

Subject: Fwd: FormalComplaint
Date: Sunday, July 30, 2023 at 6:01:50 PM Central Daylight Time
From: Darren McCarty
To: Darren McCarty
Attachments: FormalComplaint.docx, ATT00001.htm, McCarty Formal Complaint_ (002).pdf, ATT00002.htm

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From: McCarty, Darren <Darren.McCarty@oag.texas.gov>
Sent: Thursday, October 15, 2020 2:26 PM
To: Darren McCarty <dleemc@outlook.com>
Subject: Fwd: FormalComplaint

Sent from my iPad

Begin forwarded message:

From: formalcomplaint <formalcomplaint@oag.texas.gov>
Date: October 15, 2020 at 1:57:39 PM CDT
To: "McCarty, Darren" <Darren.McCarty@oag.texas.gov>
Subject: **FW: FormalComplaint**

Mr. McCarty,
I am emailing to acknowledge receipt of the above-attached formal complaint.
Thank you,
Karen Hattaway
Formal Complaint Officer
Office of the Attorney General

From: McCarty, Darren <Darren.McCarty@oag.texas.gov>
Sent: Thursday, October 15, 2020 1:32 PM
To: formalcomplaint <formalcomplaint@oag.texas.gov>
Subject: FormalComplaint

Please see the attached as requested. Thank you.

Darren

Darren McCarty
Deputy Attorney General for Civil Litigation
Office of the Attorney General of Texas
P.O. Box 12548 (MC 001)
Austin, TX 78711-2548



(512) 936-0594

Darren.McCarty@oag.texas.gov



FORMAL COMPLAINT

If a current employee is dissatisfied with division/regional management's response to a problem, the employee may file a Formal Complaint by completing this form and sending it to the Formal Complaint Officer. The completed form must be received by the Formal Complaint Officer no later than sixty (60) calendar days following the action, event, or incident about which the employee is complaining.

Instructions: Complete each section. Text boxes will expand to accommodate responses. Save as an attachment and email to the Formal Complaint Officer at formalcomplaint@oag.texas.gov.

| | |
|---|--|
| NAME: Darren McCarty | POSITION: Deputy Attorney General for Civil Litigation |
| DIVISION/REGION: Civil Litigation | FIELD OFFICE/SECTION: Executive Administration |
| CITY: Austin, TX | DATE: 10/15/2020 |

Describe in detail the action, event, or incident about which you are complaining and provide all corresponding dates:

See adjoining pdf

Explain how you followed your chain of command to resolve your complaint. Include the names of the individuals to whom you spoke, the date you spoke with each person, the content of your discussion, and the final outcome:

See adjoining pdf

Explain how you would like your complaint resolved:

See adjoining pdf

Original: Formal Complaint Officer

3/2018

DM-00000000003

Complaint Details

This is a complaint of retaliation under the Texas Whistleblower Act, TEX. GOVT. CODE §554.001, *et. seq.*

On or about September 30, 2020, I in good faith, along with six other deputy attorneys general made a report (the "Report") to the Federal Bureau of Investigation of potential violations of law committed by Attorney General Ken Paxton and the Office of the Attorney General ("OAG") including improper influence, abuses of office, and bribery. The allegations involve Attorney General Paxton's and the OAG's relationship with Austin businessman Nate Paul. On October 1, 2020, I along with the other deputies provided notice of the report to Attorney General Paxton and to Director of Human Resources for the OAG, Greg Simpson (the "Complaint").

In the time since we filed the Report and made the Complaint, the other deputies and I have been subjected to numerous adverse employment actions described below which would not have occurred had we not made the complaint. These actions have negatively affected my prestige in the workplace, tarnished my professional reputation both internally and externally to the OAG, created a toxic working environment, and could affect my ability to obtain work outside of the OAG. Under Texas law, there is a presumption that the Report to law enforcement caused these adverse employment actions. TEX. GOVT. CODE §554.004(a).

On October 3, 2020, the OAG Communications Department issued the following statement to the press in response to the Report and Complaint, which I understand to have been made at the direction of Attorney General Paxton:

"The complaint filed against Attorney General Paxton was done to impede an ongoing investigation into criminal wrongdoing by public officials including employees of this office. Making false claims is a very serious matter and we plan to investigate this to the fullest extent of the law."

My Report on September 30th was not made to impede any lawful investigation and there was no investigation at that time—certainly not to my knowledge—of any OAG employees. If there was such an investigation of OAG employees on September 30th, some record of it should be available. Instead, the October 3rd press statement was made in retaliation for the Report.

On October 5, 2020, the OAG Communications Department issued the following additional statement to the press in response to the Report and human resources complaint:

"The Texas Attorney General's Office was referred a case from Travis County regarding allegations of crimes related to the FBI, other government agencies and individuals. My obligation as attorney general is to conduct an investigation upon such referral. Because employees from my office impeded the investigation and because I knew Nate Paul I ultimately decided to hire an outside independent prosecutor to make his own independent determination.

DM-000000000004

Despite the effort by **rogue employees** and their **false allegations** I will continue to seek justice in Texas and will not be resigning.” (emphasis added)

There are several inaccuracies in the statement designed to discredit me and others who made the Complaint and Report. Most directly, the allegations that I and others are “rogue employees” and made “false allegations” are false and have been repeated countless times in press reports reaching a national audience. The statement was made in retaliation for the Report.

On October 8, 2020, during a meeting of the OAG’s deputies, directors, and other senior members, I asked First Assistant Webster and Attorney General Paxton whether the office would continue to make disparaging statements to the press about me and my colleagues who engaged in whistleblower activities. Attorney General Paxton remained silent in response while First Assistant Webster expressly refused to answer. The clear message was that the office intended to continue to retaliate against me and my colleagues.

This was confirmed when Attorney General Paxton later speculated in an October 13, 2020, interview with the Southeast Texas Record that his deputies engaged in “an effort to cover up the reality of what really happened.” This is a false statement aimed at discrediting me both in and outside of the OAG.

All of these statements made by the OAG and Attorney General Paxton are false, misleading, and defamatory. We did not make the Report or Complaint to impede any investigation, but rather based on a good faith belief that Attorney General Paxton abused his office to benefit a friend and campaign donor. The claims we made in the Report are not false and we are not rogue employees. We made the Report in observance of our own public responsibilities and ethical obligations.

On October 2, 2020, former First Assistant Jeff Mateer resigned his position. Those employees who remain have faced increasing pressure and hostility. Attorney General Paxton placed Director of Law Enforcement David Maxwell and Deputy Attorney General for Criminal Justice on investigative leave. Several other deputies have had job duties removed and have been excluded from meetings. First Assistant Webster brought an armed law enforcement officer onto our floor and into several meetings.

Attorney General Paxton and Mr. Webster have placed me under unusually extensive scrutiny seeking detailed information on large projects I am leading. I have been told unofficially by persons other than Attorney General Paxton and Mr. Webster that I am under internal investigation and that virtually all of my activities are being monitored. I also have reason to believe that my OAG issued electronic devices are under surveillance. I have not been informed through any official channel that I am under investigation.

On October 14, 2020, the OAG sent me a “litigation hold” request in response to a threatening letter received by the OAG from Nate Paul’s attorney, Michael Wynne. Though threatening in tone, the letter makes no credible legal claims. The claims advanced appear frivolous. Just last

DM-000000000005

week, on October 9, 2020, Mr. Wynne, with his client, were sanctioned and ordered to pay fees of over \$200,000 by a Travis County District Court for bringing frivolous claims in an action that Attorney General Paxton directed the OAG to intervene in to the benefit of Nate Paul and his related business interests. Notably, I am one of the OAG's designated approvers for litigation holds imposed by the OAG. My approval was never sought. Instead, I understand that First Assistant Webster directed the litigation hold be placed. I believe that members of the OAG worked to aid Mr. Wynne in drafting the letter that resulted in the litigation hold. Again, this was an act of retaliation.

All of these actions are designed to, and have the effect of, dissuading similarly situated employees from making similar reports under the Whistleblower Act, to intimidate me and others from making lawful reports of improper public activity, and to intimidate us into resigning. These actions have led to a culture of fear and apprehension with the OAG that is affecting overall internal productivity and multi-state relations in large-scale litigation. Today, First Assistant Webster cancelled the weekly Deputies Meeting, a regularly scheduled meeting among the most senior staff and often the attorney general to discuss the most significant activities in the office. During my tenure at the OAG, I do not recall this meeting ever being cancelled other for office closures during holidays. This hostile work environment is dysfunctional and becoming intolerable.

Chain of Command

I report directly to the First Assistant Attorney General Brent Webster and to Attorney General Paxton. I have directly reported my concerns to Attorney General Paxton on October 1 and again on October 8. I have also reported my concerns to Brent Webster on multiple occasions and to OAG Director of Human Resources Greg Simpson.

Resolution of Complaint

1. Written assurance from Attorney General Paxton and Brent Webster that I will not be retaliated against any further for my participation in the Report, the Complaint, or this complaint process.
2. A public statement from Attorney General Paxton stating that I am not a "rogue employee."
3. A public statement from Attorney General Paxton stating that the other six senior staffers who signed the October 1, 2020 letter are not "rogue employees."
4. A public statement from Attorney General Paxton that I have not made any "false allegations" against him.
5. A public statement from Attorney General Paxton stating that the other six senior staffers who signed the October 1, 2020 letter have not made any "false allegations" against him.
6. A public statement from Attorney General Paxton that I am not and have not been under any internal investigation.

DM-00000000006

7. A public statement from Attorney General Paxton stating that at least four of the other six senior staffers who signed the October 1, 2020, letter are not and have not been under any internal investigation.
8. Written apology from First Assistant Brent Webster to OAG staff on the 8th floor of the Price Daniel Building for the hostile work environment he has created in less than two weeks in the role, as well as a description of any corrective action he has taken or plans to take.
9. Written confirmation from Attorney General Paxton and First Assistant Webster that OAG communications press statements and press releases will not impugn the character or integrity of any of the six remaining employees who made the report to law enforcement on September 30, 2020.
10. Written confirmation from Attorney General Paxton and First Assistant Webster that OAG communications employees will not be misused and asked to participate in the communications strategy or response related to any criminal allegations against Attorney General Paxton.
11. Written confirmation from First Assistant Brent Webster that I will be included (and not be dismissed) from any OAG meetings related to civil litigation.
12. Written confirmation from First Assistant Brent Webster that I will be included in all approvals and decisions pursuant to existing office policy.
13. Written confirmation from First Assistant Brent Webster that he will not attempt to intimidate any OAG employees by showing up in their offices or meetings with armed peace officers or by other means.
14. Written confirmation from First Assistant Brent Webster that my electronic devices and other routine activities are not being monitored by any IT staff, OAG employees or contractors.

DM-00000000007

3:41

62



Josh >



Jul 13, 2020 at 5:58 PM

Ray is running late. Asked him to let me know when free.

Alright. I may be in the store for real

Ray is free

Jul 14, 2020 at 11:48 AM

Ray is done with his meeting. Are you free?

Yes

Jul 14, 2020 at 1:38 PM

Heard back from Ray. They "still see a lot of hurdles, but we don't want to hold you guys up



iMessage



DM-000000000008

3:41

62



Josh >



Jul 14, 2020 at 1:38 PM

Heard back from Ray. They "still see a lot of hurdles, but we don't want to hold you guys up anymore so let's mediate on Friday". He texted me a moment ago. Free to reach out to Terry?

Yes

Can I call you later?

Ok

Jul 14, 2020 at 3:53 PM

Sheena Paul trying to reach us

Just saw it. Can I call you in a minute after I wrap



iMessage



DM-00000000009

3:41

62



Josh >



Jul 14, 2020 at 3:53 PM

Sheena Paul trying to reach us

Just saw it. Can I call you in a minute after I wrap up this phone call?

Sure

Jul 15, 2020 at 10:00 AM

Do we need FinLit call today? If so, no problem.

Yeah, but shouldn't need more than 15 minutes. Thanks.

Sounds good

Jul 15, 2020 at 3:05 PM



iMessage



DM-00000000010

3:42

62



JG



Josh >

Sounds good

Jul 15, 2020 at 3:05 PM

I spoke to Sheena. Terry will make sure we have a room of our own

If it's zoom, how do we have a room? Don't understand how this works.

It's just a virtual room where you can have video chats that the other mediation participants can't see.

Okay

Jul 16, 2020 at 10:52 AM



iMessage



3:42

61



JG



Josh >

Jul 16, 2020 at 10:52 AM

Can we call the mediators sometime today?

Sure. I'll track down contact information.

Jul 16, 2020 at 12:09 PM

Are there some good times for you to talk to them this afternoon?

I have 3-3:30

Ok, I'll see if he's free

Jul 16, 2020 at 2:39 PM

It's sounds like Ray should be available around 3:15. Is that



iMessage



DM-00000000012

3:42

61



Josh >

Jul 16, 2020 at 2:59 PM

It's sounds like Ray should be available around 3:15. Is that window still open for you?

Yeah—til 3:30

Jul 16, 2020 at 3:43 PM

I should be finished in 5

Omg. Omg. Omg.

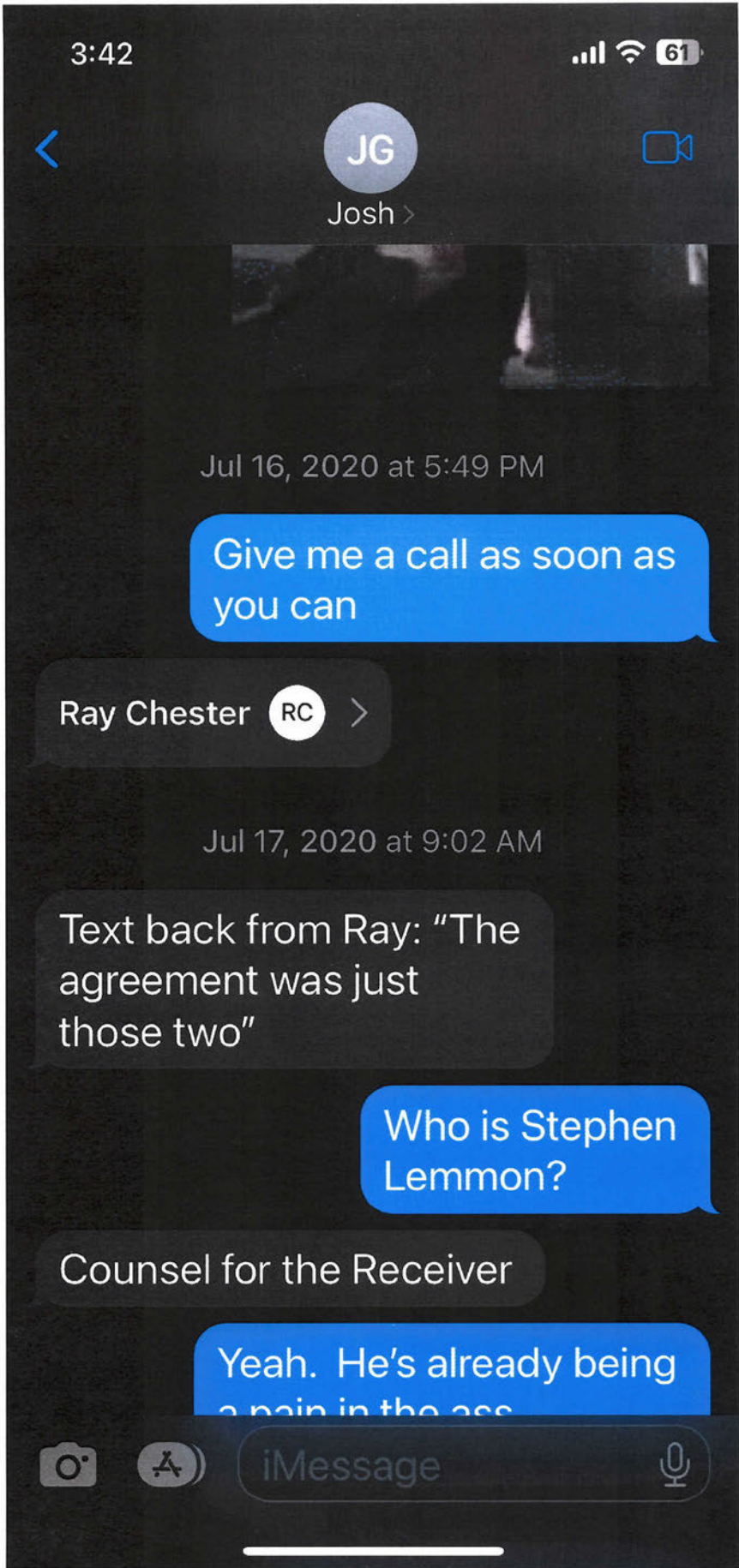
Yup



iMessage



DM-00000000013



DM-00000000014

3:42

61



Josh >

Yeah. He's already being a pain in the ass

This bodes well

Ray says he's going to help get a mediator on the line.

Ok

Jul 17, 2020 at 3:18 PM

I'm going to call you in a minute.

Ok

Jul 17, 2020 at 4:43 PM

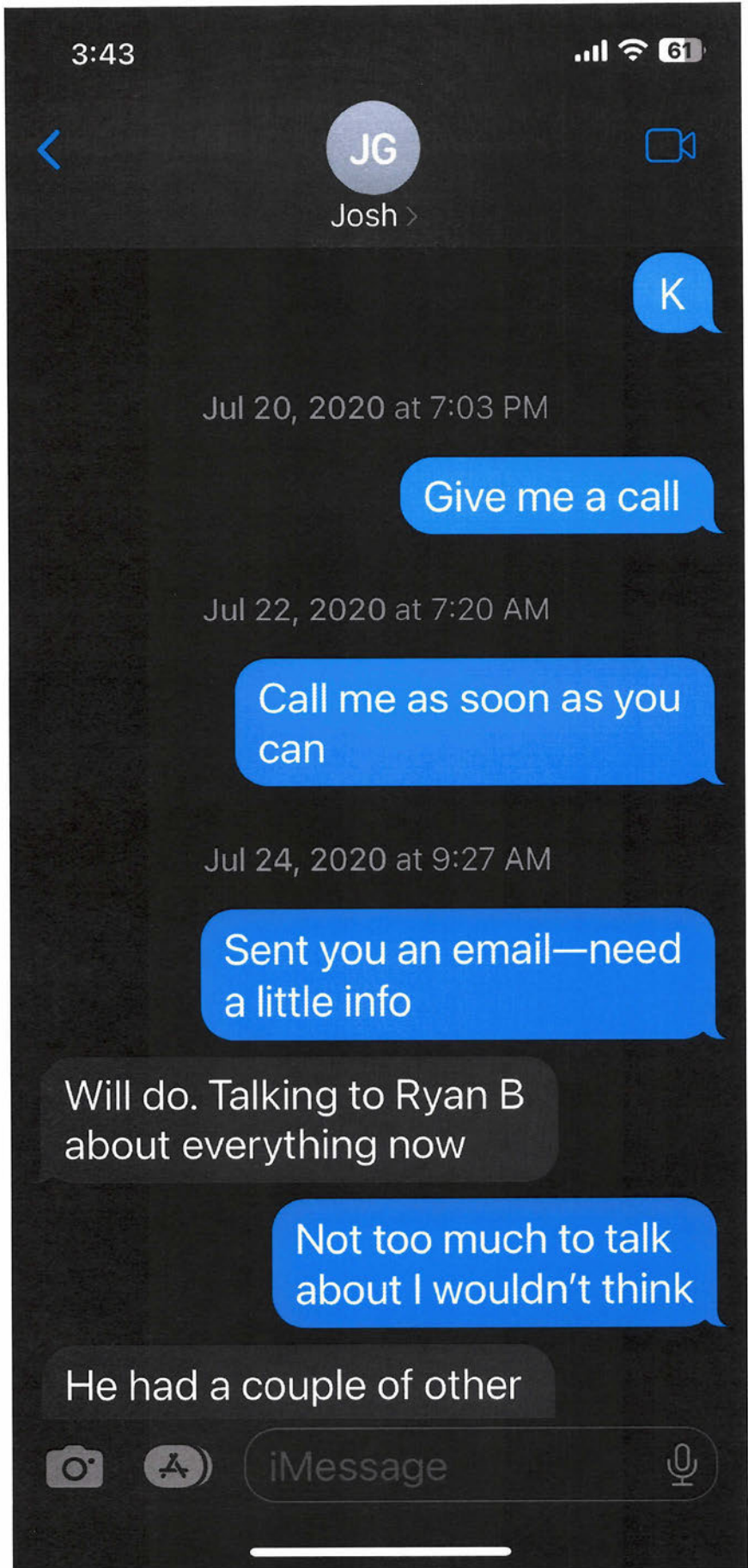
You're needed in the room again

K



iMessage





DM-000000000016

3:43

61



Josh >

Aug 5, 2020 at 11:52 AM

FYI, the General Partner and Limited Partnerships for both the 1st & Trinity and 3rd & Congress properties filed for Chapter 11 Bankruptcy in the Western District this morning. They've invoked the stay in the Travis County action.

There we go

Yup. And today is my birthday. It's like a present.

Happy birthday! Only 3 days too early 😊

Thanks. Is yours Saturday?



iMessage



DM-00000000017

3:45

61



Josh >



Sep 15, 2020 at 10:31 AM

2 things:

- 1) AB is a go
- 2) Could we get the revised charity slide deck by 1:30?

Ok

- 1) do you timing for when he'll be free?
- 2) sure thing.

1) ASAP—likely by next week

Have one other issue when you can call

Sep 15, 2020 at 1:14 PM

Can you do the



iMessage



DM-00000000018

3:45

61



Josh >



Can you do the walkthrough with KP at 4:30?

Sure. In person or virtual?

In person is better

Ok

I'm already downtown. Do you want to meet about it at all first?

I can't...full schedule

No worries.

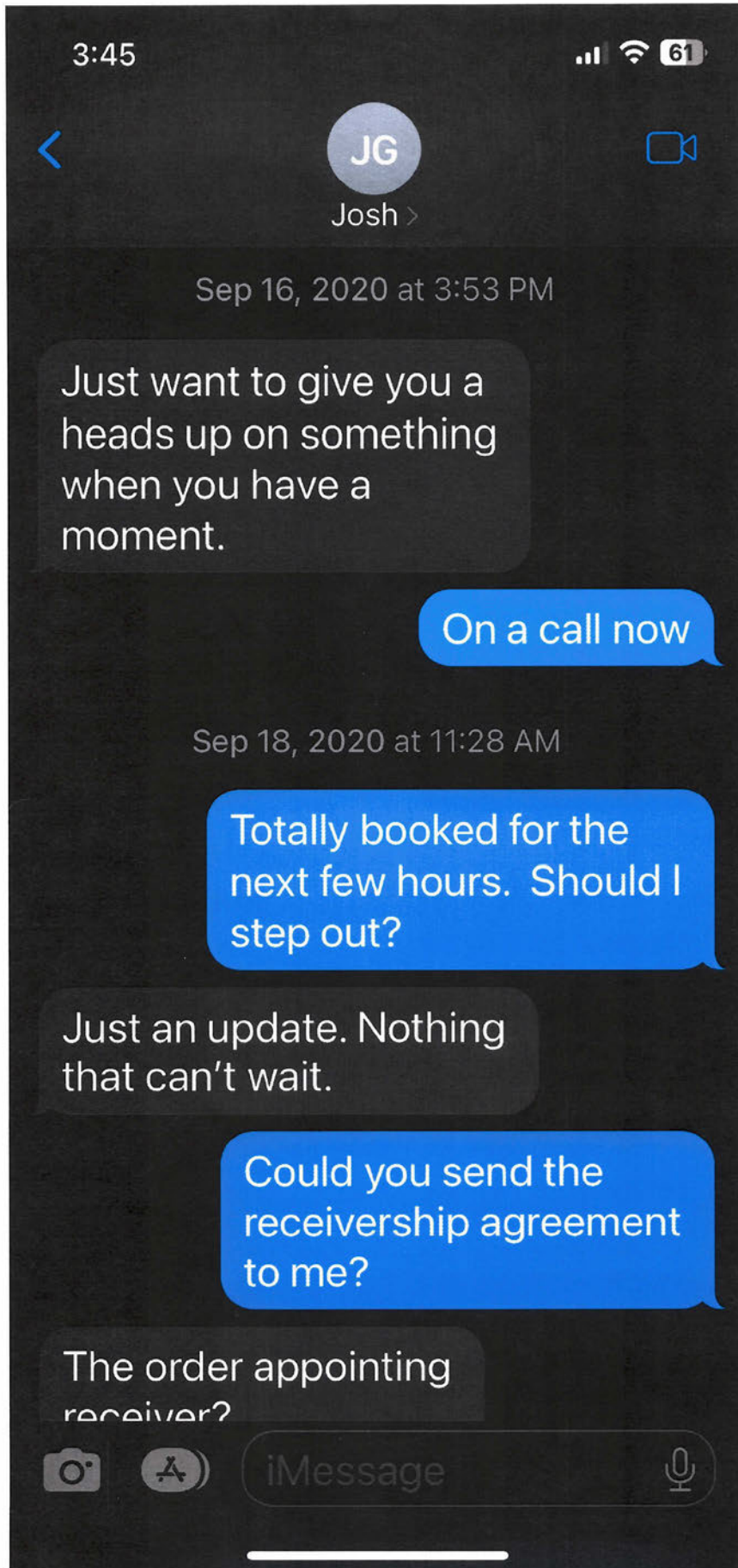
Sep 15, 2020 at 4:23 PM

In the lobby on 8 whenever y'all are ready.

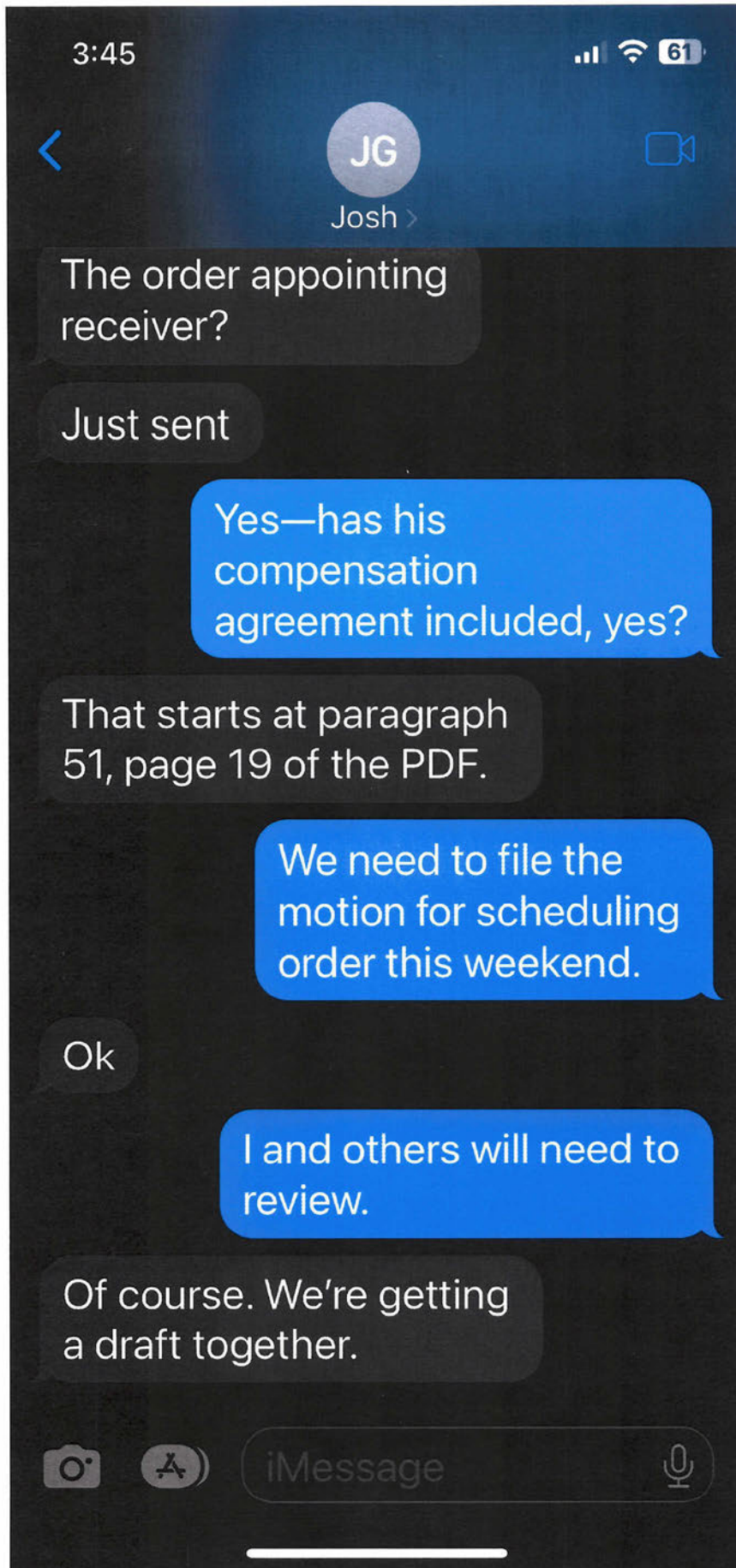


iMessage

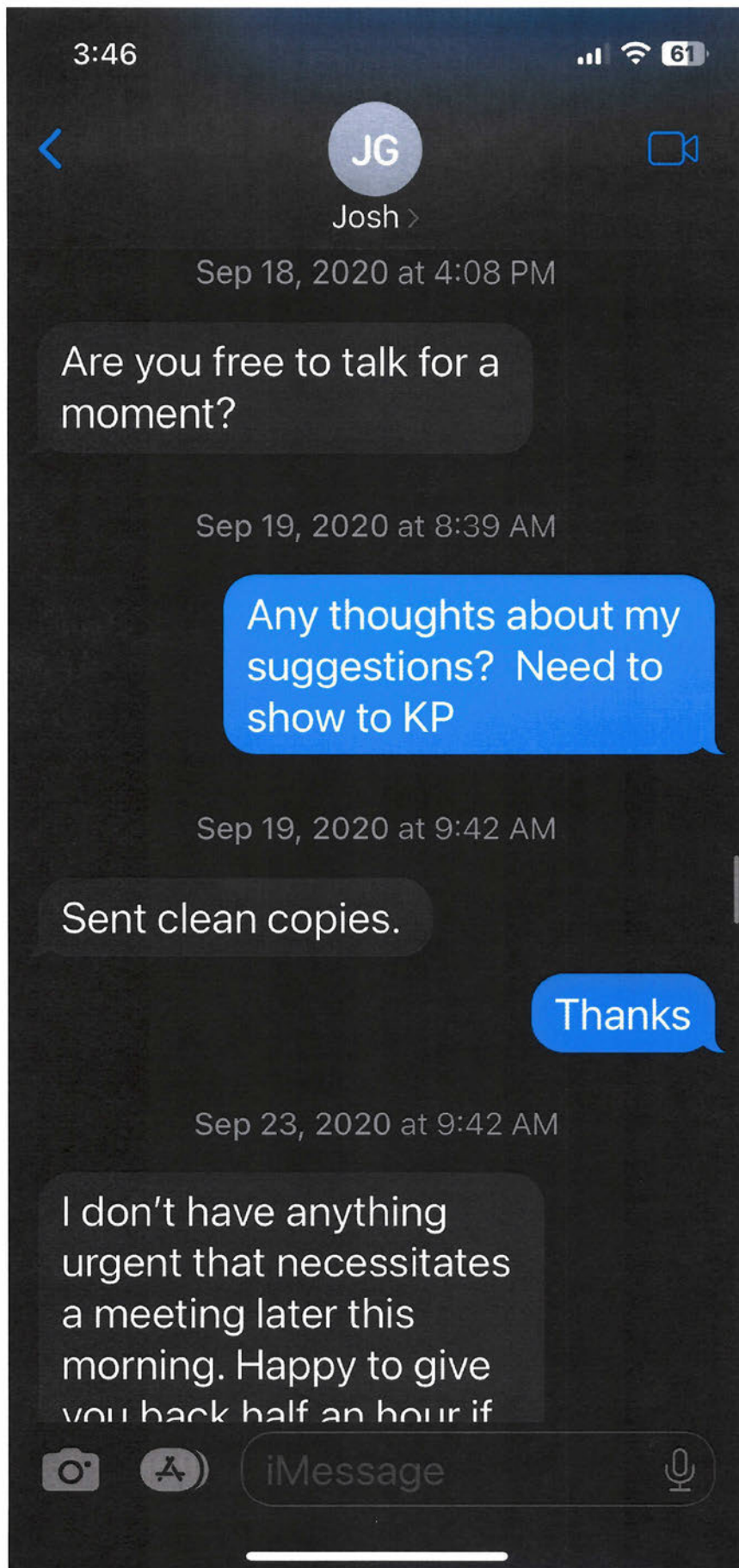




DM-00000000020



DM-00000000021



DM-00000000022

3:46

61



Josh >

Oct 7, 2020 at 6:37 AM



Who is Nate Paul, the real estate investor linked to abuse-of-office allegations against Texas Attorney General Ken P...
texastribune.org

Oct 7, 2020 at 4:03 PM



iMessage



3:46

61



Josh >

Oct 7, 2020 at 4:03 PM



Foundation's lawyer suspected 'something fishy' when Texas Attorney General Ken Paxton intervened in ca...
statesman.com

Oct 16, 2020 at 9:44 AM

Can I call you later?

Yes

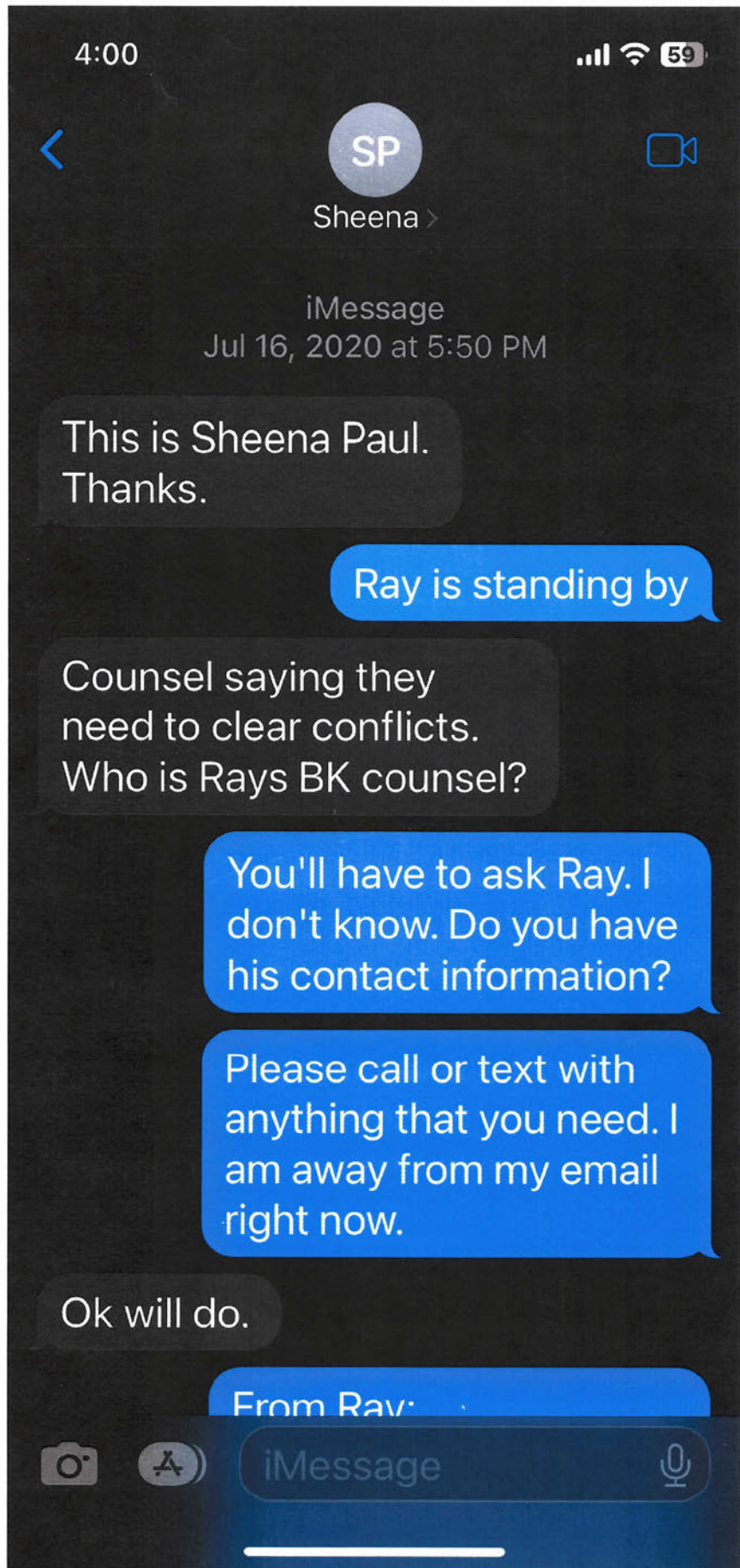
Oct 20, 2020 at 4:03 PM

Can I call you later?

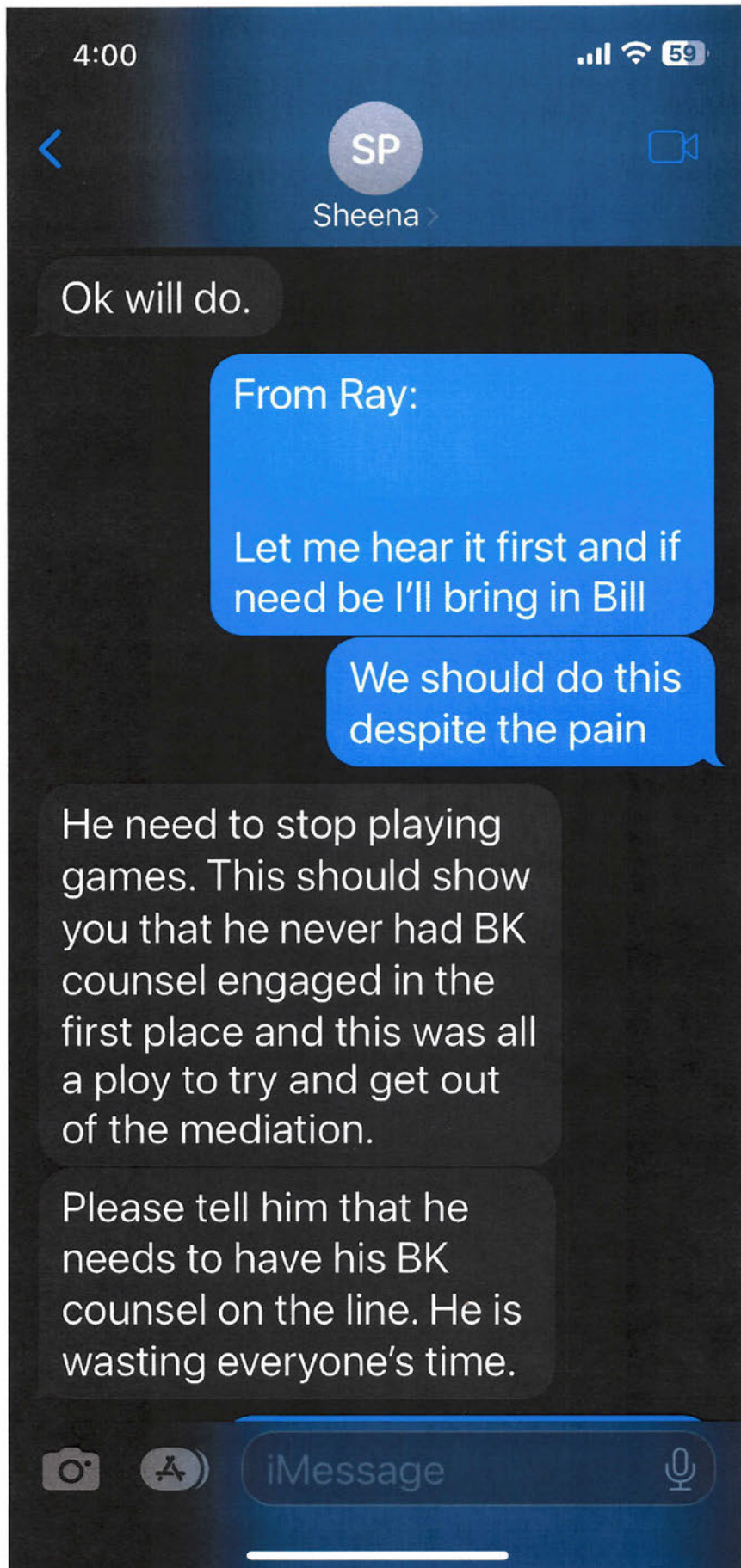


iMessage





DM-00000000025



DM-00000000026

4:00

59



Sheena >



Please tell him that he needs to have his BK counsel on the line. He is wasting everyone's time.

We need to do this. I'll force the issue re his Bk counsel.

Thanks. I'm standing by once you have him and BK counsel on the line.

No, it'll just be him. We'll meet that demand and then force the issue.

He has no basis of knowledge for his questions.

I understand

Read



iMessage



4:00

59



Sheena >



He has no basis of knowledge for his questions.

I understand

Read

It is time to say that these issues can likely be resolved and everyone needs to show up tomorrow.

Please give me a call.
Thanks.

Jul 17, 2020 at 4:43 PM

Eric Galton just confirmed the reason for the refi or sale was so receiver gets paid.



iMessage



DM-00000000028

3:38

62



Ray >



iMessage
Jul 16, 2020 at 6:01 PM

Ray,

Darren McCarty here. Sent you an email just now trying to line up a call with bankruptcy counsel tonight. They are available. Please text me as needed. We need to try to get this done.

Darren

Check email. It would need to happen now if at all

Just tried to call you

I'm getting them



iMessage



DM-00000000029

3:39

62



RC



Ray >

Ok I'll take the call now
that I know it's you

Jul 16, 2020 at 7:22 PM

Delayed—but Mark
Ralston who knows Bill
Daniels is on standby to
talk. They believe that
they have an answer.

Let me hear it first and if
need be I'll bring in Bill

Bill Daniel will call mark at
9 am. I will not be on the
call. Can we just let the
two of them talk? No Ray
no Sheena no Darren?

Absolutely. Thanks Ray!

Thank you. Sorry I got a
little chippy. Long day



iMessage



DM-00000000030

3:39

62



Ray >



Delayed—but Mark Ralston who knows Bill Daniels is on standby to talk. They believe that they have an answer.

Let me hear it first and if need be I'll bring in Bill

Bill Daniel will call mark at 9 am. I will not be on the call. Can we just let the two of them talk? No Ray no Sheena no Darren?

Absolutely. Thanks Ray!

Thank you. Sorry I got a little chippy. Long day. Long case

Indeed

Read



iMessage



DM-00000000031

3:39

62



RC JG



2 People >

iMessage

Jul 17, 2020 at 9:04 AM

Ray, can you explain to me why we cannot listen to the bankruptcy discussion. Is there something that you do not want us to be a part of? We should discuss this with the mediators first thing.

Ray Chester

I thought we agreed last night it would just be those two

RC

Right?

RC

No.

Mediators want to join



iMessage



3:39

62



RC

JG



2 People >

of? We should discuss this with the mediators first thing.

Ray Chester

I thought we agreed last night it would just be those two

RC

RC

Right?

No.

Mediators want to join the bankruptcy call now. Thanks

Ray?

Read

Ray Chester

I've texted bill but no response

RC



iMessage



DM-00000000033

4:08

58



6 People >



BB

Being fired will make you a cool kid.

David Maxwell

DM



Ryan Bangert

Brent told me today that he was "completing his investigation." He said it's all based on the documents he's reviewed.

I told him the cold documents may tell one story, but ten months of lived experience tell the rest of the story.

RB

*lived

Definitely not loved 🙄



iMessage



4:08

58



6 People >



Definitely not loved 🙄

Ryan Bangert

He also asked me how soon it was after RV received the signed Cammack contract that Jeff and I learned about it.

He said that was one missing piece of his "investigation."

RB

Lacey Mase

LM

He's the worst

Ryan Bangert



RB

David Maxwell

I never created any



iMessage



4:08

58



6 People >



Ryan Bangert

RB



David Maxwell

DM

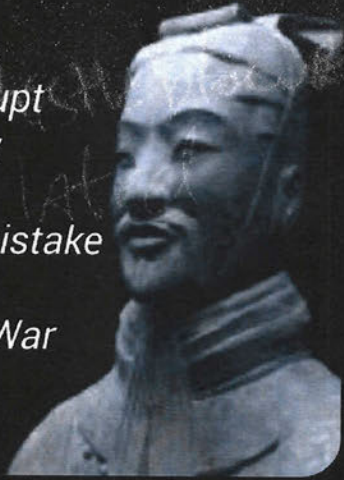
I never created any documents. He wanted me to conduct an illegal investigation.

Ryan Vassar

Never interrupt your enemy when he is making a mistake - Sun Tzu, The Art of War



RV



David Maxwell



iMessage



DM-00000000036

4:09

58



6 People >

RV



David Maxwell



DM

Lacey Mase



So, another candidate in Wilco came up to me yesterday and said, "so, I understand you're acquainted with Brent Webster. Let me tell you about Mr. Webster. He's lazy and he's a liar. I'm glad you don't have to work for him." 😂😂😂 And then she walked away.

LM

Ryan Vassar

RV

That's awesome



iMessage



DM-00000000037

4:09

58



6 People >

Ryan Vassar

That's awesome

Wow. Ringing endorsement

David Maxwell

No surprise there. That office was a disaster during his time there. We know that office lost over 200,000 in seizures because he didn't fill out the paperwork.

Nov 2, 2020 at 8:12 AM

Ryan Bangert

So David and Mark, [REDACTED] tells me that BW is firing you guys this morning. 🤔



iMessage



4:09

58



6 People >



RB

firing you guys this morning. 🤪

Breakfast tacos?

David Maxwell

DM

Yes

Lacey Mase

I'm so sorry, guys. This is just one giant crap show, which I know goes without saying. Y'all are two of my heroes, and I'm proud of you.

LM

On the positive side, you'll be in good company. 😬 😊

Please don't take my response as frivolous, just cynical. I too am sorry. Talk soon



iMessage



DM-00000000039

4:09

58



6 People >



Please don't take my response as frivolous, just cynical. I too am sorry. Talk soon.

Ryan Bangert

Mark in 8th floor conference room with BW right now. Armed security standing outside door.

RB

David Maxwell

DM

I'm here waiting.



Salute when you go by

Read

Mark Penley

MP

I'm waiting too.

Ryan Bangert



iMessage



DM-00000000040

4:09

58



6 People >

Salute when you go by

Read

Mark Penley

MP I'm waiting too.

Ryan Bangert

RB Where?

Lacey Mase

LM The whole armed security thing is infuriating to me

Mark Penley

In 8th floor conference room

MP Thanks, Lacey!

Ryan Bangert

RB Make sure you find out why they're firing you



iMessage



DM-00000000041

4:10

58



6 People >

Ryan Bangert

RB

Make sure you find out why they're firing you

Lacey Mase

LM

Don't worry, he'll give them a list of made up reasons.

Mark Penley

MP

Will do.

David Maxwell

DM

Still waiting. NW is still a no show.

Lacey Mase

LM

Henry is probably coaching him on what to say

David Maxwell



iMessage



4:10

58



6 People >

David Maxwell



DM

They told me not to wear my pistol in violation of 3006 and policy. I have a LTC license as well as peace officer.

DM

Lacey Mase

How would that be a violation of policy?!?

LM

Blake Brickman

They told you that today?

BB

Lacey Mase

OAG policy allows employees to carry

LM

Ryan Bangert

They keep making



iMessage



DM-00000000043

4:10

58



6 People >

Ryan Bangert

RB

They keep making mistakes.

Lacey Mase

LM

Mark, are you still there waiting?

David Maxwell

DM

Our policy does not allow you to prevent a LTC from carrying it our building.

Lacey Mase

LM

Exactly

David Maxwell

DM

I hear they are the way over here. We enforce 3006 and have sued the City of Austin for it.

Lacey Mase



iMessage



4:10

58



Lacey Mase

Yes, we have a whole team of 30.06 lawyers for that very purpose. Lord have mercy. 🙏🙏

LM

David Maxwell

I intend to put them on notice and file a complaint with the team.

DM

Lacey Mase

Wish we could be a fly on the wall

LM

Blake Brickman

So they are 1 hour late to your 9:00?

BB

David Maxwell

I will be professional. Yes they are. Mark went long.

DM



iMessage



4:10

58



6 People >



Lacey Mase



You're waiting in HR?

David Maxwell



Yes in the training room.



Still not here!

Blake Brickman



What happened to Mark?

David Maxwell



I haven't heard. I was told their meeting went long.



He is still with Mark and he is interviewing him!

Lacey Mase



Oh gosh

Ryan Bangert

Voc



iMessage



DM-00000000046

4:11

58



6 People >



Ryan Bangert

Yes.



RB

David Maxwell

DM

Crazy!

Mark Penley



iMessage



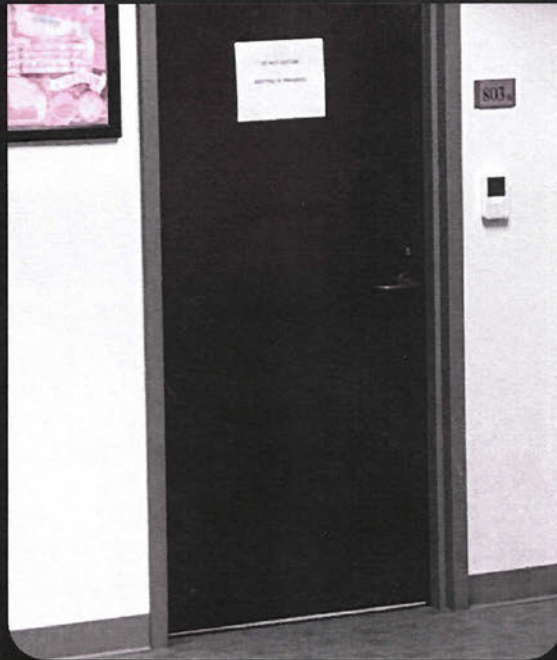
DM-00000000047

4:11

58



6 People >



RB



David Maxwell

DM

Crazy!

Mark Penley

MP

Stop texting

Lacey Mase

LM

Okay



iMessage



DM-00000000048

Subject: Fwd: Michael Wynne

Date: Sunday, July 30, 2023 at 5:59:57 PM Central Daylight Time

From: Darren McCarty

To: Darren McCarty

Get [Outlook for iOS](#)

From: Darren McCarty <[REDACTED]>

Sent: Wednesday, October 21, 2020 6:17 AM

To: James Brickman <[REDACTED]>; Ryan Bangert <[REDACTED]>

Cc: Ryan Vassar <[REDACTED]>

Subject: Re: Michael Wynne

I made the point in my complaint that the allegations were frivolous. I also suggested that I believed the office aided Wynne in drafting the letter.

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From: James Brickman <[REDACTED]>

Sent: Wednesday, October 21, 2020 12:18:01 AM

To: Ryan Bangert <[REDACTED]>

Cc: Ryan Vassar <[REDACTED]>; Darren McCarty <[REDACTED]>

Subject: Re: Michael Wynne

Agree to all

I think the breakdown is this: you are assuming these people approach legal issues like do: with facts, the law, and a plan to execute.

This group has none of these

Sent from my iPhone

On Oct 20, 2020, at 11:50 PM, Ryan Bangert <[REDACTED]> wrote:

I've been noodling on something all night, and I can't quite get to ground on it. Specifically, I've been thinking about Michael Wynne's demand for preservation of documents and litigation hold. Here's a link to the letter: <https://lawsintexas.com/wp-content/uploads/2020/10/OAG-Notice-10-11-2020.pdf>

My question is this: what's the claim? He makes a demand that we preserve documents, but he never articulates a viable claim. He makes several wild, and wildly inaccurate, assertions about how our office purportedly mishandled Nate Paul's referral and the Mitte matter, but he has no civil claim for our office's refusal to exercise its discretion in conducting a criminal review and/or deciding whether and how to intervene in a charitable trust case. It seems to me his only potentially viable claim is for defamation or false light invasion of privacy against us. But nowhere in the letter does he actually articulate what was said about his client that is false.

That leads to my second point: why on earth did we issue a litigation hold? Sure, we have a legal duty to issue a hold when litigation is reasonably anticipated. But is it? Based on Wynne's crazy letter? And if litigation is anticipated, what is the scope of the hold? The generally accepted rule is that the hold extends only to materials relevant or potentially relevant to the potential claim (more or less). But what claim potentially is in play here? I really can't tell.

That leads to my third point: why the conflict notice? What conflict (legal and personal, apparently) exists? The only one I can see possibly coming into play is Rule 1.06(b)(2), which prohibits an attorney from representing a person if the representation "reasonably appears to be or become adversely limited by the ... lawyer's or law firm's own interests." Who is our client? It's the State of Texas. What personal interest is potentially at stake? Warding off a possible defamation claim by Mike Wynne? Aren't our interests and those of the State aligned there? What about our allegations against Nate Paul and AG Paxton? I suppose we can't participate in a prosecution of those two as we also would be material witnesses. But that's not what is being asked. We're supposed to not work on anything related to Nate Paul, full stop. Even if (presumably) that means preventing the agency from taking improper actions with respect to Nate Paul. So, we're conflicted out of protecting our client, the State, from having its resources abused?

Am I missing something here? I'm thinking through what I need to say next to Brent, et al. And it seems this crazy lit hold provides a hook.

Sent with [ProtonMail](#) Secure Email.

Subject: Fwd: Michael Wynne
Date: Sunday, July 30, 2023 at 5:59:09 PM Central Daylight Time
From: Darren McCarty
To: Darren McCarty

Get [Outlook for iOS](#)

From: Darren McCarty <[REDACTED]>
Sent: Wednesday, October 21, 2020 7:07 AM
To: James Brickman <[REDACTED]>; Ryan Bangert <[REDACTED]>
Cc: Ryan Vassar <[REDACTED]>
Subject: Re: Michael Wynne

If not clear, I believe the letter is a pretext to securing a doc hold and to make a specious claim that we are conflicted.

Get [Outlook for iOS](#)

From: James Brickman <[REDACTED]>
Sent: Wednesday, October 21, 2020 12:18:01 AM
To: Ryan Bangert <[REDACTED]>
Cc: Ryan Vassar <[REDACTED]>; Darren McCarty <[REDACTED]>
Subject: Re: Michael Wynne

Agree to all

I think the breakdown is this: you are assuming these people approach legal issues like do: with facts, the law, and a plan to execute.

This group has none of these

Sent from my iPhone

On Oct 20, 2020, at 11:50 PM, Ryan Bangert <ryanbangert@protonmail.com> wrote:

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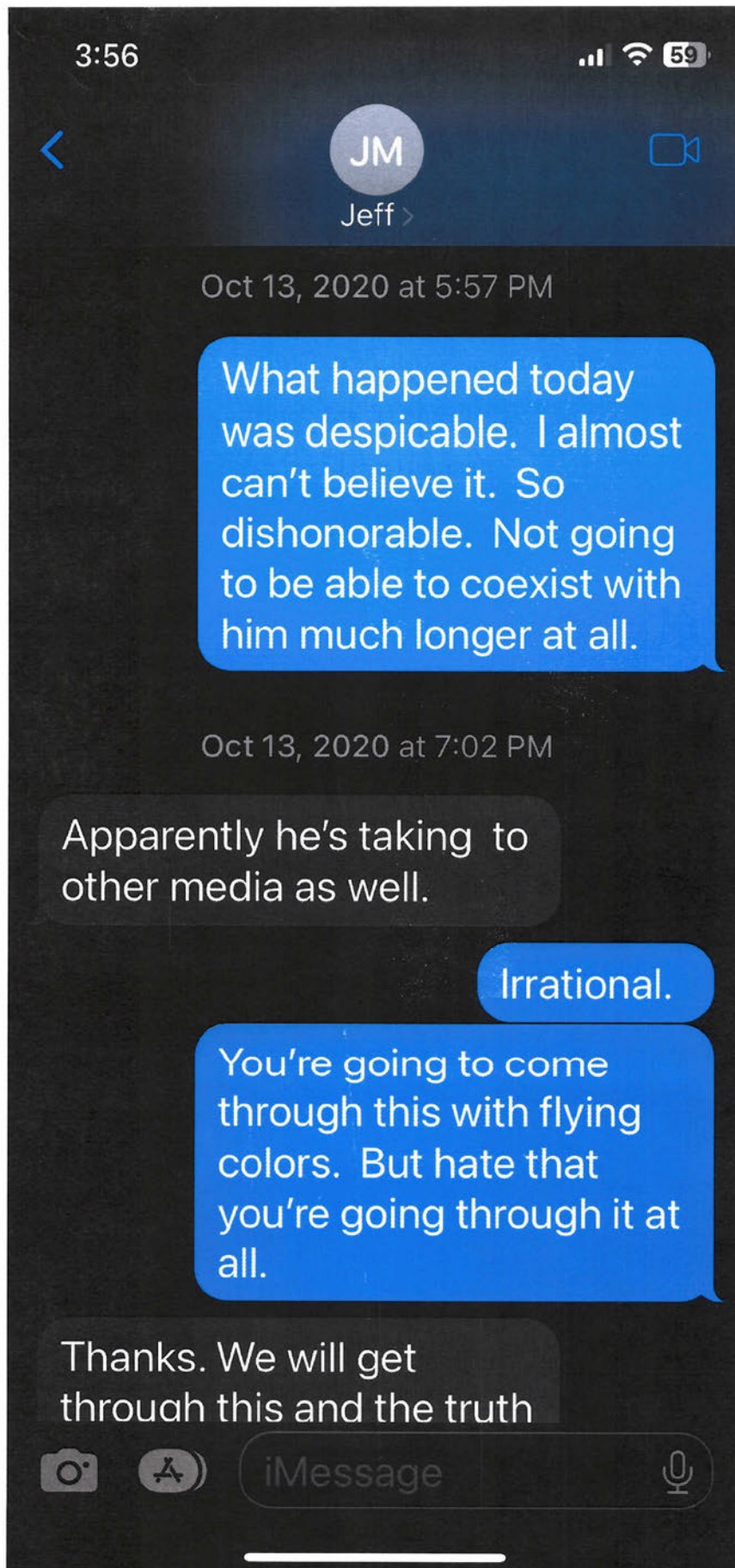
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Sent with [ProtonMail](#) Secure Email.



DM-00000000053

3:56

59



Jeff >



you're going through it at all.

Thanks. We will get through this and the truth will ultimately prevail.

Oct 14, 2020 at 4:13 PM

Can't pick up. With some folks

Call me back when you can

Now I'm on a call. Will call back ASAP

Ok - I'll stay off

Oct 21, 2020 at 6:55 AM

Lmk when you can talk



iMessage



3:57

59



Jeff >



Oct 26, 2020 at 12:30 PM



Just signed my letter of resignation. Sarah will wend after lunch.

Nov 18, 2020 at 4:50 PM

texasattorneygeneral



32 likes

texasattorneygeneral Team strategy meeting - looking into how #BigTech affects small businesses, Texans' privacy and consumer protections.

View 1 comment

Add a comment...



4 hours ago

Dream team



iMessage



DM-00000000055

4:07

58



6 People >



iMessage

Oct 28, 2020 at 11:26 AM

Ryan Bangert

So you know, I tendered my resignation today. Effective Nov 4

RB

Thanks for letting us know

David Maxwell

No I didn't. Just got done at FBI. Went great. I'm staying until he fires me. Will keep y'all post on progress.

DM

Oct 28, 2020 at 3:18 PM

Blake Brickman



iMessage



4:07

58



6 People >



Blake Brickman



**Developer tied to Texas
AG accused judge,
others of fraud**

apnews.com



This is about alleged
second complaint.
Interesting

The first complaint was
sent to Paxton's office
because it involved
allegations against the
state and federal
investigators, who would
normally handle such a



iMessage



DM-00000000057

4:07

58



6 People >

The first complaint was sent to Paxton's office because it involved allegations against the state and federal investigators, who would normally handle such a case. The second was sent to Cammack because he was already looking into Paul's allegations and it dealt with a federal judge, Moore told AP.

BB

Oct 30, 2020 at 5:54 PM

David Maxwell

It looks like Mark and I are going to be fired Monday at 9:00 am.

DM

Ryan Vassar



iMessage



DM-00000000058

4:08

58



6 People >

Ryan Vassar

I have not heard anything from HR yet about my leave, which is supposed to end on the same day.

RV

David Maxwell

If they do Ryan ask them for a copy of the investigation. They won't have anything. Then make a PIC request for all emails between Paxton, Nate Paul, Webster etc every thing related to the rogue employees.

DM

Blake Brickman

Being fired will make you a cool kid.

BB

David Maxwell



iMessage



DM-000000000059

3:48

60



Lacey >

Oct 8, 2020 at 2:45 PM

What was the bank's name?

Independent Financial
in Round Rock

Oct 8, 2020 at 7:09 PM

No banana ?

No banana

We will live to see
another day. For better or
worse.

I'm so tired, Darren.

I know. I hate this for you
and all. Should not be.

Oct 9, 2020 at 10:44 AM



iMessage



3:32

63



Ryan >



Just curious whether you have settled on a plan yet

I think I've roughly settled on mine.

Oct 23, 2020 at 12:49 PM

When you get a minute, call me.

Oct 25, 2020 at 7:42 PM

Still thinking that you're going to submit your resignation tomorrow, effective Nov 2?

Yes. You?

Still thinking it through.

But likely soon



iMessage



DM-00000000061

3:32

63



Ryan >

But likely soon

I understand. It's a big decision. I doubt they'll fire me upon resignation, but I'll be the guinea pig



Oct 27, 2020 at 9:48 AM

Any decisions on your side?

Probably resigning on Monday Nov 2 at latest

As of that day or do you plan to give any notice?

I will probably give one week notice.



iMessage



DM-00000000062

3:34

63



Ryan >

Since I no longer oversee Special Litigation, I'm not entirely sure what I'll be doing.

It's such an odd thing to do given all the things. He should want your help. And doesn't he have something more important right now than fiddling with the org chart.



**Memo Style
ZZ.pdf**

PDF Document ·
196 KB

Yes. But I think he's primary objective is getting rid of me. See email thread I just forwarded.



iMessage



DM-00000000063

Memo Style ZZ

Done

Bangert, Ryan

From: Webster, Brent
Sent: Monday, October 26, 2020 10:06 PM
To: Bangert, Ryan
Subject: Re: Special Litigation

Ryan,

You are a great lawyer and I appreciate you input. I find your credentials very impressive.

As you know I recently took over as First Assistant and have a duty and obligation to make this office more efficient and productive. I also want to reward those that have shown to be good leaders. Organizationally, there are many reforms that need to be made to correct bottle necks in the organization and to elevate some individuals that deserve to be elevated. Patrick is a superstar and does an excellent job in his role. You should view this as me elevating Patrick to where he should be within the organization.

None of this takes away from who you are or your importance, but these changes and future improvements will make the organization stronger.

As always, I appreciate you bringing your concerns directly to me.

Thank you,

Brent

Sent from my iPhone

On Oct 26, 2020, at 9:33 PM, Bangert, Ryan <Ryan.Bangert@oag.texas.gov> wrote:

Brent,

This afternoon, you shared with me the adjustment to the organization chart, removing Special Litigation from my chain of command and placing it directly under you. Special Litigation has reported to me since I joined TXOAG in January 2019. I am uniquely qualified to oversee that division for several reasons, including my experience as a litigation partner with Baker Botts, and my experience overseeing all civil litigation (including 120 attorneys and a docket of over 10,000 open matters) for two years as Deputy of Civil Litigation for Missouri AG Josh Hawley. My work with Special Litigation comprises a key and substantial part of my role as Deputy First Assistant.

The removal of these crucial duties from my portfolio is unexpected and concerning given that it was done suddenly, without explanation, and with critical cases ongoing.

Ryan

<image003.png> Ryan L. Bangert
 Deputy First Assistant Attorney General

Office of the Attorney General
 P.O. Box 12548
 Austin, Texas 78711-2548
 (512) 936-0631



3:34

63



Ryan >



Yes. But I think he's primary objective is getting rid of me. See email thread I just forwarded.

Not sure Patrick is going to see it that way....

Right. Apparently, I'm a bottleneck and an inefficiency. But under that logic, everyone in the agency should report directly to BW.

You can't entirely flatten out an agency of 4,000+

But obviously that's not his goal. He just wants to route all responsibility away from me and force me to quit



iMessage



DM-00000000065

3:35

63



RB



Ryan >

Dumb. Whatever

Oct 27, 2020 at 3:48 PM

Really?

Oct 27, 2020 at 6:39 PM

?

From oog meeting. Nbd.

Oct 27, 2020 at 10:07 PM

What did you write in your resignation letter?

Very short

I can send it

Yes please. Writing mine

Dear Brent,



iMessage



DM-00000000066

3:35

62



Ryan >

Yes please. Writing mine

Dear Brent,

I write to tender my resignation as Deputy Attorney General for Civil Litigation. My resignation will be effective November 2, 2020, which will be my last day in the office.

It has been my honor to represent Texas.

Sincerely,

Darren McCarty

cc: Greg Simpson



iMessage



3:35

62



Ryan >



That's very good. Thank you. And thank you for the chat tonight.

Oct 28, 2020 at 10:10 AM

Did you resign?

Oct 28, 2020 at 11:24 AM

Yes. Effective Nov 4

Has he started moving stuff into your office yet?



Oct 28, 2020 at 12:57 PM

Only a matter of time

That is mind boggling. Seriously. The office will be a shell of itself. It's



iMessage



DM-00000000068

3:35

62



Ryan >



Oct 28, 2020 at 12:57 PM

Only a matter of time

That is mind boggling. Seriously. The office will be a shell of itself. It's concerning for the state.

Sadly, yes.

Oct 30, 2020 at 5:44 PM

The word is that Shawn Cowles will be replacing me.

Not official as far as I know

Sounds right



iMessage



DM-00000000069

3:36

62



Ryan >

Nov 3, 2020 at 7:37 PM

Apparently the chiefs were told today there is a memo that will be distributed to the chiefs. Chris Hilton and Liz attended the high level meeting with Brent about the investigation into the allegations against KP. The 7 didn't know that there were 2 referrals from Travis County. Memo apparently prepared by Brent and Lesley finds that KP had constitutional authority to enter into contract with Brandon. And KP would never intentionally violate the law.



iMessage



3:36

62



Ryan >

Nov 3, 2020 at 8:40 PM

Yes. I heard that independently from another today.

He's trying very hard for an innocent man.

And whether he had authority to sign is irrelevant. WHY did he put the office at the service of NP? There is no answer to that question. No memo that can solve that problem.

Nov 3, 2020 at 10:38 PM

Correct

Nov 6, 2020 at 9:57 AM



iMessage

