

**THE SENATE OF THE STATE OF TEXAS
COURT OF IMPEACHMENT**

IN THE MATTER OF
WARREN KENNETH PAXTON, JR.

Aatsy Daw

AUG 15 2023

CLERK OF THE COURT

**ATTORNEY GENERAL WARREN KENNETH PAXTON JR.'S
RESPONSE TO THE HOUSE MANAGERS' MOTION TO CLARIFY**

The House Managers' motion is procedurally defective, and this Court should dismiss it. Though styled as a "Motion to Clarify Certain Senate Rules," it does nothing of the sort—the House Managers only seek to suspend or amend rules while avoiding the procedural requirements of doing so under Rule 7. Nothing about the Senate Rules requires amendment, and this Court need not burden itself with considering the motion any further. But even if this Court were to address the merits of the requested modifications, the House Managers' motion fares no better.

First, the House Managers' proposed accounting for the time limitations at trial are both foreign to trial practice in Texas and would greatly extend the length of the trial, in contravention of the Senate's expressed desire to avoid unnecessary delay. The House Managers' first proposal is to permit *unlimited* cross examination of witnesses, with each side presenting 24 hours of direct examination. Such a rule would allow, and perhaps encourage, the House to spend at least half its case—maybe more—with wide-ranging, irrelevant, and time-wasting cross examination without regard to any time limit. Moreover, no trial court in Texas would permit each side to have unlimited cross examination during a trial where other time limitations are imposed. The House Managers' alternative proposal—that all time spent questioning a witness, whether via direct or cross examination, is charged against the side conducting the questioning—is a common practice in Texas, and the Attorney General does not object to this method of timekeeping, should the Presiding Officer choose to conduct trial in that way. But the House's request for unlimited cross examination time would promote gamesmanship and inefficiency, and the Court should reject it.

Further, the Court should reject the House Managers' request to exempt other colloquy at trial from the time limit imposed on each side. Allowing unlimited time for things like "objections" would only serve to encourage marginal objections; each side should be judicious with the time allocated to it and instead endeavor to present witnesses in an unobjectionable fashion. It will of

course be within the Presiding Officer’s authority to pause or adjust any timer during the course of the proceedings so that counsel can, for example, respond to questions from the Court. But there is no need for a rule “clarification” that would bind the Presiding Officer’s discretion in addressing such matters as they arise.

Finally,¹ the House Managers’ request to modify Rule 11(c) regarding the use of wireless devices is nothing more than an expression of dissatisfaction with the Senate’s rulemaking. Rule 11 is detailed, clear, and specific. It permits the use of devices for narrow purposes, such as “accessing electronic documents submitted into evidence,” but limits other purposes, perhaps in order to ensure that legislators are comporting themselves with the appropriate decorum on the Senate floor during the proceedings. But the Senate’s reasoning and decision-making regarding Rule 11(c) should not be revisited merely because the House Managers prefer it were otherwise. And whatever inequity the House Managers perceive in the way the rule has been constructed, they cannot simply “clarify” the Rule to say something that it does not. The House Managers can obtain the relief that they seek only via suspension or amendment of the Rule—which the House Managers have not requested. Accordingly, this request should also be summarily rejected.

¹ The Court has already ordered the pretrial exchange of exhibits, so the House Managers’ third request has been resolved and need not be addressed here.

Respectfully submitted.

/s/ Christopher D. Hilton

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CERTIFICATE OF SERVICE

This motion was served via email on the Senate, the Lieutenant Governor, and the House Board of Managers through their counsel, Rusty Hardin, Dick DeGuerin, on August 15, 2023.

/s/ Christopher D. Hilton
Christopher D. Hilton