

RECORD OF PROCEEDINGS

of the

HIGH COURT OF IMPEACHMENT

On the Trial of
Warren Kenneth Paxton Jr, Attorney General of Texas

THE SENATE OF THE STATE OF TEXAS

SITTING AS A HIGH COURT OF IMPEACHMENT

In accordance with the provisions of Article XV, Sections 1 and 2 of the Constitution of the State of Texas, Chapter 665, Government Code of the State of Texas, and pursuant to the Articles of Impeachment (HR 2377, 88th Legislature, Regular Session) and the Senate Rules and Procedures for the Court of Impeachment (SR 35, 88th Legislature, 1st Called Session), the Senate met in the Senate Chamber at the City of Austin on the fifth day of September, 2023, at 9:00 a.m. as a High Court of Impeachment in the Matter of Warren Kenneth Paxton Jr.

FIRST DAY

(Tuesday, September 5, 2023)

APPEARANCES

Mr. Rusty Hardin, Mr. Dick DeGuerin, Ms. Harriet O'Neill, Ms. Lara Hudgins Hollingsworth, Ms. Jennifer Brevorka, Ms. Megan Moore, Mr. Daniel Dutko, Ms. Leah M. Graham, Mr. Armstead Lewis, Ms. Aisha Dennis, Mr. Mark White III, Ms. Erin M. Epley, Mr. Mark E. Donnelly, Ms. Terese Buess, Ms. Donna Cameron, Mr. Brian Benken, Mr. Ross Garber, Ms. Lisa Bowlin Hobbs, Ms. Stella Jares, Mr. Dan McAnulty, Mr. Jim Yarbrough, on behalf of the House Board of Managers.

Attorney General Warren Kenneth Paxton Jr., Respondent.

Mr. Tony Buzbee, Mr. Dan Cogdell, Mr. J. Mitchell Little, Mr. Anthony Dolcefine, Mr. Colby Holler, Mr. Anthony Osso, Mr. Judd E. Stone II, Mr. Christopher D. Hilton, Ms. Allison M. Collins, Ms. Amy S. Hilton, Ms. Kateland R. Jackson, Mr. Joseph Mazzara, Attorneys for Respondent.

PROCEEDINGS

(8:58 a.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate Dan Patrick now presiding.

PRESIDING OFFICER: Good morning, everyone.

Bailiff, will you bring in the jury.

(Jury enters Senate chamber)

PRESIDING OFFICER: Please remain standing at your desk as you come on.

For those here in the gallery or are watching online, every day we begin a set of session with a prayer, and we will do so every day during this impeachment process.

Senator King.

Each day a different Senator will present the prayer as they wish.

SENATOR KING: Good morning. If you would just bow with me, please.

Father, we wanted to start off today putting first things first, because for all of us, this is a first. It's an incredibly solemn and important occasion, and none of us have ever been a part of a trial of this nature. And really it's only happened a handful of times in Texas history.

So as we come to it this morning, we just first pray that you would just give us wisdom in all the presentation and all the deliberations and just everything that will go on. For those of us who are going to be making the decisions at the end, we just pray for your wisdom and insight. And we know the truth is always at the top of your agenda with justice, and we pray that we would see what that is and that we would make decisions in accordance with that.

Just want to pray for the Lieutenant Governor. This is a new role for him as Presiding Officer. We pray for your help for him in that task.

Just pray for all of us members of the Senate. We've been here most of this year. We all have a lot of responsibilities back home that are piling up, and we just pray that you would just keep everything moving smooth at home with our families and our businesses and just all our responsibilities so that we can focus all our efforts on this task.

We'd also just pray for good health so that we can all be here every day. All of us who are part of this trial, we pray that we could be here everyday, be healthy, be attentive, sleep well, just all those things we need to do to do the job that you've put us here to do.

And, Father, again, we just ask just for your guidance, your direction. And we just pray that when all of this is over that all of us will walk away knowing in your eyes that we did the right thing. We ask this in Jesus name. Amen.

PRESIDING OFFICER: Thank you, Senator King.

I will now have – you may be seated. Everyone be seated.

We will now have our Chief Justice Nathan Hecht give the oath of office to myself and Judge Lana Myers.

(The following oath was given to Lieutenant Governor Dan Patrick.)

CHIEF JUSTICE HECHT: I, Dan Patrick, do solemnly swear that I will impartially try William Kenneth Paxton, Jr., Attorney General of Texas, upon the impeachment charges submitted by the House of Representatives, so help me God.

PRESIDING OFFICER: Now Judge Myers.

(The following oath was given to Judge Lana Myers.)

CHIEF JUSTICE HECHT: I, Lana Myers, do solemnly swear that I will impartially perform the duties of legal counsel and jurist in the impeachment of William Kenneth Paxton, Jr., Attorney General of Texas, so help me God.

PRESIDING OFFICER: For those in the gallery, and, again, watching online, we seldom bring out the Sam Houston Bible. We do it in inaugurations and other special occasions, and this is a very significant and serious occasion that will be in the history books. And I thought it appropriate to bring out the Sam Houston Bible, not just for Judge Myers and myself, but for each member of the Senate, the jurors.

So we're going to take a few minutes, instead of swearing in everyone at one time – and our clerk of the court, Patsy Spaw, who I might mention has not missed a session day in 54 years, has dedicated to her service will present the Bible to each member – I will swear them in. You may choose to put your hand on the Bible or not. That is your decision. And we present the Bible to you.

We will do it one by one, starting with Senator Blanco. Repeat after me.

(The following oath was given to all qualified voting senator jurors.)

PRESIDING OFFICER: I do solemnly swear or affirm I will impartially try Warren Kenneth Paxton, Attorney General of Texas, upon the impeachment charges submitted to me by the House of Representatives and a true verdict render according to the law and the evidence, so help me God.

Thank you, Senator.

This oath is being taken by all qualified jurors today on the floor who have a vote.

Court reporters, would you please stand?

(The following oath was given to the court reporters.)

PRESIDING OFFICER: If you will repeat after me: I do solemnly swear or affirm that I will correctly transcribe and report all of the proceedings of the trial of Warren Kenneth Paxton, Jr. on impeachment, so help me God.

And thank you for being here. Thank you.

Officers of the Court. Would all the officers of the Court who are assisting in the trial please step next to the Clerk of the Court. Raise your right hand. Repeat after me.

(The following oath was given to the officers of the Court.)

PRESIDING OFFICER: I do solemnly swear or affirm that I will impartially serve the Court during the proceedings of the trial of Warren Kenneth Paxton, Jr. on impeachment, so help me God.

And thank all of you for preparing over the last several months the Senate for today. Thank you.

For the record, I want to announce the counselors for the House of Managers. Please rise when I announce your name.

Representative Andrew Murr.

Representative Ann Johnson.

Representative Briscoe Cain.

Representative Terry Canales.

Representative Erin Gamez.
Representative Charlie Geren.
Representative Jeff Leach.
Representative Oscar Longoria.
Representative Morgan Meyer.
Representative Joe Moody.
Representative David Spiller.
And Representative Cody Vasut.

Dick DeGuerin, Rusty Hardin, Justice Harriet O'Neill, Brian Benken, Jenny Brevorka, Terese Buess, Donna Cameron, Aisha Dennis, Mark Donnelly, Daniel Dutko, Erin Epley, Ross Garber, Leah Graham, Lisa Hobbs, Laura Hollingsworth, Megan Moore, Mark White, and Joe Burrow.

Did I miss anyone? Thank you.

Sir? Mr. Lewis.

MR. LEWIS: Armstead Lewis.

PRESIDING OFFICER: Armstead Lewis. Thank you, sir.

And now counselors for the record, I will announce the – get my list here – Attorney General's counsel, please rise when I call your name.

Tony Buzbee, Dan Cogdell, Allison Collins, Anthony Dolcefino, Amy Hilton, Christopher Hilton, Colby Holler, Kateland Jackson, Mitch Little, Joseph Mazzara, Anthony Osso, and Judd Stone.

Did I miss anyone? Thank you. Good to see you.

I want to first – I want to first introduce Judge Lana Myers, who is sitting next to me. She will be my legal counsel. I'm neither a lawyer or a judge, so I appreciate her giving of her time to be here today. She's served with distinction in the Dallas area on the – as a prosecutor in the criminal court and on the Fifth Court of Appeals. So I want to thank you for being here today. Thank you, Judge Myers.

Once again, good morning. For those of you attending today, just a couple of brief remarks in the gallery. All cell phones must be turned off. Other than the media, no recording may be made of the proceedings by those present. We must maintain decorum. And no distractions in the gallery, as we will on the floor at all times.

We're glad to have you here, but any outbursts by anyone in the gallery will result in your removal. So I hope you're with us for the whole time.

Our first order of business is to address 24 pretrial motions submitted by the parties. The deadline for the parties to file pretrial motions was August 5. Answers to the motions from the other party were due August 15.

The rules that were written by the Senators and passed 25 to 3 require any motion that could result in dismissal of an article of impeachment to be voted on by the members of the jury, the Senators. There are 16 such motions that could result in dismissal of articles of impeachment. Unlike regular session where members speak and debate on the floor, the members passed rules which do not allow questions, discussions, or debate from the floor.

As you know in a regular trial a jury does not make public comments during a trial, and neither will this jury.

After the members of the Court vote on the 16 dispositive motions, I will rule on the remaining eight motions, which the rules require the Presiding Officer to do.

It is possible that through certain votes by members of the Court some or all of impeachment could be dismissed. If the articles are dismissed, the Court will enter a finding that they are dismissed with prejudice thereby satisfying Article XV Section 5 of the Constitution, reinstating Attorney General to office. However, if any articles remain after votes on pretrial motions and rules require, we move forward with a trial.

We will now take up pretrial motions under the rules. It takes a majority of members present – that is 16 voting members – who are eligible to serve as jurors to grant a motion for dismissal. Per the rules, all motions and answers are required to be filed prior to the trial, and arguments of the counsel for both sides are contained therein.

Members, you have read the pretrial motions and the answers to the motions for each motion. You will indicate on your voting form yea or nay. A yea vote is to grant the motion; a nay vote is to deny the motion.

The bailiff, as you know, will collect your votes. The clerk will then announce them, each vote, and the tally. And after she has tallied the votes, I am required by the rules to confirm your vote is accurate. So I will call each of you one by one by your name, and you will rise in place and state how you voted, yea or nay.

As previously mentioned, a motion is considered granted if it receives yea votes from a majority of the members present, which is 16, and who are eligible to serve as jurors.

Members, we will now take up Motion 22 submitted by Respondent, Attorney General Paxton. The motion is entitled No Evidence Motion for Summary Judgment on All Articles of Impeachment. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your vote on the voting form.

Bailiff, will you collect the votes and bring them to the clerk.

Are all of the votes collected, Bailiff?

Thank you, Austin.

Thank you, Matt.

The secretary will – the clerk – I'm sorry – Ms. Spaw is our secretary of the Senate. The clerk will now pull the votes at random and read them into the record.

THE CLERK: Flores, no.

Eckhardt, no.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

King, nay.

Sparks, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

Hancock, nay.

Menendez, nay.
Birdwell, nay.
Hall, yea.
Perry, nay.
La Mantia, nay.
Parker, yea.
Hughes, nay.
Miles, nay.
Gutierrez, nay.
Johnson, nay.
Springer, nay.
Schwertner, nay.
Campbell, yea.
Nichols, nay.
Blanco, nay.
24 nays; six yeas.

PRESIDING OFFICER: I will now confirm the vote of the jury in alphabetical order.

Senator Alvarado, your vote?

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.
PRESIDING OFFICER: Senator Hinojosa.
SENATOR HINOJOSA: Nay.
PRESIDING OFFICER: Senator Huffman.
SENATOR HUFFMAN: Nay.
PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.
PRESIDING OFFICER: Senator La Mantia.
SENATOR LA MANTIA: Nay.
PRESIDING OFFICER: Senator Menendez.
SENATOR MENENDEZ: Nay.
PRESIDING OFFICER: Senator Middleton.
SENATOR MIDDLETON: Nay.
PRESIDING OFFICER: Senator Miles.
SENATOR MILES: Nay.
PRESIDING OFFICER: Senator Nichols.
SENATOR NICHOLS: Nay.
PRESIDING OFFICER: Senator Parker.
SENATOR PARKER: Yea.
PRESIDING OFFICER: Senator Perry.
SENATOR PERRY: Nay.
PRESIDING OFFICER: Senator Schwertner.
SENATOR SCHWERTNER: Nay.
PRESIDING OFFICER: Senator Springer.
SENATOR SPRINGER: Nay.
PRESIDING OFFICER: Senator Sparks.
SENATOR SPARKS: Nay.
PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 24 nays, six yeas. The tally is confirmed. The motion is denied.

Members, we are now taking up Motion 9 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Exclude Evidence of Any Alleged Conduct that Occurred Prior to January 2023. A yea vote is to grant the motion; a nay vote is to deny the motion. Please mark your voting form.

Bailiffs, please pick up the votes.

Are all votes collected? Thank you, Bailiff.

Clerk will pull the votes at random.

THE CLERK: Eckhardt, nay.

King, nay.

Sparks, nay.

Flores, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, yea.

Alvarado, nay.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

Perry, yea.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

8 yeas, 22 nays.

PRESIDING OFFICER: I'll confirm the votes.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: Being 22 nays and 8 yeas, the motion is denied.

Members, we are now taking up Motion 8 submitted by the respondent, Attorney General Paxton, entitled Motion to Dismiss Articles of Impeachment 1 through VII, and IX through XX. A yea vote is to grant the motion; a nay vote is to deny the motion. Please mark your ballots.

Bailiff, if you'll collect the ballots.

All the ballots collected? Thank you.

Clerk will pull at random and read the votes.

THE CLERK: Johnson, nay.
Springer, nay.
Schwertner, yea.
Campbell, yea.
Nichols, nay.
West, nay.
Whitmire, nay.
Huffman, nay.
Hinojosa, nay.
Parker, yea.
Hughes, nay.
Miles, nay.
Gutierrez, nay.
Zaffirini, nay.
Blanco, nay.
La Mantia, nay.
Hancock, nay.
Menendez, nay.
Birdwell, nay.
Hall, yea.
Perry, yea.
Kolkhorst, yea.
Bettencourt, yea.
Creighton, yea.
Middleton, nay.
Alvarado, nay.
Eckhardt, nay.
King, nay.
Sparks, nay.
Flores, nay.
8 yeas, 22 nays.

PRESIDING OFFICER: Members, please confirm your votes.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 8 yeas, 22 nays, the motion is denied.

We're now taking up Motion No. 6, members, submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Quash Articles of Impeachment or Grant Requests for Bill of Particulars. A yea vote is to grant the motion; a nay vote is to deny the motion. Mark your ballot.

Bailiffs, please collect the ballots.

All the ballots collected? Thank you.

The clerk will read the ballots at random.

THE CLERK: Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, nay.

Campbell, yea.

Nichols, nay.

West, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Hancock, nay.

Menendez, nay.
Birdwell, nay.
Hall, yea.
Perry, nay.
Kolkhorst, yea.
Bettencourt, yea.
Creighton, yea.
Middleton, nay.
Alvarado, nay.
Eckhardt, nay.
King, nay.
Sparks, nay.
Flores, nay.
Zaffirini, nay.
Six yeas, 24 nays.

PRESIDING OFFICER: To confirm the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Nay.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: There being 24 nay votes and six yea votes, the motion is denied.

Members, now we are taking up Motion 7 submitted by the respondent, Attorney General Paxton. The motion is entitled Request for a Bill of Particulars. The yea vote is a grant – is granting the motion. A nay vote is denying the motion.

Bailiffs pick up the votes.

All votes collected, secretary – clerk will call the votes.

THE CLERK: Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Flores, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, nay.

Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Perry, nay.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

King, nay.

Sparks, nay.

Zaffirini, nay.

6 yeas, 24 nays.

PRESIDING OFFICER: Members, confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.
PRESIDING OFFICER: Senator Bettencourt.
SENATOR BETTENCOURT: Yea.
PRESIDING OFFICER: Senator Birdwell.
Senator Birdwell, I'm sorry. I didn't hear you.
SENATOR BIRDWELL: Nay.
PRESIDING OFFICER: Senator Blanco.
SENATOR BLANCO: Nay.
PRESIDING OFFICER: Senator Campbell.
SENATOR CAMPBELL: Yea.
PRESIDING OFFICER: Senator Creighton.
SENATOR CREIGHTON: Yea.
PRESIDING OFFICER: Senator Eckhardt.
SENATOR ECKHARDT: Nay.
PRESIDING OFFICER: Senator Flores.
SENATOR FLORES: Nay.
PRESIDING OFFICER: Senator Gutierrez.
SENATOR GUTIERREZ: Nay.
PRESIDING OFFICER: Senator Hall.
SENATOR HALL: Yea.
PRESIDING OFFICER: Senator Hancock.
SENATOR HANCOCK: Nay.
PRESIDING OFFICER: Senator Hinojosa.
SENATOR HINOJOSA: Nay.
PRESIDING OFFICER: Senator Huffman.
SENATOR HUFFMAN: Nay.
PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Nay.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: There being 24 nays and six ayes, the motion is denied.

Members, now taking up Motion 13 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Article I. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please collect the ballots.

All votes counted – all votes picked up, rather. Thank you. The clerk will read the votes.

THE CLERK: Birdwell, nay.

Hall, yea.

Perry, yea.

Kolkhorst, yea.
Bettencourt, yea.
Creighton, yea.
Middleton, nay.
Alvarado, nay.
Eckhardt, nay.
King, nay.
Sparks, nay.
Flores, nay.
Blanco, nay.
La Mantia, nay.
Parker, yea.
Hughes, nay.
Hancock, nay.
Menendez, nay.
Miles, nay.
Gutierrez, nay.
Johnson, nay.
Springer, nay.
Schwertner, yea.
Campbell, yea.
Nichols, nay.
West, nay.
Whitmire, nay.
Huffman, nay.
Hinojosa, nay.
Zaffirini, nay.
8 yeas, 22 nays.

PRESIDING OFFICER: Confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: There being 22 nays and 8 yeas, the motion is denied. Members, you have nine more to vote on.

Members, we're taking up Motion 14 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Article II.

You may pick up the motions.

All votes collected? Thank you. The clerk will call out the votes.

THE CLERK: Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Perry, yea.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

King, nay.

Sparks, nay.

Flores, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, yea.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

8 yeas, 22 nays.

PRESIDING OFFICER: Confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.
PRESIDING OFFICER: Senator La Mantia.
SENATOR LA MANTIA: Nay.
PRESIDING OFFICER: Senator Menendez.
SENATOR MENENDEZ: Nay.
PRESIDING OFFICER: Senator Middleton.
SENATOR MIDDLETON: Nay.
PRESIDING OFFICER: Senator Miles.
SENATOR MILES: Nay.
PRESIDING OFFICER: Senator Nichols.
SENATOR NICHOLS: Nay.
PRESIDING OFFICER: Senator Parker.
SENATOR PARKER: Yea.
PRESIDING OFFICER: Senator Perry.
SENATOR PERRY: Yea.
PRESIDING OFFICER: Senator Schwertner.
SENATOR SCHWERTNER: Yea.
PRESIDING OFFICER: Senator Sparks.
SENATOR SPARKS: Nay.
PRESIDING OFFICER: Senator Springer.
SENATOR SPRINGER: Nay.
PRESIDING OFFICER: Senator West.
SENATOR WEST: Nay.
PRESIDING OFFICER: Senator Whitmire.
SENATOR WHITMIRE: Nay.
PRESIDING OFFICER: Senator Zaffirini.
SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: There being 22 nay votes, 8 yea votes, the motion is denied.

Members, we are now taking up Motion 15 sent in by respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Article III. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please pick up the votes.

All votes collected? The secretary – clerk will call out the vote.

THE CLERK: Parker, yea.

Hughes, nay.

Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, yea.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

Blanco, nay.

La Mantia, nay.

Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Perry, nay.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

King, nay.

Sparks, nay.

Flores, nay.

7 yeas, 23 nays.

PRESIDING OFFICER: Confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.
PRESIDING OFFICER: Senator Blanco.
SENATOR BLANCO: Nay.
PRESIDING OFFICER: Senator Campbell.
SENATOR CAMPBELL: Yea.
PRESIDING OFFICER: Senator Creighton.
SENATOR CREIGHTON: Yea.
PRESIDING OFFICER: Senator Eckhardt.
SENATOR ECKHARDT: Nay.
PRESIDING OFFICER: Senator Flores.
SENATOR FLORES: Nay.
PRESIDING OFFICER: Senator Gutierrez.
SENATOR GUTIERREZ: Nay.
PRESIDING OFFICER: Senator Hall.
SENATOR HALL: Yea.
PRESIDING OFFICER: Senator Hancock.
SENATOR HANCOCK: Nay.
PRESIDING OFFICER: Senator Hinojosa.
SENATOR HINOJOSA: Nay.
PRESIDING OFFICER: Senator Huffman.
SENATOR HUFFMAN: Nay.
PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.
PRESIDING OFFICER: Senator La Mantia.
SENATOR LA MANTIA: Nay.
PRESIDING OFFICER: Senator Menendez.
SENATOR MENENDEZ: Nay.
PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 23 nay votes, 7 yea votes, the motion is denied.

Members, we're now taking up Motion 16, submitted by the respondent, Attorney General Paxton. The motion is entitled the Motion to Dismiss Article IV. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your ballot.

Please pick up the ballots.

All ballots collected clerk will read the votes.

THE CLERK: Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Perry, nay.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.
King, nay.
Sparks, nay.
Flores, nay.
Blanco, nay.
La Mantia, nay.
Parker, yea.
Hughes, nay.
Johnson, nay.
Springer, nay.
Schwertner, nay.
Campbell, yea.
Nichols, nay.
West, nay.
Whitmire, nay.
Huffman, nay.
Hinojosa, nay.
Zaffirini, nay.
6 yeas, 24 nays.

PRESIDING OFFICER: Confirming the votes.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Nay.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 24 nay votes, 6 yea votes, the motion is denied.

Members, we're now taking up Motion 11, submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Article V. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your ballots.

Please collect the ballots.

All ballots collected. Clerk will read the votes.

THE CLERK: Flores, nay.

Johnson, nay.

Springer, nay.

Schwertner, yea.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, yea.

Miles, nay.

Gutierrez, nay.

Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Perry, nay.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

King, nay.

Sparks, nay.

8 yeas, 22 nays.

PRESIDING OFFICER: Confirming your vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Yea.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 22 nays, 8 yeas, the motion is denied.

Members, now taking up Motion 17 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Article VI. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your voting form.

This is Motion 17, Counselor. Motion 17.

If you cannot hear, let me know. Both sides if you cannot hear clearly, let me know.

Please collect the votes.

All ballots collected. Clerk will read the vote.

THE CLERK: Perry, yea.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

King, nay.

Sparks, yea.

Flores, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Miles, nay.

Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, yea.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

9 yeas, 21 nays.

PRESIDING OFFICER: Confirming your vote.

Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.
PRESIDING OFFICER: Senator Creighton.
SENATOR CREIGHTON: Yea.
PRESIDING OFFICER: Senator Eckhardt.
SENATOR ECKHARDT: Nay.
PRESIDING OFFICER: Senator Flores.
SENATOR FLORES: Nay.
PRESIDING OFFICER: Senator Gutierrez.
SENATOR GUTIERREZ: Nay.
PRESIDING OFFICER: Senator Hall.
SENATOR HALL: Yea.
PRESIDING OFFICER: Senator Hancock.
SENATOR HANCOCK: Nay.
PRESIDING OFFICER: Senator Hinojosa.
SENATOR HINOJOSA: Nay.
PRESIDING OFFICER: Senator Huffman.
SENATOR HUFFMAN: Nay.
PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.
PRESIDING OFFICER: Senator La Mantia.
SENATOR LA MANTIA: Nay.
PRESIDING OFFICER: Senator Menendez.
SENATOR MENENDEZ: Nay.
PRESIDING OFFICER: Senator Middleton.
SENATOR MIDDLETON: Nay.
PRESIDING OFFICER: Senator Miles.
SENATOR MILES: Nay.
PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Yea.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 21 nay votes, nine yea votes, the motion is denied.

We're now taking up Motion 18 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Eight – Article VIII, excuse me. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your ballot.

Collect the ballots, please.

Members, we would normally take a break about this time, but we will continue. We have four more motions, and then I have my eight motions which will not take as long to announce. And then we'll take a break at that point. And after that point, we will come back and begin trial.

All ballots in, thank you.

Clerk will read the votes.

THE CLERK: Hancock, nay.

Menendez, nay.

Birdwell, yea.

Hall, yea.

Perry, yea.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

King, nay.
Sparks, yea.
Flores, nay.
Blanco, nay.
La Mantia, nay.
Parker, yea.
Hughes, yea.
Miles, nay.
Gutierrez, nay.
Johnson, nay.
Springer, nay.
Schwertner, nay.
Campbell, yea.
Nichols, nay.
West, nay.
Whitmire, nay.
Huffman, nay.
Hinojosa, nay.
Zaffirini, nay.
Ten yeas, 20 nays.

PRESIDING OFFICER: Confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Yea.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Yea.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Nay.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Yea.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: There being 20 nays and ten yeas, the motion is denied.

We're now taking up Motion 19 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Articles VII and XV. A yea vote is to grant the motion; a nay vote is to deny the motion. Please mark your ballots.

You may collect the ballots.

All ballots collected. Clerk will call the vote.

THE CLERK: Senator Blanco, no.

Senator La Mantia, no.

Senator Parker, yea.

Senator Hughes, nay.

Senator Miles, nay.

Senator Gutierrez, nay.

Senator Johnson, nay.

Senator Springer, nay.

Senator Schwertner, yea.

Senator Campbell, yea.

Senator Nichols, nay.

Senator West, nay.

Senator Whitmire, nay.

Senator Huffman, nay.

Senator Hinojosa, nay.

Senator Zaffirini, nay.

Senator Hancock, nay.

Senator Menendez, nay.

Senator Birdwell, nay.

Senator Hall, yea.

Senator Perry, yea.

Senator Kolkhorst, yea.

Senator Bettencourt, yea.

Senator Creighton, yea.

Senator Middleton, nay.

Senator Alvarado, nay.

Senator Eckhardt, nay.

Senator King, nay.

Senator Sparks, yea.

Senator Flores, nay.

Nine yeas, 21 nays.

PRESIDING OFFICER: Confirming the vote.

Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Yea.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: There being 21 nays, nine yeas, the motion is denied.

We're now taking up Motion 20 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss Articles IX and X. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your vote on your voting form.

Please pick up the ballots.

All votes collected. Clerk will read the vote.

THE CLERK: King, nay.

Sparks, nay.

Flores, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, nay.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.

Zaffirini, nay.

Hancock, nay.

Menendez, nay.

Birdwell, nay.

Hall, yea.

Perry, nay.

Kolkhorst, yea.

Bettencourt, yea.

Creighton, yea.

Middleton, nay.

Alvarado, nay.

Eckhardt, nay.

6 yeas, 24 nays.

PRESIDING OFFICER: Confirming the vote.

Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.
SENATOR CREIGHTON: Yea.
PRESIDING OFFICER: Senator Eckhardt.
SENATOR ECKHARDT: Nay.
PRESIDING OFFICER: Senator Flores.
SENATOR FLORES: Nay.
PRESIDING OFFICER: Senator Gutierrez.
SENATOR GUTIERREZ: Nay.
PRESIDING OFFICER: Senator Hall.
SENATOR HALL: Yea.
PRESIDING OFFICER: Senator Hancock.
SENATOR HANCOCK: Nay.
PRESIDING OFFICER: Senator Hinojosa.
SENATOR HINOJOSA: Nay.
PRESIDING OFFICER: Senator Huffman.
SENATOR HUFFMAN: Nay.
PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.
PRESIDING OFFICER: Senator La Mantia.
SENATOR LA MANTIA: Nay.
PRESIDING OFFICER: Senator Menendez.
SENATOR MENENDEZ: Nay.
PRESIDING OFFICER: Senator Middleton.
SENATOR MIDDLETON: Nay.
PRESIDING OFFICER: Senator Miles.
SENATOR MILES: Nay.
PRESIDING OFFICER: Senator Nichols.
SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

Senator Perry. Senator Perry. Nay? We can't hear you, Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Nay.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Nay.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 24 nay votes, six yea votes, the motion is denied.

We're now taking up Motion 21 submitted by respondent, Attorney General Paxton. The motion is entitled Motion to Dismiss or Hold in Abeyance Articles XVI through XX. A yea vote is to grant the motion; a nay vote is to deny the motion.

Please mark your ballot.

Please pick up the votes.

Members, you have one more motion after this to rule on, and then I will rule on my eight pretrial motions.

Yes?

Pardon?

SENATOR WEST: Mr. President, may I approach the podium. May I approach the podium?

PRESIDING OFFICER: Senator West, do you want to approach the bench or the clerk?

SENATOR WEST: The bench.

PRESIDING OFFICER: You may come up.

(Bench conference off the record)

PRESIDING OFFICER: You may read the votes.

THE CLERK: Okay.

Kolkhorst, yea.

Johnson, nay.

Hancock, nay.
Menendez, nay.
Birdwell, nay.
Hall, yea.
Perry, yea.
Springer, nay.
West, nay.
Schwertner, yea.
Campbell, yea.
Nichols, nay.
Whitmire, nay.
Huffman, nay.
Hinojosa, nay.
Zaffirini, nay.
Bettencourt, yea.
Creighton, yea.
Middleton, nay.
Alvarado, nay.
Eckhardt, nay.
King, nay.
Sparks, yea.
Flores, nay.
Blanco, nay.
La Mantia, nay.
Parker, yea.
Hughes, nay.
Miles, nay.
Gutierrez, nay.
Nine yeas, 21 nays.

PRESIDING OFFICER: Confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Birdwell.
Senator Birdwell, well, go ahead. I called you.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.
PRESIDING OFFICER: Senator Eckhardt.
SENATOR ECKHARDT: Nay.
PRESIDING OFFICER: Senator Flores.
SENATOR FLORES: Nay.
PRESIDING OFFICER: Senator Gutierrez.
SENATOR GUTIERREZ: Nay.
PRESIDING OFFICER: Senator Hall.
SENATOR HALL: Yea.
PRESIDING OFFICER: Senator Hancock.
SENATOR HANCOCK: Nay.
PRESIDING OFFICER: Senator Hinojosa.
SENATOR HINOJOSA: Nay.
PRESIDING OFFICER: Senator Huffman.
SENATOR HUFFMAN: Nay.
PRESIDING OFFICER: Senator Hughes.
SENATOR HUGHES: Nay.
PRESIDING OFFICER: Senator Johnson.
SENATOR JOHNSON: Nay.
PRESIDING OFFICER: Senator King.
SENATOR KING: Nay.
PRESIDING OFFICER: Senator Kolkhorst.
SENATOR KOLKHORST: Yea.
PRESIDING OFFICER: Senator La Mantia.
SENATOR LA MANTIA: Nay.
PRESIDING OFFICER: Senator Menendez.
SENATOR MENENDEZ: Nay.
PRESIDING OFFICER: Senator Middleton.
SENATOR MIDDLETON: Nay.
PRESIDING OFFICER: Senator Miles.
SENATOR MILES: Nay.
PRESIDING OFFICER: Senator Nichols.
SENATOR NICHOLS: Nay.
PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Perry.

SENATOR PERRY: Yea.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Yea.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: 21 nays nine yeas, the motion is denied.

Members, this is your last motion to take up. This is Motion No. 10 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Exclude Evidence Gathered in Violation of the Law. A yea vote is a grant to grant the motion; a nay vote is to deny the motion.

Please mark your ballot.

Please pick up the ballots.

All ballots collected, the clerk will call out the votes.

THE CLERK: King, nay.

Sparks, yea.

Flores, nay.

Blanco, nay.

La Mantia, nay.

Parker, yea.

Hughes, nay.

Miles, nay.

Gutierrez, nay.

Johnson, nay.

Springer, nay.

Schwertner, yea.

Campbell, yea.

Nichols, nay.

West, nay.

Whitmire, nay.

Huffman, nay.

Hinojosa, nay.
Zaffirini, nay.
Hancock, nay.
Menendez, nay.
Birdwell, nay.
Hall, yea.
Perry, nay.
Kolkhorst, yea.
Bettencourt, yea.
Creighton, yea.
Middleton, nay.
Alvarado, nay.
Eckhardt, nay.
8 yeas, 22 nays.

PRESIDING OFFICER: Confirming the vote.
Senator Alvarado.

SENATOR ALVARADO: Nay.

PRESIDING OFFICER: Senator Bettencourt.

SENATOR BETTENCOURT: Yea.

PRESIDING OFFICER: Senator Birdwell.

SENATOR BIRDWELL: Nay.

PRESIDING OFFICER: Senator Blanco.

SENATOR BLANCO: Nay.

PRESIDING OFFICER: Senator Campbell.

SENATOR CAMPBELL: Yea.

PRESIDING OFFICER: Senator Creighton.

SENATOR CREIGHTON: Yea.

PRESIDING OFFICER: Senator Eckhardt.

SENATOR ECKHARDT: Nay.

PRESIDING OFFICER: Senator Flores.

SENATOR FLORES: Nay.

PRESIDING OFFICER: Senator Gutierrez.

SENATOR GUTIERREZ: Nay.

PRESIDING OFFICER: Senator Hall.

SENATOR HALL: Yea.

PRESIDING OFFICER: Senator Hancock.

SENATOR HANCOCK: Nay.

PRESIDING OFFICER: Senator Hinojosa.

SENATOR HINOJOSA: Nay.

PRESIDING OFFICER: Senator Huffman.

SENATOR HUFFMAN: Nay.

PRESIDING OFFICER: Senator Hughes.

SENATOR HUGHES: Nay.

PRESIDING OFFICER: Senator Johnson.

SENATOR JOHNSON: Nay.

PRESIDING OFFICER: Senator King.

SENATOR KING: Nay.

PRESIDING OFFICER: Senator Kolkhorst.

SENATOR KOLKHORST: Yea.

PRESIDING OFFICER: Senator La Mantia.

SENATOR LA MANTIA: Nay.

PRESIDING OFFICER: Senator Menendez.

SENATOR MENENDEZ: Nay.

PRESIDING OFFICER: Senator Middleton.

SENATOR MIDDLETON: Nay.

PRESIDING OFFICER: Senator Miles.

SENATOR MILES: Nay.

PRESIDING OFFICER: Senator Nichols.

SENATOR NICHOLS: Nay.

PRESIDING OFFICER: Senator Parker.

SENATOR PARKER: Yea.

PRESIDING OFFICER: Senator Nichols was nay. I didn't mean to speak over you.

Senator Perry.

SENATOR PERRY: Nay.

PRESIDING OFFICER: Senator Schwertner.

SENATOR SCHWERTNER: Yea.

PRESIDING OFFICER: Senator Sparks.

SENATOR SPARKS: Yea.

PRESIDING OFFICER: Senator Springer.

SENATOR SPRINGER: Nay.

PRESIDING OFFICER: Senator West.

SENATOR WEST: Nay.

PRESIDING OFFICER: Senator Whitmire.

SENATOR WHITMIRE: Nay.

PRESIDING OFFICER: Senator Zaffirini.

SENATOR ZAFFIRINI: Nay.

PRESIDING OFFICER: Being 22 nays and 8 yeas, the motion is denied.

Members and those in the gallery and watching, the Senators voted on the rules 25 to 3, and part of those rules say that all other pretrial motions shall be ruled on by the Presiding Officer, which is myself.

I'll begin with Motion 2 submitted by the House Board of Managers. This motion is Entitled Motion to Clarify Certain Senate Rules Governing the Impeachment Trial of Warren Kenneth Paxton, Jr.

This motion was partially addressed by my August 9 exhibit production order. Additionally, the managers' request for clarification on timing has been addressed through an agreement of the parties last week.

For those watching, I'll clarify the time keeping for the trial moving forward. There has been much discussion on the impeachment rule, especially No. 17 on time limitations. Each side of the House Managers and the Attorney General Paxton has one hour for opening statements, 24 hours for presentation of evidence, one hour for rebuttal evidence, and one hour for final arguments.

That's a total of 27 hours for each side.

Both parties, the Managers and Attorney General Paxton, are in agreement on this issue, which pleases the Court. Managers in this motion you state at a minimum, you seek clarification that the time spent by an opposing party on cross-examination will be counted only against the party conducting the cross-examination.

Attorney General Paxton's team, you responded that time spent questioning a witness, whether via direct or cross-examination, is charged against the side conducting the questioning.

Based on your agreement last week, this is how the clock will run. For example, House Managers, when you call a witness, any direct questioning of the witness counts against your 24 hours. When Paxton's team questions the witness on cross, time will be counted against your clock.

I also want to note that the clock will keep running through routine objections. However, if I find that it's being abused by either side, I can always use my discretion to give back the time to the other party.

To summarize so we're clear, what everyone has agreed to, both parties have a total of 24 hours for presentation of evidence which includes direct, cross-examination, redirect, and recross. Any time a party questions a witness, whether via direct, cross, redirect, recross, the clock will continue to run.

And, again, in addition to the 24 hours, each party has one hour for opening statements, if they choose to make those, one hour for rebuttal, and one hour for closing arguments.

I've also told both sides if they do not use the full hour allotted for their opening statement, any remaining time will be added to their 24 hours for presentation of evidence.

For example, if one side only uses 30 minutes, they will have 24 and a half hours of time.

Finally, Managers requested to change the rules regarding the use of wireless mobile devices. A rule change must be submitted in writing during trial and requires a 24-hour layout period. Accordingly, this motion has been addressed and no further action shall be taken.

Now, I will take up Motion 24 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Compel Discovery from House Managers. This motion was addressed by my July 12 discovery order and August 9 exhibit production order. Therefore, no further action on this motion will be taken.

Now I'll take up Motion 12 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Exclude Inadmissible Evidence. This addresses the issue of political contributions. Because this information is readily available for the Texas Ethics Commission for everyone to read, this motion is denied.

Now I will take up Motion 23 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion for Notice of Brady Material and Notice of Trial Exhibits. The motion was addressed by my July 12 discovery order and August 9 exhibit production order. Accordingly, no further action is needed on this motion.

Now I will take up Motion 3 submitted by the House Board of Managers. The motion is entitled Request to Clarify the July 12 Discovery Order, or alternatively Motion for Protective Order Regarding Documents Produced to Warren Kenneth Paxton, Jr. Pursuant to the Senate July 12 Discovery Order. This motion was addressed by my July 20th reiteration of the orders of the Court. Accordingly, no further action on this motion.

Now I will take up Motion 1 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion for Pretrial Scheduling Order or Pretrial Conference. This motion was addressed by my July 12 discovery order and August 9 exhibit production order. Accordingly, no further action is needed.

Now I will take up Motion 4 submitted by the respondent, Attorney General Paxton. The motion is entitled Motion to Preclude Attorney General Warren Kenneth Paxton, Jr. from Being Compelled to Testify.

This Court notes that many factors and circumstances in this proceeding lean more on criminal in nature. The rules require a standard of beyond a reasonable doubt, which is reserved for criminal cases. Exculpatory evidence was required to be produced consistent with criminal cases. The rules require a plea to the Court to be guilty or not guilty, which are the pleas exclusively used in criminal cases.

Judgments of the Court of Impeachment are entered as acquittal or conviction, which are operative terms for judgments in criminal cases. And the House of Managers have repeatedly compared the action of the House of Representatives to a grand jury, as they proffer the articles of impeachment. Grand juries are utilized only in criminal cases.

Therefore, the motion is granted. The attorney general cannot be compelled to testify. This is consistent with the reasoning and judgment in the United States Supreme Court *Boyd versus the United States*.

The Court's ruling is clear. You may not call the attorney general as a witness.

Finally I will take up Motion 5 by respondent, Attorney General Paxton. The motion is entitled Motion Challenging Jurors for Cause. That motion is denied.

To both parties, what we will do at this point is – and to the members, it's a little odd today because we have a break coming close to the lunch break. So we'll take a short ten-minute break at this one, because we're going to break around 12:15 for lunch. We'll take a ten-minute break. Be back in ten minutes.

Before you leave – wait a minute. I haven't dismissed you yet. To both parties, when we come back, I'll have a short statement about the rules. Then we will read the articles of impeachment. Attorney General Paxton will be asked how you plead after each article. And then we will swear in witnesses, those who are here. And then we will break for lunch. And after lunch will be when the opening statement for those parties that choose to make that will be given.

So that's the schedule. It's 11:20. Be back on the floor ready to go at 11:30. Thank you.

(Recess: 11:20 a.m. to 11:37 a.m.)

AFTER RECESS

PRESIDING OFFICER: Members, please take your seats.

Members, now that we are moving forward based on the pretrial motions, I'd like to comment on several of the key rules and procedures for the trial, particularly so we are totally transparent for the public and that everyone knows what is about to happen.

First, the Texas Constitution and the law require the Senate to receive articles of impeachment proffered by the House of Representatives and try them in the Senate. For the general public, the articles of impeachment are the charges brought by the House. The Senate is committed to conducting a fair and impartial trial where eligible senators will serve as jurors.

We will start each day at 9 a.m. and continue until at least 6:00, possibly a bit later. Of course today we started on Tuesday because of the holiday, but next week it will be Monday through Friday and potentially could go to Saturday next week. We will not do Saturday this week.

We will break probably every 90 minutes or so for the jurors and the parties to stretch. We'll do it for 20 minutes, and we'll be timely and come back.

We'll break for lunch about 12:15 most days for 45 minutes, till one, and then we will come back for the afternoon.

I'd like to place a couple of things on the record officially. The parties have agreed to provide the court and the opposing party with 24 hours of advanced notice on witnesses they plan to call to testify, is that correct? Both sides?

MR. BUZBEE: Yes, sir.

MR. HARDIN: Yes, sir.

PRESIDING OFFICER: Thank you.

Additionally, the parties said they would agree to the admissibility of certain exhibits, is that correct?

MR. HARDIN: No, Your Honor. If I may be heard.

PRESIDING OFFICER: Yes.

MR. HARDIN: As you know, it was suggested last Wednesday to the Court it would probably be a good idea for people to talk about pre-admittance –

PRESIDING OFFICER: Hold on one second. We cannot hear. Is that mic on?

MR. HARDIN: Thank you, Your Honor. I apologize.

PRESIDING OFFICER: Start at the beginning. Start at the beginning.

MR. HARDIN: It's a good trial run of screwing up on the technology.

I think – what I said was Mr. Buzbee suggested last Wednesday that we – the sides get together and agree what could be preadmitted. We thought that was a great idea, the President thought so, and we assumed that's what was going to happen.

On Thursday we were asked would we – what our position was about their exhibits, and we said we would agree to preadmit all of their exhibits. They could put in anything we wanted that was on their witness list, and we would not object. They wrote back – they came back and said, "Is that a precondition?" And I said, "No, that is our position. You – we will not object to any of your exhibits."

"Now, what is your position about ours?"

"We'll get back to you."

We didn't hear. We didn't get back. And finally they wrote back and said, "We will not agree to preadmit any of your exhibits."

So that means, in light of what the Court said earlier – by the way, do I say Court or what do I say?

PRESIDING OFFICER: Court is fine.

MR. HARDIN: I can handle Mr. President, but I don't know what to refer to the facility.

PRESIDING OFFICER: Court is fine.

MR. HARDIN: Thank you.

What that means is that any time they seek to introduce an exhibit, it's going to come in unobjected to because that was the word we gave them.

When we seek to introduce a new exhibit, there may be continued objections, which is going to slow it down. And so I welcome the Court's observation that if that starts taking away somebody's time unfairly, the Court has the ability to acknowledge that. And I'm just simply asking at this stage, no action on the part of the Court, but an awareness is we thought we were playing fair with what they got in here and represented to you, and we're not taking our word back.

These guys wouldn't even negotiate it with us. They wouldn't even talk to us about, "We'll agree to some; we won't agree to others."

I stand up as a matter of privilege in the House of – or Senate of privilege, I just want the Court to know, no, we did not have an agreement on preadmitted.

PRESIDING OFFICER: Any response?

MR. BUZBEE: I don't think that merits a response, Your Honor. You know, when he puts his exhibits up, we'll take a look at them. When he puts up his exhibits, we'll take a look at them and we'll object if it's appropriate. If it's not appropriate, we will not object. We'll do it like we're supposed to do.

Thank you, Your Honor.

PRESIDING OFFICER: I've heard you both, okay? I've heard both.

Members, if you're watching at home, also know that you may attend in person if you wish. Go to senate.texas.gov for public access, guidelines, more information in case you're watching at home and want to come in person.

I want to remind the jurors and everyone watching that the Juror Senators may not consider any evidence unless taken under oath in this chamber. Their decision – your decision must only be based on the facts and evidence presented here in this chamber and by considering the credibility of the witnesses testifying here and here only under oath.

No evidence whatsoever outside of this chamber shall be considered for any purpose. This includes anything said in the House impeachment proceedings where no testimony was given under oath. Senators cannot consider anything reported in the news, anything on social media, or anything they have been told by anyone outside of this trial of this chamber, only what you hear under oath testified to in this court and your belief in those who are testifying.

Senate Jurors may only consider evidence given under oath in this chamber as you are the sole determiners of the credibility of the witnesses called to testify.

One unique aspect of this proceeding is that one senator is the spouse of the accused. The senators adopted rules that make the spouse of the accused ineligible to vote as a juror. They could find no instance where a spouse of any defendant in any type of trial was allowed to be a juror.

However, even though Senator Paxton cannot vote, the threshold to convict remains the same. The members kept the threshold at two-thirds of 31 senators, which would still require 21, even though only 30 members are voting. So the threshold is still 21 votes.

At the end of the trial, the members will deliberate in private, as any jury would. To be clear the Presiding Officer – I do not have a vote on guilt or innocence. I will not give any member my opinion on how they should vote.

In deliberations, the Senator Jurors will consider the following: Did the House Managers prove beyond a reasonable doubt any article of impeachment against attorney general, and if so, shall that article be sustained which would result in removal from office? Therefore, it's a two-part question.

Even if a member believes the House Managers have proven an article beyond a reasonable doubt, the member may only sustain the article if they also believe Attorney General Paxton should be removed from office based on that article.

If any one of the 16 articles is sustained against Attorney General Paxton, he'll be removed from office.

The jury would then vote one last time on whether he can hold public office again, if that were to occur.

Members at home watching, if you wish to read the 31 rules voted 25 to 3 by the senators which govern this trial in more detail, they are posted on our website. These are just a few of the rules that will guide this trial, but I hope my statements today clarify some questions that the public may have had or have.

After I swear in witnesses who are present, each party may make an opening statement and after the articles are read – the impeachment articles are read.

With that, Attorney General Paxton, please rise.

Clerk, please read the articles of impeachment one at a time referred by the House of Representatives.

THE CLERK: Articles of impeachment, Article I (Disregard of Official Duty - Protection of Charitable Organization).

While holding office as attorney general, Warren Kenneth Paxton violated the duties of his office by failing to act as public protector of charitable organizations as required by Chapter 123, Property Code.

Specifically, Paxton caused employees of his office to intervene in a lawsuit brought by the Roy F. and JoAnn Cole Mitte Foundation against several corporate entities controlled by Nate Paul. Paxton harmed the Mitte Foundation in an effort to benefit Paul.

PRESIDING OFFICER: Senator Paxton (sic), how do you plead?

MR. BUZBEE: Attorney General Ken Paxton is innocent and therefore pleads not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article II (Disregard of Official Duty-Abuse of the Opinion Process).

While holding office as attorney general, Warren Kenneth Paxton misused his official power to issue written legal opinions under Subchapter C, Chapter 402, Government Code.

Specifically, Paxton caused employees of his office to prepare an opinion in an attempt to avoid the impending foreclosure sales of properties belonging to Nate Paul or business entities controlled by Paul. Paxton concealed his actions by soliciting the chair of a senate committee to serve as straw requestor. Furthermore, Paxton directed employees of his office to reverse their legal conclusion for the benefit of Paul.

MR. BUZBEE: Those allegations are –

PRESIDING OFFICER: How do you plead?

MR. BUZBEE: – untrue; therefore, he pleads not guilty.

PRESIDING OFFICER: I didn't mean to step on you. You want to repeat that?

MR. BUZBEE: The allegations that I just heard are untrue; therefore, Ken Paxton pleads not guilty.

PRESIDING OFFICER: Thank you.

THE CLERK: Article III (Disregard of Official Duty-Abuse of the Open Records Process).

While holding office as attorney general, Warren Kenneth Paxton misused his official power to administer the public information law (Chapter 552, Government Code).

Specifically, Paxton directed employees of his office to act contrary to law by refusing to render a proper decision relating to a public information request for records held by the Department of Public Safety and by issuing a decision involving another public information request that was contrary to law and applicable legal precedent.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Everything she just said there was false; therefore, Attorney General Ken Paxton pleads not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article IV (Disregard of Official Duty-Misuse of Official Information).

While holding office as attorney general, Warren Kenneth Paxton misused his official power to administer the public information law (Chapter 552, Government Code).

Specifically, Paxton improperly obtained access to information held by his office that had not been publicly disclosed for the purpose of providing the information to the benefit of Nate Paul.

PRESIDING OFFICER: Attorney General, how do you plead?

MR. BUZBEE: Your Honor, those are all untrue; therefore, Ken Paxton pleads not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article V (Disregard of Official Duty-Engagement of Cammack).

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by violating the laws governing the appointment of prosecuting attorneys pro tem.

Specifically, Paxton engaged Brandon Cammack, a licensed attorney, to conduct an investigation into a baseless complaint, during which Cammack issued more than 30 grand jury subpoenas, in an effort to benefit Nate Paul or Paul's business entities.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: The Attorney General is innocent and therefore pleads not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article VI (Disregard of Official Duty-Termination of Whistleblowers).

While holding office as attorney general, Warren Kenneth Paxton violated the duties of his office by terminating and taking adverse personnel action against employees of his office in violation of this state's whistleblower law (Chapter 554, Government Code).

Specifically, Paxton terminated employees of his office who made good faith reports of his unlawful actions to law enforcement authorities. Paxton terminated the employees without good cause or due process and in retaliation for reporting his illegal acts and improper conduct. Furthermore, Paxton engaged in a public and private campaign to impugn the employees' professional reputations or prejudice their future employment.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Everything she said there, sir, is legally and factually incorrect, and therefore Attorney General Ken Paxton pleads not guilty.

PRESIDING OFFICER: The clerk will read the next article.

THE CLERK: Article VII (Misapplication of Public Resources-Whistleblower Investigation and Report).

While holding office as attorney general, Warren Kenneth Paxton misused public resources entrusted to him.

Specifically, Paxton directed employees of his office to conduct a sham investigation into whistleblower complaints made by employees whom Paxton had terminated and to create and publish a lengthy written report containing false or misleading statements in Paxton's defense.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: The allegations she just referenced are untrue; therefore, the attorney general pleads not guilty.

PRESIDING OFFICER: The clerk will read the next article.

THE CLERK: Article VIII (Disregard of Official Duty-Settlement Agreement).

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by concealing his wrongful acts in connection with whistleblower complaints made by employees whom Paxton had terminated.

Specifically, Paxton entered into a settlement agreement with the whistleblowers that provides for payment of the settlement from public funds. The settlement agreement stayed the wrongful termination suit and conspicuously delayed the discovery of facts and testimony at trial, to Paxton's advantage, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: The attorney general is innocent of those charges and pleads not guilty.

PRESIDING OFFICER: The clerk will read the next article.

THE CLERK: Article IX (Constitutional Bribery-Paul's Employment of Mistress).

While holding office as attorney general, Warren Kenneth Paxton engaged in bribery in violation of Section 41 Article XVI, Texas Constitution.

Specifically, Paxton benefited from Nate Paul's employment of a woman with whom Paxton was having an extramarital affair. Paul received favorable legal assistance from, or specialized access to, the Office of Attorney General.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Those allegations are flat out false. The attorney general pleads not guilty.

PRESIDING OFFICER: The clerk will read the next article.

THE CLERK: Article X (Constitutional Bribery-Paul's Providing Renovations to Paxton Home).

While holding office as attorney general, Warren Kenneth Paxton engaged in bribery in violation of Section 41, Article XVI, Texas Constitution.

Specifically, Paxton benefited from Nate Paul providing renovations to Paxton's home. Paul received favorable legal assistance from or specialized access to the Office of Attorney General.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Those allegations are offensive and false. The attorney general pleads not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article XV (False Statements in Official Records-Whistleblower Response Report).

While holding office as attorney general, Warren Kenneth Paxton made false or misleading statements in official records to mislead both the public and public officials.

Specifically, Paxton made or caused to be made multiple false or misleading statements in the lengthy written report issued by his office in response to whistleblower allegations.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Stand by that report and therefore plead not guilty.

MR. HARDIN: Your Honor, objection. It's simply that if he wants to take the stand and testify, we'll be – welcome that; but otherwise, this is supposed to be a plea from the client. He can enter a plea of not guilty for his client. He can't make speeches as he's doing that, and I object. I ask that he just be instructed to plead not guilty or guilty, whichever he chooses, but not to be making speeches through his lawyer.

PRESIDING OFFICER: Sustained.
Clerk will read the next charge.

THE CLERK: Article XVI (Conspiracy and Attempted Conspiracy).

While holding office as attorney general, Warren Kenneth Paxton acted with others to conspire, or attempt to conspire, to commit acts described in one or more articles.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Absolutely not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article XVII (Misappropriation of public resources).

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by causing employees of his office to perform services for his benefit and the benefit of others.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Again, Your Honor, not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article XVIII (Dereliction of duty).

While holding office as attorney general, Warren Kenneth Paxton violated the Texas Constitution, his oaths of office, statutes, and public policy against public officials acting contrary to the public interest by engaging in acts described in one or more articles.

PRESIDING OFFICER: Attorney General, how do you – Paxton, how do you plead?

MR. BUZBEE: Not guilty.

PRESIDING OFFICER: Clerk will read the next article.

THE CLERK: Article XIX (Unfitness for office).

While holding office as attorney general, Warren Kenneth Paxton engaged in misconduct, public – private or public, of such character as to indicate his unfitness for office as shown by the acts described in one or more articles.

PRESIDING OFFICER: Attorney General, how do you plead?

MR. BUZBEE: Not guilty, Your Honor.

PRESIDING OFFICER: Clerk will read the following article.

THE CLERK: Article XX (Abuse of Public Trust).

While holding office as attorney general, Warren Kenneth Paxton used, misused, or failed to use his official powers in a manner calculated to subvert the lawful operation of the government of the State of Texas and obstruct the fair and impartial administration of justice, thereby bringing the Office of Attorney General into scandal and disrepute to the prejudice of public confidence in the government of this state, as shown by the acts described in one or more articles.

PRESIDING OFFICER: Attorney General Paxton, how do you plead?

MR. BUZBEE: Your Honor, the attorney general is innocent, and we plead not guilty.

PRESIDING OFFICER: You may be seated.

Bailiff, do we have witnesses to be sworn in? Please bring them into the court.

(Witnesses enter Senate chamber)

PRESIDING OFFICER: Bailiff, are these the only witnesses in the building to be sworn in?

(The following oath was given to the witnesses.)

PRESIDING OFFICER: At this time I'll swear in any witness who's present. Please raise your right hand and repeat after me: I do solemnly swear or affirm that the evidence I give upon this hearing by the Senate of Texas of impeachment charges against Warren Kenneth Paxton, Jr. shall be the truth, the whole truth, and nothing but the truth, so help me God.

Ladies and gentlemen pursuant to Rule 24, the rule has been invoked. The rule means that witnesses, except the members of the court, the parties and their counsel, must remain outside the hearing or the courtroom at all times while testimony is being heard except when testifying or until discharged.

If you are a witness, please remain in town and available to promptly appear at the Capitol if the Court or either party calls on you.

You must not converse with each other or with any other person except counsel for the parties concerning the proceedings before the Court and are not to read any report, watch any livestream or broadcast of the proceedings, including news reports or social media or comment on testimony before the Court.

Any witness violating this instruction may be punished for contempt up to six months in jail or a \$500 fine. Do y'all understand?

THE WITNESSES: Yes.

PRESIDING OFFICER: Thank you. You're dismissed.

Members, at this time we'll break – just because this is a perfect break point – for lunch. Be back at one, and then we will have opening statements when we return. Thank you. Thank you, parties.

(Recessed for lunch at 12:00 p.m.)

AFTER RECESS

(1:02 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate, Dan Patrick, now presiding.

PRESIDING OFFICER: You may be seated. Mr. Hardin, I am going to take your suggestion into consideration on exhibits, if time is spent from your side.

MR. HARDIN: Thank you very much.

PRESIDING OFFICER: At this time, opening statement by the managers.

MR. STONE: Mr. Presiding Officer, the attorney general would like to be heard on one housekeeping matter before that.

PRESIDING OFFICER: Yes.

MR. STONE: The attorney general seeks a ruling from this Court that to the extent privileges – attorney-client privilege, executive privilege, et cetera – may apply, those are held by the attorney general. Now, we're not asking the Court to rule that any particular statement or any particular document is privileged at this time, but for purposes of the manager's opening statement and going forward in this case, we ask that this Court rule that those privileges, which all attached during the time at which the attorney general was the actual acting serving duly elected attorney general attached to him, or conversations he had with his subordinates, conversations involved with other parties where he was the client seeking legal advice from subordinates and essentially directing his official functions, and to the extent that those are implicated, we seek a ruling from this Court initially that those privileges, if they exist at all, belong to the attorney general.

PRESIDING OFFICER: Mr. Hardin, do you have a response?

MR. HARDIN: Yes, Your Honor.

I do want the record to reflect in light of the Court's earlier analogy to a criminal case, I want the record to reflect that the attorney general apparently is not here. Maybe he's coming at some time today, but I think if we're going to talk about this analogously being a criminal case, that the defendant ought to be ordered to appear throughout this, just as everyone else. That's number one.

But number two is we're prepared to address this issue. There is a motion to – I think one of the third parties had a motion on the attorney-client issue that they were trying to raise. But I would have thought we would have dealt with this before now, just as we were getting ready to do opening statements. They've known they had this issue all along.

If the Court wants to hear argument on it now, Mr. Garber was always prepared to do it on our side. We'll be glad to engage in argument, but I think it's totally discretionary with the Court as you are ready to proceed.

PRESIDING OFFICER: And under the Rule, Attorney General Paxton was required to be here, addressing that first point, throughout the trial.

I'm still – I'm thinking of your motion.

I want to clarify under – I believe it was Resolution 36, he was required to be here at 9:00 but not all day, so I want to clarify that.

Yes?

MR. BUZBEE: I'm sorry about that. As per the rule, he was here at 9:00 as required. I didn't see anything else on the rule that required him to be here at any other time.

PRESIDING OFFICER: You're right, correct.

Mr. Hardin, Mr. Murr, please come to the bench. Please approach.

We have asked, for the record, the Paxton team counselors to come forward.

(At the bench, off the record.)

PRESIDING OFFICER: I will address – and, members, let me just remind – not remind you, but when we're meeting at the bench, the jurors may not come up to the conversation.

I'll rule on your motion as they come up.

And, Members of the Jury, I want to remind you that statements made in the opening statement is not evidence and it's an outline of what they're going to present.

With that, Mr. Murr.

MR. MURR: Senators, Mr. President.

PRESIDING OFFICER: Yes.

MR. MURR: If you can remind – several of us are having a hard time hearing. Those mics are lower and I don't think they were intended maybe for them to be standing at the table talking so that if you could make sure that for those of us who have a hard time hearing in this chamber that they try to be closer to the microphone.

PRESIDING OFFICER: Yes, Senator. The requirement was to be sitting at the mics at the table, not standing. So when you come to the podium, you can stand, but be sure you get into the mic because it is – the echoes in here are very difficult. Thank you.

Mr. Murr, you have 60 minutes.

HOUSE MANAGERS' OPENING STATEMENT

MR. MURR: Mr. President, Senators, today is an important day. On this day in 1836, Sam Houston, whose Bible you used for your oaths today, was elected president of the Republic of Texas.

Today is also an important day because we begin this impeachment trial. While impeachment is rare, the drafters of our state constitution recognized that there are times when this extraordinary remedy is needed to protect the state and its citizens from a public officeholder who has abused the power of his office by putting self-interest above that of the people of Texas.

The drafters concluded that this great deliberative body, the Texas Senate, is best positioned to determine what – when this remedy is appropriate.

Earlier this year, Mr. Paxton came to the Legislature seeking \$3.3 million in taxpayer money to settle a whistleblower lawsuit. Mr. Paxton would not answer any questions about the underlying claims. He had successfully blocked any discovery in the case for almost two years, and he refused to justify the settlement.

The House investigated the serious allegations raised by the whistleblowers. The House uncovered egregious misconduct and abuse of office by the Attorney General of the State of Texas and voted overwhelmingly to prefer Articles of Impeachment to the Senate.

This is why we are here.

The allegations in the articles reveal that the State's top lawyer engaged in conduct designed to advance the economic interests and legal positions of a friend and donor to the detriment of innocent Texans.

Mr. Paxton turned the keys of the Office of Attorney General over to Nate Paul so that Mr. Paul could use the awesome power of the people's law firm to punish and harass perceived enemies.

I was raised in rural Texas where a person's honor is more important than money, where integrity matters, and by a family deeply affected by political corruption. This is precisely the type of grave official wrong that our Texas Supreme Court has said warrants impeachment.

My grandfather, who was privileged to serve the State of Texas for many years, had a favorite quote from Abraham Lincoln: Nearly all men can stand adversity, but if you really want to test a man's character, give him power.

Mr. Paxton has been entrusted with great power. Unfortunately, rather than rise to the occasion, he's revealed his true character. And as the overwhelming evidence will show, he is not fit to be the attorney general for the State of Texas.

Mr. Paxton argues that the Senate should not exercise its constitutional duty to decide whether his conduct merits impeachment because voters were aware of the allegations and still reelected him.

He claims that the Senate should abide by the alleged will of the voters. However, this ignores the intent of our framers of the Constitution. Impeachment was included in the Constitution after the Founding Fathers debated and rejected the idea that elections could singularly protect the public against abusive officeholders.

In other words, drafters agreed that impeachment was and is necessary to protect against abusive officials because it was simply too easy for them to use the powers of their office to conceal the truth until after the next election.

The concept of the forgiveness doctrine is not in our constitution. It does not apply here. The Courts have made that very clear. And even if it did, the doctrine presumes that voters know all the facts. The voters did not and do not know the whole truth.

Mr. Paxton went to great lengths to hide his misconduct from the public. The evidence will show that he used massive resources of his office to prepare and issue a sham report that allegedly exonerated him. The evidence will show that this report contains false and misleading information about the allegations against him and about the whistleblowers themselves.

And he also lied about the independent nature of this investigation. Documents will show that he played a key role in drafting that report.

The Constitution says the Senate has the power and the duty to decide this case and to protect the people of Texas from someone who has violated his oath and has shown he does not respect the law. The witnesses and the evidence will show you that Mr. Paxton's conduct merits the exercise of that power. And the witnesses and the evidence will show and prove beyond a reasonable doubt that he should be removed from office and prevented from ever holding a position of trust in the State of Texas again.

Mr. Paxton argues that the articles do not allege impeachable conduct because they do not allege that he committed a crime. We do allege that he committed crimes. We have detailed that Mr. Paxton received favors, including home renovations and help in concealing and continuing an extramarital affair, in exchange for the Office of Attorney General punishing Nate Paul's enemies.

However, we don't have to show some type of quid pro quo to establish that his conduct should result in impeachment.

As the Texas Supreme Court made clear regarding the impeachment of Governor Ferguson 106 years ago, wrongs justifying impeachment don't have to be crimes. Wrongs justifying impeachment are broader than that because they have the purpose of protecting the State, not punishing the offender.

Mr. Paxton should be removed from office because he failed to protect the State, and instead used the power of his elected office for his own benefit, and this was wrong. The oath of office that we all took to protect the citizens of the state and to uphold the laws of this state and this constitution mean something. It isn't just words on paper. It's literally an oath to God.

And Mr. Paxton had an obligation not to abuse his office for his own benefit. He betrayed his constituents and the sacred public trust that's been given him. And in Texas we require more from our public officials than to merely avoid being a criminal.

The witnesses you will hear from are remarkable people. Until they refused to follow Mr. Paxton's wrongful demands, they were his most trusted handpicked advisers, and they believed in his conservative mission for the Office of the Attorney General.

The problem isn't that their commitment to conservative governance changed, it is at the end of the day, Mr. Paxton wasn't the man they thought he was and he wasn't the man he publically proclaimed to be.

His trusted advisers are not RINOs or part of some deep state storyline, they are movement conservatives guided by their faith. These witnesses will explain step by step how they discovered that Mr. Paxton grew increasingly intent and passionate about helping his partner, Nate Paul, escape civil and criminal legal troubles that he was facing.

They will describe in chilling detail when they connected the dots of Mr. Paxton's slow creep of corruption. The senior staff were outraged when they discovered that Mr. Paxton had directed a young, inexperienced outside attorney to obtain grand jury subpoenas to harass and interfere with an ongoing criminal investigation; subpoenas that had been improperly issued to DPS officers, a federal judge, attorneys involved in a civil lawsuit against Nate Paul, and even court staff. And the subpoenas sought intensely personal information, including cell phone and e-mail records.

Now, I'm not going to detail in this opening all the allegations against Mr. Paxton. You're aware of many of them. You sit as a unique jury, having known Mr. Paxton and familiar with some of the facts. But even a quick summary of some of the evidence that you're going to hear is shocking.

One of Mr. Paxton's many acts of deceit involved a member of this chamber at a time when the policy of the State was Texas is open for business during COVID. Mr. Paxton directed his staff to issue a legal opinion advising that statewide forfeiture sales – excuse me – statewide foreclosure sales not move forward.

Mr. Paxton was adamant that the opinion, which came to be known as the midnight opinion, be issued before the end of the weekend, just in time for Nate Paul to use it to avoid a foreclosure sale the following Tuesday. This conduct benefited Nate Paul and it harmed businesses and people impacted by foreclosure.

Mr. Paxton also used the power of this office to harm a charity solely to benefit Nate Paul. The Office of the Attorney General is charged with the responsibility of intervening in lawsuits when it's necessary to assist a charitable organization.

As you'll hear, the first and only charitable case Mr. Paxton took a personal interest in was the Mitte Foundation's lawsuit against Nate Paul's entities as an investor.

The evidence will show that Mr. Paxton directed his office to intervene in the lawsuit, to stay the case, and allow the AG's office the opportunity to pressure this charity to accept a lowball settlement offer.

This would have saved Nate Paul millions of dollars. The creep of corruption continued when Nate Paul wanted access to confidential investigation materials related to police raids on his home and businesses. In an attempt to learn what the police knew and how they knew it, Mr. Paul submitted multiple open records requests seeking the full police file. Even though no police file may be disclosed due to the well-established law enforcement exception, Mr. Paxton pressured his deputies to authorize the release of this information.

Had he succeeded, Mr. Paxton would have created precedent allowing any person under criminal investigation, whether for a violent felony or a sex offense, to obtain confidential information about the investigations of their conduct. Mr. Paxton simply did not care that his request to release information to Nate Paul would have put police and victims across the state at risk.

Unfortunately, the House investigation revealed that Mr. Paxton's relationship with Mr. Paul was far more extensive than even his closest advisers knew. Over the course of three months, Mr. Paxton personally met with Nate Paul more than 20 times. Many times Mr. Paxton would ditch his security detail. And Nate Paul even set up a secret Uber account that allowed Mr. Paxton to secretly visit Nate Paul and others.

To conceal his efforts, Mr. Paxton communicated in off-the-book ways, using burner phones, encrypted messaging apps, and secret e-mail addresses.

Mr. Paxton's brazen abuse of the criminal justice division at the Office of Attorney General is finally what caused eight of his senior staff to report him to the police. The question that haunts them and should frighten all of us is what would have happened if they had not reported him? How far would Mr. Paxton have gone in using the power of the attorney general's office to harass and punish his and Nate Paul's perceived enemies and hurt innocent Texans?

Mr. Paxton tries to defend his actions by isolating each event and claiming that standing alone they can't support impeachment. You cannot and should not view each act in a vacuum. The evidence will show that they're all connected. They're all connected by Mr. Paxton and his desire to deliver for his partner, Nate Paul.

Mr. Paxton will also argue that the acts represent differences of opinion on policy or efforts to help a constituent. But the witnesses will explain to you that Mr. Paxton's actions have nothing to do with implementing conservative policy and, in fact, his efforts violated those very principles.

Mr. Paxton's senior advisers were fully aware of the dire consequences of reporting him to law enforcement. They knew retribution would be swift and vicious. The choice they made to report him to the police was one of the hardest of their lives, but they will tell you that there really wasn't a choice at all.

Sam Houston, who, on this day in 1836, was elected president of a new and free republic, reminded Texans: Do right and risk the consequences. Do right and risk the consequences.

Doing the right thing is sometimes not easy. Sometimes we must do the right thing in the face of enormous pressure to remain silent. The witnesses felt this pressure, the House felt this pressure, and the Senate is feeling this pressure.

It's unfair and it's wrong. But despite the forces that seek to intimidate the Senate, you have taken the first steps toward the truth by giving the people who did the right thing a chance to testify. Despite the attacks that they know will continue to come, the witnesses will do the right thing once more, and they will take this witness stand and they will provide the clarity that the Senate needs and that the public deserves to find out what was really happening behind closed doors.

As Chair, I resolutely give this statement with the support of, and on behalf of, the Board of Managers and on behalf of the Texas House. You-all provided us with an hour to make an opening statement, but we prefer to yield back the rest of that time to

the most important folks that will show up in this room: The witnesses. The same witnesses that Mr. Paxton has been so desperate to discredit and intimidate into silence.

We are honored to be able to give them their day in this honored and rare court, but we simply seek justice on behalf of the people of Texas. Thank you, Mr. President.

PRESIDING OFFICER: Does the defense wish to make an opening statement?

MR. BUZBEE: We do, Your Honor. I think we have 15-minutes to break. Is that the rules?

PRESIDING OFFICER: No. You're – you're up right now.

ATTORNEY GENERAL PAXTON'S OPENING STATEMENT

MR. BUZBEE: May it please the Court.

I stand in this hallowed chamber in this historic proceeding on behalf of the duly elected Attorney General of the State of Texas.

The prosecution and the press, and I'm sure here, will tell a whopping story. It's a tale full of sound and fury. It signifies nothing. And you may wonder why I say that. Because when we are done, I believe that no matter your party affiliation, and no matter where you stand now, you will conclude what I have concluded: That there is nothing to this. Ken Paxton gave nothing of significance to Nate Paul. Nate Paul received nothing of significance from Ken Paxton. This whole case is a whole lot of nothing.

I make my living trying cases to Texas juries. Cases are supposed to be decided only upon the evidence. But I do wonder are we really going to get a fair trial here? Have you already decided based on what is politically expedient or what is best for you personally?

Or is it even possible to get a fair hearing? Especially after this case has been tried in the press, Ken Paxton has been convicted in the press based on ignorance, innuendo, and outright lies.

So the question is: Will you decide based only on the evidence? Because that's your oath. That's what you swore to do no matter the consequences, and I urge you to do your duty and do it without fear.

They say this is the impeachment of a lifetime. But is it? Because depending on what you do here, maybe it will become commonplace. What happens here will have consequences no matter how it turns out. Let's be clear. If this misguided effort is successful, which I feel confident it will not be, the precedent it would set will be perilous for any elected official in the state of Texas.

What is being attempted here hasn't happened in our state in 100 years. And unlike other efforts of the past like this one, this scheme was rushed, it was secretive, it was poorly planned, and was wholly unsupported by evidence.

Indeed, despite the social media frenzy, the misinformed commentators, the reporters with an agenda, at the end of this you will come to know what I know: That despite all of us being told that the evidence in this matter is 10 times worse than the public knows, it is instead 100 times less.

There is nothing here to support impeachment. Nothing.

Now, there's been a gag order in this case. That gag order put our team at a distinct disadvantage. That gag order prevented us from rebutting this false narrative created by a frenzied press. The gag order, of course, didn't stop those media members with agendas or those media outlets aligned with the House Managers, and they were calling for Ken Paxton's head.

We've heard in the media about burner phones. There are no burner phones, but we couldn't respond.

We've heard about secret e-mail addresses. So secret that every person on Ken Paxton's staff used the same type of e-mail address because they were traveling to China. There's no secret e-mail address. But we couldn't respond.

We've heard about Uber rides for Ken Paxton in Vegas, Chicago, or to even nightclubs. Those are manufactured lies. But we couldn't respond.

We've even heard from the press about cakes from HEB, stolen pens, pilfered sport coats. Outright foolishness. But we couldn't respond.

We heard about house renovations supposedly paid for by the manipulated bogeyman, Nate Paul. That never happened. Ken Paxton and Angela Paxton paid for their house renovations, and I'm going to show that absolutely 100 percent. They know it, but yet they still stood up here and repeated that lie.

Let's talk a little bit about some background. 2015 Ken Paxton ran against the anointed candidate for attorney general, Dan Branch. Branch represented Highland Park and the political elites. Dan Branch was the establishment candidate. Ken Paxton beat him soundly.

Almost immediately after that win, Ken Paxton was on the receiving end of a clearly political indictment at the hands of rivals within his own party. That saga continues to this day with a pair of unelected special prosecutors nudging it forward year after year, with the expectation and hope that some day they will get paid.

Nevertheless, despite being indicted and despite a very public lawsuit that makes the exact same allegations that are being made here, Ken Paxton easily won his last primary, as he has in every election. In fact, Ken Paxton thumped the establishment candidate, who this last time happened to be a Bush. And it wasn't even close. Ken Paxton won 68 percent to 32 percent in the prime year.

Now, think about that. General Paxton trounced the establishment candidate, a member of the Bush dynasty, and beat him badly. And incidentally, as an aside, did you realize that the day before the vote for this impeachment was had that that same Bush applied to renew his law license?

Let's put this proceeding in context. Almost 30 million people live in the state of Texas. Texans chose at the voting booth who they wanted to be their attorney general, despite the same baseless allegations that are being made here. But because of what this House has done, only 30 people out of almost 30 million will decide whether Ken Paxton is allowed to serve in the office he was voted into.

That's not how it's supposed to work. That's not democratic. What could be less democratic than 30 people deciding who serves as the Attorney General of Texas instead of the 4.2 million people who voted to put him there?

Every election season we hear your vote is your voice. It's important to go vote to be a good member of society. We hear about the sanctity of the right to vote. We hear that people fought and died for the right to vote. We hear every vote should count.

Yet to get here, Texas House took away the votes of over 4 million Texans who voted for Ken Paxton, and they did it in only a four-hour hearing. There is a right way for Texas voters to remove someone from office, it's called vote against them.

Who the people want, who the people voted for should matter. Let me give you some names.

George P. Bush, Eva Guzman, Louie Gohmert, Dan Branch, Barry Smitherman, Joe Jaworski, Rochelle Garza, Justin Nelson. Those are just some of the people that Texans decided they did not want to be their attorney general.

The people chose General Paxton. Do their votes matter? People are watching. The will of those Texans should not be subverted.

And people of Texas, let me say this: I am very happy that these proceedings are being live-streamed. I think it is good that Texas voters can hear every bit of evidence, or the complete lack of evidence, that supports this from both sides. I'm sure that the more than 4.2 million people who voted for Ken Paxton will want to hear why, will want to hear why 30 people are deciding his fate.

And through all this, we must not forget. Ken Paxton for the last eight years has operated the most aggressive, effective litigation apparatus of any attorney general's office in the country. According to the pundits, Ken Paxton was never supposed to be serving in statewide office.

Ken Paxton is very much serving. Look at his record. Under his leadership, the AG's office has won major cases for Texas on immigration, the lives of the unborn, religious freedom, and the continuous overreach by the federal government on our everyday lives. Under his direction the AG's office has sued the Obama and Biden administrations more than any other AG office in the country. Even CNN has called Texas a legal graveyard for Biden's policies. And under his watch, and with his personal involvement, the attorney general – the attorney general's office has recovered billions of dollars for Texas taxpayers, including \$3 billion against big pharma as a result of the opioid crisis. It has been said, but I think it's worth repeating: Ken Paxton is the best attorney general in the country, period.

All of this, of course, begs the most pressing question: If Ken Paxton is so good at his job and routinely defeats his political opponents at the ballot box, then what the devil are we doing here?

We know this entire process took less than two months with fewer than 15 witnesses, none of which were ever put under oath. Shouldn't this investigation, if done right, have taken a whole lot longer?

After all, this historic procedure took an entire year the last time it was used, with sworn testimony taken by the committee, in open hearings, giving the respondent an opportunity to be heard, to confront his accusers. So why was it so short this time? Why did it happen when it did? What was the rush?

Because if they had taken their time and done it right, we wouldn't be here. We wouldn't hear about burner phones. We wouldn't hear about house renovations. We wouldn't hear about secret Uber rides. We wouldn't hear any of that foolishness because they would have delved into it and saw that it was all false. So why? I'll tell you why.

May 19th, 2023, Speaker Dade Phelan was so drunk while running House business he could barely even hold the gavel. And that drunkenness was on video and it was on the Internet for the entire world to see. I'm sure you've seen the video as well. Four days later, on May 23rd, Ken Paxton issued a statement and called for Dade Phelan to resign.

In response, the committee heard and met the very next day, conducted a four-hour hearing, and recommended impeachment the day after that. Because of the rush, the House didn't bother to vet this foolishness. And now they put it right in your lap for you to do the work that they failed to do.

This impeachment was the perfect marriage of a group of representatives fueled by a powerful lobbyist and led by a drunken speaker seeking political vengeance. It was also a result of a group of uninformed civil litigants and their attorneys who are motivated by money.

The House's General Investigating Committee proceeded in a rush in secret. So secret, in fact, that the only people who could have testified and brought actual evidence and exonerated Ken Paxton were not even called.

I hope you will look at the evidence. I hope you'll really look at the evidence. I have faith in this body that you will actually see the evidence. Make an informed decision.

I want to focus just on a few of the impeachment articles. There's so many of them, I wouldn't have time to go through every one. But I think one that you might be interested in is Article X. That's the article where the House Managers have argued that Ken Paxton's house renovations were paid for by Nate Paul.

And you've heard that lie repeated over and over and over again in the press, and it's false. The House Managers adopted this lie about a nonexistent bribe and repeated it with no evidence, nothing. The news media innocently amplified this lie without ever documenting it. And then it's been repeated over and over, and even repeated by my colleague today.

Hear this press corps: Ken Paxton and Angela Paxton paid for their house renovations, period.

You will see in this case a Steam Team estimate. The Paxton's house in Tarrytown had some water damage. Steam Team came out to correct the water damage. We're going to show you those documents where a USAA claim was made to pay for that. You will see that the Paxtons had fits with the insurance company, just like all of us have at one time or another, trying to get that claim paid.

You will see that Angela Paxton specifically was involved in talking through some of the repairs they were going to do as a part of that process. They were going to do some upgrades. And you'll see mind-numbing pictures of Angela and Ken Paxton at Home Depot, at Lowe's, pricing stoves, pricing countertops, trying to get the best

buy, and ultimately deciding that despite what you hear about granite, with all due respect, Senator Paxton, their countertops are just old, ratty tile. And they didn't get a new stove. And they didn't get to change out their cabinets.

But that's not what you've heard in the press. I'm going to show you the USAA docs. I'm going to show you in September 16th of 2020 USAA made its final determination of what they would pay. They paid for Steam Clean, the original contractor.

And the second contractor was Cupertino Builders. And you've heard, oh, that's a foul. Buzbee, in the press conference, he showed – he showed Cupertino Builders' invoice, that company didn't exist. Well, guess what? It did. It absolutely did. I'm going to show you the documents and you're going to see that this article is false, just like every other one.

You're going to see the USAA determination. You're going to see that USAA knew that they had another contractor. You're going to see a text from – from the trustee back and forth between Ken Paxton where Ken Paxton says, I have this invoice. I have to pay it.

You're going to see all of that. And you're going to see the wire come from the Paxtons' bank account and go into Cupertino Builders' bank account. You're going to see the front side of the transportation and the back side of the transaction. And you're going to conclude, like I've concluded, and like everybody has to conclude, that these folks were pinching pennies. They were trying to update and renovate their house, and there were a lot of things they just couldn't afford.

I'm going to show you pictures ad nauseam of their house and you will conclude what I've concluded is the Paxtons have been defamed over and over in the press and by the House.

Now, the second so-called bribe, Nate Paul. The bogeyman, Nate Paul, gave Ken Paxton \$25,000. Oh, goodness gracious. You know when he gave that money? October 2018, years before any of these allegations ever existed. Years before any of the acts allegedly that occurred ever occurred.

Think about their theory. Their theory is Nate Paul in October of 2018 was thinking – he was so manipulative and so smart that he knew at some time, sometime years in the future, he may be needing something from Ken Paxton. Here's the problem with that. He gave money to people in this very chamber as well.

Ken Paxton wasn't the only recipient of a campaign donation. But let's focus on campaign donations. Incidentally, in 2018 Ken Paxton raised millions upon millions of dollars. A \$25,000 donation, although it sounds like a lot of money, Ken Paxton is a great fundraiser. He raises a lot of money. And that donation ain't even a blip on the radar screen.

And let's think about that. Campaign donations can't be bribes. They are not bribes. Do any of us believe that a campaign donation in here is a bribe? Do you know how often I get calls for campaign donations? A lot.

Are those bribes? No. If campaign donations were bribes, everybody in this town would be impeached. Just line up. Once we finish impeaching Ken Paxton, we'll start impeaching everybody else.

I want to shift our focus for the time I have and address what could be the elephant in the room. There's been some salacious allegations made about Ken Paxton. The argument is, is that Nate Paul provided a job for a woman named Laura Olson. It doesn't hold any water.

Laura Olson applied for a job. Laura Olson got a job. You're going to see the employment contract. You're going to see what her salary was. You're going to see her paystubs. You're going to hear about the work that she did. And you're also going to hear that she continues to do that work today. Today. That was not a bribe. That was a job sought out and received, and she's doing real work today. You'll see the paystubs and you'll see the employment application.

Now, you've heard so much – my colleague talked about how Ken Paxton turned over the keys to the AG's office to Nate Paul. Remember hearing that? Totally false.

One of the things you're going to see in this case is that Ken Paxton got nothing from Nate Paul and Nate Paul got nothing from Ken Paxton.

Let's look at what Nate Paul got from the AG's office. Nate Paul believed that the feds had targeted him. He believed that the feds had violated his civil rights. He believed that an affidavit, a warrant for the search of his home and businesses, had been altered. He believed it. Still believes it today.

He didn't know where to go. He went to Ken Paxton. Ken Paxton sent him to the Travis County District Attorney's Office, who then turned around and referred it back because of conflicts. There were conflicts. But what did Nate Paul get from that? No bankruptcies were averted. No foreclosures were stopped. No FB agents were indicted. No FB agents had to respond to any subpoena. Nothing. Nate Paul got nothing.

If that was an attempt to bribe, that was the least effective one in the history of the United States. You're going to see Nate Paul got nothing.

In fact, you will also see e-mail after e-mail after e-mail of Nate Paul and his lawyers sending letters to the AG's office, madder than a hornet's nest. You're not doing what – you're not doing your job. You're not doing your job. You're not doing what you're supposed to do. We're going to sue the AG's office.

Does that sound like somebody who has the keys to the AG's office? It sounds like somebody who might be a little entitled and thinks that public officials should jump when he says jump. Maybe jump and hope he jumps high enough.

But one thing is clear: Nate Paul got nothing and he was very unhappy about it. He did not think the AG's office was doing its job. And he sent e-mail after e-mail, letter after letter, culminating in a letter where he threatened a lawsuit against the AG's office.

You never saw those e-mails, did you? You never saw those letters, did you? You never even heard about them. The press knows about them. They didn't report that, did they?

This idea that the AG's office harmed the Mitte Foundation – do you know who the Mitte Foundation is? Do you know their history? Do you know who the first AG was that had issue with the Mitte Foundation? Greg Abbott. Greg Abbott.

Greg Abbott sued the Mitte Foundation for all kinds of foolishness. They had one person indicted. They had another person who allegedly beat their wife and child. There was, like, a lot of turnover. And in this particular instance, you will see why the AG's office decided to intervene.

There's a memo, a memo that lays out the tortured history of the Mitte Foundation and the decision-making matrix. And every single person in the chain of command signed off, including the so-called whistleblowers, to intervene in the Mitte Foundation case. Not to protect charity – see, this is the misconception.

The AG's office is not there to protect charities, as has been alleged. The AG's office is there to protect – to protect the public's interest in charity. In other words, those are donated funds, and the charity better take care of its Ps and Qs. And the Mitte Foundation was not.

And Nate Paul was so mad that the AG's office wasn't doing more. The AG's office intervened. The intervention lasted three months, and the AG's office dropped the case once they saw what was going on.

And remember this. You'll see the memo where not only did the entire chain of command decide to intervene in the Mitte Foundation litigation but also decided to open an investigation of the Mitte Foundation. Have you heard that in the press?

This is what we're up against. We are trying a case not here in front of you, Honorable Members. We're trying a case where we're getting prosecuted in the press. And so here we are, the baseless allegations thrown at us, shotgun approach, throw it against the wall and see what will stick, and make them respond. That's what this is. That's what this is and that's what it has been. There's a reason my colleague did not go through any facts to support this, because there are no facts to support this.

And let's also talk briefly about this so-called midnight opinion. Again, utter foolishness. Did you know on the very day that the informal guidance was issued, they issued another one, the very same time frame, like the very same day? Do you want to know how many foreclosures were stopped by the informal guidance? Zero. They didn't report that either, did they? And you didn't hear that either, did you?

Many of these articles I would – I would respectfully suggest, if you look at what's alleged and you look at the evidence, you'll dismiss it out of hand.

This is a good one. They claim that this was an AG's opinion, this so-called midnight opinion. On the very face of the document it says this is informal guidance. It's not a 402 legal opinion. That should have been the reason that should have been dismissed. But we will show that to you. We will prove that to you and that article should be disposed of in short work.

Now, finally let me talk about these ex-employees. One of the facts that I find to be the most egregious with regard to these ex-employees is that they made assumptions about their boss, but they did not raise those assumptions with their boss. Many of the issues in this particular case, most of those so-called whistleblowers participated in and signed off on.

You know what the genesis of all of this is? Remember when I talked about the referral to the – from the District Attorney's Office to the AG's office? They were unaware that the District Attorney's Office had done a second referral. That did not go through the AG's office. It went directly to this young man, Brandon Cammack.

And so when they saw that Brandon Cammack had gotten subpoenas that went to some financial institutions, they just – they – their heads almost exploded. And rather than asking the questions calling the DA's office, finding out what was going on, they just assumed that this young man, this young lawyer who was being paid 300 bucks an hour, because that's – that was the rate and that's why we got somebody like Brandon Cammack. But they assumed that he was off doing something untoward.

And they never asked the questions, why would you be subpoenaing a financial institution? It's because it was a second referral from the DA's office, a second referral that gave him the authority to investigate bid rigging. We all know there was bid rigging going around – going on in Austin. That was what the DA referred to the AG's office to investigate. Not prosecute, investigate.

They assumed. They assumed the worst. Instead of asking their boss, you know what they did instead? They sent a letter to the FBI saying that Brandon Cammack had appeared in front of a grand jury. He never appeared in front of any grand jury.

The subpoenas were prepared by the DA's office. All he did was DocuSign them. They sent that letter to the – to the FBI. They came and met with some of the governor's staff. They came and may have met with some of you even, instead of meeting with their boss that they claim they were loyal to.

And you know what – do you want to know what is most egregious? They sent letters and they took Ken Paxton's name off the letterhead. Now, you think about that for a minute.

Oh, these people were retaliated against and fired. Ken Paxton was trying to hide something. Let me – let me just ask you point-blank. If one of your staff, your chief of staff, decided that he disagreed or she disagreed with one of your actions, and decided when you were out of the office in Ohio trying to put together the Google case with a bunch of other AGs to recover money for the State of Texas while you're gone, they get together, they send everybody home, and eight of them meet and they take Ken Paxton's name off the letterhead and start sending correspondence without his name. Imagine if your chief of staff did that. You would fire them on the spot.

If you're a subordinate and you disagree with your boss' course of action, you raise it with her or him, and if there's still a disagreement, you resign. That's how it works.

What you don't do is try to hijack the office, wage a coup, or all the other things they did. Sabotage grants. You know, they tried to sabotage the grants that the AG's office would receive. Millions of dollars in grants. They tried to sabotage the office. You're going to hear a much different story when you hear the evidence, a much different story.

And let me finish with this. There's a young man named Drew Wicker. He's been all over the news. Do you remember who I'm talking about? I think my colleague made it clear. And we all know that you guys read. I mean, obviously, you pay attention to what is going on. That's part of your job.

There's a young man named Drew Wicker, a good young man. He was interviewed by the House investigators. I want you to watch and listen to that interview because they asked him, did you ever deliver anything to Nate Paul? No. Never. Never happened.

They came back five minutes later. When you delivered things to Nate Paul, how many things did you deliver?

This is how they did this young man, who feels like he's in between a rock and a hard place. He's friends with some of the people that quit or were fired, and he still says that Angela and Ken Paxton are like family to him.

They squeezed him and they squeezed him. He's the one, you may recall, that said I was there in the kitchen, and Angela had expressed that she wanted granite countertops. And Ken Paxton was there with me. And Kevin Wood, the contractor, says let me check with Nate.

And then we heard about \$20,000 granite countertops. I don't know where those are, Senator Paxton. I don't know where those are.

What you'll see instead is I have the samples that they went – when they went to Home Depot and Lowe's, and they sampled and they priced it, and they decided they couldn't afford it. Nate Paul had nothing whatever to do with it, and Drew Wicker knows that is true as well.

We look forward to putting on this case. And we hope, we hope you'll listen to all the evidence. We hope that you'll make a decision, not based on political expediency, but based on the evidence you're going to hear.

And remember, the burden of proof is not we throw out allegations and you say, oh, that sounds sexy, I'm voting for impeachment. They have to prove their case by the numbers, by the numbers, beyond a reasonable doubt. They won't be able to do that.

And on that point, I'm going to turn it over to my colleague for my time remaining, Dan Cogdell, who has some points he would like to make.

Dan.

MR. COGDELL: Is there a monitor up there?

MR. BUZBEE: No, we didn't have any. I just had to go off the cuff.

MR. COGDELL: May I deliver from here, Your Honor?

PRESIDING OFFICER: Yes, you may.

MR. COGDELL: I'm sorry for the format, but can I at least see off of this? Good afternoon. My name—

PRESIDING OFFICER: Counsel, you are going to have to stay at the mic.

MR. COGDELL: Yes, sir. I'll do my best.

ATTORNEY GENERAL PAXTON'S OPENING STATEMENT

MR. COGDELL: Good afternoon. My name is – whoa. I'm getting off to a great start. My name is Dan Cogdell. Anthony Osso and I are two of the lawyers that are helping Ken Paxton.

You know, when you get ready for a case like this, there's some things that you know and there's some things that you don't know. Well, in this case, when I was preparing, I knew I was going to know most of the lawyers. I know my opposing counsel. I've known him most of my life. They're friends. I'm not going to say anything negative about them.

It should give you some pause, though, because if they're friends with me, you know their judgment is a little bit askew. That having been said, I know some of the witnesses. I know Mr. Penley. I know Mr. Maxwell. Most of these people are good people. I have no problem with their character, generally speaking. I have a big problem with some of the things that they did.

I don't mind sharing with you that my wife is going through a significant medical issue and it wasn't the best time for me to come here, but she said, no. You go. This is bigger than me. This is bigger than you, and this is bigger than Ken Paxton.

No offense, Ken. She's not your biggest fan.

But what she meant by that is we are living on the wet end of democracy right now. Is it up to the voters or is it up to politicians to see who stays in office?

Your decision is much bigger than Ken Paxton. Your decision is literally about democracy in this state. I appreciate Mr. Murr's comments. I also appreciate the focus on the bigger picture than what is happening in here.

One of the things that's intimidating, even – I've been doing this for a long time, 42 years. Sometimes I don't recognize that dude in the mirror when I walk in in the mornings.

But I wonder to myself, how do I begin a case like this? This is a case of enormous consequences. I wanted the press. I wanted the sound bites. I wanted the cute things, right?

As a side note, this may be one moment I get to relish because I'm not automatically the biggest ego of the lawyers involved. Not automatically. I have some competition.

The significance of this case is titanic, as I mentioned. And I wondered, what am I going to do? What am I going to say? Oh, my God. I need the hook. I need the line. I need – I need the pop. And it occurred to me I don't need that. It occurred to me that I have the truth. It occurred to me that the reason we're here – how did we get here?

This is the very room where General Paxton has been sworn in again and again. This is the very room, as I understand it, where one of his daughters got married. How do we go from that to here? I'll tell you how. Because people assumed things that weren't true.

They assumed that Paxton was involved in an illegal relationship with Nate Paul. They assumed that Paxton's actions were intended to get the records to Nate Paul. They assumed that Paxton gave the DPS records to Nate Paul. They assumed that Paxton hired Cammack illegally. All of those things are false. All of those things are false.

Even Einstein said assumptions are made and most assumptions are wrong. A man much lesser, perhaps, than Einstein but he's important to me, my dad. He told me when I was a young kid, you know, son, how do – you can't spell assume without making an ass out of you and me. And he's right. And that's exactly what happened in this case.

The reality is this is not a trial where you can assume anything. This is a trial that requires proof beyond a reasonable doubt. Spoiler alert: It's the same amount of proof that's required in a death penalty case.

I'm a visual learner. I like to see things to help me learn, so I'm going to offer these next slides to you. Just – they're not the law, but they're an explanation. We deal with different standards. A lot of you are lawyers. A lot of you know these things, but a lot of you have never dealt with proof beyond a reasonable doubt.

So let me suggest probable cause. If probable cause were a house, probable cause might look like that. Probable cause is the same standard by which the House had to, quote, indict or return the Articles of Impeachment. That is the quantum of proof that was required.

Preponderance of the evidence, that is – that is the standard that Mr. Buzbee uses in his – in his cases. Those 50 versus – 50 and a half versus – any slight more, any – a little bit more. That's the preponderance.

Clear and convincing evidence, that's the same quantum of proof that is required in a – in a situation where CPS wants to take your child away.

Proof beyond a reasonable doubt, if it was a house, it would look like that. It would look like Mr. DeGuerin's house. It would look like a big house.

Sorry, Dick.

My point is a pretty simple one. There's a huge difference between the quantum of proof that the House based its decision on and what you are required by law to base your decision on. It's night and day. I'm going to go through the articles quickly.

Judge, how much time do I have left?

PRESIDING OFFICER: Twenty-one minutes.

MR. COGDELL: Oh, good.

PRESIDING OFFICER: Twenty-one minutes.

MR. COGDELL: I may give a couple of those back. We'll see. Here's the allegation.

That Paxton directed employees at his office to act contrary to law by refusing to render a proper decision relating to a public information request for records held by the DPS, by issuing a decision involving another public information request, which is a mouthful, that was contrary to law and applicable legal precedent. That's the allegation.

Here are the facts. Fact Number 1 is that Paxton is the attorney general. Paxton, as the attorney general, can decide how his office responds to these inquiries. He's the attorney general.

Fact Number 2: Paxton did not order the release of the records. That's kind of been lost in the wash here. There's all of these suggestions that Paxton ordered the release of the records that ostensibly were favorable to Nate Paul. No, he didn't. He did not order the release of those records. Period. Full stop.

What he did was had his office take no position on whether or not the records should be released. That's a different color of horse.

Fact Number 4, that no records were released to Nate Paul as a result of the actions of Ken Paxton. Let me repeat that. Nate Paul got not a single record based upon the action of Ken Paxton.

Fact 5: There were other records that were released to Nate Paul and his lawyers, but they had nothing to do with any action by Ken Paxton. Do you follow me? Other records were released, but not at Paxton's direction, suggestion, interference, what have you.

Misuse of official information. The allegation, specifically Paxton improperly obtained access to information held by his office that had not been properly disclosed for the purpose of providing that information to the benefit of Nate Paul. That's the allegation.

The facts are a little different. Fact Number 1: Paxton did not illegally access any records. Let me repeat that. Despite what the allegation is, he never accessed any records illegally. It didn't happen.

As the attorney general, Paxton had every right legally to access those records.

Fact 3: There's no evidence that Paxton copied those records. I'm kind of getting into the weeds with you here, but bear with me.

There's a fellow named Vassar that you'll hear about. He had the file and is responsible for maintaining that file. He gave those files to Mr. Wicker, who Mr. Buzbee talked to you about. Mr. Wicker is an aide that works with Ken.

Wicker says he was never asked to copy the file. I think the evidence is going to be pretty overwhelmingly that Ken Paxton may be more technologically challenged than me. So if anybody was going to copy those files, it wouldn't be Ken Paxton. I'm not even sure he had the code to the copy machine.

Paxton gives the file back to Wicker after Wicker gave it to him. Wicker gives it back to Vassar.

And there's no evidence that Paxton gave those documents to Mr. Paul. There's this big kerfuffle. And look, you're going to hear from a fellow by the name of Dave Maxwell. Dave is 6-foot-6 without the Stetson. You call Central Casting and ask them to send you a Texas Ranger, and by God, they send you Dave Maxwell. I'm a fan of Dave Maxwell generally speaking, but Dave Maxwell did some things and said some things that weren't true.

While he was being interviewed by the House, he said, and I quote, Ken Paxton – Ken Paxton gave the file to Drew Wicker and he delivered it to Nate Paxton in an alley in the dark of the night.

That's absolutely false. Maybe Dave was just comfortable in his own skin and thought he could stretch out his credibility. It's either a mistake or a lie. I don't care. Whatever it was, was wrong. That never happened.

Months later, Wicker gives an envelope to Nate Paul. An envelope. But there's no evidence that that envelope contained these celebrated documents. And I suggest to you that these documents would have been several inches thick, not two or three pages.

And it was – I'll skip past that.

But at the time – or really after the time when the Board of Managers is claiming that Nate Paul surreptitiously had these documents, his lawyers are still suing in court to get the documents. That makes no sense. Why would his lawyers still be pursuing civil remedies, which they're entitled to do to get these documents, if he already had the documents and if he had gotten those documents from Ken Paxton?

That is dumber than a bucket of hair. It makes no sense. They're just wrong. Maybe they had good intentions. Maybe this was their belief for the moment. But they're wrong.

Fifth allegation: Disregard of official duty, the engagement of Brandon Cammack. It is while holding as office of attorney general, Ken Paxton misused his official powers by violating the laws governing the appointment of prosecuting attorneys pro term – or pro tem. We'll get into that. And Paxton engaged Brandon Cammack, a licensed attorney, to conduct an investigation into a baseless complaint.

That's the allegation. During which Cammack issued more than 30 grand jury subpoenas in an effort to benefit Nate Paul. Whatever. Here are the facts. Fact Number 1 is Paxton has every legal right to hire Brandon Cammack. We're going to get into the why, but he's got that right under the Government Code.

You're going to hear a bunch of kerfuffle about one of my favorite terms, the EAM, the executive action memorandum. I'm sorry, but only in State government could we come up with a phrase like the executive action memorandum. What it really is, it's policy. It's not the law. It's an internal policy within the attorney general's office. It is not the law.

Fact 2: Cammack was not an attorney pro tem. Maybe that's a distinction without a difference, but that's what they've alleged. And you would think that these lawyers – and the investigative committee and the committee are full of lawyers, most of which, or many of which, are ex-DAs – an attorney pro tem is appointed when the entire office has been disqualified. This had nothing to do with that.

Brandon Cammack was hired, as the documents say, as an outside counsel, but they've alleged in their complaint he was an attorney pro tem. He was not.

Fact 3, a baseless complaint. Here's the funny thing about being a baseless complaint. They forgot to tell Brandon Cammack about that. And we've got a lot of people that have been hurt by these allegations and the investigations. And I guess it depends on your viewfinder on whose ox is getting gored and whether you like Brandon Cammack or not. He got absolutely skewered from the press. He was vilified by the press. He was just taken to the woodshed. He was beat like a rented mule by the press.

And all that young man was trying to do was doing an investigation that the people who worked for Ken Paxton wouldn't do. And guess what? No one bothered to tell Mr. Cammack that it's a baseless investigation. In fact, he was told by Ken Paxton the same thing that Mark Penley was told by Ken Paxton, who, parenthetically, I know and I like, but he didn't do anything. But more importantly, the direction given to Penley, the direction given to Cammack was the same: Find the truth.

Let me repeat that. The direction that Paxton gave him in this corrupt, invasive, corrosive, bribery, kickback, horrible scheme, the direction he gave Mark Penley who worked for him was exactly the same direction he gave Brandon Cammack: Find the truth.

We're going to impeach a sitting attorney general for giving the direction, find the truth? Not one person, not one piece of evidence will you hear where they say lie – where Ken Paxton told him to lie, cheat, steal, shape, do whatever it takes. I just – that didn't happen. That didn't happen.

And yet here we sit with 31 of you, with 15 of us and 15 or more of them, here we sit when the allegation – when the allegation is it's a corrupt – when the truth is he said, go find the truth. For God's sakes, what are we doing here?

Oh, yeah, this baseless complaint that Mr. Murr – nice to meet you, sir – that Mr. Murr referred to, it wasn't a baseless complaint. The Travis County DA's Office referred it to the AG's office, and ultimately a second one to Brandon Cammack. It may not be the greatest, sexiest complaint ever, but it wasn't baseless.

Fact 4, no one bothered to tell Brandon Cammack – I think I've got a bit historical about that.

And another one of my friends, Johnny Sutton, former United States attorney, worked under W, great lawyer, fine fellow. But these same folks, the whistleblowers that are carping so much about Ken Paxton, and going outside counsel and doing all of these ultra vires things, went to hire another lawyer. They were trying to hire Johnny Sutton who, last I checked, was an outside lawyer.

Now, you've got to be asking yourself why is it that Paxton hired Cammack? Number 1, Paxton believed in good faith that there had been misconduct.

Number 2, he asked his deputies to investigate it. His direction was simple: Seek the truth. His staff did little to nothing in terms of an actual investigation. He asked again; nothing really happened. No one seemed to be interested in it at – any of it. For two months it just sat there.

The one time where Ken Paxton comes to Mark Penley and says, hey, man, I would like you to look at this, he does nothing. He does absolutely nothing. Frustrated, he interviews outside lawyers and decided on Cammack.

And, again, he gave Cammack the same investigation – or same instruction he gave Mark Penley: Find the truth. At no time did Paxton ever seek to impede, impair, obstruct.

Here is one of my favorite vignettes that you're going to see. Dave Maxwell, this 6-foot-6 Texas Ranger, iconic figure, he's going to come in and say he was asked to participate in an illegal investigation. Really, Ranger? It's an illegal investigation.

And on video, according to you, if you're world right – if your world view is right, they ask you right there on videotape to participate in an illegal investigation, and you just sat there like a bump on a log. You didn't arrest anybody. You didn't make a note. You didn't cause anything to be filed. It was illegal, and you were asked to participate in it, and literally there you sat? This is our legendary one riot, one Ranger in action doing nothing? Really?

Paxton just wanted it investigated.

Mr. Buzbee stole a little bit of my thunder on these – these letterhead issues, but the point might be worth stating again.

Who in the world do these people think they are? Honest to God, if your chief of staff came in and scraped your name off the letterhead and sent it out, how long – how much longer do you think they would be working for you? They wouldn't be, and they shouldn't be.

Who in the world gave these people that idea? Who in the world told these people it was – it was going to be okay? I bet you the evidence is no one. They took it upon themselves. They deputized them into some sort of Power Ranger team where they just do whatever they wanted, scrape Ken Paxton's name off the – off the letterhead and send these letters out.

Mr. Buzbee also talked to you about Michael Wynne's letter to Paxton, but I think it bears repeating. Under their world view, Wynne, who represents Nate Paul, writes a letter to Ken Paxton, his supposedly co-conspirator, threatens to sue his co-conspirator, threatens to sue the Office of the Attorney General, alleging false statements made by Ken Paxton to damaging Mr. Paul's reputation, claiming inappropriate coordination to undermine the investigation, alleging obstruction to present – to prevent the Mitte Foundation investigation.

Literally bringing suit against one of his – what in the real world would be a co-conspirator? What's next? A hired hit man suing for breach of contract when he doesn't get paid for the kill? Are you kidding me?

This makes absolutely no sense. None. And the reason it makes no sense is because there was no illegal relationship between Paxton and Paul.

Look, I get it. I understand why there's some eye rolls about Paxton doing things that most of you would think, I don't know about that. I don't know about that. But here is why Paxton was a little different.

These claims with Ken Paxton that make – Nate Paul was making, they resonated with him. I hear you. They very well may not have resonated with you, but I'll suggest to you, luckily, you haven't gone through what Ken Paxton has gone through for the last eight years. Let me repeat that: Eight years.

How do I know eight years? Because I have been by his side on that Texas State Securities fraud case. In that case, Paxton believed he had been the target of a wrongful prosecution, and here is why. Number 1, it had been pending for six years at that point, back in 2020 when all of the fur was hitting the fan.

PRESIDING OFFICER: Counselor, you have four minutes left.

MR. COGDELL: Yes, sir. Thank you. Number 2, the judge that presided over the—

MR. HARDIN: Excuse me. Excuse me. Objection. I believe – I believe the Court has said all four of those, counselor, out of this trial. He doesn't get to start talking about the merits of it.

MR. COGDELL: No. I get to talk about his mindset.

MR. HARDIN: My objection is he shouldn't be talking about this at all based on the Court's ruling in the past.

MR. COGDELL: I'm talking about his—

MR. HARDIN: We are not – we're not allowed to talk about it. How can he get up there in opening and give his version of it?

MR. COGDELL: I'm talking about General Paxton's mindset as to why these claims were resonating with him.

MR. HARDIN: He started talking about it, Judge. He's talking about the facts. I object.

PRESIDING OFFICER: Sustained. Continue.

MR. COGDELL: Let me put it this way: Ken Paxton was viewing things from a much different viewfinder than you or I might have been viewing those things through. And there's a reason why he was viewing things differently through a different viewfinder than you and I, because of what he had experienced. And it wasn't what you and I have experienced for the last eight years.

Let me get this through so I don't offend Mr. Hardin any further. Sorry, Rusty.

Here is the difference between what the House did and what you have to do. What you cannot do is assume anything. What you must do is look through the viewfinder of beyond a reasonable doubt.

Again, that is a much different process than what the House did. Is there proof beyond all reasonable doubt for you to convict Ken Paxton? And I suggest to you it is crystal clear that there is not evidence beyond a reasonable doubt.

I have one simple ask: Do the right thing. I think the Senator that led us in prayer asked for the Lord's help on that. Literally, do the right thing. And the right thing is to vote not guilty. Thank y'all for your time.

PRESIDING OFFICER: For the record, House Managers, you have 42 minutes and 34 seconds returned to you.

And you have one minute and 17 seconds returned to you.

Managers, before you call your first witness, we need to deal with this motion with Johnny Sutton.

Bailiff, will you bring Johnny Sutton forward?

Members, we will resolve this motion and we'll take a short break after that.

Members, jurors, I'm going to let you take your break now while we're handling this motion. Be back at ten minutes before the hour of 3:00, 2:50.

Parties, I may be calling you to the bench in a moment. I may be calling you to the bench with Mr. Sutton in a moment.

Can we have silence? While you're moving about is fine, if you can be silent, please.

(At the bench, off the record.)

(Recess from 2:36 p.m. to 3:15 p.m.)

AFTER RECESS

PRESIDING OFFICER: Is Mr. Sutton still here?

Bailiff, can you bring Mr. Sutton back?

(Mr. Sutton entered the chambers.)

PRESIDING OFFICER: You can stop there. I just wanted you to be in the room.

Counselor, Members, the Court received a motion to quash a subpoena recently received by Mr. Johnny Sutton, an attorney who represents several potential witnesses in the case. Mr. Sutton filed a motion to quash the subpoena so he may fulfill his legal duties as an attorney representing the clients.

After considering the motion and conferring with counsel for both parties, the Court believes at this time Mr. Sutton's representation of his clients would not prejudice his testimony, if any, should he later be called a witness. Therefore, his motion to quash is granted.

However, Mr. Sutton, the Court hereby orders you to make a diligent search for any non-privileged documents thorough, within the scope of what was subpoenaed by the Attorney General to produce those, if any. And the Court will want a response to that search.

MR. SUTTON: Yes, Your Honor.

PRESIDING OFFICER: The Court will allow a limited, limited, exception to the Rule, to the extent necessary to represent your clients, including appearing in the chamber during their testimony. You asked to be excluded from the Rule, but that would take a vote by the entire body.

Though you may be present in the courtroom for testimony of your clients, you may not share information between clients. You may take your designated seat.

Managers, please, call your first witness.

MR. HARDIN: Your Honor, we call Mr. Jeff Mateer.

PRESIDING OFFICER: Please bring Mr. Mateer in.

(The witness entered the chambers.)

PRESIDING OFFICER: Mr. Mateer, I'll remind you you're still under the oath you took earlier. And to help the court reporters, clear yes and nos. No head nods or uh-huh.

THE WITNESS: I'll do my best, sir.

PRESIDING OFFICER: Mr. Hardin, your witness.

MR. HARDIN: Thank you.

Your Honor, before I start, could I ask if it's permissible to ask the back of the room if they can hear me? Since we've all had these microphone issues here, I want to make sure that if I'm speaking into the microphone like this, can the rear of the room here me?

PRESIDING OFFICER: Can you hear, Senators, jurors? Everyone can hear. Hands up.

They hear you clearly.

MR. HARDIN: All right. Thank you very much.

JEFF MATEER,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HARDIN:

Q. State your name, please, sir.

A. I'm Jeff Mateer.

Q. Mr. Mateer, how old a man are you?

PRESIDING OFFICER: Hold on. That mic is not on. You have to hit that button right there.

THE WITNESS: All right. Jeff Mateer.
Oh, gosh. I'm sorry. I apologize.

PRESIDING OFFICER: We heard you the first and second time.
Go ahead.

A. I am 57.

Q. (BY MR. HARDIN) All right. Mr. Mateer, you're somewhat a victim of my warning you to try to speak up when we're talking privately. So I think the microphones have taken care of that. Okay?

A. Yes.

Q. And where do you live now?

A. I live in Rockwall.

Q. I'm going to ask you, in the interest of time, if you would just give us maybe a minute and a half or so, a little bit about your background, where you grew up, family, professional career to where you got.

A. I actually grew up in central Pennsylvania. And then I met a girl from Fort Worth and we were in DC together when I was working on the Hill –

Q. You can go down a little bit, I think.

A. I'll pull back a little bit. How is that?

Q. That's good. All right.

A. We work – I was working for the Hill for – for first Tom DeLay and then Dick Army. Met my wife. She – if we – our relationship was going to continue, it made it clear that our relationship was going to continue in Texas. And so I went to SMU Law School. I graduated from SMU, and then after law school went to Carrington, Coleman for the first part of my career.

Q. Carrington, Coleman is a Dallas law firm, right?

A. It's a large Dallas law firm, about 100 lawyers when I was there. And that was approximately – well, not approximately – it was 1990.

Q. Stop there, and then I'll try to do a question and answer now.

When you were at Carrington & Coleman, were you also involved in any kind of outside activities at that time?

A. Yeah. I'd always – since college, I'd always been involved in Republican politics. And so I started – you know, did that in college. I was vice president and treasurer of College Republicans. And then even though – I mean, anyone's who's been an associate at a law firm knows, at a large law firm, you don't have a lot of time, especially if you have a family, because I had a young family, but I still stayed involved. And then I began to volunteer on religious liberty cases.

Q. All right. Now, I'm going to ask you, we're going to try to do kind of short answers. And I'll try to jump in.

You're aware, as every witness is, that we're working on a time clock here.

A. Okay. I'll do my best.

Q. That's – that's just my fault. It's my job. Don't you worry about it.

A. Yeah.

Q. So any particular organizations from the time of college or law school on that you belonged to?

A. Yeah. I was a member of Christian Legal Society, starting in law school. And then in law school also became a member of the Federalist Society.

Q. And very briefly, Federalist Society, how would you describe it and what it is?

A. Federalist Society is predominantly conservative and libertarian lawyers or – or law students who care about the rule of law and conservative and libertarian policies.

Q. In addition to your political views on legal issues and others, without getting into much detail about it, how would you describe your – your life and your religion?

A. I mean, I – I would describe myself as an evangelical Christian.

Q. All right. And do you belong to a particular domination?

A. I'm a member of a Baptist church.

Q. Okay. Are you a RINO?

A. Am I a RINO?

Q. Are you? Are you a RINO? Do you know – wait, slow down. You understand the term, do you not?

A. Republican in Name Only, is the term.

Q. Yes. Would you give the jury a benefit of your background of your political views?

A. Well, I mean I'm certainly far from right of center. I was nominated by President Trump to be a federal judge that –

Q. And your nomination wasn't –

A. My nomination was not successful after – there was opposition from – well, some liberal republicans and all democrats.

Q. And the relevance here, I want to ask you about, have you heard the suggestion that this impeachment is really the product of RINOs, liberals, democrats, people that are opposed to the true conservative views? You've heard that, have you not?

A. I've heard that said, yes.

Q. All right. How would you apply that description to yourself?

A. I mean, that doesn't describe the men and women that I worked with on the eighth floor at the Office of Attorney General.

Q. We're going to get to that in a moment. But as far as you, yourself, are concerned, was one of the issues that defeated your nomination comments, whether you made or didn't make, that had to do with transgender politics?

A. Yeah. And I mean the comments involved me speaking at a Baptist assembly in which I was alleged to make comments that – that people on the left perceived to be anti-transgender.

Q. All right. Now, at the –

A. Now, I should say I didn't make the comments that they said that I made, but that was the allegation.

Q. Well, what I really am asking you, Mr. Mateer, in your life, how would you – when you went to the attorney general's office, how would you describe what you believed in your politics, the mission of the attorney general's office, and the profession you had chosen?

A. Well, look, I've always been, since law school and throughout my career, I believe wholeheartedly in the rule of law. I mean, that's something that the Federalist Society I think instills in people who are members, but I believe in the rule of law, and I believe in conservative policies and conservative practice.

Q. And have you always been conservative, without going into specific this issue or that issue, have you viewed yourself very conservative on church?

A. My – my faith –

Q. You have to let me finish. You have to let me finish.

A. Sorry.

Q. That's okay. It's not often that people like me get a chance to –

A. Well, I'm in a different –

Q. Wait a second. You have to wait.

It's not often people like myself get a chance to correct people who have been a chief of staff of some organization, so I'm taking liberties with it. Okay? And I'll stop you if you volunteer. Just let me finish and I'll try to let you finish.

I'm really – in terms of social issues in the political world of the day, on a scale of 1 to 10, how would you rank yourself?

A. Ten or 11.

Q. Okay. Now, after you – did you go somewhere else after Carrington, Coleman in Dallas?

A. Yes. After Carrington, Coleman a group of us who were Carrington, Coleman lawyers formed our law firm called Rosenthal, Reynolds, Mateer & Shaffer.

Q. Where are you practicing now?

A. It – where am I practicing now? First Liberty Institute.

Q. And what is First Liberty Institute?

A. It's a national religious liberty law firm. It's actually the largest religious liberty law firm in – in America that's dedicated to defending religious liberty.

A. It's a national religious liberty law firm.

It's actually the largest religious liberty law firm in – in America that's dedicated to defending religious liberty.

Q. And indeed have y'all since – at some time recently, have you participated in several Supreme Court cases?

A. Yes. Since I've been back, I came back in October of 2020, we've had four Supreme Court cases, including three very important precedent-setting cases.

Q. Well, were all – were all of those cases oriented to what one might say the religious right?

A. Yeah, I mean, the – probably the most infamous or famous one is Coach Joe Kennedy, the praying football coach, who the school district up in Washington fired him because he was kneeling at the 50-yard line after a game. That case took eight – eight years. We just celebrated him returning to the football field this last Friday.

Q. Now, I want to ask you why did you – and were you at First Liberty at the time you joined the attorney general's office?

A. I was. I started at First Liberty in 2010. I started at the Office of Attorney General in March of 2016.

Q. What was your job when you started with the attorney general's office?

A. I was First Assistant Attorney General.

Q. Have you heard – have – when did you first meet Ken Paxton?

A. I was trying to – you know, in thinking about that, I – I would have met Mr. Paxton sometime prior to probably starting at First Liberty. And I would have been introduced by Kelly Shackelford.

Q. And at the time that you began with the office, what time of year was it?

A. What time of year?

Q. What year?

A. That was March of 2016.

Q. And by that time, how long had you known Mr. Paxton before you began?

A. I would guess it would have been probably almost 10 years, certainly of him. I didn't know him well, but I would have known of him those 10 years.

Q. Who hired you?

A. Mr. Paxton.

Q. In what way? Did you meet with him? Did he call you? How did it happen?

A. He – he actually approached me a few months before March and had asked me if I would consider coming to – to Austin. I told him I – I didn't want to come to Austin. Quite frankly I – I had my dream job being general counsel at First Liberty. Today I have my dream job.

Q. So is the answer you – he asked you to join him in Austin?

A. He did.

Q. Okay.

A. Well, and we – you know, I went home and – and I agreed. He asked me to pray about it. And my wife and I did pray about it. And we felt like we were supposed to come down here.

Q. All right. And then have you ever heard him suggest in public announcements and descriptions and defenses of his – of his charges or so that he hardly knew you guys?

A. That he what?

Q. That he hardly knew you.

A. That he –

Q. If we were to say that he hardly knew you, would that be accurate?

A. I think –

Q. You always, always, always have to let me finish.

A. I'm sorry.

Q. That's okay.

Would that be accurate or inaccurate?

A. It would be inaccurate.

Q. All right.

A. I think he knew me very well.

Q. All right. Now, after he hired you, when you went on, I want to talk to you about the senior staff at the attorney general's office. Okay? And I have a diagram here I want to put up, and I want to try to do this briefly. And that is a diagram of the –

MR. HARDIN: Would you put the exhibit up for me, please? Thank you. I'll give it to the other side. Thank you.

Q. (BY MR. HARDIN) Now, I'm going to try to go briefly, real quickly through this.

PRESIDING OFFICER: Counselor?

Q. (BY MR. HARDIN) But what I'm after here is –

PRESIDING OFFICER: Counselor?

MR. HARDIN: Excuse me.

PRESIDING OFFICER: Are you offering this as an exhibit to put in evidence –

MR. HARDIN: As a demonstrative –

PRESIDING OFFICER: – to put in evidence?

MR. HARDIN: Excuse me. Just as a demonstrative exhibit for him to just talk about.

PRESIDING OFFICER: Okay.

Q. (BY MR. HARDIN) If you could, would you tell the jury – and I want to try to do this briefly and move pretty quickly. Okay?

If you could tell – tell the jury how this describes what the roles of each were. I want to go – for instance, your immediate below you was who?

A. Well, below – below me, not to the side?

Q. Right.

A. Below me are the deputies.

Q. Yes.

A. So the way the Office of Attorney General was organized when I was there and when I came in is there were divisions. So it starts on the left with Ruth Anne Thornton, who would have been director of child support. And it goes all the way across to Darren McCarty, who would have been the deputy attorney general for civil litigation. And everybody in between, Lacey Mase, deputy for administration; Mark Penley, deputy for criminal justice.

Q. I think it will be important to understand your testimony as we go along. Do each of these division heads have particular responsibilities of their own?

A. They do. I mean, they – they run a division in the attorney general – the attorney general's office is 4,200 employees, approximately 800 lawyers. And so spread out on this chart that's before us are the various divisions of the office.

Q. All right. Thank you.

So over – over to the right, or your left as we look at this chart, but to the right on the chart, Mr. Bangert, what was his responsibility?

A. So Ryan Bangert was the deputy first assistant, so he –

Q. Now, let me ask you this: If one were to describe where he comes down on the political scale – liberal, moderate, conservative – obviously each of these are Republican, are they not?

A. As far as I know, each of them are Republicans, yes.

Q. All right. And Mr. Bangert, how would you describe his background and his views in terms of the way he dealt with issues that affect people in this country?

A. Mr. Bangert has similar views to mine.

Q. All right.

A. A person of faith who is also a very, very good lawyer. He worked for Josh Hawley in Missouri. He had been a partner at Baker Botts. That very much aligns with me and, quite frankly, all of our leadership.

Q. And then if you go to your – to the right of you on the chart, to the left of us as we look at it, who is that?

A. That's Missy Cary, and she – she is a career OAG. Actually her father was a deputy attorney general. And she – the joke was Missy grew up at the Office of Attorney General.

Q. Do you have any evidence that she's a member of the deep state?

A. She's not a member of the deep state. She cares deeply about the Office of Attorney General and the State of Texas.

Q. Now, if we look at – if we look at the different persons here, there's been a lot of talk about the whistleblowers, obviously. You would be one, are you not?

A. I'm one of the eight who signed the letter.

Q. However, when we hear about the whistleblower lawsuit, did you file a lawsuit?

A. I did not file a lawsuit.

Q. So as you sit there now, do you have any litigation pending against the attorney general's office?

A. I do not.

Q. Okay. Do you know whether Mr. Bangert filed a lawsuit?

A. He did not.

Q. Are both of you among the eight that sent a letter to the attorney general announcing what you had done, and after you had been to the FBI on September the 30th of 2020 – 2020?

A. Yes.

Q. Pardon me?

A. Yes.

Q. Okay. Now, as we go forward real quick, what's the background of Mr. Brickman?

A. Yeah. So Mr. Brickman, he served as Deputy AG for policy and strategic initiatives. The attorney general and I recruited him into the office. He had been chief of staff for Governor Bevin, who is the Republican governor in Kentucky. And he had lost –

Q. And excuse me, and widely known as a very conservative governor of Kentucky?

A. Governor Bevin was one of the most conservative governors in the country.

Q. All right. Go ahead.

A. And I had met Blake the first time at – I had mentioned Federalist Society. One of the things that Federalist Society did is they brought together leadership from governors' offices and AG offices.

Q. And, Mr. Mateer, were each of you very active, not just in your states, but nationally, in conservative Republican politics, many of which considered the evangelical movement?

A. Yes, we were.

Q. All right. And then who hired Mr. Brickman?

A. Well, ultimately the attorney general hired Mr. Brickman, but on my recommendation.

Q. All right. And then if we go further, we have Mr. Maxwell there. Mr. Maxwell was there when you got there, correct?

A. Yeah. Mr. Maxwell – the way deputies is on the eighth floor, there's a conference room. Mr. Maxwell would sit to my right. He was the director of law enforcement.

Q. And he – and he actually had been there quite some time and had a career before you ever arrived, correct?

A. Yeah. I think he approaches 50 years of law enforcement. He's actually in the Texas Ranger Hall of Fame.

Q. Mark Penley, who is he?

A. So Mark Penley came in after I came in. We had an opening for deputy attorney general of criminal, and we – we – interviewed several people. Mr. Penley had known Mr. Paxton for years. I think they had been friends for over 20 years. They actually practiced together at a Dallas law firm known as Strasburger & Price.

Q. Excuse me. Mr. Penley was also a career federal prosecutor?

A. He was, after he was – I think he was an associate at Strasburger & Price, and then he went to the U.S. Attorney's Office in Dallas.

Q. On the scale of – of 1 to 10, where would you yourself write Mr. Penley in terms of conservative versus moderate?

A. Again, I put him with as the same as me and Bangert. I mean, he's at the end of the spectrum.

Q. Mr. Maxwell, who we talked about, is one of the ones who filed a lawsuit, correct?

A. Right.

Q. And then Mr. Penley is one who did file a lawsuit, correct?

A. That's my understanding, yes.

Q. So – so thus far – and Mr. Brickman filed a lawsuit, right?

A. Yes.

Q. We've talked about five of the whistleblowers so far. Two who had not – did not file a lawsuit and three who did; is that correct?

A. That's correct.

Q. And then to the right of Mr. Penley, who is that?

A. That's my left, your right, Ryan Vassar.

Q. All right.

A. And –

Q. What do you know about the background of Mr. Vassar?

A. Ryan Vassar was a protege of Brantley Starr, now Judge Brantley Starr. Mr. Vassar had clerked for Don Willett and came to the Office of Attorney General after his clerkship. And he really, Brantley – Judge Starr took him under his wing. And he quickly established himself as one of the smartest go-to hardworking young lawyers in the agency.

Q. And then Lacey Mase?

A. Yeah. Lacey is another person. She actually, I think, started as an elementary schoolteacher and then went to law school. She was identified by the former deputy for civil litigation, Jim Davis, as a rising star.

Q. And she had – she had – also did not join the lawsuit?

A. She did not file a lawsuit, no.

Q. All right.

A. She's currently deputy attorney general of Tennessee.

Q. She's the number two person in the State of Tennessee now, is she not, in the Tennessee Attorney General's Office?

A. She is sir, yes.

Q. Okay. After this is all over, were you aware she could not find a job anywhere in government in – in Texas?

A. I had heard that, yes.

Q. All right. So to finish up with this particular subject. Now that we've looked at who everyone was, to your knowledge when each of these people joined the attorney general's office here in the State of Texas, how did they – what would – what would – how would you describe their mission in terms of their devotion to the same things the attorney general spoke very broadly or widely about?

A. Yeah. What all of these individuals have in common – again, I told you, I'm a Baptist. So I try – I think of three Cs. Okay. And the three Cs are calling, character, and competence.

Q. And what is calling? What do you mean by that?

A. Calling, and I know that –

Q. Wait. I actually had just –

A. I'm sorry.

Q. – two more words, if you just waited another few seconds.

All right. But what do you mean by "calling"?

A. Okay. I know calling sounds like a spiritual term, but for me it's really mission. And it's commitment to the mission. And so when you're looking for people, certainly in leadership positions, whether it's at the Office of Attorney General or my current job at First Liberty, the first thing I want in someone is someone committed to the – committed to the – to the mission. They're passionate about the mission.

Q. And what were you committed to about serving – serving as the first assistant for Ken Paxton's attorney general's office?

A. We were committed to the rule of law and to conservative governance.

Q. What's the second C?

A. The – the second C is competence. So it's one thing to be passionate. Like, I'm passionate about baseball, but I could never have played in the major leagues. All right. But I'm passionate about it, but I'm not competent. So in addition to having passion, you've got to have competence. You've got to be the best. And I always felt like, whether it's at First Liberty, I want the best at the Office of Attorney General. In senior leadership, you want lawyers who are skilled. People who are the best in their profession.

Q. So the third C?

A. Is character. Because of the responsibilities, you have to have men and women who have integrity. And I actually would share this with new employees at the office because this is what – this is what we wanted. You know, in someone at the Office of Attorney General, you wanted – you wanted passion. You wanted competence, excel – and you wanted character.

Q. Mr. Mateer, in 2015, when you joined the Texas Attorney General's Office, 2017, 2018, did you feel that office was in sync with the views you've just been expressing?

A. I think that – I think it was.

Q. And in 2018 and 2019, did you think that office was in sync with the values that you've been describing?

A. I believe so, yes.

Q. All right. At that time did you believe in Ken Paxton and all he was saying?

A. Absolutely. And I believed that General Paxton also possessed these characteristics. I wouldn't have come to Austin had I not believed he was a true believer.

Q. All right. Did you ultimately change your opinion? And all I want is a yes or no.

A. I did.

Q. All right. Let's take you on that road. When is the first time that you ever met – and you will find me doing that a lot. I'm not used to it, but I'm going to do it a lot. When is the first time you met Nate Paul?

A. I've never met Nate Paul.

Q. Oh, never?

A. Never.

Q. When is the first time you heard his name?

A. I've been trying to think about that. It had to have been sometime in 2020.

Q. Do you have any reason to believe when it was?

A. Well, I – I've recently seen an e-mail highlighting a public information request that I believe was sent at the end of 2019. It's possible that in early 2020, I heard the name the first time. But sitting here, my best recollection is I don't recall hearing his name until probably sometime in the spring –

Q. All right.

A. – of 2020.

Q. So there was a – I think no one is going to quarrel with the idea that on August the 14th, 2019, this man that you still never met, Nate Paul, had a – a search warrant executed on his house and business, four different locations, by a combined task force of – of different agencies: Department of Public Safety, Securities, FBI, all on his house.

I don't think the – there's going to be any question that he strongly objected and vociferously opposed what had happened and what he continued was the way. Do you have any – or did you have any memory of noticing anything about that in the year 2019?

A. I – I do not remember noticing that, no, sir.

Q. So let's go, then, to the circumstance in which you would have first –

MR. HARDIN: If I could, let me – if I could, I – I move to introduce Exhibit 628.

Do you have the ability to show it to the president and the legal advisor? If not, you'll give a hard copy?

Before I move to introduce it, I'm going to ask if – if you would look at it and see – yeah, you don't have it, so I'm going to move it to you. May I give him a copy of this, Your Honor, for him to look at?

PRESIDING OFFICER: Yes.

MR. HARDIN: A hard copy. I'm trying not to put it on the screen for him.

MR. BUZBEE: I would like to have a copy.

PRESIDING OFFICER: Any objection?

MR. BUZBEE: I haven't seen it.

Q. (BY MR. HARDIN) I have – I want you to look at it and see, do you – you receive fundraising e-mails from the attorney general?

A. You know, I actually am on – I think my personal e-mail does get e-mails from Mr. Paxton.

Q. I want you to look at this very quickly and see if you have received a fundraiser e-mail like this.

A. I believe I have, yes.

MR. HARDIN: I move – I move to introduce 628, Your Honor.

MR. BUZBEE: Objection. Relevance. This appears to be from June 23 – Your Honor, this is a – it appears to be an e-mail from Ken Paxton in June of 2023, which would have no relevance to this proceeding.

MR. HARDIN: Oh, I – I think we're now into the month of September, so it's in the past. And it's relevant as to who he says is behind all of why we are right here, right this moment. And I just simply want to ask this witness if he feels that he – if this would accurately describe him as somebody that is here testifying about the attorney general.

MR. BUZBEE: Again, Your Honor, this man left the office in October of 2020. This is years later. Has no relevance.

PRESIDING OFFICER: Sustained.

MR. HARDIN: Excuse me?

PRESIDING OFFICER: I sustained his objection.

MR. HARDIN: Okay.

Q. (BY MR. HARDIN) You can put that aside. Thank you.

Now, let me ask you this: Are you opposed to a radical transgender agenda?

MR. BUZBEE: Your Honor, objection from reading from a document you just said was not to go into evidence.

MR. HARDIN: I'm just simply asking about a phrase. It is free – I got it from him, but I can put this down and do it.

PRESIDING OFFICER: It's best you put it down.

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) Do you find yourself an advocate – an advocate one way or the other of a radical transgender?

A. Transgender – I mean, we represented people at First Liberty who have been persecuted because they had views that are described as being anti-transgender.

Q. All right. Now, at the end of that, I want to go to January of 2020. Did you receive at that time –

MR. HARDIN: I want to show Exhibit 559, I move to introduce.

MR. BUZBEE: Your Honor, I think this tees up the privilege issue right here. We're going to have to decide it at some point.

MR. HARDIN: I have no idea what that objection meant.

MR. BUZBEE: Objection. Privilege. I mean, this is communications in the office between lawyers, and the privilege is held by the attorney general.

MR. HARDIN: I would suggest it has nothing to do with legal advice in any way. It doesn't become magically a privilege just by the fact that two lawyers are on the e-mail.

MR. BUZBEE: Actually, Your Honor, if you look – if you look carefully at the document, it's absolutely related to the legal advice reconsideration of – of some sort of opinion.

MR. HARDIN: Your Honor –

MR. BUZBEE: That's right in the strike zone of what legal advice is.

MR. HARDIN: Excuse me. Is he tendering an objection, if I may ask, on behalf of the attorney general's office? This is an exhibit submitted to us by them.

PRESIDING OFFICER: Objection overruled. Continue.

Q. (BY MR. HARDIN) All right. Now, if you would, tell – tell the Court real quickly what this is. It should be on.

A. I'm not seeing it – oh, now I see it.

Q. Yes.

A. This is an e-mail that was sent from me to Ryan Bangert unfortunately on January 1st, 2020, at 9:01 a.m.

Q. Yeah. Is that y'all's normal practice there, when you were there to be working on the first day of the year at 9:00 in the morning?

A. You know –

Q. Yes or no?

A. Yes.

Q. Okay. Now, did he have a little bit more restraint and wait to respond to you the next day?

A. Yes.

Q. Okay. Now, in this particular – in this particular e-mail, did you do anything with this afterwards? Did you just simply forward it to him and that was it?

A. The issue apparently was highlighted to me, something we need to take a look at, and I would have sent it on to Mr. Bangert for him to – to deal with.

Q. Do you know now from looking at it what the issue was?

A. I mean, I do know the issue had to do with the public information request made by Mr. Paul and/or his attorneys.

Q. All right. And so do you – but had you been involved in that at all or – hold on.

Would Mr. Bangert be the better person to discuss that with?

A. Mr. Bangert would be the better person.

Q. As you sit there now, was this something at that time that you got involved in one way or the other?

A. It was not on – no.

Q. Had the issue of the public information request having to do with law enforcement exceptions, had that worked its way to your desk yet at that time?

A. Not that I recall. I think this was the first time.

Q. All right. So who would be – at that time who would have been responsible in the attorney general's office for the issue of public information requests?

A. Justin Gordon.

Q. Pardon me, Justin Gordon?

A. Justin Gordon.

Q. And then if we went up the chain, who was above him? Do you recall?

A. Above him would have been – I believe it goes to – memory test. I believe it goes to – for me, it would have been Ryan Bangert ultimately who is overseeing it.

Q. And indeed so when you got that request, when it says Aaron Borden, were you able to determine – determine who that was, in terms of her position or context of why you sent the e-mail?

A. Well, what I saw was Meadows Collier. And based on upon the statement that I made, we've been asked to take a closer look at this one. That means someone asked me to take a closer look at this one.

Q. All right. And did you ultimately determine it had to do with a public information request by attorneys on behalf of Mr. Paul, Nate Paul?

A. Yeah.

Q. All right. Now, is all you did was just send it on to Ryan Bangert? Was that all you did with it?

A. That's all I did.

Q. Does that help explain in your mind why you don't really remember anything about it?

A. Until seeing this and getting ready for today, I don't recall.

Q. Okay. All right. Now, when is the next time that you remember ever hearing the name Nate Paul?

A. I really think it was June of 2020.

Q. All right. So we are in June of 2020, are we? And what was the circumstance in which you did that?

A. I think that's when – is – is the first time I was introduced to an entity called the Mitte Foundation. I think that's the name, Mitte Foundation.

Q. All right.

MR. HARDIN: Now, I'm going to move to introduce at this time, Your Honor, Exhibit 62.

PRESIDING OFFICER: Before you do that, I want to admit Exhibit 559 that I ruled on into evidence.

MR. HARDIN: Thank you very much.

MR. BUZBEE: No objection to this document.

PRESIDING OFFICER: It will be admitted into evidence.

(HBOM Exhibit 559 admitted.)

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) What would you – what do you – could you tell the jury very briefly what this document is?

A. Okay. This is an executive approval memo regarding – and I think – I can't move it. But I think it's regarding a – there we go. It's regarding a request to intervene into a legal matter.

Q. All right. Now, let's – I'm going to try to move this – through this quickly. If we – can you very briefly describe the process for a particular – that would call for a litigation memorandum like this?

A. Yes. So anytime we're going to approve some sort of action, if it's filing a lawsuit or it's intervening into a lawsuit, we had in place a process in which the – a lawyer in a division – so in this case it looks like Mary Henderson, who it's from, would request an action. And in this action we want to intervene into this lawsuit.

So this memo sets forth the reasons why the Office of Attorney General should intervene into a matter. It then goes up the chain of command. So it goes up to her division chief, which in this case would have been Josh Godbey, who was chief of – I think it was financial trust and – or financial transactions and charitable trusts.

Q. And then it goes up to who?

A. And then it goes up to the deputy over civil litigation, who is over all the – the divisions of litigation, and then ultimately would go up to me.

And the way the DocuSign system works is, if Mary signs it, then it goes to Mr. Godbey. If Mr. Godbey doesn't sign it, Mr. McCarty doesn't see it. Once Mr. Godbey signs it, it goes to McCarty. Once McCarty signs it, it would come to me.

Q. All right. So this is important, Mr. Mateer. I want it because there would be another occasion for this same process. How is the decision made as to who all is on this executive – this executive memorandum?

A. We actually have a signature matrix, and depending on what the issue was –

Q. Okay.

A. – we – we had – and these were in place when I came in. And I – and my understanding is they date back to at least when Governor Abbott was attorney general, maybe even further back.

Q. All right. Just this process that requires everybody in the division and then up to you to pass off on it, is designed to do what?

A. Well, I mean the policies and procedures are there to actually protect us all, and ultimately protect the agency, and also protect the attorney general.

Q. All right. So in this particular case, Ms. Henderson is recommending the intervention in a lawsuit; is that right?

A. That's correct.

Q. And what – and the lawsuit says the public interests in a charity, correct?

A. That's right.

Q. In that recommendation, what would have happened if Joshua Godbey, the person right above her in the DocuSign matrix, if he said no, does that kill it?

A. If he says no, it kills it. And I would only hear about it if someone brought it to me.

Q. So are we to understand that if Mary Henderson sent this recommendation above and it got to Joshua Godbey, and if he said yes, then it would go to Mr. McCarty. But if he said no, that's it?

A. That's correct.

Q. Okay. So in some actions that are being recommended, how many people is your – was your system designed to work through before it got to you for approval?

A. Well, in this case, three. In some other situations, it's even more people.

Q. Okay. We're going to get to one that has to do with hiring outside counsel in a while. That had a lot more people that had to go through here, correct?

A. That's correct, because we were spending money.

Q. All right. That's adding people?

A. Yes. One of the reasons, yes.

Q. And it would also add people across two different divisions' jurisdiction?

A. Correct.

Q. All right. So here on this one, at the time of this one, you signed off and approved it, did you not?

A. I did.

Q. So you approved – put your approval on here meant, though, your people were given permission to do what in a lawsuit involving this charity?

A. It gave permission for them to intervene in that lawsuit on behalf of the charity.

Q. At this moment on June 6th – or is that 8? I didn't put my glasses on. Is that 6/8?

A. I think it's – it looks like the 8th.

Q. All right. At that time on June 8th of 2020, what was the extent of your knowledge about the particular issuing lawsuit that you were approving an intervention on?

A. It is possible that Mr. McCarty had told me about it, that – and sometimes deputies would give me heads-up that something was coming. And so I – what I – what – the best recollection is I probably would've gotten that heads-up – yeah, I would have gotten the heads-up.

Q. Would you be aware that the line people in the past had waived intervention and made an affirmative decision not to intervene in that lawsuit?

A. I don't think I was aware of that at this time.

Q. All right. Were you aware that the lawsuit was a lawsuit between the charity and an entity controlled by Nate Paul?

A. You know, I don't know if I – I don't remember.

Q. At this time, in June of 2020, had you become aware at any level of consciousness in your mind of Nate Paul?

A. Not in early June. I don't think so.

Q. All right. So we can safely rest assured that whatever you're going to tell this jury today is based on information that you got after June 8th of 2020?

A. I think – that's correct, sir.

Q. All right. So were you aware of any issue at the time you approved the intervention yourself at this time that would have clued you to how strongly opposed to this intervention the people who represented the charity were?

A. I – I don't recall any of that, no.

Q. All right. Now, you see that this – I don't want to go into it, but you'll see there are multipages here. Do you recall you would have – whether or not you would have read through these, or would you have simply relied on the line worker that recommended it?

A. Well, actually two answers. I would have relied on the people, but I also did read it.

Q. Okay. Now, what did you think that y'all were doing in this and why you were intervening in this lawsuit?

A. I thought, based upon Ms. Henderson, Mr. Godbey, and Mr. McCarty's recommendation, this was in the interest of the State of Texas to intervene into this lawsuit.

Q. Did you have any idea at that time whether Mr. McCarty thought it was a good idea?

A. I assumed since he sent this memo he did.

Q. Were you aware one way or the other as to whether Mr. Paxton had any input in this decision?

A. I was not aware, no. And that wouldn't be uncommon.

Q. It wouldn't be. That would what?

A. It would not be – because the Office of Attorney General, when I was there it was over 30,000 litigation matters, cases, civil matters.

Q. Mr. –

A. I didn't know about every one, and there's no way the attorney general could.

Q. So let me ask you: At this time were you aware one way or the other whether Mr. Paxton was in contact with both Mr. Godbey and Mr. McCarty urging this intervention?

A. In June I don't think I was aware of that.

Q. Okay. Did you later become aware –

A. In July, I became aware of that.

Q. All right. But at this time no, correct?

A. Not in – not in early June, no, I don't believe so.

Q. All right. Now, are you aware – have you ever dealt with a charitable trust to understand what the obligation of the attorney general's office was towards a charitable trust?

A. I mean, I came to learn of it, yes.

Q. But you had not –

A. I am not a charitable trust lawyer.

Q. Okay. And at June 6th or June 8th of 2020, were you familiar with the Mitte Foundation one way or the other?

A. I don't think so.

MR. HARDIN: Okay. Now, let's go, if we can, to Exhibit 67. I move to introduce Exhibit 67, Your Honor.

MR. BUZBEE: No objection.

Q. (BY MR. HARDIN) Can you tell us what this is, please?

PRESIDING OFFICER: It's admitted into evidence.

(HBOM Exhibit 67 admitted.)

MR. HARDIN: Excuse me. I'm sorry. I apologize. I jumped the gun.

PRESIDING OFFICER: No problem.

Q. BY MR. HARDIN) Can you tell us what this exhibit is, please?

A. It is another executive approval memorandum for civil litigation. And this one is a request to investigate, not – so contrary – not the same as intervening, but to investigate a – a charitable trust, the Mitte Foundation.

Q. Do you have any personal memory or anything about this event or why this one was done?

A. Other than it has my initials on it, I do not.

Q. And it's a little later, is it not?

A. That's correct. It's, I think, the next day, June 9th –

Q. Looks like –

A. – and I signed it on June 11th.

Q. Okay. Now, did you ultimately – I want to go, if I can.

Were you having contact – but you've talked about Darren McCarty. We have Joshua Godbey. Were you at this time having any contact with the line lawyers on this case?

A. Not with the line lawyers. My contacts would have been with Mr. McCarty. He had a one-on-one every week with me.

Q. All right. Now, what was Mr. McCarty's primary duties at this time in the overall scheme of the office?

A. He was in charge of all the civil litigation. So all of those 30,000 cases, they would be at Darren. However, his number one job in addition to leading that was – we had two major pieces of litigation. One against Google, and one – well, one, that was a big litigation against the opioid manufacturers and distributors.

Q. All right. And how many – how much money potentially was involved in that?

A. Oh, billions of dollars.

Q. All right. So let me ask you this:

Mr. McCarty, how much of his time would you estimate he was spending on the Google case?

A. I mean, a fair amount of his time. I would say over 50 percent, because that was a major piece of litigation for the office.

Q. Ordinarily would he be pulled in to – to managing or doing anything of a lawsuit this size?

A. You – you – we have 30,000 cases. I can't be involved in every case. The deputy for civil litigation, one that is not – I mean, obviously significant to the parties, but in the scheme of things for the State of Texas, that's very unusual.

Q. Did you have any idea at that time why Mr. McCarty kept getting – getting involved in this case?

A. In June, no.

Q. All right. When did you become aware?

A. Mid-July.

Q. All right. At this time we've got – we haven't really mentioned the fact that we're talking about the era of COVID, are we not?

A. We are. And –

Q. We're in – we're in the month of June. COVID is roughly – as far as the governor's proclamation and everybody running around on it trying to figure out policy, that was the middle of March, right?

A. Yeah. I mean, COVID took up – I mean, the whole COVID effort took a lot of my time and Mr. Bangert's time and Mr. Vassar's time, quite frankly.

Q. Do you have any explanation as to why people such as he and y'all were being involved in this kind of case?

A. I mean, we just normally wouldn't have been involved in this type of case.

MR. HARDIN: All right. Now, I want to, if I can, to go to Exhibit 147.

PRESIDING OFFICER: Any objection?

MR. HARDIN: I move to introduce it. I'm sorry, Your Honor.

MR. BUZBEE: No objection.

MR. HARDIN: All right.

PRESIDING OFFICER: Admit Exhibit 147 into evidence.

(HBOM Exhibit 147 admitted.)

Q. (BY MR. HARDIN) It's up on your screen now. What is this?

A. This is an e-mail exchange between me and Mr. Nate Paul.

Q. Well, how did it come about that you and Mr. Nate Paul were having e-mail exchanges about –

A. I don't know because it came – for me, it came out of the blue. He's – in this e-mail he's asking to meet with me in person. As I testified to earlier, I had never met Mr. Paul. I've never talked to him on the phone.

At some point in July, I became aware of him. That must have been through the attorney general, who would have alerted me about – about him.

Q. All right. So now this is dated on July the 17th, is it not?

A. It is.

Q. Do you have any idea why Mr. Paul would feel so – so comfy asking you for an appointment that he's calling you "Jeff," if neither one of you have ever met each other?

A. I – I can only speculate.

Q. Were you aware by that time he was friends with the attorney general?

A. I don't know if I knew what the extent of the relationship was. I knew they had a relationship by then, I think.

Q. And so this – this idea that he would – you would talk to him on the 17th, what was your three or four words – three-word answer?

A. I'm a Baptist, so I'm not available.

Q. All right. And why did you say you were not available?

A. Well, I knew at this time that there was litigation involving Mr. Paul. I mean, I – I would have known that. And it would not be my practice to meet with someone who is represented by counsel who is – I mean, they're not – it's an opposing party. It's just – they're involved in litigation that the State is involved in. That would just – I mean, beyond that as a lawyer, that's – I mean, you just don't do things like that.

Q. But put another way, you guys were in litigation with Mr. Paul as one of the parties. Would you ever meet with him without his lawyer?

A. We had intervened into the lawsuit.

Q. Right.

A. And so we were – I mean, we were in the middle of the V, so to speak.

Q. All right. So is that why you showed – told him you would not talk to him?

A. That is right.

Q. All right. Now, I want – if I can, I'm going to – well, let's – let's go now, if we can, to Exhibit 87. This last one we just looked at was July the 18th, right? Do you remember that?

A. July 17th and 18th, correct.

PRESIDING OFFICER: Any objection?

MR. BUZBEE: Hearsay, Your Honor. This document is hearsay.

MR. HARDIN: I wasn't finished with the question. Let's just – I haven't asked him – I haven't asked to admit it yet. I will.

MR. BUZBEE: I just thought he had forgotten, but it's hearsay.

Q. (BY MR. HARDIN) So the two documents, one is July 18th, and the one you're being shown now is July 22nd; is that correct?

A. I'm not seeing it yet, but I do know I got it in the file on July 22nd.

Q. All right. Let me just walk up with you, show you the hard copy to identify it. It's not in evidence yet so don't testify from it.

A. Okay.

Q. Without – without testifying to the contents, can you tell me whether you recognize that as a memo of yours?

PRESIDING OFFICER: Mr. Hardin, give me a moment. I want to look through this. Just one second.

MR. HARDIN: Sir?

PRESIDING OFFICER: Give me a moment. I want to read through this on his objection.

Are you submitting it?

MR. HARDIN: Not yet.

PRESIDING OFFICER: Okay.

MR. HARDIN: I will, but not yet, if that's okay.

Did – did the Court have something on your mind you wanted to –

PRESIDING OFFICER: Move on.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) That – I want to ask you now, back on that earlier e-mail, Mr. – Mr. Paul asked you for a meeting on a particular date, did he not?

A. Right. I think he wanted to meet the following week, that – that Monday.

Q. Well, let's do – let's do – for the record and the Court real quickly, July 17th –

MR. HARDIN: Let's go back if we could to 147, Stacey.

A. Yeah. I've seen it.

Q. (BY MR. HARDIN) The memo says, does it not – go ahead and read it out loud for the jury.

A. It says, I hope all is well. Are you available for an in-person meeting on Monday?

Q. Oh.

A. Which would have been the 20th, I believe.

Q. Let's – yes. That's what I want to do.

Let's figure out the dates for the jury. Up above we know when you said, I'm not available, it was July 18th on Saturday, correct?

So Monday would have been the 20th of July; is that correct?

A. That is correct.

Q. Did you later discover there was any significance to meeting on Monday in terms of anything else that was supposed to happen that week?

A. Well, I found out on the morning of July 22nd that there was a hearing involving the Mitte Foundation case.

Q. And on July the 22nd, that would have been a Wednesday, would it not?

A. That would have been Wednesday, yes, sir.

Q. What time that day did you find out that there was a hearing scheduled for that day?

A. It must have been pretty early because I normally arrived at the office 7:00, 7:15. And I got a call that morning before I left for the office from Darren McCarty.

Q. Did – did you later go back, Mr. Mateer, and figure out that the meeting Mr. Paul wanted on Monday the 20th concerned this hearing on – on the 22nd?

A. I – I believe that was the case.

Q. All right. But not having met with him on the 20th, until you got to the office that morning, or whenever you were contacted, were you aware before the morning of the 22nd that there was a hearing scheduled for that day?

A. I was not aware.

Q. How did you become aware of that hearing?

A. Mr. McCarty, the deputy for civil litigation, called me. And I remember being at my condo in downtown Austin. Again, it had to have been sometime – the 6:00 o'clock hour. And he had advised me –

MR. BUZBEE: Objection. Hearsay.

MR. HARDIN: Yeah. He's right. It is.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) So after – did you and – and the others become concerned about what was about to happen – what was about to be proposed that morning?

A. I was concerned that the attorney general was going to appear in Travis County District Court and argue a motion on behalf of the Office of Attorney General.

Q. Well, why would that concern you?

A. Well, I mean at the time I couldn't remember a sitting attorney general actually going in to a district court to argue anything. I mean, the last one was probably Dan Morales.

Q. What was your fear?

A. My fear – I mean, General Paxton has some wonderful qualities, but he is not a litigator. And – and to think that he would go into court arguing a motion just made absolutely no sense. And especially on a matter – I mean, this isn't the Google case. This wasn't a Supreme Court argument. This was, with all respect to those who practice in Travis County District Court, it was Travis County District Court.

Q. All right. Mr. Mateer, as a result of your concern, did you organize a meeting?

A. I – I did organize a meeting that morning.

Q. That's all I'm asking right now.

All right. And who all did you have at that meeting?

A. Well, I had Mr. Paxton, and I had Blake Brickman, and I had Marc Rylander, who was the deputy of communications.

Q. Okay. And at that meeting –

A. Director of communications.

Q. – what was your intent for that meeting initially?

A. I mean, I wanted to find out what Mr. Paxton was thinking, because, I mean, just – it was inconceivable to me that he would want to go to district court to argue something.

Q. Did you know at that time on whose behalf the argument would have in effect been?

A. I think Mr. McCarty – I would have – yes, I would have known.

Q. And who was that?

A. Well, it would have been – it would have been in the Mitte Foundation at the urging of Mr. Paul.

Q. All right. And when you – when you had the meeting, before you started talking about other things with the attorney general, what did you discover in terms of whether somebody had changed his mind?

A. Well, I did learn that actually Mr. Paxton – that Mr. McCarty was successful in having the attorney general not go to that hearing. He – he was persuaded not to go.

Q. So then what did you – what did you move – that meeting of July the 22nd, what subject did you move it to?

A. Well, it had to involve Nate Paul. I mean, just that the attorney general being involved in matters like the Mitte Foundation, things, again, that were not significant litigation matters at the Office of Attorney General.

Q. By that time, by talking to other deputies and information, had you become concerned about the attorney general's relationship with Nate Paul?

A. I was starting to become concerned.

Q. So during that meeting, did you take any position and urge him in any way concerning Nate Paul?

MR. BUZBEE: Objection. Hearsay. And also it's privileged, Your Honor.

MR. HARDIN: I think we're about –

PRESIDING OFFICER: Sustained.

MR. HARDIN: Yes.

PRESIDING OFFICER: Move on.

MR. HARDIN: What I'm about to offer, Your Honor, is party – admissions by a party opponent, comments that Mr. Paxton made at that meeting is the reason for it. I think that comes in under admission by the party opponent.

PRESIDING OFFICER: Move on.

MR. HARDIN: Sure. You say, Move on?

PRESIDING OFFICER: Move on.

Q. (BY MR. HARDIN) Okay. Now, in that meeting, did you, yourself, make any particular urging of the attorney general?

MR. BUZBEE: Objection. Hearsay. And also privilege.

MR. HARDIN: I object on both grounds. I haven't asked him for –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Did you?

A. I did.

Q. And what did you urge him as it regarding Nate Paul?

MR. BUZBEE: Again, Your Honor, this is hearsay. And also it's him advising the attorney general, which is privileged communication.

MR. HARDIN: First of all, the attorney general is not here, and he doesn't have the right to claim an attorney-client privilege. There is no personal attorney-client privilege for him on this. The only question would be as to whether the attorney general's office had the right to invoke it, and I respectfully suggest they do not.

PRESIDING OFFICER: Overruled.

Move along.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) So what did you urge him?

A. I urged him not to have any further dealings with Nate Paul; to let the lawyers, the professionals in the Office of Attorney General, handle these matters as they saw fit.

Q. What was the Attorney General's response?

A. He committed to the –

MR. BUZBEE: Objection. Hearsay. Also it's a communication, Your Honor.

MR. HARDIN: And I think this comes out of the party admission, Your Honor. This is, I think, clearly admissible in terms of the attorney general. He's a party, and this is an admission being offered as an admission by him.

PRESIDING OFFICER: Overruled.

Q. (BY MR. HARDIN) Go ahead.

A. The – the attorney general committed to me, with Mr. Rylander and Mr. Brickman in the room, that he would have no further dealings, that he would allow the office – the professionals in the office to handle the matter.

Q. How long was this meeting that y'all were in?

A. I guess 30 minutes or so. Maybe 45 minutes.

Q. Now, I'm asking you demeanor and manner as opposed to actual words. How would you describe how insistent you were in your urging of him to have minimal contact with Mr. Paul?

A. It was very troubling to me that the attorney general would be willing to appear in Travis County District Court. So I – I was very concerned that why he would want to do that, when we have, again, 800 attorneys at the Office of Attorney General who are very capable.

Q. My question is: How insistent were you?

A. I was pretty insistent.

Q. Obviously you recognized he had the right to talk to anybody or help anybody you thought, right?

A. Well, and I wanted in this meeting – that's why I had Marc Rylander there. Because Marc Rylander, his title was director of communications, but the joke in the office was I was first assistant and he was first friend.

Q. All right. So in this meeting how would you describe the demeanor or earnestness or lack of or whatever the attorney general's outward response when he told you he would not do it anymore?

A. He seemed sincere to me.

Q. When you left that meeting, what did you believe in terms of the attorney general's conduct in the future or contact or attempts to help Mr. Paul?

A. I was hopeful that he would allow the professionals in the Office of Attorney General to do their jobs, and he wouldn't be involved anymore.

Q. All right. Were you surprised to discover later that the very next day he's contacting other assistants on other matters to help Mr. Paul?

A. Surprised and disappointed, yes.

Q. All right. During the time from July the 22nd, from then on after his assurance that he would have nothing more to do with Mr. Paul, did you become aware that his contacts with Mr. Paul had become even more frequent?

A. I did.

Q. Did you become aware that those contacts that were much more frequent also touched a broader variety of activities –

A. I did.

Q. – than just charity?

A. Yes.

MR. HARDIN: At this time, Your Honor, I will move to introduce what my number was. I don't have it here. Do you remember the last exhibit number?

PRESIDING OFFICER: Is that Exhibit No. 87?

MR. HARDIN: Thank you so much.

PRESIDING OFFICER: Exhibit 87 admitted.

(HBOM Exhibit 87 admitted.)

MR. HARDIN: I move to introduce Exhibit 87, Your Honor.

MR. BUZBEE: We object. First off, hearsay, Your Honor.

Second off, it's clearly he's – he even expressed concern for the attorney general, that was his client. This talks about communications between client and lawyer. This is a privileged issue, square and away.

PRESIDING OFFICER: I already admitted – I already admitted 87. Overruled.

Q. (BY MR. HARDIN) Now, if I could, I want to ask you to move on to another exhibit. But let me ask you something before I go there.

That meeting was on the 22nd, and I apologize. I think when you and I were talking, I may be dropping my voice some here. I'm hoping people in the back can still hear, but let me – let me make sure they can at this tone of voice.

And I – did you ultimately respond to – back when you and I were before, to anyone about the particular request that had been made of you by Mr. Paul to meet back on that Monday? Remember on the 17th he asked to meet you on the 20th, correct?

A. I think – I think at some point Mr. Paul's lawyers sent me either a letter or an e-mail, which I respond to, again, I think by e-mail.

Q. All right. What I want to do is let me – if I may step over briefly, if I may have your permission to get the number.

THE WITNESS: Exhibit 161.

Q. (BY MR. HARDIN) I asked you – I'm going to come up and give you a copy of it so that you can look to see what I mean when I ask you a question before I offer to introduce it.

I've been corrected by somebody who knows much more than I. I really should be talking about 161. It's the same document, but I gave it the wrong number in my questions. Now –

PRESIDING OFFICER: Do you have it?

MR. HARDIN: Stella, Stella, did we – Stella, excuse me. Did we give him a copy?

If we can just find one in another book. I'll give him mine until we get it.

A. Mr. Hardin, if you want to look at it.

Q. (BY MR. HARDIN) You don't need it.

What I'm asking you, now that you've had a chance to look at 161, does that refresh your memory as to when you then responded to his request to have met back on the 20th?

A. Yes, it does.

Q. All right. And when did you – we've gone through the meeting on July 22nd. You've had the conversation we heard about with the attorney general. And then now you've moved back to July 24th, two days after the meeting with the attorney general, correct?

A. Correct.

Q. And so then did you sit down and draft a memo – and respond, rather, to whom?

A. Well, to Mr. Paul's lawyers. And actually I didn't really know who they were at this time. And so I was asking for information so I could adequately respond.

MR. HARDIN: Yeah, I got it. I got it. Yeah.

Q. (BY MR. HARDIN) All right. So here's what I want to do. The reason I stopped without giving the name, I wanted you to give it.

At the time you received a letter from Mr. Paul, did you even know who his lawyer was?

A. I did not, or didn't remember.

Q. All right. So then when you checked around, did you become familiar with whom you were going to be talking to?

A. I did.

Q. And who was that?

A. I probably – sitting here, I don't remember. I know Mr. Wynne was one of his lawyers.

Q. All right. Well, actually let me just ask you to focus on that.

Did you become aware that a Mr. Michael Wynne was representing him in some matters?

A. I did during that time period, yes.

Q. And – and regardless of who he was, had you by the time of the 24th looked at the history of correspondence with Mr. Paul in terms of the way he talked to your people?

A. I mean, he attached in – in his e-mail to me, he attached –

Q. Is this – excuse me.

Is this the e-mail back on the 17th?

A. I think it's a later e-mail.

Q. All right. And what did he attach for you?

A. He attached correspondence that he had with primarily Mr. Godbey, in – in which he's complaining to Mr. Godbey.

Q. What – exactly.

Was he complaining about the treatment he was getting in the Mitte Foundation lawsuit from Mr. Godbey?

A. Yes.

Q. Was he complaining that he kept writing Mr. Godbey – he, the party – writing the lawyer for the other side, was he complaining in constant e-mails about Mr. Godbey?

A. That's exactly what he was doing, yes, sir.

Q. And Mr. Godbey, because he's not supposed to talk to a representative person, had done what?

A. He – he had not responded, which would be what any lawyer would do. You don't respond to the client or – of the potential opposing party. You respond to their lawyers.

Q. When you looked at the letter – or actually when you were getting ready to write him on the 24th, did you have occasion to review that – that correspondence?

A. I did, yes.

MR. HARDIN: And that's why I moved if I could, Your Honor, to 161. I move to introduce 161.

PRESIDING OFFICER: Any objection?

MR. BUZBEE: Yes, Your Honor. This privilege issue keeps coming up. As you can see on the document itself, it says, This is attorney work product communication regarding a pending litigation matter. It's labeled as such.

And I would suggest to the Court that all of these types of e-mails are, in fact, work product or attorney-client privilege communications. And the only individual in that office who holds that privilege and who can waive that privilege is the elected attorney general.

MR. HARDIN: I have to – I'm sorry for laughing. I have to – so this is when – sometimes we might take positions that come back to bite us. This is actually his exhibit that we agreed to pre-admit, and so I am offering an exhibit that was pre-admitted by us to him because it was one of his exhibits.

MR. BUZBEE: Well –

MR. HARDIN: Well, hold on. I'm not – I'm not quite sure how he can now turn around and make a bunch of objections to an exhibit that he agreed to pre-admit – that we agree to pre-admit and he accepted. It's his pre-admitted exhibit.

It's in evidence is my point.

MR. BUZBEE: I'm – I'm very confused. That was very confusing, but I would suggest this to the Court. They marked – they put 161 on this as if it was their exhibit and moved it into evidence, and you asked for my objection.

PRESIDING OFFICER: Yes.

MR. BUZBEE: 161 on their exhibit list is not this.

MR. HARDIN: Oh.

MR. BUZBEE: So I mean, I'm trying – first, I guess we need to figure out what exhibit he's actually trying to offer. And if he's really trying to offer this, it ain't the right number. And if it's – he's offering something that's already in evidence, then obviously I wouldn't object to it. But I'm very confused about what he's trying to do.

PRESIDING OFFICER: The Court is very confused too.

MR. HARDIN: I was – I was – I still – I suggest he talk – like I did, talk to someone on his side that knows more than he does about this. If he notices, that exhibit that we introduced is AG 161. That's the Attorney General 161.

I think if he checks with his people, he's going to find that's their exhibit that we agreed to pre-admit.

MR. BUZBEE: I didn't have any discussions with Mr. Hardin. I mean, I know he's accused me of being recalcitrant. I haven't had any discussions about the exhibits, but my colleague, Dan Cogdell, has. As I understood it, they weren't going to object to any exhibits that we offered. They have no objections.

But we certainly – we had exhibits on our list that we may not offer. So I think that's probably the dilemma we have. But I'm going to turn it, if you don't mind, since I didn't talk to Mr. Hardin personally, maybe Mr. Cogdell can – can enlighten me.

MR. HARDIN: I, again, suggest he talks to someone that knows something about the subject. I've just been handed by Ms. Jares, and I'll be glad to tender it to the Court, where they have written down their exhibit number on this of 161.

MR. BUZBEE: That might be true, but you need to let us know you're offering our exhibit. I mean, when you say 161, that presupposes you're offering your Exhibit 161. That's why we looked on your list, and this ain't your Exhibit 161.

Now, with regard to whether these were pre-admitted or not, I would turn it over to Mr. Cogdell.

MR. HARDIN: In light of him objecting to us at this extended time, this may be the first time I'm asking the Court to take that into consideration. They've been objecting to their own exhibit.

PRESIDING OFFICER: Mr. Cogdell?

MR. COGDELL: In my conversations with Ms. Brevorka, both –

PRESIDING OFFICER: Speak into the microphone, please.

MR. COGDELL: Yes, sir.

In my conversations – and I understand Mr. Hardin's heartburn that he didn't object to ours and we're objecting to his, I get that. That notwithstanding, in my conversations, both orally and in e-mail exchanges with Ms. Brevorka, I very clearly stated that while I appreciate they're not objecting all – we did not intend to offer all of our exhibits.

Many of our exhibits were marked for identification purposes only, for impeachment or whatever. So I never said just because you didn't object to them, we want to offer them all. That never happened.

MR. HARDIN: Okay. I think we may be raising gamesmanship to a new level. The fact is, it is their exhibit. They asked if we would agree to pre-admit. We agreed to pre-admit. That put it in evidence. It's just simple as that.

MR. COGDELL: No, it doesn't. Just because they didn't object to it, somebody has to offer it. We never said all of our exhibits that we marked are coming in. We never said that. I never said that.

I get his heartburn, but I never – I'm happy to pull the e-mail up in my exchange with Ms. Brevorka, but I clearly said in there we do not intend to offer all of our exhibits that have been marked.

MR. HARDIN: I'm glad we don't have to poll the kids in the – in the – upstairs as to what they think about this exchange. We've now used about eight or nine minutes, I think, on them objecting to their own exhibit. I tender 161.

MR. COGDELL: I'm sorry. I couldn't hear, Mr. Hardin. I couldn't hear the last part.

MR. HARDIN: I'm sorry. I said I'm glad that we do not have to poll the kids in the balcony as to whether this exchange makes any sense. I think we've taken about eight or nine minutes now on something that where y'all are objecting to your own pre-admitted exhibit.

MR. COGDELL: Again, they're not pre-admitted. They haven't been offered. We never said if y'all don't object to them, we're offering all of them. To the contrary.

PRESIDING OFFICER: I'll take a five-minute break.

MR. HARDIN: Thank you.

(Recess from 4:30 p.m. to 4:55 p.m.)

AFTER RECESS

PRESIDING OFFICER: Members, we're going to go over a couple of issues to deal with. We've worked with both parties. They're going to work on the exhibits this evening, and then we're going to deal with the privilege issue – privilege issue in the morning before we start trial. So we're going to adjourn for the day now. You're to be back here at 9:00 a.m. tomorrow morning, which means in the dining room at 8:45, ready to walk out at 8:55.

(Proceedings adjourned at 4:55 p.m.)

