



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

AUG 05 2023

IN THE MATTER OF
WARREN KENNETH
PAXTON, JR.

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§

CLERK OF THE COURT

**HOUSE MANAGERS’ MOTION TO CLARIFY CERTAIN SENATE RULES
GOVERNING THE IMPEACHMENT TRIAL OF WARREN KENNETH PAXTON JR.**

To the Honorable Dan Patrick:

The Texas House of Representatives Board of Managers (“House Managers”) file this motion seeking clarification of certain rules contained in Senate Resolution No. 35 (“the Senate Rules”) governing the impeachment of Warren Kenneth Paxton Jr. (“Paxton”), Attorney General of the State of Texas, and would show the following:

A. Time Limitations at Trial

Rule 17 of the Senate Rules provides each side a total of 24 hours for “presentation of evidence” and an additional 60 minutes for “rebuttal evidence.” Rule 5 further provides that these “shall be monitored by the clerk of the court during all the proceedings of the court.” Additional guidance is needed both for the parties as well as the Clerk of Court who will be monitoring the time, per Rule 5.

First, the House Managers seek confirmation that only the time spent on direct examination of a witness shall count against the 24-hour time limit for presentation of evidence. Or, at a minimum, the House Managers seek clarification that the time spent by an opposing party on cross examination will be counted only against the party conducting the cross examination.

Second, the Senate Rules reflect a desire to avoid potential “unnecessary delays” and charge the Presiding Officer to maintain “control” over the time to “avoid wasting time” and to “closely monitor” for violations of Rule 611. The House Managers seek confirmation that time

spent on objections, motions, responses thereto, and responding to any inquiry by the Presiding Officer, will not count as time spent presenting evidence.

The House Managers propose the following clarifications to Rule 17:

- Only time spent on direct examination of a witness shall count against the 24-hour time limit for presentation of evidence, or at a minimum, time spent questioning a witness presented is counted only against the party conducting the questioning.
- Any objections or motions, including points of order or parliamentary inquiries, responses thereto, deliberation of these matters, or inquiries by the Presiding Officer or responses thereto, whether done pretrial or during the trial are not considered “presentation of evidence” under Rule 17.

B. Pre-Trial Exchange of Exhibits

The Senate Rules do not contemplate the pretrial exchange of exhibits. To prevent unnecessary delay during the trial, the House Managers propose that counsel for each party assemble all documents, photographs, or other materials expected to be used at trial and exchange such materials with opposing counsel by August 22, 2023.¹ This rule does not apply to demonstrative evidence, rebuttal exhibits, or those the use of which cannot be anticipated. Counsel requiring authentication of an exhibit shall notify opposing counsel in writing by September 1, 2023.

C. House Members’ Use of Wireless Mobile Devices

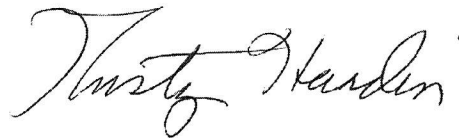
Senate Rule 11(c) prohibits the House Managers, but not Paxton or his counsel, from utilizing a wireless mobile device while on the floor. Importantly, the House Managers serve dual roles of both client and prosecutor. To fully perform their jobs as prosecutors, the House Managers will need to access personal electronic devices. As with legal counsel, this will permit them to conduct research, review legal authorities and documents, and gather essential data that may be

¹ Paxton previously filed a motion proposing that the parties exchange exhibits on August 22, 2023.

used at trial. Moreover, the lack of access to electronic devices will inhibit the House Managers' ability to communicate with their legal counsel during trial. This will interfere with counsel's ability to fully represent the House Managers. The July 17, 2023 Gag Order addresses any concerns about the potential for abuse that could result from having access to wireless devices. Thus, the House Managers seek permission to use wireless mobile devices on the floor.

Accordingly, the House Managers respectfully request that the Senate clarify the Senate Rules as set forth herein.

Respectfully submitted,



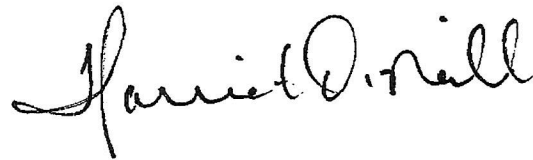
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on the following counsel
for Paxton on August 5, 2023:

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