maybe a little less than a month.

21 Q. How did you first find out about it?

22 A. I received an email from the Washington Post asking for
23 comment.

24 Q. Who was the Washington Post reporter who sent you that
25 email?

Theresa Magniccari
Senior Court Reporter

1 A. David Fahrenthold.
2 Q. Where were you when you received it?
3 A. I was in my office on the 14th floor of Trump Tower.
4 MR. COLANGELO: Can we display just for the
5 witness, the Court and counsel, People's 218.
6 And, please, display only from the middle of
7 Page 2 to the end.
8 (Displayed.)
9 Q. This is a document that has been marked as People's
10 218. Do you recognize this document?
11 A. Yes.
12 Q. What is it?
13 A. The email I received.
14 Q. The email you received from David Fahrenthold?
15 A. Yes.
16 Q. Is that an exact copy of the email you received?
17 A. Yes.
18 MR. COLANGELO: Can we scroll up to display the
19 email just from the bottom of Page 1, and only showing that
20 portion to the witness and counsel.
21 Can we display the portion that starts "forwarding
22 message."
23 Thank you.
24 (Displayed.)
25 Q. Do you recognize that email?

1 A. Yes.

2 Q. What is it?

3 A. That is me forwarding the reporter's email to other
4 campaign leadership.

5 Q. Is that an exact copy of the email that you sent
6 forwarding that email?

7 A. Yes.

8 MR. COLANGELO: I offer People's 218 into
9 evidence, consisting only of the portion from the very
10 bottom of Page 1 through the end of the exhibit that I
11 just displayed for the witness.

12 MR. BOVE: Subject to the objections we discussed,
13 we have no further objection to the 2:05 email and the
14 1:29.

15 THE COURT: Your objection is noted.

16 People's 218 is accepted into evidence.

17 MR. COLANGELO: Thank you.

18 (Whereupon, People's Exhibit 218 was received in
19 evidence.)

20 MR. COLANGELO: Please display for everyone the
21 email starting on page 2.

22 (Displayed.)

23 Q. Ms. Hicks, is this the email that you just described
24 receiving from the reporter at the Washington Post?

25 A. Yes.

1 Q. When did you receive the email?

2 A. 1:29 p.m.

3 MR. COLANGELO: Can we blow up the portion
4 showing — thank you.

5 Q. What is the subject of the email?

6 A. "Urgent, Washington Post Query."

7 MR. COLANGELO: Can we display the third paragraph
8 of this email, beginning "in the video." Can we zoom in on
9 that portion, please.

10 (Displayed.)

11 Q. Taking a look at that paragraph that should be
12 displayed on your screen. Beginning "in the video," what does
13 the email describe?

14 A. Just a video where Mr. Trump and Billy Bush are having
15 an inappropriate conversation about a woman.

16 Q. And does Mr. Fahrenthold also say in this paragraph
17 that he is sending you a transcript of the tape?

18 A. Yes, it was included in the email.

19 MR. COLANGELO: So if we can take that down, zoom
20 out, and scroll down and enlarge the portion that begins
21 "Here's the transcript."

22 (Displayed.)

23 Q. Is that the transcript that you are referring to?

24 A. Yes.

25 Q. Can you take a minute and read it just to yourself and

1 let me know when you are done reading it.

2 A. I finished it.

3 MR. COLANGELO: Can we go to the next page,
4 please. Can we zoom in on the first half of that page.
5 (Displayed.)

6 Q. And can you read that to yourself and let us know when
7 you are done.

8 A. I'm good.

9 Q. Okay. Let me ask you, have you had an occasion to
10 review this email before testifying today?

11 A. Yes.

12 Q. Have you seen or heard the Access Hollywood tape as
13 well?

14 A. Yes.

15 Q. Does this transcript reflect the content of the tape?

16 A. Yes.

17 Q. What was your first reaction when you received this
18 email?

19 MR. COLANGELO: You can go ahead and take it down.

20 A. I was concerned, very concerned. Yeah, I was
21 concerned about the contents of the email. I was concerned
22 about the lack of time to respond. I was concerned that we had
23 a transcript, but not a tape. There were a lot of — there was
24 a lot at play.

25 Q. Did you also forward the email to anyone else in the

1 campaign?

2 A. I did.

3 MR. COLANGELO: Can we redisplay People's 218,
4 showing only from the bottom of Page 1 to the top of Page
5 2, showing the forwarding message, without showing anything
6 before, above the forwarding, please.

7 (Displayed.)

8 Q. Is that the email that you forwarded?

9 A. Yes.

10 Q. Who did you send it too?

11 A. I sent it to other campaign leadership.

12 Q. Did that include Jason Miller, David Bossie?

13 A. Yes.

14 Q. Can you tell us who else you sent it to?

15 A. Jason Miller, Jason, Kellyanne Conway and Stephen
16 Bannon.

17 Q. Who is Kellyanne Conway?

18 A. She was the campaign manager.

19 Q. Who is Stephen Bannon?

20 A. He was sort of a co-campaign manager.

21 Q. Who is Jason Miller?

22 A. He was helping with the communications.

23 Q. Who is David Bossie?

24 A. I don't know what his title was, but he was helpful,
25 like almost like a Political Director.

Theresa Magniccari

Senior Court Reporter

2 to hear the tape, one, need to hear the tape to be sure; two,
3 deny, deny, deny?"

4 A. It's a reflex. I, obviously, was a little shocked and
5 not realizing that the entirety of the transcript was in the
6 email.

7 So strategy number two was going to be a little more
8 difficult.

9 But, yes, that is an email that I sent.

10 Q. Did you mean a little more difficult because it's hard
12 already have?

13 MR. BOVE: Objection.

14 THE COURT: Sustained.

15 MR. COLANGELO: Withdrawn .

16 Q. Did you do anything else after you sent that message?

17 A. I went to find the group who was on a different floor
18 and talked to them.

19 Q. What floor was the group on that you went to speak with
20 further?

21 A. They were on the 25th floor.

22 Q. Who was present when you went upstairs to the 25th
23 floor?

24 A. Jason, Kellyanne, Stephen was there. I believe Jared
25 Kushner was there. I believe Stephen Miller was there. Maybe

Theresa Magniccari

Senior Court Reporter

1 Chris Christie. The whole group, they were practicing for a
2 debate prep.

3 Q. Was Jeff Sessions also present for the debate prep?

4 A. Jeff was there that day at some point. I can't
5 remember if he was there when I went upstairs or if he came a
6 little later, but I do remember seeing him that day.

7 Q. Where on the 25th floor was the debate prep taking
8 place?

9 A. In the conference room.

10 Q. Can you tell the jury a little bit more about what
11 happened when you went upstairs?

12 A. It's a glass conference room. When I get off the
13 elevator, there is sort of a waiting area, but you can see into
14 the conference room, and everyone can see out of the conference
15 room.

16 So I motioned for Jason, a couple of people I sent the
17 email to come out and speak to me, to try not to disrupt the
18 debate prep.

19 And, obviously, the sight of the six of us kind of
20 gathered, five or six of us gathered out there, was a sign that,
21 you know, something was afoot. And Mr. Trump asked us to come
22 into the conference room at some point and share with him what
23 we were discussing.

24 Q. Tell the jury what happened next?

25 A. You know, I shared the email with Mr. Trump. Sort of

Theresa Magniccari

Senior Court Reporter

2 outside the conference room, trying to get a copy of the audio
3 or the tape to assess the situation further. We weren't sure
4 how to respond yet.

5 We were kind of just trying to gather more information
6 and everyone was observing the shock of it.

7 Q. When you say "you shared the content verbally," did you
8 read Mr. Trump the email you received from Mr. Fahrenthold?

9 A. I read him the email and I have a vague recollection of
10 starting to read the transcript. And then he finished reading
11 it himself, I believe.

12 Q. Did you hand him the email for him to read?

13 A. Yes, that's my recollection.

14 Q. And what, if anything, did he say?

15 A. He said that that didn't sound like something he would
16 say.

17 Q. Did he ask to see the actual tape?

18 A. Yes.

19 Q. At some point, did Mr. Fahrenthold send you the actual
20 video?

21 A. This is where it gets as little fuzzy; I can't remember
22 if we saw the video before it was published or not. Obviously,
23 we saw the tape in a matter of minutes, whether it was from the
24 reporter directly or when his story posted shortly thereafter.

25 Q. So at some point you saw the video. Were you with

Theresa Magniccari
Senior Court Reporter

1 Mr. Trump when at that happened?

2 A. Yes.

3 Q. Was Mr. Trump upset?

4 A. Yes. Yes, he was.

5 Q. Fair to say he was as mad as you've ever seen him?

6 MR. BOVE: Objection, Judge.

7 THE COURT: Sustained.

8 Q. What was your first reaction when you heard the tape?

9 A. Just a little stunned. Just — it's hard to describe.

10 It's hard to describe. Yeah, it was definitely concerning, and
11 I had, you know, a good sense that this was going to be a
12 massive story and sort of dominate the news cycle for the next
13 several days at least.

14 Q. Were you concerned about the effect it would have on
15 the campaign?

16 A. Yes, it was a damaging development.

17 Q. Why was it a damaging development?

18 A. It just didn't feel like the kind of — it just didn't
19 feel like the kind of story — it, obviously, wasn't helpful.
20 But there were a lot of layers to it that complicated where we
21 were trying to go with the campaign. This was kind of pulling
22 us backwards in a way that was going to be hard to overcome.

23 Q. In those initial conversations with Mr. Trump and other
24 campaign staff, did anyone else in the group express concern
25 that the tape would be damaging?

Theresa Magniccari

Senior Court Reporter

1 A. Yes, I think there was consensus among us all that the
2 tape was damaging and this was a crisis.

3 Q. Were you concerned at the time about the effect that
4 that Access Hollywood tape would have on the female voters?

5 A. In that moment, no. You know, maybe a couple of hours
6 later something that crossed my mind, maybe the next day. But
7 just trying to get your bearings in a moment like that, there is
8 a lot going on. Not in that moment, but certainly eventually
9 that was something that was raised.

10 Q. At some point, did the conversation turn to how the
11 campaign should respond?

12 A. Yes.

13 Q. Tell the jury a little bit more about that discussion?

14 A. I don't really have a strong recollection of that
15 conversation. But, you know, I know Mr. Trump felt like this
16 wasn't good. But it was also just like two guys talking
17 privately, locker room talk. It wasn't anything to get so upset
18 over. Certainly he didn't want to offend anybody, but I think
19 he felt like this was like pretty standard stuff for two guys
20 chatting with each other.

21 Q. And so, as you developed an initial campaign response,
22 did Mr. Trump have thoughts on what that initial campaign
23 response should be?

24 A. He did. He always liked to weigh in on responses.

25 Q. Did you prepare a short written statement in response?

1 A. The campaign put out a short statement. I can't
2 remember who prepared it, but Mr. Trump definitely had input on
3 it. We were all working together in the conference room.

4 MR. COLANGELO: Can we display for the witness,
5 counsel and the Court only People's 313.
6 Can you zoom in so the witness can see the middle
7 of that page.

8 (Displayed.)

9 Q. Do you recognize this document?

10 A. Yes.

11 Q. What is this document?

12 A. It was the first statement that we put out in response
13 to the tape.

14 Q. Is that the statement that you just mentioned as the
15 initial response?

16 A. Yes.

17 Q. Is this an exact copy of that statement?

18 A. As far as I can tell, yes.

19 Q. And where is the statement — where was the statement
20 posted?

21 A. I presume on the campaign website and any other
22 channels.

23 MR. COLANGELO: Can you back up a little bit,
24 please, and show us —

25 Q. Does that help you identify where that statement was

Theresa Magniccari

Senior Court Reporter

1 posted?

2 A. It was on the website.

3 MR. COLANGELO: I offer People's 313 into
4 evidence.

5 MR. BOVE: No objection.

6 THE COURT: People's 313 is accepted into
7 evidence.

8 (Whereupon, People's Exhibit 313 was received into
9 evidence.)

10 MR. COLANGELO: Please go ahead and display that
11 publicly.

12 (Displayed.)

13 Q. Ms. Hicks, is this the written statement that you just
14 mentioned?

15 A. Yes.

16 Q. When was it issued?

17 A. Sometime in the afternoon. If I got the query at 1:30,
18 the story was being posted by 3:30. I think it went out
19 sometime between 3:30 and 4 o'clock, if I had to guess.

20 Q. Can you read the statement, please.

21 A. Sure.

22 It says: "This was locker room banter. A private
23 conversation that took place many years ago. Bill Clinton has
24 said far worse to me on the golf course. Not even close. I
25 apologize to anyone who is offended."

Theresa Magniccari

Senior Court Reporter

1 MR. COLANGELO: Go ahead and take that down.

2 Q. Did you also record and release a short video later
3 that day?

4 A. Yes, the campaign did.

5 MR. COLANGELO: That video is in evidence as
6 People's 407A. Can we go ahead and display that video and
7 play the first part.

8 (Whereupon, the referred-to-video was played in
9 open court.)

10 Q. Is that the first portion of the video statement that
11 you just mentioned?

12 A. Yes.

13 Q. Did you participate in drafting or filming that
14 statement?

15 A. I was present, yes.

16 MR. COLANGELO: Can we play the last portion of
17 the video, please.

18 (Whereupon, the referred-to-video was played in
19 open court.)

20 Q. Now, Ms. Hicks, does this draw distinction between his
21 own words and the actions of other people?

22 A. Yes.

23

24 (Whereupon, Theresa Magniccari, Senior Court Reporter

1 (The transcript is continued from the previous page.)

2 Q And the initial statement we just looked at, People's
3 313, that also referred to the Access Hollywood tape as
4 "banter"?

5 A Yes.

6 Q Is it correct that those two statements reflect
7 Mr. Trump's understanding as to the right response strategy to
8 the video, initially?

9 A Sorry. Can you repeat that?

10 Q Sure.

11 Did you have an understanding, from the written statement
12 and the video, that Mr. Trump believed it was important to
13 distinguish between words and behavior?

14 A Um, I don't remember thinking that at the time, but I
15 don't think it's incorrect.

16 Q Okay.

17 And around that time, did you also discuss — withdrawn.
18 You mentioned that you anticipated that there would be an
19 immediate and significant media reaction; right?

20 A Yes.

21 Q What was the immediate media response?

22 A It was intense. It dominated coverage for, you know,
23 I would say the 36 hours leading up to the debate.

24 Um, there was a — at the time I got the email in the
25 office at 1:30 in the afternoon on Friday, we were anticipating

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 a Category 4 hurricane making landfall somewhere on the East
2 Coast, and I don't think anybody remembers where or when that
3 hurricane made landfall.

4 It was all Trump, all the time, for the next 36 hours.

5 Q The Access Hollywood pushed the hurricane off the
6 news?

7 A Yes.

8 Q You testified earlier that, during the campaign, you
9 stayed informed about what other political leaders were saying
10 about Mr. Trump's candidacy; is that right?

11 A Yes.

12 Q Did any prominent Republicans condemn Mr. Trump's
13 behavior on the Access Hollywood tape?

14 A Yes.

15 Q Can you describe any of those statements that you
16 remember?

17 A Um, Paul Ryan, Mitt Romney, you know, sort of the
18 usual. Anytime, if there was anything remotely controversial,
19 the group that felt they had to weigh in would come out and
20 give statements. Um, it's pretty standard.

21 But, these were particularly, um, you know, sharply-worded
22 statements.

23 Q Who is Paul Ryan?

24 A At the time, he was the Speaker of the House.

25 Q Did he disinvite Mr. Trump from a campaign event the

1 next day in Wisconsin?

2 MR. BOVE: Objection.

3 THE COURT: Overruled.

4 You can answer.

5 A Um, I can't remember.

6 It's a little bit of a more nuanced response to that. I'm
7 happy to share, but —

8 Q Please.

9 A I believe, um, we were — we were still invited to
10 attend, but, sort of, the programming had changed, and it was a
11 clear effort to distance himself from Mr. Trump with a new
12 program schedule.

13 So, I think Mr. Trump ultimately made the decision to do
14 something else.

15 Q Did Mister — did Speaker Ryan say he was "sickened"
16 by Mr. Trump's behavior?

17 A I don't remember that, but it sounds like something he
18 would say.

19 Q Who was Mitch McConnell at the time?

20 A The majority leader of the Senate.

21 Q Did Senator McConnell have a public response?

22 A He did.

23 Q What did Senator McConnell say?

24 A Along the same lines. I don't recall exact words, but,
25 "disappointed", things like that.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Q Would seeing anything in particular refresh your
2 recollection as to what Senator McConnell said?

3 A Sure.

4 MR. COLANGELO: I'm going to display for the
5 witness, the Court, and Counsel the document numbered DANY
6 DNJ00160215, which I will mark People's 509J for
7 identification.

8 (Whereupon, the exhibit is shown to the
9 aforementioned parties on their screens.)

10 MR. COLANGELO: Can you display the first page
11 just for this group.

12 Q Do you recognize this document?

13 A Yes.

14 MR. COLANGELO: Please advance to the third page.

15 Q Let's focus on Page 3.

16 A I see it.

17 Q Okay.

18 Does that refresh your recollection as to what Senator
19 McConnell said?

20 A Yes.

21 Q What did he say?

22 A That it was "repugnant" and "unacceptable".

23 Q Do you know — you mentioned Mitt Romney, as well?

24 A Yes.

25 Q Who was Mitt Romney at the time?

1 A He was the Republican nominee in 2012.

2 Q And, you mentioned Mr. Romney put out a statement, as

3 well?

4 A Yes.

5 Q What was his statement?

6 A I think something like "disgraceful", "disgusting".

7 Something along those lines.

8 Q Would seeing an article refresh your recollection as

9 to what Mr. Romney said?

10 A Sure.

11 MR. COLANGELO: Can we go ahead and see that and

12 display Page 3, please.

13 (Whereupon, an exhibit is shown on the witness',

14 the Court's and Counsels' screens.)

15 MR. COLANGELO: For the record, I'm showing 509J

16 again, just for the witness, Counsel, and parties.

17 Q Does that refresh your recollection as to how

18 Mr. Romney responded?

19 A Yes.

20 He said it was "vile".

21 Q "Vile".

22 MR. COLANGELO: You can go ahead and take that

23 down.

24 Thank you.

25 Q Who is John McCain?

1 A He's a Senator.

2 MR. BOVE: Objection, Judge.

3 THE COURT: Sustained.

4 Q Are you aware of any other prominent Republican
5 leaders who made any other statements?

6 MR. BOVE: Objection.

7 THE COURT: Sustained.

8 Q You mentioned Speaker Ryan a minute ago.

9 A Uh-huh.

10 Q At a certain point, did Speaker Ryan have a conference
11 call with members of the House?

12 A Um, this was, I think, a weekly occurrence. Um, so,
13 yes, he would have them on a weekly basis, and I believe they
14 took place on Mondays. I could be wrong about that.
15 But, there was one Monday after the October 9th debate.

16 Q Do you have any understanding of any comments that
17 Speaker Ryan said on that call?

18 A I wasn't on the call.

19 MR. BOVE: Objection.

20 And may I be heard at sidebar.

21 THE COURT: Yes.

22 Please approach.

23 (Whereupon, the following proceedings were held
24 at sidebarz)

25 MR. BOVE: I understand that there's a place for

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1 some of this type of evidence at this trial, which is why
2 I didn't object to the first three or four.
3 My objection at this point is that it's
4 cumulative and unduly prejudicial.
5 So, we object to further questioning the party on
6 public reactions to the Access Hollywood tape.
7 MR. COLANGELO: Your Honor, public reaction to
8 the Access Hollywood tape is a critical part of the
9 evidence in the case. We not only briefed it, but it's
10 important to show the impact on the campaign.
11 THE COURT: I agree.
12 I think that you've gone pretty far along on
13 this.
14 What do you expect to elicit from this meeting?
15 MR. COLANGELO: That the Speaker of the House
16 told other members of the Caucus that they were free to
17 cut loose from Mr. Trump and free to endorse or not
18 endorse, as they see fit.
19 MR. BOVE: This is all hearsay.
20 If we're going to probe that call, I would ask it
21 happen outside the presence of the jurors and they don't
22 hear the call.
23 THE COURT: I'll sustain the objection.
24 (Whereupon, the following proceedings were held
25 in open court:)

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1 THE COURT: The objection is sustained.

2 Q Did you speak to Michael Cohen around the time the
3 Access Hollywood tape was released?

4 A I spoke to Michael on Saturday, October 8th.

5 Q What was the substance of your conversation with
6 Mr. Cohen?

7 A Um, I was calling to ask him to chase down a rumor I
8 had heard with a contact he was familiar with in the media.

9 Q And, without giving me any details at all, can you
10 say, very generally, what that rumor was?

11 A Um, just that there may be another tape that would be
12 problematic for the campaign.

13 Q When you reached out to Mr. Cohen to ask for his help
14 bringing down that rumor, were you following up, in part,
15 because of the Access Hollywood tape?

16 A Yes. Of course.

17 I — I didn't want anyone to be blind-sided. I wanted to
18 have an understanding of, you know, what material was out there
19 that we needed to prepare for.

20 Q And what, if anything, did you ask Mr. Cohen to do?

21 A Um, I asked him to call this friend of his and ask
22 about the existence of the tape, and then let me know if there
23 was, in fact, a tape, what was on it, and when we could expect
24 it to be published.

25 Q Okay.

1 And did Mr. Cohen follow up on that request?

2 A Um, I don't really remember the conversation where we
3 closed the loop on that, but I believe he did make the phone
4 call and, um, you know.

5 There was no such tape, regardless, but he sort of chased
6 that down for me.

7 Q In the video we just saw, did Mr. Trump mention,
8 "We'll see you at the debate in the coming days"?

9 A Yes.

10 Q When was that debate scheduled to take place?

11 A Sunday, October 9th.

12 Q Was that a presidential debate?

13 A Yes. It was the second presidential debate.

14 Q Where was it?

15 A St. Louis.

16 Q Who were the moderators for that debate?

17 A Um, Anderson Cooper and Martha Raddatz.

18 Q Did you travel with Mr. Trump to the debate?

19 A Yes.

20 Q Were you present for the debate?

21 A Yes.

22 Q What did the — did the Access Hollywood come up
23 during the debate?

24 A It did, yes.

25 Q Did the moderators ask Mr. Trump about it?

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1 A They did.

2 Q And did you have an understanding from those questions
3 whether the Access Hollywood tape was a significant campaign
4 issue?

5 A I'm sorry. I don't understand what you're asking.

6 Q Sure.

7 Did you have — withdrawn.

8 How early in the debate discussion did the Access Hollywood
9 tape come up?

10 A I believe it was one of the first questions of the
11 debate.

12 Q And when he was asked at the debate about the Access
13 Hollywood tape, how did Mr. Trump respond?

14 A Um, he said that, you know — he reiterated that this
15 was locker room talk, just talk; words, not actions.

16 Q Shortly after the Access Hollywood tape was published,
17 and without elaborating or giving any details, did you become
18 aware of reports regarding Mr. Trump's behavior with women?

19 A After the campaign — sorry.

20 After the debate, I think it was the next evening, Monday
21 evening, we were contacted by the New York Times. They were
22 writing a story about —

23 Q Let me interrupt you there.

24 Sorry.

25 Were there reports regarding Mr. Trump's behavior?

1 A After the debate, yes.

2 Q Okay.

3 And was this around the middle of October 2016?

4 A Yes.

5 Q So, how long before the election was that?

6 A Two-and-a-half weeks, three weeks.

7 Q During this period of time, in the middle of
8 October 2016, was Mr. Trump traveling for rallies?

9 A Yes.

10 Q Did you travel with him to those rallies?

11 A Yes.

12 Q Did you attend a rally in Greensboro, North Carolina?

13 A Yes.

14 Q When was that rally?

15 A I want to say October 15th.

16 Q Did Mr. Trump give a speech at that rally?

17 A Um, yes.

18 MR. COLANGELO: Let's bring up People's 409B,
19 which is in evidence, and we'll play a short clip from
20 that.

21 (Whereupon, an exhibit plays on the screens.)

22 Q Do you recognize that event?

23 A Yes.

24 Q Is that a video of the event in Greensboro, North
25 Carolina?

1 A Yes.

2 Q And are you familiar with Mr. Trump's statement on
3 that video?

4 A Yes.

5 Q Is it fair to say that in this period, Mr. Trump was
6 concerned that these reports could hurt his standing with
7 others?

8 A Yes.

9 Q Let's — at this time, in the Fall of 2016, did
10 Mr. Trump have a Twitter account?

11 A Yes.

12 Q What was the user name for that Twitter account?

13 A @realDonaldTrump.

14 Q Did Mr. Trump post about the campaign, about his 2016
15 run for office?

16 A Yes.

17 Q Was that frequently?

18 A Every day.

19 Q Did you read what Mr. Trump wrote on Twitter about the
20 campaign?

21 A Yes.

22 Q Did he consider Twitter an important way to
23 communicate with voters?

24 A Definitely.

25 Q Who was authorized to post — withdrawn.

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1 Who was authorized to post from the @realDonaldTrump
2 Twitter account?

3 A Mr. Trump.

4 And I think there was just one other — one other staff
5 member that, um, could post things that Mr. Trump approved.

6 Q Who was that staff member?

7 A His name is Dan Scavino.

8 Q And he was authorized to post things, only with
9 Mr. Trump's approval?

10 A Yes.

11 Q So, any language on a Twitter post in this time period
12 is Mr. Trump's language, either he posted or approved it?

13 MR. BOVE: Objection.

14 THE COURT: Overruled.

15 A That's my understanding, yes.

16 Q We discussed earlier the response of some elected
17 officials to the Access Hollywood tape.

18 Do you know what Mr. Trump's reaction was to some of those
19 incidents?

20 A Yeah. I think he was frustrated.

21 But, again, it was not unusual to have any of those
22 individuals speaking out and saying negative things about
23 Mr. Trump, especially in response to, you know, controversy.
24 That was pretty — pretty typical.

25 MR. COLANGELO: Can we show People's 407B in

1 evidence.
2 We can display it to everyone. It's in evidence.
3 (Whereupon, an exhibit is shown on the screens.)
4 MR. COLANGELO: Go ahead and zoom in.
5 Q Are you familiar with this tweet?
6 A Yes.
7 Q Were you aware of it at the time?
8 A Yes.
9 Q Does this tweet read: "The very foul mouthed Senator
10 John McCain begged for my support during his primary — I gave,
11 he won — then dropped me over locker room remarksl"?
12 A Yes.
13 Q What does "then dropped me over locker room remarks"
14 refer to?
15 A I think it means he withdrew his endorsement after
16 that Access Hollywood tape.
17 MR. COLANGELO: You can take that down.
18 Q Did Mr. Trump also post statements on Twitter
19 regarding reports of his behavior that we discussed?
20 A Yes.
21 MR. COLANGELO: Can we show People's 407C in
22 evidence, please?
23 (Whereupon, an exhibit is shown on the screens.)
24 Q Are you familiar with this tweet?
25 A Yes.

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1 Q Were you aware of it at the time?

2 A Yes.

3 Q Can you please read what Mr. Trump said in the tweet?

4 A "Nothing ever happened with any of these women.

5 Totally made up nonsense to steal the election. Nobody has more

6 respect for women than me!"

7 MR. COLANGELO: Take that down.

8 Can we just play People's 407D in evidence?

9 You can zoom in.

10 (Whereupon, an exhibit is shown on the screens.)

11 Q Are you familiar with this tweet?

12 A Yes.

13 Q Were you aware of it at the time?

14 A Yes.

15 Q Can you please read what Mr. Trump said in this tweet?

16 A "Polls close, but can you believe I lost large numbers

17 of women voters based on made up events that never happened.

18 Media rigging election!"

19 MR. COLANGELO: Take that down.

20 One more.

21 Can we show People's 407 in evidence, and zoom in

22 for the witness.

23 (Whereupon, an exhibit is shown on the screens.)

24 Q Are you familiar with this tweet?

25 A Yes.

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1 Q Were you aware of it at the time?

2 A Yes.

3 Q Can you please read what Mr. Trump said in this tweet?

4 A "Can't believe these totally phony stories,
5 100 percent made up by women, many already proven false, and
6 pushed big time by press, have impact!"

7 Q Have you ever heard of someone named Karen McDougal?

8 A Yes.

9 Q When did you first hear the name Karen McDougal?

10 A November 4, 2016.

11 Q And in what context did you first hear the name Karen
12 McDougal?

13 A I received an inquiry from a reporter at The Wall
14 Street Journal, um, asking questions about her and, um, the
15 National Enquirer.

16 Q Who was the reporter you heard from?

17 A Michael Rothfeld.

18 Q Have you ever heard of someone named Stormy Daniels?

19 A Um, she was mentioned in the same story, the
20 November 4, 2016 story.

21 And I had heard of her one other time before that.

22 Q What's the other time before that that you had first
23 heard Stormy Daniels?

24 A Um, a year prior, November 2015.

25 Um, Mr. Trump and some security guys on the plane were

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1 telling a story about a celebrity golf tournament and some of
2 the participants in the tournament, and her name came up. Um,
3 she was there with one of the other participants that Mr. Trump
4 had played with that day, was my understanding of the story.

5 Q Where were you during that conversation?

6 A We were on one of Mr. Trump's planes.

7 Q Now, you mentioned that you first heard of Karen
8 McDougal when the Wall Street Journal reached out about an
9 article that you said was being published; is that right?

10 A Uh-huh.

11 Q Where were you when you first heard about the
12 potential article of The Wall Street Journal?

13 A Also on Mr. Trump's plane. I think we had just landed
14 in Ohio.

15 And, Mr. Trump was gonna get off the plane and do a hangar
16 rally where, you know, we don't travel anywhere. He just does a
17 rally on the tarmac of the airport sometimes, with the airport
18 hanger as a cover for the audience.

19 So, we just landed in Ohio. He was gonna go start the
20 rally.

21 And I had received the email just as we were landing.

22 Q You mentioned an email.

23 Is that how Mr. Rothfeld contacted you?

24 A Yes.

25 Q What did you learn from that email about the story he

1 was reporting about?

2 A I think it outlined that there was a woman named Karen
3 McDougal who had a story, um, that was purchased by the
4 National Enquirer but was never published.

5 And, um, he was asking if we, the Trump campaign, or
6 Mr. Trump knew anything about that.

7 MR. COLANGELO: Can we show for the witness,
8 Counsel, and the Court only, the document that's been
9 marked People's 316, please?

10 (Whereupon, the exhibit is shown on the
11 aforementioned parties' screens.)

12 Q Take a look at that document, and let me know if you
13 recognize it.

14 (Whereupon, the witness reviews the exhibit on
15 her screen.)

16 A I do.

17 Q What is this document?

18 A The original email to me. My response, asking the
19 reporter to hold; saying that, you know, I just got his email.

20 Q I'm sorry to interrupt you.

21 Before you tell me the substance, can you just describe
22 what this is, that the display on the screen is, without
23 reading any content, please?

24 A Oh. It's just an inquiry, a press inquiry.

25 Q Is this the email from Mr. Rothfeld to you?

1 A Yes.

2 Q That you received on November 4th?

3 A Yes. Yes.

4 Q Is this an exact copy of the email messages that you

5 sent and received?

6 A Yes.

7 MR. COLANGELO: I offer People's 316 into

8 evidence.

9 MR. BOVE: No objection.

10 THE COURT: 316 is accepted into evidence.

11 (Whereupon, the exhibit is received in evidence.)

12 MR. COLANGELO: Please go ahead and display 316

13 publicly.

14 (Whereupon, the exhibit is shown on the screens.)

15 Q Now, Ms. Hicks, you can describe the email.

16 Is this the email you mentioned receiving on November 4th?

17 A Yes.

18 MR. COLANGELO: Let's blow up the middle of the

19 page, starting with the line where Mr. Rothfeld's name

20 appears.

21 Q If you need a minute, go ahead and read that.

22 A Do you want me to read it out loud?

23 Q No.

24 Just read it to yourself, please.

25 (Whereupon, the witness reviews the exhibit on

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1 her screen.)

2 MR. COLANGELO: Can we highlight the first
3 paragraph?

4 Q Is this — withdrawn.

5 You testified that the first time you heard the name Karen
6 McDougal was when a reporter from the Wall Street Journal
7 mentioned it; is that right?

8 A That's right.

9 Q Is this the message that you're referring to?

10 A Yes.

11 Q And that's the reference to Karen McDougal? That's the
12 first time that you heard her name?

13 A Yes.

14 Q Who was with you when you received the email?

15 A Um, again, a small number of people in the plane, um,
16 and — and most of them deplane very quickly to get to the
17 rally. So, I was sort of dealing with this by myself on the
18 plane while the rally was taking place.

19 Q Okay.

20 Did you tell Mr. Trump about this inquiry from The Wall
21 Street Journal before he began speaking at the rally?

22 A I believe I did, yes, just because I was worried
23 about — I was worried about not having enough time to respond
24 while he was speaking, so I did let him know that we had
25 received an inquiry, um, and — and that I was gonna try to

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1 chase down some answers.

2 Q After that, what did you do to chase down some
3 answers?

4 A Um, I believe I forwarded the email to Jared Kushner.
5 I wanted to loop him in because he was sort of overseeing a
6 lot of the campaign operations at this point.
7 And, two, he had a very good relationship with Rupert
8 Murdoch, and I was hoping to see if we could buy a little extra
9 time to deal with this.

10 MR. COLANGELO: Let's go ahead and take down
11 People's 316.

12 Can you display People's 317 just to the witness,
13 Counsel, and the Court.

14 (Whereupon, the exhibit is shown on the screens
15 of the aforementioned parties.)

16 Q Take a look at the top part of that email.
17 Do you recognize this document?

18 A Yes.

19 Q What is it?

20 A It's my forwarding the reporter inquiry to Jared, like
21 I just said.

22 Q Is this an exact copy of the email message that you
23 sent?

24 A Yes.

25 MR. COLANGELO: I offer People's 317 into

1 evidence.

2 MR. BOVE: No objection.

3 THE COURT: Accepted into evidence.

4 (Whereupon, the exhibit is received in evidence.)

5 MR. COLANGELO: Please display that exhibit
6 publicly.

7 (Whereupon, the exhibit is shown on the screens.)

8 Q So, let me direct your attention, first, to the first
9 message in the chain.

10 Is this the same incoming message from The Wall Street
11 Journal reporter that we saw in the last exhibit?

12 A It looks the same, yes.

13 Q Now, directing your attention to the top of the chain.

14 MR. COLANGELO: If we can blow that up.

15 Q Does this show that you forwarded the email to
16 Mr. Kushner?

17 A Yes.

18 Q And that's the forward that you just described?

19 A Yes.

20 Q Did you also call Mr. Kushner after sending the email?

21 A I did.

22 Q What did you discuss?

23 A Just what I had already described. Let him know about
24 it and asked if he thought that, you know, it was a worthwhile
25 endeavor to reach out to Rupert Murdoch, who's the publisher of

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1 The Wall Street Journal, to see if we could buy a little extra
2 time.

3 Q What, if anything, did Mr. Kushner say to you in
4 response?

5 A Um, I think he said that he wasn't going to be able to
6 reach Rupert and that we should just work out responding and
7 dealing with it.

8 MR. COLANGELO: We can go ahead and take that
9 exhibit down.

10 Q You mentioned you did some other follow-up with regard
11 to this inquiry from Mr. Rothfeld; right?

12 A Yes.

13 Q What else did you do?

14 A I believe I called Michael Cohen, because I know he
15 had a relationship with Mr. Pecker, and I wanted to see if he
16 knew anything about this.

17 Q Did you call anybody else?

18 A I believe I called Mr. Pecker's office, as well, um,
19 to let them know that we had gotten this inquiry, and we
20 obviously didn't know anything about it, and tried to get an
21 understanding of what was going on.

22 Q So, let's take those in turn.

23 When you called Mr. Pecker's office, did you, ultimately,
24 reach him?

25 A I believe so.

1 Q And what did you speak with him about?

2 A Um, just asked what was going on; um, why was I
3 receiving this email. Um.

4 And he explained that, um, Karen McDougal was paid for
5 magazine covers and fitness columns, and that it was all very
6 legitimate, that that's what the contract was for.

7 Q That's what Mr. Pecker explained to you on
8 November 4th, when you called him?

9 A That's right.

10 Q Had you had discussions with Mr. Pecker before that
11 date having anything to do with Karen McDougal?

12 A Never.

13 Q You also mentioned you reached out to Michael Cohen;
14 is that right?

15 A Yes.

16 Q Did you end up speaking with him?

17 A Yes.

18 I believe I spoke with Michael before I spoke to
19 Mr. Pecker.

20 Q And what did Mr. Cohen say?

21 A Um, I — I don't really remember.

22 Um, but there was a reason I called David next. I think
23 Michael sort of — feigned like he didn't — he didn't know
24 what I was talking about and that we should connect with David
25 to get more information.

1 Q Did you begin drafting a response from the campaign to
2 respond to The Wall Street Journal reporter?

3 A I did.

4 Q Did you share that draft response with anyone before
5 sending it to The Wall Street Journal?

6 A I sent it to Michael first, just to get his input,
7 while Mr. Trump was still on stage.
8 And then, when Mr. Trump came off — came on the plane from
9 the rally, I shared it with him as well.

10 Q And when you say you "shared it with him as well",
11 you're referring to sharing it with Mr. Trump as well?

12 A Yes.

13 Q After you sent it to Mr. Cohen; is that right?

14 A Yes.

15 MR. COLANGELO: Let's display just for the
16 witness, Counsel, and the Court a document marked for
17 identification as People's 318.

18 (Whereupon, the aforementioned parties are shown
19 the exhibit on their screens.)

20 Q Once you review that, let me know if you recognize
21 that document.

22 A Yes. I recognize it.

23 Q Let's — I'm sorry.

24 You said you recognize the document?

25 A I do.

1 Q What is it?

2 A It's a draft statement sent to Michael, and Michael's
3 response back with his edited version.

4 Q Is this an exact copy of the email message you sent
5 and received?

6 A Yes.

7 MR. COLANGELO: People's 318 into evidence.

8 MR. BOVE: No objection.

9 THE COURT: 318 accepted into evidence.

10 (Whereupon, the exhibit is received in evidence.)

11 MR. COLANGELO: Let's display that for everybody.

12 And let's zoom in on the initial message at the
13 bottom of the page.

14 (Whereupon, the exhibit is shown on the screens.)

15 Q Can you tell the jury what this message shows?

16 A These are draft responses that I shared with Michael.

17 Q And, you sent this from your campaign email account to
18 Mr. Cohen at the Trump Organization; is that right?

19 A Yes.

20 Q And now, let me direct your attention to the top of
21 the page.

22 MR. COLANGELO: Let's zoom in on Mr. Cohen's
23 reply.

24 (Whereupon, an exhibit is shown on the screens.)

25 Q Can you go ahead and read what Mr. Cohen said in

1 response?

2 A He suggested that: "Say these accusations are
3 completely untrue and just the latest despicable attempt by the
4 liberal media and the Clinton machine to distract the public
5 from the FBI's ongoing criminal investigation into Secretary
6 Clinton and her closest associates."

7 Q After sending this draft message to Mr. Cohen and
8 getting his response, did you speak to him further about it?

9 A I don't remember, but I'm sure that we did speak.

10 Q You mentioned after the rally you also spoke to
11 Mr. Trump about the potential statement; is that right?

12 A Yes.

13 Q Tell us about that conversation.

14 A He wanted to have an understanding of what was going
15 on as well.

16 I believe we called Mr. Pecker's office back.

17 I was relaying what Mr. Pecker had said to me about this
18 being, you know, a legitimate contract for a woman that was
19 going to provide them content, magazine content.

20 And he wanted to hear that from David as well.

21 And, so, I believe I have a recollection of us calling
22 David, David repeating that to Mr. Trump.

23 And sometime after that conversation, Mr. Trump wanted
24 to — he didn't want to use the statements that we had drafted.
25 He wanted to draft his own statement.

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1 Q And so, in that conversation you just testified about,
2 he wanted to hear what Mr. Pecker's statement to The Wall
3 Street Journal would be?

4 A He wanted to have an understanding of what David had
5 told me previously.

6 Q Did that include what Mr. Pecker told you about what
7 the explanation would be?

8 A It included his explanation for that; that this was a
9 legitimate contract, and that's what they planned to tell The
10 Journal.

11 Q You said Mr. Trump then had input into the statement;
12 is that right?

13 A Yes.

14 Q Did he ask you to include anything in the comment to
15 the reporter?

16 A Um, I think we — we changed the statement not to
17 include almost any of what you just saw; and it was just the —
18 a denial and — of the accusations and a statement that they
19 were totally untrue and that we didn't know anything about
20 this, this deal.

21 Q Going back to the email you received from The Wall
22 Street Journal reporter, did it mention any other women in
23 addition to Karen McDougal?

24 A The story was also going to mention Stephanie
25 Clifford, Stormy Daniels, one in the same.

1 Q So, you understand Stephanie Clifford and Stormy
2 Daniels to be the same person?

3 A Yes.

4 Q How did you come to learn that this story would also
5 mention Stormy Daniels?

6 A The reporter told me on the phone.

7 Q Did you then, after learning that Stormy Daniels would
8 be in the story, did you have any discussions with Mr. Cohen
9 about Stormy Daniels?

10 A I believe I did.

11 I'm very fuzzy about this point, but I believe I spoke to
12 him.

13 Q Did you mention to Mr. Trump that Stormy Daniels would
14 be mentioned in the story?

15 A Yes.

16 Q What, if anything, did he say when you told him that
17 Stormy Daniels would be mentioned in The Wall Street Journal
18 story?

19 A He wanted to know the context, um, and he wanted to
20 make sure that there was a denial of any kind of relationship.

21 Q And, did you believe that denying the existence of a
22 relationship was responsive to the reporting?

23 A I felt the point of the story was that — that the
24 National Enquirer paid a woman for her story and never
25 published it.

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1 It wasn't necessarily about accusations of, you know,
2 certain behavior.
3 THE COURT: Is this a good time to break?
4 MR. COLANGELO: Yes, your Honor.
5 THE COURT: Let us take our lunch recess at this
6 time.
7 Jurors, I remind you, please, not to talk among
8 yourselves or anyone else about anything related to the
9 case.
10 Please continue to keep an open mind as to the
11 defendant's guilt or innocence.
12 Please do not form or express an opinion as to
13 the defendant's guilt or innocence.
14 And, please, remember all of the admonitions that
15 I've given to you.
16 Enjoy your lunch.
17 COURT OFFICER: All rise.
18 (Whereupon, the jurors and the alternate jurors
19 are excused.)
20 THE COURT: You may be seated.
21 Thank you, Ms. Hicks.
22 You may step down.
23 (Whereupon, the witness is excused.)
24 THE COURT: Is there anything you would like to
25 go over?

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1 MR. BOVE: No, Judge.
2 Thank you.
3 MR. COLANGELO: Nothing for the People.
4 THE COURT: Enjoy your lunch.
5 MR. STEINGLASS: Thank you.
6 (Whereupon, a luncheon recess is taken.)
7 *****_
8 (Whereupon, the case is recalled in the afternoon
9 session.)
10 THE CLERK: Continuing case on trial, People v.
11 Donald J. Trump.
12 All parties are present.
13 THE COURT: Good afternoon.
14 Should we bring the witness out?
15 MR. COLANGELO: Yes, your Honor.
16 THE COURT: Okay.
17 Let's bring the witness, please.
18 COURT OFFICER: Witness entering.
19 (Whereupon, the witness, Hope Hicks, having been
20 previously duly sworn and/or affirmed, resumes the witness
21 stand and testifies as follows:)
22 THE COURT: Good afternoon, Ms. Hicks.
23 Remember that you're still under oath.
24 Let's get the jury, please.
25 COURT OFFICER: All rise.

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1 Jury entering.
2 (Whereupon, the jurors and the alternate jurors
3 are present and properly seated.)
4 THE CLERK: Continuing case on trial, People v.
5 Donald J. Trump.
6 All parties and all jurors are present.
7 THE COURT: Mr. Colangelo.
8 MR. COLANGELO: Thank you, your Honor.
9 CONTINUED DIRECT EXAMINATION
10 BY MR. COLANGELO:
11 Q Good afternoon, Ms. Hicks.
12 Before lunch, we were talking about an inquiry you got from
13 Michael Rothfeld at The Wall Street Journal; do you remember
14 that discussion?
15 A Yes.
16 Q And I believe we were discussing a request from
17 Mr. Trump that you included the denial of any relationship with
18 Stormy Daniels in your response to The Wall Street Journal; do
19 you remember that?
20 A With both of the women who were mentioned in the
21 story, yes.
22 Q Thank you.
23 Did you get back in touch with the reporter, Mr. Rothfeld,
24 at that point, to convey the denial of any relationship with
25 Stormy Daniels?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 A I did.

2 Q Around this time, on November 4th, did you witness any
3 phone conversations between Mr. Trump and Mr. Cohen?

4 A Um, I believe — I believe I heard Mr. Trump speaking
5 with Mr. Cohen shortly after the story was published.

6 Q Did you —

7 A In addition to the phone calls that I described
8 earlier.

9 Q Okay.

10 Thank you.

11 And when you observed Mr. Trump and Mr. Cohen speaking
12 after the story was published, did you participate in that
13 conversation?

14 A No.

15 We were in our car on our way to a rally venue.

16 Q Tell the jury a little bit more about how that came to
17 be.

18 A We had landed. After Ohio, we flew to, I think,
19 Hershey, Pennsylvania. And so, we were getting in cars at the
20 airport to travel to the next event venue.

21 And I don't know who initiated the phone call. I just
22 remember Mr. Trump was speaking to Michael during that car
23 ride, and Reince Priebus was also in the car.

24 Q And did you hear either side of that conversation?

25 A Um, I, presumably, heard Mr. Trump.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 There was nothing memorable. I don't really — I don't
2 remember anything that was said, so...

3 Q And you said this was on — after the plane had landed
4 in Pennsylvania, after leaving the Ohio event where you had
5 been earlier that day?

6 A Yes.

7 Q Do you remember where you started the day that
8 morning, on November 4th?

9 A Um, I want to say Maine?

10 Q So, was Ohio your first stop of the day or one of
11 several stops?

12 A No. One of several stops.

13 Q And, earlier, when you talked about a typical day for
14 you, you mentioned that some days had multiple stops, some days
15 had fewer; is that right?

16 A Yes.

17 Q Did your mornings depend on how many stops you had
18 that day and where you needed to get to?

19 A Yeah.

20 So, if we had more stops, we typically left earlier in the
21 day to account for additional travel and, you know, maybe
22 another rally, maybe another campaign stop of some kind.
23 If we had to do like two or three, which was pretty much
24 the average, we might start a little later; so, get to the
25 office around seven, but not leave for the airport until a

1 little later that morning.

2 Q Okay.

3 So, there were days you left early in the morning and days
4 you wouldn't leave until mid-morning or later in the day?

5 A Mid-morning I would say, yeah.

6 Q That was throughout the Fall of 2016?

7 A Yeah.

8 It's hard to generalize. Every day was different. But,
9 basically, yes.

10 Q Now, going back to your interactions with
11 Mr. Rothfeld, did The Wall Street Journal later publish the
12 story they contacted you about?

13 A Yes.

14 MR. COLANGELO: Let's bring up People's 180 in
15 evidence.

16 We can display that for everyone.

17 (Whereupon, an exhibit is shown on the screens.)

18 Q Do you have that on your screen?

19 A Yes.

20 Q Is this the article that Michael Rothfeld contacted
21 you about?

22 A Yes.

23 Q So, this is the article reporting that AMI and David
24 Pecker purchased the rights to a story from Karen McDougal, but
25 never published it?

1 A Yes.

2 Q Did you read The Wall Street Journal story when it was
3 first published?

4 A Yes.

5 Q Around what time was the article published online?

6 A Sometime in the evening. Six, seven. I can't say when.

7 Q Let me direct your attention to the middle of Page 2
8 of this article.

9 MR. COLANGELO: I would like to highlight a
10 response starting with, "Hope Hicks, a campaign
11 spokeswoman."

12 Q Do you see that?

13 A I see it.

14 Q Can you go ahead and read that highlighted passage
15 into evidence, please, into the record?

16 A Sure.

17 It says: "Hope Hicks, a Trump campaign spokeswoman, said of
18 the agreement with Ms. McDougal, quote, We have no knowledge of
19 any of this. She said that Ms. McDougal's claim of an affair
20 with Mr. Trump was totally untrue."

21 Q And that statement that you just read, does that
22 accurately reflect the statement that you gave to The Wall
23 Street Journal?

24 A Yes.

25 Q Did Mr. Trump tell you to say, "We have no knowledge

1 of any of this"?

2 A Um, I don't — I don't remember him, you know,
3 verbatim saying that, but that was — that was the consensus of
4 the conversations that we were all having, that the campaign
5 wasn't aware of this agreement that AMI had with Ms. McDougal.
6 But, my recollection is that this is what was told to me
7 and — and that's why it was provided as a statement.

8 Q Is it your recollection that this was told to you by
9 Mr. Trump?

10 A Um, certainly that any claims of an affair were
11 totally untrue, yes. That's what was told to me.
12 I don't have a strong memory of him saying verbatim, We
13 have no knowledge of any of this.

14 So, I just don't want to say that — I don't want to say
15 that that's what he said, because I don't remember.

16 Q Okay.

17 Do you remember giving Grand Jury testimony as part of the
18 District Attorney's investigation in this proceeding?

19 A Yes.

20 Q Would reviewing your Grand Jury testimony refresh your
21 recollection as to what Mr. Trump told you to say in parts of
22 that response?

23 A Perhaps.

24 MR. COLANGELO: Can we show what's marked for
25 identification People's 509H and display that just to the

1 witness, the Court and Counsel. Page 685 from that part.

2 (Whereupon, the aforementioned parties are shown

3 that exhibit on their screens.)

4 Q Take a look at that, Ms. Hicks, and let me know when
5 you've had a chance to review it.

6 A Yes. I see it.

7 Q And does that refresh your recollection as to the
8 source of the information that you gave to The Wall Street
9 Journal?

10 A No.

11 Like I said, the denial was from Mr. Trump for both women.
12 And that's very clear.

13 The part that I'm unsure about is that he said, "We have no
14 knowledge of any of this" directly.

15 So, I want — and this doesn't clarify that for me.

16 Q Give me one second.

17 Take a look at the last three lines of this page.

18 MR. BOVE: Objection, Judge.

19 THE COURT: Overruled.

20 Q And let me know when you finish reading it.

21 A I — I see what I said.

22 Um — I'm not saying it didn't happen. I'm just telling
23 you, as I sit here now, I don't have a strong memory of him
24 saying to me, "Say we have no knowledge of any of this."

25 I know very clearly that he stated the denials and wanted

1 to be certain words were included.
2 These are hectic conversations. There's a lot of people
3 weighing in.
4 I just want to say something definitively that I can't
5 remember as I sit here right now.
6 Sorry.
7 MR. COLANGELO: We can take that down.
8 Let's go back to People's 180, please.
9 Can you display the middle of Page 4.
10 Let's blow up the passage — this can go to
11 everybody.
12 (Whereupon, an exhibit is shown on the screens.)
13 Q Do you see the passage that's being displayed?
14 A Yes.
15 Q Does that read: "Mr. Davidson also represented
16 Stephanie Clifford, a former adult film star whose professional
17 name is Stormy Daniels and who was in discussions with ABC's
18 Good Morning America in recent months publicly disclose what
19 she said was a past relationship with Mr. Trump, according to
20 people familiar with the talks. Ms. Clifford cut off contact
21 with the network without telling her story. She didn't respond
22 to requests for comment. An ABC spokesperson declined to
23 comment on Ms. McDougal or Ms. Clifford. The Trump spokeswoman,
24 Ms. Hicks, said it was 'absolutely, unequivocally untrue' about
25 that Stormy Daniels had a relationship with Mr. Trump."

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Do you see that statement?

2 A Yes.

3 Q Does it accurately reflect what you said to The Wall
4 Street Journal?

5 A Yes.

6 And it also accurately reflects what I said in the Grand
7 Jury, that what I told to the The Wall Street Journal was told
8 to me.

9 Q Did Mr. Trump tell you to say to The Wall Street
10 Journal that the relationship with Stormy Daniels was
11 "absolutely, unequivocally untrue"?

12 A Yes. Yes.

13 Q Did you — did you — after the story was published,
14 were you in contact with Mr. Cohen about the story?

15 A Yes.

16 Q And did you text each other about the story?

17 A Yes.

18 MR. COLANGELO: Let's display People's 259, which
19 is in evidence. We can show everybody.

20 (Whereupon, an exhibit is shown on the screens.)

21 Q Do you recognize this document?

22 A Yes.

23 Q What is it?

24 A It's a catalog of text messages between myself and
25 Michael Cohen during this time period.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Q Can you identify the dates that these text messages
2 include?

3 A November 4th and 5th of 2016.

4 Q Let me direct your attention to the first three text
5 messages on the cell.

6 (Whereupon, an exhibit is shown on the screens.)

7 Q What do these messages show?

8 A I'm sorry.

9 These are from Michael to me?

10 Q Correct.

11 A Yes.

12 Q Well, sorry.

13 A I'm just making sure that's what it is.

14 Q Are they from Michael to you?

15 A Yes.

16 Q And what do these messages show?

17 A Michael asking me to call him. Michael asking for
18 updates throughout the evening of the 4th.

19 Q Is that sometime between 7:00 and 9:00 PM?

20 A Yes.

21 Q What did you understand him to be asking about in
22 these texts?

23 A Um, I don't actually know because I believe the story
24 had been published by 8 o'clock. Um, so I don't actually know.
25 I presume, just about if there was any pickup to the story,

1 if there was any followup that he needed to be looped in on.

2 Q Let me address your attention to the next several
3 texts on this page.

4 MR. COLANGELO: Let's see if we can blow up the
5 next six.

6 (Whereupon, an exhibit is shown on the screens.)

7 Q What does the first text in this chain show?

8 A It shows me sending the story to Michael, which was at
9 9:55 PM.

10 Q As you sit here today, do you have a memory as to how
11 close in time the story was published online you sent a link to
12 Mr. Cohen?

13 A I don't. I'm sorry.

14 Q What was Mr. Cohen's response when you sent it to him?

15 A He said: "Lots of innuendos with little fact."

16 Q Can you read the next message, as well?

17 A "Poorly written and I dot [sic] see it getting much
18 play."

19 Q Did you understand him to mean: "I don't see it
20 getting much play"?

21 A I did.

22 Just a little irony there.

23 Q How did you respond?

24 A I said: "I agree with most of that, but that it will
25 get play because the media is the worst, but he should just

1 ignore and blow past it."

2 And by "he", I meant Mr. Trump.

3 Q And did the text exchange regarding The Wall Street
4 Journal article continue the next morning?

5 A Yes, it did.

6 MR. COLANGELO: Let's go ahead and display the
7 last two messages.

8 (Whereupon, an exhibit is shown on the screens.)

9 Q Can you describe for the jury what these messages
10 show?

11 A Michael saying that he's only seen six additional
12 stories about The Wall Street Journal piece and that it was
13 getting little to no traction, and that he concurred.

14 Q How did you respond?

15 A Yes, I responded.

16 Q I'm sorry.

17 Can you let me know how you responded?

18 A Oh.

19 I wrote: "Same;" that I was seeing the same.

20 Q Let's take a look at the next page and show the top
21 three messages.

22 (Whereupon, an exhibit is shown on the screens.)

23 Q Can you describe to the jury what this shows?

24 A Um, that is a text message from me to Michael, asking
25 him to keep praying because this was obviously the reason why

1 there were only six stories.

2 Um, and — and he wrote back saying that: "Even CNN wasn't

3 talking about it. No one believes it. And if necessary, I have

4 a statement by storm denying everything and contradicting the

5 other porn star's statement. I wouldn't use it now or even

6 discuss with him as no one is talking about this or cares."

7 And I responded: "Agree."

8 Q Can you describe what you understood "getting little

9 to no traction" to mean?

10 A It wasn't being picked up in the same way as something

11 like the Access Hollywood tape was. It wasn't wall-to-wall

12 coverage.

13 Q And in the message on the middle of your screen right

14 now, there's a note from Mr. Cohen, stating he "has a message

15 from storm".

16 A I see it.

17 Q What do you understand that to mean?

18 A I don't — I don't know.

19 Q Do you have any understanding at all?

20 A I mean, I can guess.

21 But, when I say I don't know, I don't believe at the time I

22 received that message that I had the necessary context to

23 totally understand what he was talking about. Um, but, it

24 wasn't — I just wanted to move to the next thing.

25 It wasn't — obviously, I didn't follow up and say: Wait.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

2 I didn't know what he was talking about, and I didn't want
3 to know.

4 So, I — I understand what I believe he's implying, which
5 is that: I had a statement from Stormy Daniels saying there was
6 no affair; therefore, no story to shop.

7 Q And when you say you didn't know and you didn't want
8 to know, what do you mean by that?

9 A The election was taking place in three days, and we
10 were doing five or six rallies a day. There was a lot going on.
11 And, you know, it wasn't like this story was consuming the
12 news cycle and that I needed to be, um, aware of every little
13 detail.

14 I just kind of was hoping at this point we were just gonna
15 MR. COLANGELO: Let's take that down and show the
16 rest of the messages on this page.

17 Q Ms. Hicks, were you in touch with Mr. Cohen again
18 later that day, on November 5th?

19 (Whereupon, an exhibit is shown on the screens.)

20 A Yes.

21 Q Can you describe the text exchange that follows?

22 A I've texted Michael, and I asked him for David
23 Pecker's cell phone number. And I said: "I have it, but
24 Mr. Trump thinks it's the wrong number."
25

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 He sent me David's phone number.
2 And I said: "That's the same one that I have. Thanks."
3 And Michael reiterated — he sent a different phone number
4 and said: "He called me from this phone number this morning,"
5 I believe meaning Mr. Pecker.
6 And I replied at some point and said that they had already
7 spoken and it was all good.
8 Q Why did you ask Mr. Cohen for David Pecker's phone
9 number?
10 A Mr. Trump wanted to speak to him.
11 refer to?
12 A "They spoke."
13 The "All good" means: I don't need your help anymore. They
14 spoke. It's all good.
15 Q Meaning, Mr. Trump and Mr. Pecker?
16 A Yes.
17 Q Were you present for the phone call between Mr. Trump
18 A I wasn't, no.
19 Q What was the response overall to The Wall Street
20 Journal article?
21 A Um, it was sort of muted. All relative compared to
22 some of the other stories we dabbled during the campaign, but
23 it didn't get a lot of traction.
24
25

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Q After it was published and on November 5th, did you
2 discuss the article with Mr. Trump?

3 A I did.

4 Q What, if anything, did you discuss?

5 A Um, he was concerned about the story. Um, he was
6 concerned how it would be viewed by his wife, um, and he wanted
7 me to make sure that the newspapers weren't delivered to their
8 residence that morning.

9 Q Did he also ask you whether it was — whether you
10 thought it was likely to affect the campaign?

11 A Um, everything we talked about in the context of, you
12 know, this time period — in this time period was about whether
13 or not there was an impact on the campaign.

14 So, certainly — I don't recall, specifically, him saying
15 that. But, everything was — something that Mr. Trump said a
16 lot is, "How" — "How is it playing?"

17 He wanted to know how things were playing, whether they
18 were playing well or playing poorly. And that could have been a
19 speech, an article, a tweet.

20 So, I don't want to speculate, but I'm almost certain he
21 would have asked me, "How's it playing?", and wanted to know
22 how I felt the next few days were gonna go and if this was
23 going to be a big piece of the next few days.

24 Q After the election in November and before the
25 inauguration in January 2017, did you have a role on the

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 presidential transition?

2 A Um, I did.

3 Q What was that role?

4 A I don't actually know. I think it was just an

5 extension of what I was doing on the campaign.

6 Q And did you later join the Trump Administration as a

7 White House employee?

8 A I did.

9 Q When did you start working in the White House?

10 A January 20, 2017.

11 Q How long did you work in the White House?

12 A I worked there until, um, April 1st of 2018. Um, I

13 left, and then I came back in March of 2020, and left in

14 January of 2021.

15 Q In between April of 2018, when you left the White

16 House the first time, and March of 2020, when you returned,

17 where did you work?

18 A I worked at the Fox Corporation.

19 Q What was your role at the Fox Corporation at that time

20 period?

21 A I was the Executive Vice President of Communications.

22 Q So, going back to your first period of White House

23 employment, what was your position when you joined in

24 January 2017?

25 A When I first joined, I was the Director of Strategic

1 Communications.

2 Q What were your responsibilities as the Director of
3 Strategic Communications?

4 A Similar to the campaign.

5 I worked closely with — with the communications team and
6 the press team on message development and organizing events to
7 help showcase Mr. Trump's accomplishments, the agenda of the
8 Administration. I worked closely with Mr. Trump on media
9 opportunities for him. Um — yeah.

10 Q And in that role, did you speak regularly with
11 Mr. Trump?

12 A I did.

13 Q You mentioned that that was your first role in the
14 White House.

15 Did you later get another position in the White House in
16 that first period of employment?

17 A Yes.

18 Eventually, I became the Communications Director.

19 Q When did your job change from Director of Strategic
20 Communications to Communications Director?

21 A I think in August of 2017.

22 Q When you first started working in the White House in
23 that January, where was your desk located?

24 A Um, in the outer Oval Office. Right outside the Oval.

25 Q Can you describe for the jury what the outer Oval

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Office is?

2 A Sure.

3 It's like a — a reception area. There's two desks for two
4 assistants. And then there's like a small vestibule that was a
5 coat closet and had like a mini-fridge and a coffee station in
6 it. Um, and — yeah. That's the outer Oval.

7 It's a very small space. Very small.

8 Q And you mentioned there was another desk there.

9 Who sat at the second desk when you first started working
10 at the White House?

11 A Madeleine Westerhout.

12 Q Who's Madeleine Westerhout?

13 A Madeleine was Mr. Trump's Executive Assistant once we
14 got to the White House.

15 Q What were — what were Madeleine Westerhout's
16 responsibilities when you started working there?

17 A She just looked after Mr. Trump's needs. Worked with
18 various team members on — on his schedule. Um, kept his call
19 logs. Um, took his messages. Um, worked with him in
20 correspondence.

21 She is, you know, a very good Executive Assistant.

22 Q I think I asked you what your responsibilities were as
23 Director of Strategic Communications.

24 Can you describe what your job responsibilities were when
25 you became the Communications Director?

1 A Sure.

2 So, it changed just a little bit to, instead of working
3 with the team, sort of overseeing the team, and just
4 coordinating all of the communication efforts for the
5 Administration from the White House throughout all of the
6 agencies, and making sure that each of principals of the
7 agencies and the agencies themselves were prioritizing
8 Mr. Trump's agenda, and that we were all working together to
9 maximize the impact of any positive messages that we were
10 trying to get out and share with the American people, and, you
11 know, capitalize on any opportunities to showcase Mr. Trump and
12 his work, the President in a good light.

13 Q In that role, as Communications Director, did you
14 continue to speak regularly with Mr. Trump?

15 A I did.

16 Q How often did you speak?

17 A Every day.

18 Q Now, did there come a time during your White House
19 employment that the Karen McDougal story resurfaced?

20 A Um, in January of 2018, there was a story in The Wall
21 Street Journal, not so much about Karen McDougal, but, just, it
22 was about Stormy Daniels.

23 Q I'll ask you about that story in a second.

24 Let me ask you, first, are you aware that at some point
25 while you were in the White House, that Karen sued AMI to be

1 released from her Non-Disclosure Agreement?
2 MR. BOVE: Objection.
3 THE COURT: Overruled.
4 A I recently had my memory refreshed about that.
5 Q So, are you aware that that happened?
6 A Yes.
7 Q Do you know the date of that lawsuit?
8 A Um, I want to say March 20th.
9 Q Of what year?
10 A 2018.
11 Q I'm going to show just you, I'll show the Court and
12 Counsel, a document that's been marked People's 319.
13 (Whereupon, the aforementioned parties are shown
14 an exhibit on their screens.)
15 MR. COLANGELO: People's 319.
16 Q Do you recognize this document?
17 A Yes.
18 Q What is it?
19 A It's a text message with myself and Madeleine
20 Westerhout.
21 Q Did your attorney produce this text exchange to the
22 District Attorney's Office in response to a Subpoena?
23 A Yes.
24 Q Is this an exact copy of text messages that you sent
25 and received?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 A Yes.

2 MR. COLANGELO: I offer People's 319 into

3 evidence.

4 MR. BOVE: No objection.

5 THE COURT: Accepted into evidence.

6 (Whereupon, the exhibit is received in evidence.)

7 MR. COLANGELO: Let's display 319 to everyone,

8 please.

9 (Whereupon, an exhibit is shown on the screens.)

10 MR. COLANGELO: Let's zoom in on the top of the

11 screenshot.

12 Q Can you let the jury know what that says?

13 A It says, "Madeleine."

14 Q And what initials does it show?

15 A "MW. "

16 Q I think you testified that these are texts with

17 Madeleine Westerhout; yes?

18 A Yes.

19 MR. COLANGELO: Let's scroll down to the bottom

20 of the text message, please. Just the last message,

21 showing the date.

22 (Whereupon, an exhibit is shown on the screens.)

23 Q What is the date of this text message?

24 A Tuesday, March 20th, 2018.

25 Q And is this a message from Ms. Westerhout to you?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 A Yes.

2 Q What does that message say?

3 A It says: "Hey. The President wants to know if you
4 called David Pecker again?"

5 Q I think you testified that March 20th was the same day
6 that Karen McDougal sued American Media regarding her NDA
7 agreement?

8 A Yes.

9 Q Did you speak to Mr. Pecker that day?

10 A I have no recollection of speaking to David.

11 Q You have no memory of that one way or the other?

12 A I — I don't.

13 I don't believe I called him, but I don't know. I don't
14 have a memory of it.

15 Q So, are you saying it didn't happen, or you just don't
16 know one way or the other?

17 MR. BOVE: Objection.

18 THE COURT: Overruled.

19 A I don't know one way...

20 Q And shortly after that — shortly after filing that
21 lawsuit, did Ms. McDougal give an interview to Anderson Cooper
22 on CNN?

23 A Yes.

24 Q Do you remember when she gave that interview?

25 A Um, March 24th?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Q So, it was —

2 A March 22nd?

3 Q Sometime not long after the exchange we just
4 described?

5 A Yes.

6 Q Within a couple of days?

7 A Seems like it, yeah.

8 Q Did you — were you aware of that interview when it
9 happened?

10 A Yes.

11 Q Did you watch the interview?

12 A Yes.

13 Q After Ms. McDougal went on Anderson Cooper, did you
14 have any discussions with Mr. Trump and David Pecker about that
15 interview or about the AMI deal?

16 A I have no recollection of speaking to Mr. Pecker after
17 that interview.

18 Q Okay.

19 I'll ask the same question I asked before. Are you saying
20 you don't know one way or the other whether it happened?

21 A I don't believe that that happened.

22 Q So, your testimony is, you didn't speak to them after
23 the interview?

24 A To my knowledge, I did not speak to Mr. Pecker.

25 To be clear, I did speak to Mr. Trump. I was the

1 Communications Director. This was a major interview. Yes. We
2 just spoke about the news coverage of the interview, how it was
3 playing out.

4 But, I don't recall him mentioning Mr. Pecker in those
5 conversations or having a conversation with Mr. Pecker.

6 Q And, when did you — you testified that you left the
7 White House after an initial period of — when was that
8 relative to the events I just described?

9 A Five days later.

10 Q Did there — did there come a time during your White
11 House employment that the Stormy Daniels story surfaced?

12 A Yes.

13 Q When was that?

14 A January 12, 2018.

15 Q Describe how you — describe how you learned that the
16 story was coming back.

17 A I can't remember exactly, but, um, someone — either
18 myself or another press communications team member — got an
19 inquiry from the same reporter, Michael Rothfeld, of The Wall
20 Street Journal, describing a story they planned to publish
21 that, you know, Stormy Daniels, who was a footnote in the
22 November 4th story from the previous year, had, in fact,
23 received a payment of \$130,000.

24 Q So, you first heard about it before the story was
25 posted; and later the article was published; right?

1 A Yes.

2 Q When you first heard about it, did you speak to

3 Michael Cohen about the girls from The Wall Street Journal?

4 A I can't remember.

5 Q You have no recollection of it, especially with

6 Mr. Cohen, at all?

7 A Sitting here right now, no.

8 But, if you have anything to refresh my memory.

9 MR. COLANGELO: Let's show the document just to

10 Counsel, the Court, and the witness, that I previously

11 marked for identification as 509H.

12 (Whereupon, an exhibit is shown on the screens of

13 the aforementioned parties.)

14 MR. COLANGELO: Let's go to Page 703.

15 Q Go ahead and review that, and let me know when you're

16 finished.

17 A So, this helped. Thank you.

18 Do —

19 Q Please go ahead and let me know.

20 A Sorry.

21 When you were asking the question, I was thinking

22 sequentially, like right when the story came out.

23 I believe we got — I think the 12th was a Friday night.

24 I'm not positive. Maybe Thursday or Friday night. And I don't

25 remember speaking to Michael right then.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 But, at some point in the aftermath of that story, I spoke
2 to him, I spoke to him about it. And I do remember that.

3 Q What do you remember about that conversation?

4 A I remember Michael just, um, saying that this wasn't
5 true, that no payment had been made, and that he had a
6 statement from Stormy Daniels, either personally or her
7 attorney, stating that no relationship had transpired.

8 Q And —

9 A And that he had documentation to prove that — that no
12 discussed this story with Mr. Trump; is that right?

13 A Yes.

14 Q And what did you discuss with Mr. Trump?

15 A Just how to respond to the story, how he would like a
16 team to respond to the story.

17 Q Did you relay to him the substance of the conversation
18 you had with Mr. Cohen?

19 A I don't recall the sequencing, and I believe I spoke
20 to Mr. Cohen after I spoke to Mr. Trump.

21 MR. COLANGELO: Let's bring up People's 181 in
22 evidence.

23 This can be displayed to everybody.

24 (Whereupon, an exhibit is shown on the screens.)

25 Q Is this the article we were just discussing?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

2 Q Let me direct your attention to the second page of the
3 article.

4 (Whereupon, an exhibit is shown on the screens.)

5 Q Let's look at the third paragraph, please.

6 A I see it.

7 Q Can you go ahead and read that third paragraph,
8 please?

9 A It says: "These are old, recycled reports, which were
10 published and strongly denied prior to the election, a White
14 Ms. Clifford. It isn't known whether Mr. Trump was aware of any
15 agreement or payment involving her."

16 Q Are you the White House official quoted in the story?

17 A No, I'm not.

18 Q Who was the White House official quoted in the story?

19 A Um, I can't say for sure. Um — I can't say for sure,
20 but I — I think that it was, um, Hogan Gidley. He was the
21 Deputy Press Secretary.

22 Q And as the Communications Director at the time —
23 withdrawn.

24 Did you discuss this statement with Mr. Trump before it was
25 issued?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 A Yes.

2 Q To your knowledge, did Mr. Trump communicate directly
3 with Mr. Cohen about these reports that Stormy Daniels was paid
4 \$130,000 a month before the election to stay silent about her
5 allegations?

6 A I only know of one instance where they communicated
7 directly with one another, but I can't say about other than
8 that.

9 Q And for the one instance that you know of, when did
10 that conversation take place?

11 A Sometime in the middle of February.

12 Q How did you learn about it?

13 A Mr. Trump told me about it.

14 Q And can you describe the conversation that you had
15 with him about the conversation he had with Mr. Cohen?

16 A I believe it was the day after — the morning after
17 Michael had given a statement to The New York Times, saying
18 that he had, in fact, made this payment, um, without
19 Mr. Trump's knowledge.

20 And, um — so, Mr. Trump was saying that he had spoken to
21 Michael, um — sorry. This — President Trump was saying he
22 spoke to Michael, and that Michael had paid this woman to
23 protect him from a false allegation, um, and that — you know,
24 Michael felt like it was his job to protect him, and that's
25 what he was doing. And he did it out of the kindness of his

1 own heart. He never told anybody about it. You know. And he
2 was continuing to try to protect him up until the point where
3 he felt he had to state what was true.

4 Q And this is what President Trump told you Michael
5 Cohen said to him?

6 A That's right.

7 Q How long had you known Michael Cohen by that point?

8 A Three-and-a-half years.

9 Q And did the idea that Mr. Cohen would have made a
10 \$130,000 payment to Stormy Daniels out of the kindness of his
11 heart, was that consistent with your interactions with him up
12 to that point?

13 MR. BOVE: Objection.

14 THE COURT: Overruled.

15 A I would say that would be out of character for
16 Michael.

17 Q Why would it be out of character for Michael?

18 MR. BOVE: Objection.

19 THE COURT: Overruled.

20 A I didn't know Michael to be an especially charitable
21 person, um, or selfless person.

22 Um, he's the kind of person who seeks credit.

23 Q Did Mr. Trump say anything else about this issue when
24 he told you that Michael made the payment?

25 A Um, just that he thought it was a generous, um, you

1 know, thing to do, and he was appreciative of the loyalty.

2 That's all I remember.

3 Q Did he say anything about the timing of the news
4 reporting regarding —

5 A Oh, he — yes.

6 He wanted to know how it was playing, and just my thoughts
7 and opinion about this story versus having the story — a
8 different kind of story before the campaign had Michael not
9 made that payment.

10 And I think Mr. Trump's opinion was it was better to be
11 dealing with it now, and that it would have been bad to have
12 that story come out before the election.

13 Q Thank you.

14 MR. COLANGELO: No further questions.

15 THE COURT: Your witness.

16 MR. BOVE: Thank you.

17 May I inquire?

18 THE COURT: You may.

19 CROSS-EXAMINATION

20 BY MR. BOVE:

21 Q Ms. Hicks, I want to start by talking a little bit
22 about your time at The Trump Organization, if that's okay.

23 A (Nods yes).

24 Q I think you said you started around October of 2014?

25 A (Nods yes). Yes.

1 Q Sorry.

2 A It's okay.

3 Q And your initial title was the Director of
4 Communications?

5 A Yes.

6 Q And that was a position that The Trump Organization
7 created to bring you in; right?

8 A Yes.

9 Q And I think you said this morning that you focused on
10 real estate, hospitality, and entertainment, that was your
11 portfolio there?

12 A Yes. (Crying).

13 Sorry. (Crying).

14 Could I just have a minute?

15 Q Of course.

16 A Sorry.

17 MR. BOVE: Judge, maybe we could take a break?

18 THE COURT: Ms. Hicks, do you need a break?

19 THE WITNESS: Yes, please. (Crying).

20 THE COURT: Jurors, let's take a few minutes.

21 COURT OFFICER: All rise.

22 (Whereupon, the jurors and the alternate jurors
23 are excused.)

24 THE COURT: You can step down.

25 (Whereupon, the witness is excused.)

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 (Whereupon, a recess is taken.)
2 ~k~k~k*~k*~k*~k~k~k*~k***~k*~k*~k***~k*~k*~k*****~k*~k*****~k*
~k**
3 THE CLERK: Remain seated.
4 THE COURT: Let's get Ms. Hicks back, please.
5 COURT OFFICER: Witness entering.
6 (Whereupon, the witness, Hope Hicks, having been
7 previously duly sworn and/or affirmed, resumes the witness
8 stand and testified as follows:)
9 (Whereupon, Senior Court Reporter Theresa
10 Magniccari relieves Senior Court Reporter Laurie
11 Eisenberg, and the transcript continues on the following
12 page.)
13
14
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Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 (Witness entering courtroom.)

2 ***

3 (Jury entering courtroom.)

4 ***

5 THE COURT: Please be seated.

6 THE CLERK: Jury is properly seated.

7 Do all parties confirm?

8 MR. STEINGLASS: Yes.

9 MR. BOVE: Yes.

10 THE COURT: Mr. Bove.

11 MR. BOVE: Thank you, Judge.

12 CONTINUED CROSS EXAMINATION

13 BY MR. BOVE:

14 Q. If you need a minute, just let me know.

15 We were talking about The Trump Organization, and I
16 think you said this morning that it ran a little bit like a
17 family business while you were there?

18 A. Yes.

19 Q. You met the family; correct?

20 A. Yes.

21 Q. President Trump's children; right?

22 A. Yes.

23 Q. His wife?

24 A. Yes.

25 Q. And you were interacting with President Trump regularly

Theresa Magniccari

Senior Court Reporter

1 early on in your time at The Trump Organization; correct?
2 A. Yes.
3 Q. And you felt that you had his trust and respect?
4 A. His trust and respect, yes.
5 Q. You met some of his staff, his other staff; right?
6 A. Yes.
7 Q. Including Rhona Graff, you mentioned?
8 A. Yes.
9 Q. And I think you said this morning that your perception
10 of that relationship was one of mutual respect between President
11 A. Absolutely.
12 Q. She had a pretty big job there too; right?
13 A. Yes. I really looked up to Rhona.
14 Q. And I think you said this morning she was crucial?
15 A. She was, yes.
16 Q. And so she had people helping her, staff of her own in
17 a way, right?
18 A. She did, yeah.
19 Q. And that included Meredith McIver?
20 A. Yes.
21 Q. Ms. McIver was one of President Trump's ghost writers?
22 A. That's true.
23 Q. Did The Trump Organization have a Legal Department?
24 A. Yes.
25

Theresa Magniccari
Senior Court Reporter

1 Q. And Al Garten was there when you were there?

2 A. Yes.

3 Q. You had plenty of interactions with him?

4 A. Yes.

5 Q. And Jason Greenblatt?

6 A. Yes.

7 Q. You mentioned interacting with Mr. Cohen precampaign of
8 the Trump Org. this morning?

9 A. Yes.

10 Q. And tell me if I am wrong, it sounded like those
11 interactions were pretty minimal?

12 A. Yes.

13 Q. I think you mentioned a little bit of assistance with
14 the licensing aspects of the hotel deal?

15 A. I think that was my only experience working with him
16 unrelated to his interest in the political operation.

17 Q. And so, let's talk a little bit about the campaign.

18 Okay. Your title was Press Secretary; right?

19 A. Yes.

20 Q. And it sounded like your duties and responsibilities
21 morphed onto the new job in a way that sort of carried on what
22 you were doing for President Trump at Trump Org.?

23 A. A little bit, just in a different context, not only
24 real estate and hotels, similar tactics.

25 Q. More politics, less hotels?

Theresa Magniccari

Senior Court Reporter

1 A. Yes.

2 Q. But still interacting with the press?

3 A. Yes.

4 Q. Helping to put together statements; correct?

5 A. Yes.

6 Q. And let's focus on the period 2015 to 2016 for a little

7 bit. Mr. Cohen wasn't a part of the campaign; right?

8 A. No. He would try to insert himself at certain moments,

9 but he wasn't supposed to be on the campaign in any official

10 capacity. There were some things he did in a voluntary capacity

11 because of his interest. He would sometimes appear on TV.

12 I think he put together a coalition, a diversity coalition at

13 one point.

14 No, no, he wasn't looped in on the day-to-day of the

15 campaign strategy, staff, the plans, no.

16 Q. The campaign had separate counsel, separate lawyers?

17 A. Yes.

18 Q. And that included Don McGahn?

19 A. Yes.

20 Q. And you mentioned that had Mr. Cohen made some of the

21 statements and did some TV appearances during the campaign,

22 right?

23 A. Yes.

24 Q. And am I correct that he was instructed to focus on

25 President Trump's business credentials; right?

Theresa Magniccari
Senior Court Reporter

1 A. Yes.

2 Q. And even in connection with that authorization, he was
3 speaking as a campaign surrogate, not a part of the campaign;
4 correct?

5 A. That's right, he was speaking as an employee of The
6 Trump Organization that had experience working with Mr. Trump.

7 Q. Right.

8 In 2015 and 2016, that's where he still worked?

9 A. Yes.

10 Q. And there were times when he did things that, in a
11 sense, that were frustrating to the campaign staff; right?

12 A. Yes.

13 Q. Things that were unauthorized by the campaign; right?

14 A. Yes.

15 Q. He went rouge at times; fair to say?

16 A. Yes.

17 Q. There were times where Mr. Cohen did things that you
18 felt were not helpful to what you were trying to accomplish,
19 right?

20 A. Yes. I used to say that he liked to call himself
21 "a fixer" or "Mr. Fix It," and it was only because he first
22 broke it that he was able to come and fix it.

23 Q. Right.

24 And he was really just a lawyer; right?

25 A. Yes.

1 Q. A lawyer at Trump Org.; right?

2 A. Yes.

3 Q. And you were asked some questions both this morning and
4 this afternoon about David Pecker; right?

5 A. Yes.

6 Q. And you had met David Pecker before joining Trump Org.
7 briefly; correct?

8 A. Yes.

9 Q. And so you had a sense of who he was; right?

10 A. Ah-huh.

11 Q. And you mentioned overhearing some telephone calls
12 between President Trump and Mr. Pecker; do you remember that?

13 A. Yes.

14 Q. And these things happened a long time ago, right?

15 A. Yes, a very long time ago.

16 Q. And you explained, as best you could, your memory of
17 those calls; right?

18 A. Yes.

19 Q. And what I want to understand is, it wasn't uncommon
20 for President Trump to be speaking to journalists during the
21 campaign; right?

22 A. No.

23 Q. And so those two calls didn't stick out to you as being
24 out of the ordinary; correct?

25 A. No.

1 Q. President Trump gives a lot of feedback, right?

2 A. He does. He likes to call and praise people for
3 stories even if they're not about him, just if he thought it was
4 a good story. He likes to call and say when he didn't think it
5 was a good story.

6 He does a really nice job of maintaining relationships
7 and, you know, always being willing to engage with the media
8 even if he doesn't always think that the treatment he gets is
9 fair, he still is willing to engage. So, yeah, he spoke often
10 with publishers, journalists, editors.

11 Q. And he spoke to those types of folks about stories that
12 he liked; right?

13 A. Yes.

14 Q. And ones that he didn't like?

15 A. Yes.

16 Q. And, in your experience, it's not uncommon for a
17 campaign to try and work with the media to promote their
18 campaign theme?

19 A. No, I wouldn't have a job if that wasn't a regular
20 practice.

21 Q. Right.

22 It's regular practice, and there is nothing wrong with
23 that, is there?

24 A. No.

25 Q. And campaigns try to do social media to amplify some of

Theresa Magniccari

Senior Court Reporter

1 those themes that are in their theme; right?

2 A. Yes.

3 Q. The ones they like; right?

4 A. Yes.

5 Q. And sometimes campaigns amplify narratives that are
6 positive for their candidate; correct?

7 A. Yes.

8 Q. And visa-versa, sometimes the campaign amplifies the
9 negative with respect to the opponent?

10 A. Yes.

11 Q. Sometimes the campaign spends dollars to do that from
12 social media?

13 A. Right.

14 Q. These are all normal commonplace ways that campaigns
15 operate; right?

16 A. I've only been on one campaign, but it was a great one,
17 and that is my understanding.

18 Q. And it's consistent, that experience is consistent with
19 the consulting work you are doing right now; right?

20 A. I don't have a ton of political clients, but I
21 understand what you are trying to say. It's just not something
22 I am practicing right now.

23 Q. Well, let me ask it a different way. Public figures
24 think about the issues in the same way; right?

25 A. Yes.

1 Q. Let's talk a little bit about what life was like
2 day-to-day on the campaign trail, okay.

3 It sounded like long days; right?

4 A. Yes.

5 Q. I think you said you were travelling almost every day?

6 A. Yes.

7 Q. Did you travel with a laptop?

8 A. I did, yes.

9 Q. And also your cell phone?

10 A. Yes.

11 Q. And is it fair to say that you were sending hundreds,
12 if not thousands, of messages each day in this period, 2015 to
13 2016, because of how hectic things were?

14 A. Yes.

15 Q. And so we've looked at ten-ish of your emails over a
16 two year period working on the campaign; right?

17 A. Yes.

18 Q. There were many other issues that came up; correct?

19 A. Yes.

20 Q. And it was common in this period, especially in 2016,
21 as you got towards the election, for there to be outreach from
22 the press about potentially negative stories relating to your
23 candidate, President Trump; right?

24 A. Yes.

25 Q. And, obviously, you talked today about a couple of

1 those stories, right?

2 A. Yes.

3 Q. But this was near constant; correct?

4 A. Yes.

5 Q. And the two that we focused on so far are the Access
6 Hollywood tape, right, and then these Wall Street Journal
7 articles about Ms. McDougal and Ms. Clifford; right?

8 A. Yes.

9 Q. I want to talk a little bit about when that Access
10 Hollywood tape came out. I think you said that you first got
11 wind of it on a sort of Friday night when you were at Trump
12 Tower during the debate prep?

13 A. It was Friday afternoon, 1:30.

14 Q. Thank you.

15 And people were there getting ready for the debate that
16 weekend; right?

17 A. Yes.

18 Q. It was sort of your normal goal to report on
19 developments like that; right?

20 A. Yes.

21 Q. And people were together because of the debate prep,
22 right?

23 A. That's right.

24 Q. And the President was there for the debate prep; right?

25 A. Yes.

1 Q. And so there was an in-person meeting to discuss how to
2 react to this news article; right?

3 A. That's right.

4 Q. That concept of gathering the key campaign staff and
5 the President to talk about an issue that could impact the
6 campaign, that was standard for the way you were all operating
7 at the time; right?

8 A. I mean, most often when we were on the road, it was
9 just whoever was with us.

10 Q. Right?

11 A. It was unusual to be at Trump Tower.

12 Q. And what was unusual about it is that, for once, out of
13 all that time you were actually in New York, not on the road,
14 people had gathered for the debate prep; right?

15 A. Yes.

16 Q. You recall, don't you, there was some leaks of
17 President Trump's tax information prior to this?

18 A. I think just before the first debate.

19 Q. And in connection with that, the campaign staff
20 gathered to talk about how to respond with the President, right,
21 either physically or on the phone?

22 A. That's my recollection, yes.

23 Q. And that Friday night into the Saturday morning, people
24 worked pretty late; right?

25 A. Yes.

1 Q. And I think we looked at President Trump's statement
2 that ended up being October 8th, it was after midnight on
3 October 8th?

4 A. Yes, that's right.

5 Q. He stayed there late to put that together; correct?

6 A. He did.

7 Q. You had a sense, didn't you, that this was causing him
8 personal stress; right?

9 A. Yes. Yes, he was worried about how this would be
10 viewed at home.

11 Q. And you said a little bit ago you got a chance to meet
12 President Trump's wife during your work at Trump Org. and also
13 on the campaign?

14 A. Yes.

15 Q. What about your observations of that relationship
16 caused you to think that night this was causing him stress about
17 what would happen at home?

18 A. He really values — President Trump really values
19 Mrs. Trump's opinion, and she doesn't weigh in all the time, but
20 when she does, it's really meaningful to him.

21 And, you know, he really, really respects what she has
22 to say. So I think he was just concerned about what her
23 perception of this would be. And, yeah, I know that was
24 weighing on him.

25 Q. Weighing on him that night, right, and it continued to

1 weigh on him as more allegations were made in the media; right?

2 A. Yes.

3 Q. Now, I think you said that he talked to Mr. Cohen the
4 following day?

5 A. Yes.

6 Q. And to be clear, Mr. Cohen wasn't in any of the
7 meetings at Trump Tower; right?

8 A. No.

9 Q. Wasn't even in the United States, correct?

10 A. No.

11 Q. He was in London?

12 A. I think so.

13 Q. And as best you can recall, on a day that happened a
14 long time ago, it seemed like the focus of your conversations
15 that day were on concerns about a different tape; right?

16 A. That's right.

17 Q. And I think we can call it an alleged tape; right?

18 A. Yes.

19 Q. Alleged, because you later confirmed that it didn't
20 exist?

21 A. That's right.

22 Q. And that day, you reached out to Mr. Cohen because you
23 knew that he had a relationship with someone who might be able
24 to find out more information about this alleged tape; right?

25 A. Yes, that's right.

Theresa Magniccari

Senior Court Reporter

1 Q. The relationship that we're talking about is with a
2 member of the media; correct?

3 A. Yes.

4 Q. And it sounded like maybe the Access Hollywood tape
5 came up, but the focus of the conversations with Mr. Cohen that
6 day with you were on this other issue?

7 A. Yes. I think it would have been odd to talk and not
8 acknowledge, you know, the news cycle of the past 24 hours.
9 That wasn't the purpose of the call, or what we spoke about.

10 Q. I want to jump ahead a little bit to the November 4,
11 2016 Wall Street Journal article. I think you said that was the
12 first time you heard Karen McDougal's name?

13 A. Yes.

14 Q. And I think you said this morning that it was the
15 second time you remember hearing Stormy Daniels' name?

16 A. That's right.

17 Q. Because you referenced the conversation that you had
18 overheard on a plane, I think around November 2015?

19 A. That's right.

20 Q. And I just need to clarify that that conversation
21 related to — it involved President Trump, right, he was there
22 on the plane?

23 A. He was on the plane, yes.

24 Q. The discussion was about a relationship between, or
25 interactions between Stormy Daniels and Ben Roethlisberger;

Theresa Magniccari

Senior Court Reporter

1 right?

2 A. Yes, that's right.

3 Q. You talked about when the article, the November 4, 2016
4 article came out, that President Trump asked that the newspapers
5 not be brought to the residence that day?

6 A. Yes.

7 Q. And that was another indication, wasn't it, that this
8 was hitting home in a very real way?

9 A. Yes.

10 Q. That there were parts of this that were very, very
11 personal to him, right?

12 A. Absolutely. I don't think he wanted to — I don't
13 think he wanted anyone in his family to be hurt or embarrassed
14 by anything that was happening on the campaign. He wanted them
15 to be proud of him.

16 Q. The last thing I want to do is talk a little bit about
17 your time in the White House.

18 You described some conversations with President Trump
19 that I think you said happened in 2018; right?

20 A. Yes.

21 Q. And you were there that day, you were working, right?

22 A. Yes.

23 Q. In your official capacity, right?

24 A. Yes.

25 Q. And he was there, trying to be President of the United

1 States; right?

2 A. Yes.

3 Q. And that office that you described, the Oval Office
4 and the area around it, that was a very hectic space in 2017,
5 right?

6 A. Yes.

7 Q. And it sounds like for a period of time when you had
8 that job, you could see from where you were sitting the Resolute
9 Desk?

10 A. Yes.

11 Q. That's where the President sat?

12 A. Yes.

13 Q. When he was acting as President, right?

14 A. That's right.

15 Q. So you got a sense of how chaotic that environment was
16 day to day; right?

17 A. Uh-huh. That particular area wasn't necessarily
18 chaotic in a bad way.

19 I just want to clarify. It was very busy. There was a
20 lot going on. There were certainly parts of the experience that
21 were chaotic, but he was constantly moving.

22 Q. People were working very hard to make it not chaotic
23 and keep it orderly?

24 A. Yes.

25 Q. But, the fact is, there were many meetings and a lot

1 going on; right?

2 A. Yes.

3 Q. And from where you sat, you could see that the
4 President was frequently multitasking; right?

5 A. Yes.

6 Q. And people were interrupting what he was doing; right?

7 A. Yes.

8 Q. Different priorities would get called out to his
9 attention and he would pivot?

10 A. That's right.

11 Q. And in that timeframe, in 2017, while you were focused
12 on your job at the White House, you didn't have anything to do
13 with the business records of the Trump Org. 200 plus miles away
14 from New York City, did you?

15 A. No.

16 MR. BOVE: I have nothing further.

17 THE COURT: Anything else?

18 MR. COLANGELO: One minute to confer, your Honor.

19 THE COURT: Sure.

20 (Attorneys conferring.)

21 MR. COLANFELO: Nothing further.

22 THE COURT: Thank you, MS. Hicks.

23 You can step out.

24 (Witness excused.)

25 *****

1 THE COURT: Counsel, please approach.
2 (Whereupon, an off-the-record discussion was
3 held.)
4 THE COURT: Jurors, we're going to call it a week
5 at this time.
6 Before I excuse you, I would like you to please
7 not talk either among yourselves or with anyone else about
8 anything related to the case.
9 Please keep an open mind.
10 Do not form or express an opinion about the
11 defendant's guilt or innocence until all the evidence is in
12 and I have given you my final instructions on the law and I
13 have directed you to begin your deliberations.
14 Do not request, accept, agree to accept or discuss
15 with any person the receipt or acceptance of any payment or
16 benefit in return for supplying any information concerning
17 the trial.
18 Report directly to me any incident within your
19 knowledge involving an attempt by any person to improperly
20 influence you or any member of the jury.
21 Do not visit or view any of the locations
22 discussed in the testimony.
23 Do not use any program or electronic device to
24 search for and view any locations discussed in the
25 testimony.

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Senior Court Reporter

1 Do not read, view or listen to any accounts or
2 discussions of the case, that includes the reading or the
3 listening to the reading of any transcripts of the trial or
4 the reading of any postings on the court site.
5 Do not attempt to research any fact, issue or law
6 related to the case.
7 Do not communicate with anyone about the case by
8 any means, including by telephone, text messages, email or
9 the internet.
10 Do not Google or otherwise search for any
11 information about the case or the law which applies to the
12 case or the people involved in the case.
13 Have a good weekend.
14 Thank you.
15 (Jury leaving courtroom.)
16 ***
17 THE COURT: So, we can use this time that we have
18 to finish up the Sandoval.
19 I believe there was one more issue on Sandoval
20 that we needed to resolve.
21 Who would like to go first?
22 MR. BLANCHE: I'm happy to.
23 Look, I mean, I don't think this is a long
24 argument.
25 We very much object to President Trump being

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1 cross-examined on the findings of the Court earlier this
2 week, for a couple of different reasons.
3 The first one is that, you know, this is a trial
4 where the jury sees you every day; and so, interjecting
5 into the cross-examination of President Trump a finding by
6 your Honor beyond a reasonable doubt of contempt raises —
7 and there are a lot of reasons that would go into
8 explaining it that, obviously, President Trump would have
9 to talk about. It puts a layer on top of the testimony
10 that, really, the risk of prejudice, because it's in this
11 courtroom with your Honor, is greater than it is — than it
12 would otherwise be.
13 And, more importantly, or as importantly, for many
14 of the contempt findings — the repost, for example, we're
15 appealing.
16 We accept the Order of the Court. There is no
17 case law that suggests that was a violation. The Court
18 noted that.
19 There is a lot that went into those reposts and a
20 lot of process that went into that.
21 The finding of contempt is what it is.
22 But, to be able to cross-examine President Trump
23 on that, if he takes the stand, just invites this whole
24 sideshow that the People don't need .
25 And, especially, because they're already getting

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Senior Court Reporter

1 what your Honor has already ruled, that if President Trump
2 testifies, he can be cross-examined on a prior finding by a
3 different Judge, in a different court on this issue.
4 So, to the extent that the People want to expose
5 President Trump and cross examine him on that issue,
6 they're going to do it.
7 For those reasons, we do not think it's
8 appropriate to allow the People to cross-examine President
9 Trump.
10 THE COURT: Thank you.
11 MR. COLANGELO: Thank you.
12 On the last point that Mr. Blanche just raised, as
13 your Honor noted in your original Sandoval ruling, the
14 Court analysis is not bound by the number of the
15 defendant's prior convictions.
16 That's People v. Gray.
17 And, so, in fact, the Courts have discretion to
18 permit inquiry into the defendant's entire criminal
19 history.
20 Here, the Court's findings of nine criminal
21 contempts are directly relevant to the defendant's
22 credibility. They're finding that the defendant
23 intentionally violated the Court Order.
24 Both the Court of Appeals and the First Department
25 have expressly held that contempt findings are appropriate

1 and allowable.

2 Sandoval evidence of the case — I am thinking of

3 People v. Grant, where the Court of Appeals held that a

4 prior criminal contempt conviction bears heavily on the

5 issues of veracity, since a person who wilfully violates

6 may logically be presumed to be, similarly, willing to

7 violate his obligation to tell the truth, despite his

8 having made a promise to the Court to testify honestly.

9 That is 7 NY 3d 421.

10 And the First Department reached the same

11 conclusion in a different case, People v. Ciochenda,

12 Again, pointing out that the trial Court did not

13 abuse its discretion in allowing inquiry into instances

14 where the defendant violated Court Orders.

15 So, these findings, your Honor, are directly

16 relevant to the defendant's credibility, should he choose

17 to testify.

18 As the Court already noted, the balancing analysis

19 that the Court performs is to take into account not only

20 the potential prejudice to the defendant, but also the

21 prejudice to the People of being unable to present

22 important —in some cases, dispositive evidence of the

23 defendant's credibility to the jury.

24 THE COURT: Thank you.

25

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1 I agree with Mr. Blanche. I think for a jury to
2 hear that this Court, the same Judge that is presiding over
3 this case has found Mr. Trump to be in contempt on this
4 case, I think would be so prejudicial, it would be very,
5 very difficult for a jury to look past that.
6 So, I agree with Mr. Blanche, and I am going to
7 deny the People's application to go into that.
8 Anything else?
9 MR. STEINGLASS: One more thing that is
10 outstanding. We had handed up, last week, a draft
11 instruction on redactions. I don't think it's particularly
12 controversial. We don't want the jury speculating about
13 why some of these exhibits are so heavily redacted.
14 I have another copy, if you your Honor wants it.
15 Or, you still have it?
16 THE COURT: I have it.
17 MR. STEINGLASS: Give it sooner rather than later.
18 We have been displaying a lot of exhibits that are heavily
19 redacted. We plan to do more of that. And I just think
20 this relatively benign instruction is not going to hurt
21 anyone other than preventing undue speculation on the part
22 of the jury.
23 MR. BLANCHE: No objection.
24 THE COURT: So, I will take care of that on
25 Monday.

1 In general, where do we stand as far as limiting
2 instructions?

3 I know we have spoken about this a lot. I have
4 given a few.

5 Are there any outstanding limiting instructions?

6 Are there any instructions you would like me to
7 give on Monday?

8 Let me know where we stand.

9 MR. BLANCHE: We will. We will think about that
10 and communicate with the People and let the Court know.
11 Nothing comes to mind. But I want to discuss that when we
12 talk about the testimony.

13 THE COURT: Okay.

14 Anything else?

15 MR. STEINGLASS: I don't think so.

16 (Whereupon, the trial of this matter stands
17 adjourned to Monday, May 6, 2024.)

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