

*Aatsy Daw*

THE SENATE OF THE STATE OF TEXAS  
SITTING AS A HIGH COURT OF IMPEACHMENT

**AUG 15 2023**

CLERK OF THE COURT

IN THE MATTER OF  
WARREN KENNETH  
PAXTON, JR.

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§  
§

HOUSE MANAGERS' RESPONSE TO PAXTON'S  
NO EVIDENCE MOTION FOR SUMMARY JUDGMENT  
AKA PART II OF THE FACTS

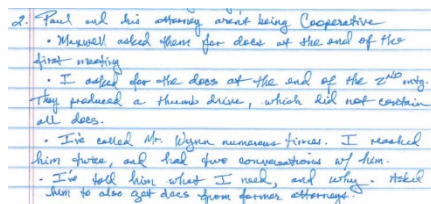
Paxton filed a no evidence summary judgment. The House has determined that there was sufficient evidence to support the Articles of Incorporation. Part II continues to show why the MSJ is legally flawed, and incorporates by reference the facts contained in Part I.

Maxwell, a decorated former Texas Ranger, warned Paxton to run, not walk away from Paul. Paul was involved in “a Ponzi scheme that would make Billie Sol Estes envied,” Maxwell said.<sup>1</sup> But Paxton ignored this advice. Instead, Paxton engineered a “referral” of Paul’s complaint to the OAG.<sup>2</sup> At Paxton’s insistence, Maxwell met with Paul and his lawyer on July 21, 2020. During that videotaped interview,<sup>3</sup> Paul and Wynne described a story alleging federal agents had conspired to falsify search warrants to unlawfully search Paul’s home.<sup>4</sup> Paul informed Maxwell that “General Paxton basically said that he could help me with this.” Maxwell disagreed: “That’s wrong, we can’t help you with this.”<sup>5</sup> Paul and Wynne wanted the OAG to obstruct a federal investigation.<sup>6</sup> Maxwell wanted no part of that. Dissatisfied with Maxwell’s position, Paxton ordered Penley to meet with Paul at a second session.

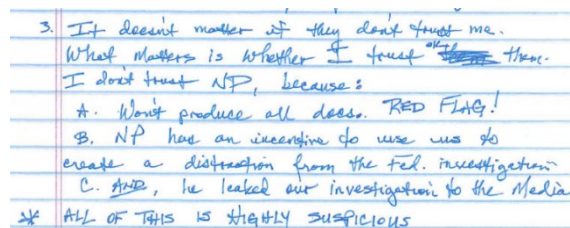
On August 5, 2020, Penley and Maxwell met with Paul and Wynne again in a second videotaped interview. The story still made no sense. Paul and his lawyer “had no evidence of any wrongdoing.”<sup>7</sup> To understand the ludicrous nature of Paul’s complaint one must only look at the Operation Longhorn Power Point that Paul provided in the second interview.<sup>8</sup> After this meeting, Penley told Paxton that OAG should close the file. Paxton then wanted a third meeting so Penley could inform Paul of his conclusion.<sup>9</sup>

At that third meeting, on August 12, 2020, which was not videotaped, Paul became irate hearing that OAG would close the file. Paxton feigned anger at Penley and left the meeting early.<sup>10</sup>

Penley’s notes reflect the unbelievable events:



2. Paul and his attorney aren't being cooperative.  
• Maxwell asked them for docs at the end of the first meeting.  
• I asked for the docs at the end of the 2<sup>nd</sup> mtg. They produced a thumb drive, which did not contain all docs.  
• I've called Mr. Wynne numerous times. I reached him three, and had two conversations w/ him.  
• I've told him what I need, and why. He'd like him to also get docs from former attorney.

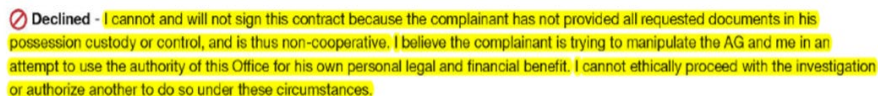


3. It doesn't matter if they don't trust me. What matters is whether I trust ~~the~~ them. I don't trust NP, because:  
A. Won't produce all docs. RED FLAG!  
B. NP has an incentive to use us to create a distraction from the fed. investigation.  
C. AND, he leaked our investigation to the Media.  
\* ALL OF THIS IS HIGHLY SUSPICIOUS

Penley notes explained that Paul and Wynne were not “open or honest” with OAG. Paul sought “to use the name and authority of” the OAG “to manipulate the [OAG] into conducting a criminal investigation of federal prosecutors and possibly law enforcement agents without any supporting evidence, solely for his personal benefit.”<sup>11</sup> Paxton disagreed. Paul had gotten a bad rap due to the FBI and needed OAG’s help, Paxton explained, according to Penley’s notes.<sup>12</sup>

In late August 2020, after Penley and Maxwell had refused to help Paul interfere with a federal investigation, Paxton explored a new option: hiring outside counsel to conduct the inquiry his friend and donor demanded.<sup>13</sup> Paxton asked Vassar to draft a contract for outside counsel but did not tell him that it related to Paul, whom Vassar knew from the open records issue. On August 26 and 27, 2020, Paxton had Mateer meet two outside lawyers as potential candidates for the role. Mateer dutifully did so but had no desire for OAG to pursue Paxton’s latest Paul obsession.

Paxton preferred candidate Brandon Cammack, a five-year-attorney with no prosecutorial experience. Beyond refusing to help Paul themselves, Mateer and Penley pushed back against Paxton’s insistence that OAG hire an outside lawyer to prosecute Paul’s claims. For weeks, Penley refused to approve Cammack’s contract.<sup>14</sup> Penley memorialized his opposition—telling everyone that Paul was lying and trying to manipulate OAG— and in e-mails, notes, meetings with Mateer, and a 7-page memo. In his October 1, 2020 declination to the Cammack contract, Penley said:

A screenshot of a document with a red circle and slash icon at the top left. The text is highlighted in yellow and reads: "Declined - I cannot and will not sign this contract because the complainant has not provided all requested documents in his possession custody or control, and is thus non-cooperative, I believe the complainant is trying to manipulate the AG and me in an attempt to use the authority of this Office for his own personal legal and financial benefit. I cannot ethically proceed with the investigation or authorize another to do so under these circumstances."

#### **I. Paxton allowed Paul to manipulate the OAG into conducting a criminal investigation solely designed to benefit Paul.**

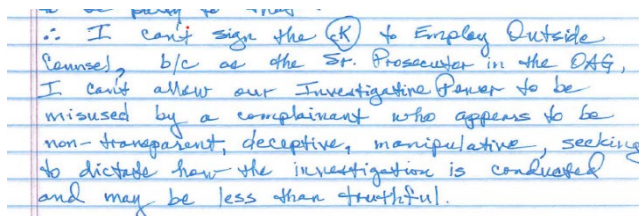
Penley mistakenly thought that if he refused to sign the contract, this would thwart Paul’s plan. Unbeknownst to Penley, or any other Senior Staff, Paxton came to Paul’s rescue, personally arranging for Cammack to work on Paul’s investigation. Cammack’s invoices show that on September 3, 2020, Cammack secretly met with Wynne, Paul’s lawyer.<sup>15</sup> Paxton, head of a 4,200-

person State agency, then actively managed the work of a single lawyer, Cammack, by receiving updates from Cammack via phone;<sup>16</sup> and regularly communicating with Cammack at Paxton's non-governmental, less secure e-mail of [ag.wkp@protonmail.com](mailto:ag.wkp@protonmail.com).

Then the independent "special prosecutor" took instruction from Wynne and Paul, the subject of an on-going federal investigation, who directed Cammack whom to subpoena and investigate. Cammack's file on the "investigation," include notes and e-mails that show Cammack immediately adopted Wynne and Paul's logic on the case.<sup>17</sup>

In September 2020, e-mails show how Paul and Wynne, acting like kids playing detective, identified "targets" for Cammack to investigate. Paul provided Wynne, who forwarded to Cammack in an-email, subpoena recipients for "Operation Bubba" "Operation Deep Sea" and "Operation Tarrytown."<sup>18</sup> Paul had Cammack subpoena the *personal* e-mail and phone records for lawyers, judges, and federal officers from the 2019 FBI raid and foreclosures of his properties.<sup>19</sup> Cammack created what he called grand jury subpoenas for Paul's adversaries, in response to Paul's request, obtaining the forms from the Travis County District Attorney's Office. Audio tapes show Cammack personally served the subpoenas and that Wynne, Paul's lawyer, tagged along.<sup>20</sup> Through Cammack, Paul had unfettered access to Texas's top law enforcement agency, which Paul harnessed to harass his enemies.<sup>21</sup> Wynne and Paul, had used the criminal process to gather civil discovery for Paul, a prohibited move for prosecutors.<sup>22</sup>

During mid and late September 2020, unaware that Cammack was already acting as a special prosecutor,<sup>23</sup> Penley and Mateer continued to beseech Paxton *not* to hire outside counsel. They continued to urge him not to continue helping Paul in his quest to use OAG as his personal law firm. Penley's notes explained why:



∴ I can't sign the (OK) to Employ Outside Counsel, b/c as the Sr. Prosecutor in the OAG, I can't allow our Investigative Power to be misused by a complainant who appears to be non-transparent, deceptive, manipulative, seeking to dictate how the investigation is conducted and may be less than truthful.

Paxton's obsession with using the OAG's power to help Paul reached a new pinnacle at the end of September 2020. On Friday, September 25, Paxton called Mateer's cell while aboard a Southwest Airlines flight. The day before, Penley had forwarded the proposed Cammack contract to Mateer that he had received through OAG's DocuSign program, declining to sign. In the "heated" chat, Paxton said he wanted Penley to sign Cammack's contract, according to Mateer's notes.<sup>24</sup> Paxton then lied: telling Mateer that Mateer had already approved Cammack's hiring (he had not). Mateer's notes show that he pushed back, asking: why would OAG be involved in Paul's case? Why would the OAG hire a five-year-lawyer for such a job? Mateer "advised [Paxton] that all of his senior leadership had concerns about anything involving Nate Paul."<sup>25</sup>

Paxton then requested a meeting with Penley in McKinney for the next day, Saturday, September 26, 2020. Penley's contemporaneous notes show that Penley thought the Attorney General should not help Paul by hiring an outside lawyer for a criminal investigation. Paul was "trying to manipulate the [OAG] for his personal benefit."<sup>26</sup> On that Saturday afternoon, Penley sat at a metal table outside Dunkin' Donuts in McKinney pleading with his boss not to allow Paul to use the OAG for Paul's "benefit" and for a "counterattack on the FBI."<sup>27</sup> Penley's contemporaneous notes, and memoranda by Penley and Mateer,<sup>28</sup> evidence Paxton's unwavering commitment to Paul. Penley's notes and memorandum to Mateer show that during that two-hour meeting Paxton:

- Defended Paul (again), explaining that Paul had not provided Penley with requested documents because Paul did not trust Penley;
- Revealed that Cammack had already been working on the investigation for two weeks despite Penley not signing the contract;

- Lied to Penley, claiming that Mateer, the OAG’s top lawyer and Penley’s boss, had approved Cammack’s hiring. Mateer’s notes and interviews unequivocally contradict this; he had never approved the contract.

Paxton argued with Penley for hours, demanding that the OAG help Paul investigate his enemies.

Penley then realized the situation was “beyond redemption.”<sup>29</sup>

On Monday, September 28, 2020, Paxton entered Mateer’s office and had an awkward exchange, according to Mateer’s notes. Paxton couldn’t understand why Penley would not sign Cammack’s contract. Paxton’s insistence about the contract made Mateer ask Paxton whether he “was under some sort of undue influence?” Paxton denied that, according to Mateer’s notes. That night, after 9 P.M., Paxton called Mateer’s cell. Paxton was “very angry,” according to Mateer’s notes. “My best guess is that he had been drinking and that someone was present [with] him when he called me,” Mateer noted.<sup>30</sup> Paxton wanted Mateer to fire Penley and Maxwell. Mateer “told him I would not fire them and would resign, or he would have to fire me first.”<sup>31</sup>

Events of September 29 and 30, 2020 require close attention because they show the degree to which Cammack’s investigation allowed Paul and Paxton to abuse OAG’s power.

## II. The Cover Up.

On September 29, 2020 the following occurred:

- 2:30 P.M. Wynne and Cammack arrived at Independent Bank to serve a subpoena on a bank for records involving one of Paul’s properties.<sup>32</sup> Cammack recorded the visit and represented himself as a “special prosecutor.”<sup>33</sup>
- A few hours later, that bank officer texted Lacey Mase, an OAG deputy, asking about the unorthodox visit from Wynne and Cammack, a special prosecutor.<sup>34</sup> Mase told Mateer what had occurred and made a memo to the file that night.
- After visiting the bank in Round Rock, Cammack and Wynne went to Amplify Credit Union in Austin and served a subpoena on the bank seeking records relating to Paul’s properties. Again, Cammack, represented himself as a special prosecutor. Suspicious, the bank’s lawyer called Lisa Tanner, an OAG lawyer about the subpoena, which he forwarded. according to Tanner’s e-mails.<sup>35</sup>

- OAG Senior Deputies had several discussions that night about the subpoena and Paxton’s continued involvement with Paul. Interviews with deputies such as Brickman, Mateer, Vassar, and Bangert detail this is when Senior Staff decide to see the FBI.

The next day, Wednesday, September 30, 2020:

- 9:18 A.M. Penley e-mails Cammack a letter telling him to cease and desist;
- 9:30 A.M., McCarty, who had overseen the Mitte Foundation litigation, e-mails OAG staff instructing them to “immediately withdraw from” the litigation;
- 10:35 A.M. Cammack sends Penley’s e-mail to Paxton with the subject: “URGENT Fwd: See Attached Letter from the Office of the Attorney General.”
- Late morning, Senior Staff meets with the FBI.
- 12:06 P.M., Cammack forwards to Paxton from BancorpSouth, a bank upon whom he had served a subpoena. The e-mail asks for “documentary evidence that you have been engaged by the Texas AG’s office to investigate this matter.”
- 12:31 P.M., Cammack e-mails OAG an invoice showing he started work on September 3, 2020, and asking for payment by check.
- 2:32 P.M., Paxton texts the trustee of his blind trust, instructing him to wire a payment to Cupertino Builders, an entity not registered to do business in Texas. The payment is purportedly for ongoing home renovations.
- 5:12 P.M. OAG e-mails Cammack back, telling him, “we are unable to pay this invoice. In order to pay this invoice, we need a copy of the executed contract. We do not have a copy of the executed contract.”
- 9:52 P.M. Cammack e-mails Vassar that he did “not expect to run into this issue” about the signed contract and will send Vassar the contract the next day.
- About 10:12 P.M. Paxton arrives at the Austin airport from an out-of-state event.
- 10:57 P.M. Uber picks up “Dave P” near Paxton’s Terrytown home and takes him to Nate Paul’s house.

By September 30, 2020, OAG Senior Staff obtained copies of all Cammack’s subpoenas.<sup>36</sup>

The stunned staffers pieced together how Cammack had subpoenaed personal information for Paul’s foes from the Mitte litigation, agents involved in the federal criminal investigation of Paul,

and banks foreclosing on his properties.<sup>37</sup> For months, Paxton had siloed staff, only sharing portions of Paul's projects with certain deputies. The criminal investigation that Paxton had orchestrated, however, married all of Paul's obsessions into a singular and shocking abuse of OAG's power. On September 30 and October 1, 2020, OAG lawyers, moved to quash the subpoenas ostensibly obtained by an OAG lawyer.<sup>38</sup> Paxton, on the other hand, wanted to appear in court **to stop the motion** and explain how "Cammack was acting on his behalf."<sup>39</sup>

Around 8:45 A.M. on October 1, after the FBI meeting, Vassar received an e-mail from Cammack. It contained his contract, signed by Paxton. Vassar texted a photo to other OAG deputies, there is no date on the contract.<sup>40</sup> After seeing Paxton's signature on the contract, Mateer and Bangert e-mailed Cammack, again, telling him he lacked a valid contract with OAG.<sup>41</sup>

Mateer resigned the next day, October 2. That night, at 10:30 P.M., Dave P took his last Uber, a visit to the Lantana Pearl, where Paxton's mistress lived. The employees Paxton had tried to drag into service for Paul grieved him.<sup>42</sup> These individuals faced demotions or trumped-up investigations. Despite all this, Paxton insisted that Cammack continue his work.<sup>43</sup>

### **III. Paxton went to great lengths to hide his misdeeds from the public.**

Paxton sought to hide from the public his relationship with Paul and all their misdeeds. To accomplish this, he tasked replacement First Assistant, Brent Webster, with "investigating" the allegations underlying the Senior Staffer's report to law enforcement.<sup>44</sup> Webster's "investigation" began his first day in office, October 5, 2020, and Paxton directly supervised the whole affair, according to e-mails.<sup>45</sup> Rather than reflecting an independent inquiry, Webster's drafts and OAG's final report evidence how the investigation misled the public, and worked to exonerate Paxton.<sup>46</sup>

The OAG's January 2021 Report is riddled with lies. Evidence discussed in this Response contradicts the Report's assertions in ways. Some of the most blatant misstatements include: (1) "TCDAO appointed Cammack to be a special prosecutor;"<sup>47</sup> (2) Mateer was "involve[d] in the

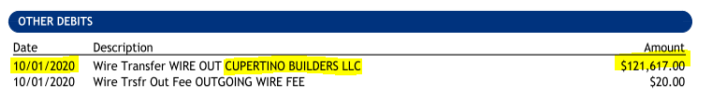


hiring of outside counsel;”<sup>48</sup> and (3) “OAG records directly contradict” the assertion Paul’s criminal complaints lacked merit.<sup>49</sup>

Paxton took every opportunity available, too, to publicly denounce Senior Staff. In appearances on The Mark Davis Radio Show, in December 2021, and January 2022, Paxton feigned ignorance about why Senior Staff had quit or faced termination.<sup>50</sup> Paxton claimed that a “very secretive” Mateer had “basically worked two years to bring in the people he wanted in there.”<sup>51</sup> Paxton’s response ignored how he had worked with Penley before, personally recruited him, and that he had personally wooed Brickman to OAG.<sup>52</sup>

**A. Paxton continues his cover up with lies about benefits he had received from Paul.**

As the walls closed in around him, and Paul’s real estate world continued crumbling, Paxton worked to cover up multiple misdeeds. Among them: Paxton coordinated with the trustee of his blind trust, texting him September 29, 2020, to wire payment to Cupertino Builders, LLC.<sup>53</sup> The text came a few hours after Cammack had urgently e-mailed Paxton, with his cancelled contract.<sup>54</sup> Paxton’s impeachment attorneys waived around this transfer for the press:<sup>55</sup>



OTHER DEBITS		
Date	Description	Amount
10/01/2020	Wire Transfer WIRE OUT CUPERTINO BUILDERS LLC	\$121,617.00
10/01/2020	Wire Trsfr Out Fee OUTGOING WIRE FEE	\$20.00

But Cupertino Builders was not authorized to do business on October 1, 2020—the wire transfer’s date. In fact, Cupertino Builders did not register to do business in Texas until 18 days **later**.<sup>56</sup> More problematic? Narsimha Raju “Raj” Sagiraju, Cupertino Builder’s corporate officer, is a friend and employee of Nate Paul’s.<sup>57</sup> Independent financial experts in other litigation identified Cupertino Builders as a recipient for fraudulent transfers made by Paul.<sup>58</sup>

**B. Paxton lied to legislators to conceal his misconduct.**

On February 10, 2021, Paxton appeared before the Texas Senate Finance Committee. During that videotaped session, Senator Joan Huffman, a influential legislator, asked about

“special prosecutors” and then immediately pointed to Paxton. “I’m wondering who hired Brandon Cammack,” Huffaman asked.<sup>59</sup> Instead of answering the question, Paxton deferred to Brent Webster, his new First Assistant, who not even present in the OAG when the questioned events occurred. Webster, who had been responsible for drafting the OAG cover up report, then committed a bald face lie by saying that he had seen documents that showed “the Travis County DA’s office made Brandon Cammack a Special Prosecutor. We [OAG] did not make Brandon Cammack a Special Prosecutor.”<sup>60</sup> Webster’s response made it seem as though the TCDAO had endorsed Paxton’s scheme. Paxton stood silent, despite his receipt of an October 2020 letter that made it crystal clear TCDAO had nothing to do with Paxton’s plot.<sup>61</sup>

### **C. Paxton settles to avoid discovery of the truth.**

After fighting the litigation commenced by wrongly terminated OAG employees,<sup>62</sup> and faced with looming discovery,<sup>63</sup> Paxton walked back his bravado in 2023. He finally agreed that the Senior Staff had “acted in a manner that they thought was right” and he apologized for referring to the staff as “rogue employees.”<sup>64</sup> But this apology, like his July 22, 2020 promise to stay away from Paul is a hollow concession since he continues to deny, misdirect, and lie to the people of Texas about his misconduct. The honorable Senior Staff who stepped forward on September 30, 2020, deserve better and so does the public. A trial before the Senate will ensure the truth emerges.

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<sup>1</sup> Ex. 13, Maxwell transcript at 32 :7-13.

<sup>2</sup> Ex. 80.

<sup>3</sup> Exs. 2, 2-A.

<sup>4</sup> Ex. 2, 2-A at 7:21-11:9, 13:4-20:4.

<sup>5</sup> Ex. 13, Maxwell transcript at 15:13-17.

<sup>6</sup> Exs. 2, 2-A at 88:1-89:25.

<sup>7</sup> Ex. 16, Penley transcript at 39:6-41:25 ; 40 :5-13.

<sup>8</sup> Ex. 86.

<sup>9</sup> Exs. 3, 3-A.

<sup>10</sup> Exs. 3, 3-A at 9:2-16:25, 23: 9-35:25; Ex. 16, Penley transcript at 27:8-31:4.

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- <sup>11</sup> Ex. 95; Ex. 96.  
<sup>12</sup> Ex. 97.  
<sup>13</sup> Ex. 57; Ex. 18, Vassar transcript at 54:25-57:6.  
<sup>14</sup> Ex. 16, Penley transcript at 58:13-60:4, 74:5-75:22, 76:19-83:2.  
<sup>15</sup> Ex. 61.  
<sup>16</sup> Ex. 61.  
<sup>17</sup> Ex. 52; Ex. 53; Ex. 83.  
<sup>18</sup> Ex. 84; Ex. 85.  
<sup>19</sup> Ex. 82.  
<sup>20</sup> Exs. 5, 5-A at 2:5-19, 6:1-25; Exs. 6, 6-A at 8:2-9:24, 16:1-17-17.  
<sup>21</sup> Ex. 52; Exs. 6, 6-A at 8:2-9:24, 16:1-17-17.  
<sup>22</sup> Exs. 6, 6-A at 8:2-9:24, 16:1-17-17.  
<sup>23</sup> Ex. 60; Ex. 61; Ex. 68.  
<sup>24</sup> Ex. 99.  
<sup>25</sup> Ex. 99.  
<sup>26</sup> Ex. 95; Ex. 66.  
<sup>27</sup> Ex. 16, Penley transcript at 48:10-49:24, 76:19-79:20, 80:5-83:2; Ex. 66.  
<sup>28</sup> Ex. 55; Ex. 95; Ex. 96; Ex. 97.  
<sup>29</sup> Ex. 16, Penley transcript at 76:19-79:20.  
<sup>30</sup> Ex. 99.  
<sup>31</sup> Ex. 99.  
<sup>32</sup> Exs. 5, 5-A at 4:8-8:1.  
<sup>33</sup> Ex. 5, 5-A.  
<sup>34</sup> Ex. 57.  
<sup>35</sup> Ex. 64.  
<sup>36</sup> Ex. 54; Ex. 64; Ex. 80.  
<sup>37</sup> Ex. 16, Penley transcript at 92:19-93:17; 99:1-100:2.  
<sup>38</sup> Ex. 16 at 102:4-103:7.  
<sup>39</sup> Ex. 14, Montford transcript at 53:13-55:19; Ex. 80.  
<sup>40</sup> Ex. 146.  
<sup>41</sup> Ex. 113.  
<sup>42</sup> *See e.g.* Ex. 74.  
<sup>43</sup> Ex. 68, 80.  
<sup>44</sup> Ex. 100.  
<sup>45</sup> Ex. 78.  
<sup>46</sup> Ex. 77; Ex. 78; Ex. 100; Ex. 108.  
<sup>47</sup> Ex. 15, Moore transcript at 21:9-22:8, 25:17-26:10, 32:6-33:6.  
<sup>48</sup> Ex. 98; Ex. 99.  
<sup>49</sup> Ex. 91; Ex. 92.  
<sup>50</sup> Exs. 7, 7-A at 2:1-21, 3:12-18; Exs. 8, 8A at 4:12-21.  
<sup>51</sup> Exs. 8, 8-A at 4:3-6.  
<sup>52</sup> Ex. 26.  
<sup>53</sup> Ex. 62.  
<sup>54</sup> Ex. 60.  
<sup>55</sup> Ex. 102.  
<sup>56</sup> Ex. 103.  
<sup>57</sup> Ex. 79; Ex. 104.  
<sup>58</sup> Ex. 106.  
<sup>59</sup> Ex. 4.  
<sup>60</sup> Ex. 4.  
<sup>61</sup> Ex. 72.  
<sup>62</sup> Ex. 90.  
<sup>63</sup> Ex. 107.  
<sup>64</sup> Ex. 92.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served on the following counsel  
for Paxton on August 15, 2023:

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