

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK - CRIMINAL TERM - PART: 59

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THE PEOPLE OF THE STATE OF NEW YORK,

Indict. No.  
71543-2023

-against-

CHARGE

DONALD J. TRUMP,

FALSIFYING BUSINESS  
RECORDS 1ST DEGREE

DEFENDANT.

JURY TRIAL

----- X

100 Centre Street  
New York, New York 10013  
May 2, 2024

B E F O R E:

HONORABLE JUAN M. MERCHAN  
JUSTICE OF THE SUPREME COURT

A P P E A R A N C E S:

FOR THE PEOPLE:

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1 THE CLERK: This is The People of the State of  
2 New York against Donald J. Trump, SMZ 71911 of '24.

3 Appearances, starting with the People, please.

4 MR. STEINGLASS: For the People, ADA Joshua  
5 Steinglass, Susan Hoffinger, Matthew Colangelo, Christopher  
6 Conroy, Becky Mangold and Katherine Ellis.

7 Good morning everyone.

8 THE COURT: Good morning.

9 MR. BLANCHE: Good morning, your Honor.

10 Todd Blanche on behalf of President Donald J.  
11 Trump who is seated to my left. I am joined at counsel's  
12 table by Emil Bove, Susan Necheles and Stephen Weiss.

13 Good morning.

14 THE COURT: Good morning.

15 Good morning, Mr. Trump.

16 As you know, I asked the jury to come in a little  
17 bit later today, at ten o'clock, so that we could have our  
18 hearing on the Order to Show Cause which is identified as  
19 SMZ 71911 of '24.

20 I looked at the exhibits that were provided by  
21 both the People and the Defense. The People provided four  
22 exhibits, one for each one of those violations. The  
23 Defense provided a number of exhibits, I believe it was  
24 close to 500 pages in total, and also submitted a -- so,  
25 People, why don't we begin with you going through each of

1 the violations, and explain to me why you believe that it  
2 constitutes a violation.

3 MR. CONROY: Sure, Judge.

4 Unless your Honor prefers it, I think that I will  
5 not play each of the video clips or even read the direct  
6 language. I will just talk about each of them, and I will  
7 let you know which one I am speaking about as I am speaking  
8 about it.

9 THE COURT: I agree you shouldn't play the video.  
10 You can give me the exact language and why you think it is  
11 a violation, you should do that.

12 MR. CONROY: Okay.

13 Judge, I just want to start by saying the  
14 Defendant's complaining that this order restricting his  
15 extrajudicial statements in this case, was not intended to  
16 allow everyone to attack him but not to allow him to  
17 respond, and that's on page one of his memo.

18 The order was issued because of the Defendant's  
19 persistent and escalating rhetoric aimed at participants in  
20 this proceeding. And the order was intended to prevent the  
21 Defendant from attacking witnesses in this case and jurors  
22 in the case and others.

23 He has already been found by the Court to have  
24 violated the order nine times, and he has done it again  
25 here.

1           With respect to the first violation, I am going  
2 to talk about, this is, actually, the second violation on  
3 the Order to Show Cause that we handed up. It's Exhibit F  
4 in the April 25th Affirmation.

5           And I will just start by reading it, the  
6 Defendant said the following:

7           But this Judge said that I can't get away from  
8 the trial. You know, he is rushing the trial like crazy.  
9 Nobody has ever seen a thing like this.

10           That jury was picked so fast, 95 percent  
11 Democrats. The area is mostly all Democrat. You think of  
12 it as a, just a purely Democrat area. It is a very unfair  
13 situation, that I can tell you.

14           This was just hours before he had a hearing here  
15 related to his previous violations.

16           He was on the media, and he used his platform  
17 there to criticize the seated jury in this case. There is  
18 no inference needed. It is not just any jurors, it is  
19 these jurors, in this case, sitting right in this room in a  
20 few minutes.

21           His contrived justification in his papers is  
22 that, well, the media was saying some of what I am saying.  
23 That's a little bit like his re-posting argument, except  
24 weaker.

25           The Defendant saying anything amplifies it and

1 creates an air of menace that is substantially different  
2 from a media report. By talking about the jury at all, he  
3 places this process and this proceeding here in jeopardy.

4 That is what the order forbids, and he did it  
5 anyway.

6 I will move on to the second violation that we  
7 are alleging, and it is actually the fourth in the Order to  
8 Show Cause. It's Exhibit H in the Affirmation that we  
9 filed on the 25th.

10 That statement was made on the morning of the  
11 25th. So, on his way down here for the hearing at some  
12 kind of a press event, I think at 49th and Fifth Avenues in  
13 Manhattan. And the Defendant was out, and there were  
14 reporters around who were asking him questions. I think  
15 that was all part of the plan.

16 And one of the questions, and I will read now the  
17 question, and then the defendant's statement.

18 The question was, what have you thought of David  
19 Pecker's testimony so far? When was the last time you  
20 spoke to him?

21 The defendant's answer was, he has been very  
22 nice. I mean, he has been -- David's been very nice, a  
23 nice guy. This is a classic carrot stick.

24 First of all, there is no question that there was  
25 a witness in the proceeding because the witness was going

1 to be testifying a hour or two after the Defendant made  
2 that statement.

3 As I said the other day, the Defendant knows what  
4 he is doing. He talks about the testifying witness, says  
5 nice things, does it in front of the cameras.

6 To be clear, he was asked other questions about  
7 this case and ignored them. So this was not just the  
8 Defendant responding to everything the reporters were  
9 asking him. He selectively responded to this question and  
10 not others.

11 The one he answered was about the witness who was  
12 testifying. It was deliberate, and it was calculating.

13 Pecker, be nice. Everyone is hearing this. I  
14 have a platform, and I will talk about you, so be nice.

15 What the defense counsel described as innocuous  
16 statements about Mr. Pecker on page five of their memo, is  
17 anything but. They are deliberate shots across the bow to  
18 everyone that may come to this courtroom to tell the truth  
19 about the Defendant and what he did.

20 Moving on to the third statement that I will talk  
21 about, which this time it is also the third statement in  
22 the Order to Show Cause, and it's Exhibit G in the  
23 Affirmation that I filed.

24 This is from an interview that the Defendant gave  
25 to a Pennsylvania TV station on the morning of Tuesday,

1 April 23rd. It didn't actually air until that evening, and  
2 the statement is as follows:

3 Well, Michael Cohen is a convicted liar, and he  
4 has got no credibility whatsoever. He was a lawyer and you  
5 rely on your lawyers. But Michael Cohen was a convicted  
6 lawyer. He was a lawyer for many people, not just me, and  
7 he got in trouble because of things outside of what he did  
8 for me.

9 Largely, it was essentially all because of what  
10 he did in terms of the campaign. I don't think there was  
11 anything wrong with that, with the charges that they made,  
12 but what he did is -- is he did some pretty bad things, I  
13 guess, with banking or whatever. If it was a personal  
14 thing to him.

15 David Pecker, I don't know exactly what he's  
16 going to be testifying against but -- or about. He will be  
17 testifying today.

18 Again, no question this is related to this  
19 proceeding. The Defendant is talking about two witnesses,  
20 one of whom was on the stand at the time in the middle of  
21 testimony.

22 It's clearly willful, clearly knowing.

23 The Defendant thinks the rules should be  
24 different for him. I talked a bit about the impact of  
25 comments about a testifying witness, perhaps not on that

1 witness, but on other witnesses, it is an insidious thing.

2 I will talk a little bit more about Michael Cohen  
3 in a moment.

4 Moving to the -- and, again, in that statement he  
5 is talking both about Michael Cohen and his credibility,  
6 which is a theme here, and then about David Pecker who is  
7 the witness on the stand.

8 Finally, I will move on to the first statement in  
9 the Order to Show Cause, which is Exhibit E from the April  
10 25th Affirmation. That was made also on April 22nd,  
11 earlier in the day than the statement I just talked about.

12 And I know I said this the other day, that this  
13 statement was made right outside of these doors, the doors  
14 of this courtroom in the little pen that's set up where he  
15 speaks to the gathered media everyday.

16 He stood there for almost nine minutes and he  
17 talked about a prospective witness that was going to be in  
18 this courtroom at some date in the future, Michael Cohen.

19 What he said was, and it's two different  
20 excerpts:

21 But, they called the payment to a lawyer a legal  
22 expense in the books. They didn't call it construction.  
23 They didn't say you are building a building. They called  
24 it a payment to a lawyer because, as you know, Cohen is a  
25 lawyer, represented a lot of people over the years.

1 I am not the only one and wasn't very good in a  
2 lot of ways in terms of his representation, but he  
3 represented a lot of people.

4 But, he puts in an invoice, or whatever, a bill,  
5 and they pay, and they call it a legal expense. I got  
6 indicted for that.

7 Later the Defendant went on, quote, and when are  
8 they going to look at all the lines that Cohen did in the  
9 last trial?

10 He got caught lying in the last trial. He got  
11 caught lying, pure lying. And when are they going to look  
12 at that?

13 This and all of these are clearly related to this  
14 proceeding. They are clearly willful. The Defendant is  
15 talking about witnesses and the jury in this case, one  
16 right here outside the door, all during the trial.

17 This is the most critical time, the time the  
18 proceeding needs to be protected, where -- particularly  
19 where Defendant has demonstrated over time, and recently,  
20 his willingness to say and do anything he can to try to  
21 infect and disrupt this process. That's what the Defendant  
22 has tried to do and continues to try to do.

23 We understand the Court's concern about Michael  
24 Cohen, but in the statements at issue here, the Defendant  
25 wasn't responding to anything in particular. He talks

1 about things Michael Cohen has said in the weeks and months  
2 before defendant's statements at issue here.

3 There is mention of TikToks more recently, and  
4 now, I will talk about the exhibits, the 50 plus exhibits,  
5 500 pages of documents that were filed with Defense papers.

6 But, there is nothing to indicate that the  
7 Defendant saw those statements when they were made. This  
8 order has only been in effect for four to five weeks, not  
9 months.

10 Michael Cohen is not a political opponent.  
11 Defendant's comments about Michael Cohen relate to issues  
12 at the heart of this proceeding and Michael Cohen's  
13 participation in the proceeding.

14 They don't relate to political policies or goals  
15 of the Defendant. The Defendant is doing everything he can  
16 to make this case and the proceeding about his politics.  
17 It's not. It's about his criminal conduct.

18 His statements are corrosive to this proceeding  
19 and to the fair administration of justice.

20 As your Honor knows, we just did this the other  
21 day. What we have to prove here is the existence of a  
22 lawful order expressing an ongoing mandate, which I submit  
23 is very clear here based on the Court's previous decision  
24 and other litigation on this very issue.

25 We have to show a violation of that order, and

1 that's what we have just gone through. And we have to show  
2 that it is made with knowledge, and it is willful beyond a  
3 reasonable doubt.

4 I would remind the Court that on Monday,  
5 April 23rd, Mr. Blanche in court with the Defendant sitting  
6 right next to him, said the following about the defendant's  
7 knowledge of the order, and this is from the transcript on  
8 April 23rd, page 964, line 10 to 15:

9 There is, just to set the record very straight  
10 and clear, President Trump does, in fact, know what the Gag  
11 Order allows him to do and not allow him to do. And there  
12 was absolutely no willful violation of the Gag Order in the  
13 ten posts released by the campaign or what the People just  
14 discussed.

15 THE COURT: What was the page number on that?

16 MR. CONROY: Sorry. That was Page 964,  
17 April 23rd, lines 10 to 15.

18 THE COURT: Thank you.

19 MR. CONROY: Again, the existence of a lawful  
20 order, I don't think is at issue at all. There has been  
21 plenty of litigation on that. The Court issued the  
22 decision the other day.

23 Based on the comments themselves, the timing, and  
24 even for the one comment, the location, I submit that we  
25 have met our burden and established that the Defendant

1 willfully and knowingly violated the lawful order of this  
2 Court on each of the four occasions that I have just went  
3 through.

4 We are asking the Court, again, to impose the  
5 maximum, \$1,000 fine for each of the four violations.

6 Because each of these statements was made before  
7 the Court held the Defendant in contempt for violating this  
8 order nine previous times, and because we prefer to  
9 minimize disruptions to this proceeding, we are not yet  
10 seeking jail. But the Court's decision this past Tuesday  
11 will inform the approach we take to any future violations.

12 We are happy to answer any questions.

13 Thank you.

14 THE COURT: None at this time. Thank you.

15 Mr. Blanche.

16 MR. BLANCHE: Thank you, your Honor.

17 So, part my argument this morning does react to  
18 the Court's order on Tuesday, from April 30th. And while  
19 we disagree with the Court's order, to some context, we are  
20 guided this morning in what I am going to say to the Court  
21 by what the Court said to us on Tuesday.

22 First, the purpose of the Gag Order, your Honor,  
23 is to restrict extrajudicial statements in order to protect  
24 the integrity of these proceedings by shielding those  
25 fearful of reprisal by the Defendant so that they may take

1 part in these proceedings without concern.

2 And as I will get to in a few minutes, your  
3 Honor, that concept alone is reason enough to deny the four  
4 that we are here about this morning.

5 And I know that the Court has stated repeatedly  
6 that the Gag Order, and your Honor's intention is not to  
7 allow unfettered attacks on President Trump, recognizing he  
8 is running for President, doing a campaign, every day, part  
9 of the campaign takes place outside of this courtroom, part  
10 of the campaign takes place in interviews, meetings with  
11 potential voters, whether there is press present and on the  
12 campaign trail, and your Honor said it again in the order  
13 on Tuesday.

14 And there is no dispute, I think, among anybody,  
15 the Court, or the government, that political attacks and  
16 responses to political attacks does not violate the Gag  
17 Order.

18 And I disagree with the People. I disagree that  
19 the time that we start looking at what President Trump is  
20 responding directly to is the day of the Gag Order.

21 Since, President Trump announced his candidacy to  
22 run for election this November in '22, almost two years  
23 ago, there have been multiple and repeated attacks on him  
24 from, among other people, Michael Cohen, and folks that  
25 Michael Cohen has on his podcast regularly.

1           Again, to talk -- I will get more into this in a  
2 minute from our exhibits, your Honor, to talk not only  
3 about these proceedings, and not only about Mr. Cohen's  
4 credibility, and not only attacking President Trump's  
5 credibility, but also attacking him running for President,  
6 the qualities he would bring as a leader of this nation and  
7 reflecting on the presidency four years ago.

8           THE COURT: If I can make a suggestion, Mr.  
9 Blanche.

10           My main concern is the conduct that took place  
11 after the Gag Order was implemented.

12           I looked at the exhibits that you provided. If  
13 you want to go through some of them, that's fine, but it's  
14 500 pages.

15           MR. BLANCHE: I am not going through all of them,  
16 Judge, of course not.

17           THE COURT: Just, as you know, it's not going to  
18 weigh very heavily on my decision if you refer to exhibits  
19 a year ago or two years ago before the Gag Order was in  
20 place.

21           MR. BLANCHE: Your Honor, it is not my intention  
22 to do that. We will get to that in a minute.

23           In response to the Court's Order on Tuesday, and  
24 in preparation for our hearing today, we are prepared to  
25 pass up some additional exhibits. And the only exhibits I

1 am referring to today, I believe, are recent, recent  
2 exhibits that bear on the four charged counts.

3 But, Judge, I -- I do think it's appropriate when  
4 the Court's considering whether there has been a willful  
5 violation of the Gag Order beyond a reasonable doubt, to  
6 keep in perspective beyond just the Gag Order, your Honor  
7 did that in reaching the conclusions.

8 That's what I am talking about today. That's it.

9 THE COURT: I am telling you what I am going to  
10 consider when I make my decision. You can do that.

11 MR. BLANCHE: Judge, last weekend -- last  
12 weekend, President Trump's rival, President Biden, said in  
13 a public forum, he talked about this trial, and he talked  
14 about a witness that's going to be in this trial.

15 He mocked President Trump.

16 He said, Donald has had a few tough days lately.  
17 You might call it stormy weather.

18 Okay. President Trump can't respond to that in  
19 the way that he would want to because of this Gag Order.

20 Stormy weather, as everyone --

21 THE COURT: Where --

22 MR. BLANCHE: It's one of our exhibits, your  
23 Honor.

24 Stormy weather was an obvious reference to Stormy  
25 Daniels.

1 THE COURT: You are saying that he can't respond  
2 to what President Biden said without saying Stormy, Stormy  
3 Daniels?

4 MR. BLANCHE: That's exactly what I am saying.  
5 He cannot respond without saying Stormy Daniels,  
6 your Honor. He is not allowed to.

7 THE COURT: No, he is not allowed to refer to a  
8 foreseeable witness in the case. He is certainly allowed  
9 to respond to something said by President Biden. There is  
10 nothing in the Gag Order that says he can't.

11 MR. BLANCHE: Your Honor, I am not saying that he  
12 is not allowed to respond to President Biden, but he is  
13 limited in what he can say. President Biden is not  
14 limited.

15 So, President Biden can make a reference to this  
16 trial and to a witness in this trial. President Trump can  
17 respond about certain parts of this trial and, your Honor,  
18 that's just my opening point. That that happened this past  
19 weekend to give context to the four statements which is the  
20 reason why we are here today.

21 In addition to the exhibits that were attached on  
22 Monday evening, your Honor, we are also going to hand up to  
23 the Court and the government shortly exhibits we will  
24 offer, and they are Exhibits, 61 through 126.

25 These exhibits are mostly tweets or re-tweets by

1 Michael Cohen recently, certain Mea Culpa Podcasts, recent  
2 ones, and I don't believe every one since the Gag Order,  
3 but recently, and then certain video transcripts from news  
4 programs regarding Mr. Pecker's testimony, the jury  
5 composition and Mr. Cohen himself.

6 And I am not going to go through all of them. I  
7 am going to highlight a few of them, before I offer them  
8 up, and I also -- I have a thumb drive with all of them.

9 THE COURT: Okay.

10 MR. STEINGLASS: Thank you.

11 (Whereupon, documents and a thumb drive were  
12 handed to the Court and the People.)

13 THE COURT: Is there a reason why this wasn't  
14 provided before when you submitted your answering papers?

15 MR. BLANCHE: Yes.

16 THE COURT: What's that?

17 MR. BLANCHE: The additional exhibits are in  
18 response, as I mentioned a few minutes ago, to Your Honor's  
19 order on Tuesday, because your Honor made plain in the  
20 order recognizing that there would be opportunity, and it  
21 may be necessary to allow -- to remove certain people from  
22 the Gag Order if they didn't need to be protected. That's  
23 the reason that we are coming at it late, your Honor.

24 So I am going to go in a little bit reverse order  
25 and talk about Mr. Pecker, the alleged violation regarding

1 statements about Mr. Pecker.

2 So, what President Trump said, David Pecker, I  
3 don't know exactly what he is going to be testifying about,  
4 but he will be testifying today.

5 So, that was a recording, as the government just  
6 said, on April 23rd, for a news show in Philadelphia. It  
7 aired about six o'clock that evening.

8 That was in response to a question from the  
9 interviewer saying, where is your concern level at this  
10 point regarding David Pecker's testimony and Michael Cohen,  
11 but focusing on David Pecker for now?

12 Where is your concern level?

13 President Trump sidestepped the question. He  
14 gave a very factual, truthful answer. It wasn't a warning.  
15 It wasn't a commentary on what Mr. Pecker had testified  
16 about, and, certainly, it was not a willful violation.

17 I mean, he is -- he is talking, as the Court  
18 knows from the testimony, about a man that he has known for  
19 decades. He is talking about a man who he was friends with  
20 for decades.

21 There is no threat. There is no threat in what  
22 President Trump said, and we cited ten. There are multiple  
23 articles. We cited ten of them in our papers, news  
24 articles that are going into excruciating details about Mr.  
25 Pecker's testimony.

1           So, when you have President Trump in response to  
2 a question saying something completely neutral about the  
3 witnesses, there is -- that's not a willful violation of  
4 the Gag Order, when the intent of the Gag Order is to make  
5 sure that Mr. Pecker comes in here and testifies without  
6 fear of what President Trump has said or will say.

7           THE COURT: It's not just about Mr. Pecker. It's  
8 about what all the other witnesses who may come here see.  
9 If the witnesses were to see Mr. Trump speaking about Mr.  
10 Pecker, or even Mr. Cohen, it affects those witnesses as  
11 well.

12           And that's why, I understand your concern of Mr.  
13 Cohen, I expressed concerns about Mr. Cohen and Ms. Daniels  
14 in my decision and those are valid. I get it.

15           But it's not just about those individuals.

16           It's about what everybody else, the jurors, and  
17 all of the other witnesses see Mr. Trump saying or not  
18 saying about other witnesses, and that's a concern.

19           That does go to the integrity of the proceedings.

20           MR. BLANCHE: Your Honor, as applied to this case  
21 and this trial and what's happening behind us, that's the  
22 reasons why this Gag Order isn't fair.

23           THE COURT: When you say, behind us?

24           MR. BLANCHE: I am talking about the press and  
25 the fact that there is 24/7 coverage of everything that's

1           happening in this courtroom and everything that the  
2           witnesses are saying.

3                     And so, every time we whisper to our client, it's  
4           live-streamed over all sorts of social media outlets, every  
5           word the witnesses say, and so then you have President  
6           Trump who is asked a question.

7                     Everybody is talking about it. What do you think  
8           of his testimony, and he doesn't say I think he is a liar.  
9           He better watch out.

10                    He says something. He can't just say, no  
11           comment, repeatedly when he is running for President, and I  
12           appreciate the Court's concern, very much so.

13                    And we are reacting to what your Honor wrote on  
14           Tuesday, but it's also appropriate to turn to what's  
15           happening with this trial.

16                    THE COURT: What's happening in this trial is no  
17           surprise to anyone. I mean, the former President of the  
18           United States is on trial.

19                    He is the leading candidate for the Republican  
20           Party right now. It's not surprising that we have press  
21           here. We have press in the overflow room. There are  
22           people throughout New York that are interested.

23                    Everybody that came into this knew this would  
24           happen. We all suspected it. There are no surprises here.

25                    So, I don't see how it would press on Mr. Trump

1 if ten outlets are talking about Mr. Pecker.

2 MR. BLANCHE: Judge, the reason for the order --  
3 the reason for the order is to make sure that witnesses  
4 that are going to come in here and testify, are going to do  
5 so honestly and without fear of reprisal.

6 And my point in reflecting on the intense  
7 scrutiny of every word said by every witness, is that  
8 everybody can say whatever they want, except for President  
9 Trump.

10 THE COURT: They are not -- they are not  
11 defendants in this case. They are not subject to the Gag  
12 Order.

13 That's a very significant issue that you are  
14 overlooking. I don't have authority over the press.

15 I don't have authority over most of the people  
16 that are saying things.

17 I couldn't possibly extend a Gag Order to them.  
18 I just don't have that authority. So, I don't see the  
19 comparison.

20 I don't see the analogy between comparing your  
21 client, who is the Defendant, and who is subject to the Gag  
22 Order, with ten members of the press who wrote an article.

23 MR. BLANCHE: I am not asking your Honor for an  
24 analogy. I am not comparing one to the other.

25 I am saying that when your Honor is considering

1 whether President Trump has willfully violated the Gag  
2 Order beyond a reasonable doubt, it makes sense, the Court  
3 has to look at what all the press and all the media and  
4 what Mr. Pecker was reading about his statements.

5 And so, when you look at what President Trump  
6 said about his statements, it does matter. It matters to  
7 the willfulness and it matters to whether the reason for  
8 the Gag Order is --

9 THE COURT: If I may, I would like to ask you a  
10 question, and this has to do with what you are talking  
11 about.

12 If we look at the first exhibit, I don't remember  
13 the exhibit letter, so I will call it number one, when  
14 those statements were made, it was your client who went  
15 down to that open area and stood in front of the press and  
16 started to speak.

17 It wasn't the press that went to him. He went to  
18 the press. He didn't need to go in that direction. The  
19 door that he uses is to the right.

20 So you are telling me that, you know, the  
21 scrutiny is outrageous. Nobody forced your client to go  
22 stand where he did that day.

23 MR. BLANCHE: Judge, I agree with that, but two  
24 responses.

25 One, there is a much different reason with

1 respect to Mr. Cohen, which I will get to in a minute.

2 And two, nobody is forcing him, but he is running  
3 for President. He has to be able to speak.

4 So, your Honor is right. He can walk out there  
5 and go right or he can walk out there and go left and make  
6 a statement which he is entitled to do and has to do, your  
7 Honor.

8 So we are not --

9 THE COURT: That's why he is being allowed to do  
10 that.

11 That's why that entire area has been set up the  
12 way that it is setup to ensure that your client, as a  
13 candidate for Presidency, has the opportunity to speak  
14 about absolutely anything he wants, including the District  
15 Attorney of New York County. But there are just some  
16 things he cannot talk about.

17 MR. BLANCHE: Your Honor, I am going to talk  
18 about Mr. Cohen in a minute.

19 I want to address, briefly, the second Pecker  
20 statement, which is Exhibit H to the People's Affirmation.

21 And this statement is -- President Trump is asked  
22 the question, what have you thought of David Pecker's  
23 testimony so far?

24 When was the last time you spoke to him?

25 President Trump said, he has been very nice. I

1 mean, he has been -- David's been very nice, a nice guy.

2 And, again, he is responding to a question.

3 Mr. Pecker had been on the stand for two days at  
4 this point. The government says that that's threatening  
5 and a warning to witnesses that they need to be nice.

6 That's just not true. He is just responding to a  
7 question and saying he has been very nice.

8 Your Honor observed his testimony. There is no  
9 animosity between the two of them. There were no  
10 threatening or menacing statements.

11 Again, Mr. Pecker himself testified about their  
12 friendship and the relationship, and he would call him  
13 Donald and that he had a great relationship with President  
14 Trump over the years.

15 And we, again, put multiple articles in front of  
16 the Court, again, not to compare, or not to say that that  
17 alone gives President Trump the right to say something, but  
18 when the Court is considering whether the purpose of the  
19 Gag Order was frustrated by, he has been very nice. I  
20 mean, he has been -- David's been very nice, it does  
21 matter.

22 THE COURT: Just to save you time, I am not  
23 terribly concerned with that one.

24 I think that there are situations where comments  
25 like that could be of much greater concern.

1           At this moment, based on what I saw and heard, I  
2 am not terribly concerned.

3           MR. BLANCHE: I will stop with that. I will talk  
4 about Mr. Cohen and the Defendant.

5           Judge, there are two statements the government  
6 read. One was outside of the courtroom and one in response  
7 to an interview.

8           Again, the second one was on April 23rd. And,  
9 Judge, Mr. Cohen, and I am going to spend a few minutes on  
10 this because it's extremely important, in my view the most  
11 significant one, has been inviting and almost daring  
12 President Trump to respond to everything he has been  
13 saying.

14           Again, personal attacks on his character, mocking  
15 him for being on trial and also his candidacy for  
16 Presidency of the United States.

17           So I just want to put a few up on the screen.

18           THE COURT: Very quickly, please. I want you to  
19 make your argument.

20           MR. BLANCHE: Sure.

21           So, Exhibit 39, this goes to Mr. Cohen mocking  
22 President Trump on X.

23           If we can go to page two and then six and seven,  
24 just very quickly. We can -- if we can blow it up a little  
25 bit.

1           For the record, it has a photo of President Trump  
2           in an orange jumpsuit with a picture next to Nelson  
3           Mandela, and it's just long repost by Mr. Cohen criticizing  
4           President Trump.

5           And then we can turn to page six and page seven.  
6           And, again --

7           THE COURT: What was the date on that?

8           MR. BLANCHE: That date, your Honor, should be up  
9           at the top.

10          April 8th of this year, your Honor.

11          And then pages six and seven, it's more of the  
12          same. If we can focus on the date, please, at the top,  
13          April 14th.

14          And, again, keep messing with me Donald, and I  
15          won't send any money to your commissary, a comment by Mr.  
16          Cohen. And then something obnoxious.

17          And then on page seven, at the top with the date  
18          first, please.

19          And this is on April 16th, please don't forget  
20          about the witnesses. We also matter. Reposting a photo of  
21          President Trump.

22          Next, if we can turn to Exhibit 64, quickly,  
23          please. And this one, Mr. Cohen -- this one says, oh my,  
24          shits in pants. Keep whining and crying and violating the  
25          Gag Order you petulant Defendant.

1           This was sent after the Gag Order was put in  
2 place.

3           Exhibit 67, please.

4           Again, from Mr. Cohen criticizing, again, your  
5 attacks on me stink of desperation. We are all hoping that  
6 you take the stand in your Defense, with a picture of  
7 President Trump in this courtroom. And, again, that is on  
8 April 22nd.

9           And then, finally, Exhibit 110.

10           Again, this is -- this is before the Gag Order,  
11 your Honor, April 4th. But, again, this is not necessarily  
12 Mr. Cohen criticizing President Trump about this trial, but  
13 about his business and his business ventures, your Honor.

14           So, again, there is a lot more. We picked four  
15 out of a hat. They are all in kind and all similar.

16           So, the response, and now we are here again on a  
17 violation of the Gag Order as it relates to Mr. Cohen,  
18 these are responses to repeated and consistent attacks by  
19 him against President Trump, his character, his viability  
20 as a candidate. And, as you can see, your Honor, it's also  
21 completely throughout the Mea Culpa Podcast and on TikTok.

22           There are repeated attacks on President Trump's  
23 candidacy for President by Mr. Cohen.

24           And if we can go to page -- Exhibit 63, excuse  
25 me, and page two, this is -- he is not just doing it to

1 attack.

2 I mean, there are repeated reports and, indeed,  
3 they are true, that Mr. Cohen has been shopping television  
4 shows based upon, not only what he did for President Trump,  
5 but also what he has been doing here. And he is talking  
6 about that and advertising what he is trying to do.

7 And then, again, there is multiple examples of  
8 this in our exhibits.

9 If we can bring up page 37 -- Exhibit 37, page  
10 seven, this is an April 12th, political article quoting Mr.  
11 Cohen, talking extensively about President Trump's  
12 candidacy for President, criticizing him, as someone that  
13 should not be voted for.

14 On the same article next page it says, Donald  
15 does not know how to tell the truth. He lied so many  
16 times. He can't keep track of the lies.

17 And then just, very briefly, your Honor, and I  
18 hope the point has been made, but we --

19 THE COURT: You made your point. You made your  
20 point.

21 MR. BLANCHE: Well, okay.

22 But, I mean, on top of everything that I just put  
23 in, there is multiple examples of the Mea Culpa Podcast  
24 that are over the top, about his character, about his  
25 candidacy for President, including multiple interviews with

1 folks in this room, with reporters, who just blast  
2 President Trump from what he did as President, and what he  
3 would do if he is elected in November.

4 Multiple. I am not talking about one or two. I  
5 am talking multiple, in excess of ten, way in excess of  
6 ten.

7 Finally, as has been reported, because it's true,  
8 Mr. Cohen has started going on TikTok nightly and literally  
9 making money.

10 So, there is, apparently, a way you can make  
11 money with people doing things, while they are watching you  
12 on TikTok. He actively encourages folks to give him money.  
13 You can see that he has made money.

14 His TikTok repeatedly criticizes President Trump.

15 He said, as recently as April 29th, mocking and  
16 almost poking President Trump as it relates to the Gag  
17 Order, I am not the Defendant in a criminal matter, and I  
18 am not the subject of Judge Merchan's Gag Order. Donald  
19 is, right.

20 And that is after criticizing him extensively.

21 This is not a man that needs protection from the  
22 Gag Order. And when you look at what President Trump said  
23 about Michael Cohen out here, and then in response to the  
24 questions from the interviewer, he wasn't talking about his  
25 testimony at this trial.

1           He was talking about his quality as a lawyer. He  
2 was talking about the fact that he was a convicted liar,  
3 that he had been prosecuted for lying.

4           THE COURT: Can I ask you to address the comments  
5 that were made about the jury?

6           MR. BLANCHE: Yes. That was my last.

7           So, the government read the statement that -- it  
8 was a 15-second statement out of an interview that was over  
9 21-minutes long.

10           And this was right in the middle of the interview  
11 in response to a number of questions about -- at first  
12 about policy. And we can exclude the entire interview, but  
13 the policy, first about the types of questions that  
14 mattered to voters. But this trial matters to voters so,  
15 there was a question about this trial.

16           As you know, your Honor is very well aware, we  
17 very much believe that this is a political persecution and  
18 this is a political trial. And part of that belief and  
19 part of President Trump's belief is the location of this  
20 trial.

21           The fact that he is being tried in a jurisdiction  
22 that is over 90 or --

23           THE COURT: Did he violate the Gag Order?

24           That's all I want to know.

25           MR. BLANCHE: I am making an argument that he

1 didn't and laying the foundation.

2 THE COURT: So, I am not accepting your argument,  
3 which is why I am asking.

4 MR. BLANCHE: Absolutely, positively not.

5 THE COURT: He spoke about the jury, right?

6 MR. BLANCHE: Pardon me.

7 THE COURT: And he said that the jury was  
8 95 percent Democrats. And that the jury had been rushed  
9 through. And the implication being that this is not a fair  
10 jury.

11 That's the implication that was given to anybody  
12 that heard that comment. This is not a fair jury.

13 MR. BLANCHE: The Gag Order specifically  
14 references, any prospective juror or any juror in this  
15 criminal proceeding.

16 So, he wasn't referencing juror number four is a  
17 Democrat or -- which by the way, the press has noted and  
18 the press has highlighted. And the press has put on the  
19 screens who is democrat and who is not registered.

20 Again, he is talking about, again, in a passing  
21 phrase about the overall proceedings being unfair and  
22 political. The jury --

23 THE COURT: Okay. It's ten after ten.

24 Is there anything you would like to say just to  
25 wrap it up?

1 MR. BLANCHE: Judge, again, we moved to the jury,  
2 and I am done with Mr. Cohen.

3 But Mr. Cohen, and the same things in our papers  
4 with respect to Ms. Daniels, where, when you go back, the  
5 Court goes back and looks at the purpose of the Gag Order,  
6 as opposed to just blindly looking at the statements that  
7 are made by President Trump, it's not violating.

8 I mean, the Constitutional limits that you put on  
9 the Gag Order, that your Honor put on the Gag Order, are  
10 for good reasons.

11 Because President Trump has to be able to talk  
12 extensively and to respond to questions in a way that don't  
13 violate the integrity of these proceedings.

14 And as we said today, Mr. Cohen should not be  
15 part of this Gag Order. He does not need to be protected.

16 The same is true for Ms. Daniels. She is not  
17 part of the four statements, but she is very similar,  
18 although not as voluminous, comments about President Trump  
19 personal, candidacy for Presidency and how he was president  
20 last time.

21 They are not people that need to be protected,  
22 and to the contrary, he has to be able to respond to those,  
23 Judge.

24 THE COURT: I understand your argument.

25 Thank you.

1 Is there anything else on this point from either  
2 side?

3 MR. STEINGLASS: No.

4 THE COURT: Let's take five minutes before we  
5 bring the jury in.

6 (Short recess is taken.)

7 THE COURT: I think we can get the witness back  
8 on the stand, please.

9 COURT OFFICER: Witness entering.

10 (Whereupon, the witness entered the  
11 courtroom and was properly seated.)

12 THE COURT: Good morning, sir.

13 Welcome back.

14 I remind you that you are still under oath.

15 K E I T H D A V I D S O N,  
16 herein, called as a witness, being previously sworn, was  
17 examined and testified further as follows:

18 COURT OFFICER: All rise. Jury entering.

19 (Whereupon, the jury entered the courtroom  
20 and was properly seated.)

21 THE COURT: Please be seated.

22 THE CLERK: All parties, all jurors are present  
23 and properly seated.

24 MR. STEINGLASS: Yes.

25 THE COURT: Good morning, jurors. Welcome back.

1 Mr. Steinglass.

2 DIRECT EXAMINATION

3 BY MR. STEINGLASS:

4 Q Thank you.

5 Good morning, Mr. Davidson.

6 A Good morning.

7 Q Since you got off the stand on Tuesday afternoon, have  
8 you and I discussed anything about the substance of your  
9 testimony?

10 A No.

11 Q When we broke on Tuesday afternoon, you were talking  
12 about some of the email exchanges back and forth between you  
13 and Michael Cohen towards the end of October 2016. Do you  
14 remember?

15 A Yes.

16 Q I am now showing you People's Exhibit 168. It's in  
17 evidence and being displayed to everyone. I will just ask that  
18 we blow it up, and I am going to ask you to focus on the  
19 portion of the message that appears to be from Dylan Howard.

20 Do you recognize that?

21 A Yes.

22 Q And what is the date of that email?

23 A October 26, 2016.

24 Q And the time?

25 A 8:23 p.m.

1 Q Can you please read us the body of the email?

2 A Michael Keith.

3 Next paragraph, thank you for chatting with me  
4 earlier.

5 Next paragraph, confirming agreement on -- and there  
6 are three bullet points, executed agreement hand-signed by  
7 Keith's client and returned via overnight for same day Fed Ex  
8 to Michael.

9 Next bullet point, change agreement to reflect the  
10 correct LLC.

11 And the final bullet point is, transfer funds on  
12 Thursday a.m. to be held in escrow until final -- sorry, until  
13 receipt of agreement.

14 Thank you both, Dylan.

15 Q And who is this email sent to by Dylan?

16 A It's sent to Michael Cohen and I.

17 Q What is your understanding of what this email was  
18 about?

19 A This email followed a conversation, a conference call,  
20 between Dylan and I with Michael Cohen. That conversation took  
21 place because there was difficulty in communications with  
22 Michael Cohen, and I -- and I had lost trust in what he was  
23 telling me.

24 And Dylan came in as the mediator and sort of mediated  
25 that meeting, and he followed up with this email.

1 Q What was the reason for losing trust with Michael  
2 Cohen?

3 A I believed he was not telling me the truth.

4 Q About what?

5 A Delays, the delays in the funding.

6 Q Okay. I now want to show you Exhibit 285 in evidence,  
7 and I am going to blow it up, and ask you, is this another  
8 email exchange between yourself and Michael Cohen?

9 A Yes.

10 Q And what is the subject line of the email?

11 A Wire on behalf of Essential Consultants LLC.

12 Q And what is the date of this email?

13 A October 27, 2016.

14 Q And does it appear as though, if you were going  
15 chronologically, it would start at the bottom and go up?

16 A Yes.

17 Q What is the time of the first email?

18 A 6:47 am.

19 Q And is this, to be clear, is this document produced by  
20 you and retrieved from your service in California?

21 A I don't know.

22 Q We can show you the Bates stamp and see if this helps  
23 you to answer the question.

24 A Yes, it was produced by me pursuant to subpoena.

25 Q Okay. So, now I am just going to ask you, what does

1 the body of the first email in the chain from Michael Cohen to  
2 you say?

3 A Keith.

4 Next paragraph, kindly confirm that the wire received  
5 today, October 27, 2016, shall be held in your attorney's trust  
6 account until such time as directed for release by me in  
7 writing.

8 Next paragraph, additionally, please ensure that all  
9 paperwork contains the correct name of Essential Consultants  
10 LLC.

11 Next paragraph, I thank you in advance for your  
12 assistance and look forward to hearing from you later.

13 Next paragraph, your, Michael Cohen. Managing Member,  
14 Essential Consultants, LLC.

15 Q And did you respond?

16 A Yes.

17 Q At what time?

18 A 7:02 p.m.

19 Q And how did you respond?

20 A I confirmed that I will work in good faith, and that  
21 no funds shall be disbursed, unless and until he personally  
22 signs all necessary settlement paperwork, parentheses the form  
23 of which will match the prior agreement end parentheses. The  
24 settlement DOCs will name the correct corporation, parentheses,  
25 Essential Consultants LLC, end parentheses. Plaintiff's

1 signature will be notarized and returned to you via Fed Ex.

2 Next paragraph, only after you receive the Fed Ex, I  
3 will disperse.

4 Next paragraph, fair.

5 Q So let me just ask you a quick question here.

6 The draft of this agreement, I believe you testified  
7 was exchanged between you and Michael Cohen back on  
8 October 11th of 2016?

9 A The 10th or the 11th.

10 Q Okay. And that time was the entity that Michael Cohen  
11 was using to fund this deal called, Resolution Consultants?

12 A Yes.

13 Q And at some point between then and the final  
14 documents, did the entity name change?

15 A It did.

16 Q And what did it change to?

17 A Essential Consultants LLC.

18 (Whereupon, Principal Court Reporter, Susan  
19 Pearce-Bates was relieved by Senior Court  
20 Reporter, Lisa Kramsky.)

21

22

23

24

25

1 (The following proceedings are continued from the  
2 following page.)

3 \*\*\*\*\*

4 CONTINUED DIRECT EXAMINATION

5 BY MR. STEINGLASS:

6 Q I now want to pull back up Exhibit 176-A, which is in  
7 evidence, and display Page 12, Lines 536 to 537.

8 Is this a part of that long series of texts between yourself  
9 and Dylan Howard?

10 (Displayed.)

11 A Yes.

12 Q And are these two that we've blown up, what is the date  
13 on these texts?

14 A October 27th, 2016.

15 Q What do the texts say?

16 A From Dylan Howard to me: "Money wired I am told."

17 Q Did you have an understanding as to who told Dylan  
18 Howard that the funds had been wired?

19 A I -- I assumed that it was Michael Cohen. He was the  
20 only other one involved.

21 Q And what about your response?

22 A "Funds received."

23 Q And did you, in fact, receive these funds as a wire  
24 from Essential Consultants on October 27th, 2016 into your  
25 escrow account?

1 A Yes.

2 Q Turning to Page 13. Just to continue this text  
3 exchange.

4 What, if anything, did Mr. Howard say?

5 (Displayed.)

6 A "Unbelievable."

7 Q And you?

8 A "Was never really sure..."

9 Q And did Stormy Daniels have to re-sign the original  
10 Settlement Agreement and the Side Letter Agreement now that the  
11 name of the entity that was funding the deal had been changed  
12 from Resolution Consultants to Essential Consultants?

13 A She did.

14 Q I'm now showing you what's in evidence as People's  
15 Exhibit 276.

16 (Displayed.)

17 Q Do you recognize these documents?

18 A Yes.

19 Q What are they?

20 A This looks to be the cover page, Page 1, of the  
21 confidential Settlement Agreement & Mutual Release Assignment of  
22 copyright and Non-Disparagement Agreement between -- relating to  
23 Stormy Daniels.

24 Q And whom?

25 A Donald Trump.

1 Q And were you involved in drafting these Agreements?

2 A Yes.

3 Q Did the Settlement Agreement, the ultimate Settlement  
4 Agreement payment amount remain \$130,000 in this final version?

5 A It did.

6 MR. STEINGLASS: I want to display Page 3 and blow  
7 up Paragraph 3.1D.

8 (Displayed.)

9 Q And I am just going to ask you to read that aloud and  
10 then tell us what it means, please?

11 (Pause.)

12 A You said you wanted me to read it?

13 Q Yes, please.

14 A Aloud?

15 Q Please.

16 A Paragraph D: "PP shall not" -- plaintiff shall not --  
17 at any time from the date of this Agreement forward, comma,  
18 directly or indirectly disclose or disseminate any of the  
19 property or any confidential information, parenthesis,  
20 (including confirmation of the fact that it exists or ever  
21 existed and/or confirming any rumors as to any such existence),  
22 end parenthesis, to any party, as more fully provided herein.

23 Q Does it say "to any third party?"

24 A "Any third party."

25 Q Okay. And what does that mean?

1           A     That's essentially part of the nondisclosure aspect of  
2 the Agreement.

3           Q     And I believe you told us yesterday, is "PP" the  
4 pseudonym Peggy Peterson for Stormy Daniels?

5           A     Yes.

6           Q     Okay.

7                     MR. STEINGLASS: I want to turn to Page 10 and  
8 blow up Paragraph 5.1.2.

9                     This is on Page 9 of the Settlement Agreement.

10                    (Displayed.)

11           Q     What -- I'm not going to ask you to read this whole  
12 thing out loud.

13                    Can you just read it to yourself and let us know when you're  
14 done reading it.

15                    The question I'm going to ask you is what it means?

16           A     I'm familiar with it. I authored this paragraph.

17           Q     Okay. So what does it mean?

18           A     It's the Liquidated Damages Provision.

19           Q     And does the Liquidated Damages Provision continue onto  
20 the next page?

21           A     Yes.

22           Q     Okay. I am just going to quickly show you that last  
23 page.

24                    (Displayed.)

25           Q     What was the -- what were the liquidated damages in

1 this case?

2 A The stated liquidated damages in this contract was  
3 \$1 million dollars.

4 Q And is that \$1 million dollars per breach?

5 A Yes.

6 Q Was it unusual to have liquidated damages that were so  
7 much greater than the original payment under the NDA?

8 A I believe that this paragraph, the way that it was  
9 drafted, was unenforceable; yes.

10 Q You believe it was unenforceable; why?

11 A I -- because the Liquidated Damages Provision would  
12 have no relation to the damages caused if there was a breach.

13 The \$1 million dollars -- there needs to be a rational  
14 relationship between the expected damages in the case of a  
15 breach of contract, and the Liquidated Damages Provision are  
16 included in contracts where the expected damages, were there to  
17 be a breach, would be difficult to ascertain.

18 And they should be reasonably related to the underlying  
19 amount of the contract.

20 And, here, a Liquidated Damages Provision of \$1 million  
21 dollars, which was demanded by Michael Cohen, was so far in  
22 excess of the -- of the settlement amount of the contract that  
23 it really served no purpose.

24 Q And I believe you answered this, but who requested such  
25 large liquidated damages?

1 A Michael Cohen.

2 Q Now, this paragraph that we have blown up refers to  
3 "DD."

4 Can you remind us what the "DD" stands for again?

5 A It's a pseudonym for the defendant.

6 Q And is that a party to this Agreement?

7 A Yes.

8 Q And who is the person who DD refers to?

9 A Donald Trump.

10 Q Okay.

11 MR. STEINGLASS: I now want to display Page 15.

12 (Displayed.)

13 Q And let me know if you need us to blow this up, but I  
14 just want to ask you: Who is accepting service on behalf of DD  
15 a/k/a David Dennison a/k/a Donald Trump.

16 A Essential Consultants, care of Michael Cohen, Esquire.

17 Q And turning to Page 17 of the exhibit. Is this the  
18 first page of the finalized Side Letter Agreement?

19 (Displayed.)

20 A Yes.

21 Q And is the name of -- the real name of David Dennison  
22 written in handwriting?

23 A Yes.

24 Q Whose handwriting is that?

25 A My handwriting.

1 Q Okay.

2 MR. STEINGLASS: Can we just zoom in on that,  
3 please.

4 (Displayed.)

5 Q And what was the date that the Side Letter was entered  
6 into?

7 A I would have to look at the signature block.

8 Q Okay. What is the date that is written in the original  
9 paragraph of the Side Letter written agreement?

10 A October 28th, 2016.

11 Q Okay. Turning to the next page of the exhibit. Page  
12 18.

13 (Displayed.)

14 Q And blowing up the second full paragraph. Can you  
15 please read that out loud?

16 A "It is further agreed, neither party shall keep a copy  
17 of this document, and that only Keith M. Davidson, Esquire and  
18 Michael D. Cohen, Esquire, counsel for the parties herein, shall  
19 maintain possession of it or access to this Side Letter  
20 Agreement.

21 And then in all caps: "FOR AVOIDANCE OF DOUBT," comma, "THE  
22 PARTIES HERETO AGREE AND CONFIRM THAT THIS SIDE LETTER AGREEMENT  
23 IS DEEMED," QUOTE, "'ATTORNEY'S EYES ONLY,'" END QUOTE.

24 Q And what did you understand that to mean?

25 A That this document was sensitive; that the parties --

1 that neither party could maintain a copy of this Side Letter  
2 Agreement, and that only Michael Cohen and I could possess a  
3 fully executed copy of it.

4 Q And to be clear, is this the document that decodes, I  
5 guess, the Nondisclosure Agreement between Stormy Daniels and  
6 Donald Trump?

7 A The Settlement Agreement and Nondisclosure Agreement,  
8 yes, this is the Side Letter Agreement that decodes the  
9 underlying Settlement Agreement.

10 Q And I should clarify. When I say "decode," I mean  
11 provides the real names of the parties to the Settlement  
12 Agreement?

13 A True.

14 Q Okay. Turning to the bottom -- the next page. Oh, no,  
15 just the bottom of this page. And I will just ask you, who --  
16 if you signed the Agreement?

17 A I did sign the Agreement.

18 Q Silly question, but where?

19 A Above my name.

20 Q On the line above your name?

21 A Yes.

22 Q Who signed on behalf of Peggy Peterson a/k/a Stephanie  
23 Gregory Clifford a/k/a Stormy Daniels?

24 A She signed that herself.

25 Q And what was the date that she signed it?

1 A October 28th, 2016.

2 Q What was the date that you signed it?

3 A October 31st, 2016.

4 Q And did -- who signed on behalf of Essential  
5 Consultants?

6 A Michael Cohen.

7 Q And what date did he sign?

8 A He wrote that he signed it on October 28th, 2016.

9 Q Did anyone ever -- well, let me ask you this, did you  
10 ever receive a version where there was a signature on the line  
11 for David Dennison's signature?

12 A I did not.

13 Q Turning to page 19, which is the last page of the  
14 exhibit.

15 What is this exhibit?

16 What is this?

17 (Displayed.)

18 A This is an Assignment & Transfer of Copyright. It's an  
19 addendum to the Settlement Agreement.

20 Q And what does that mean?

21 A A -- copyrights are details of an ownership of some  
22 sort of intellectual property, and as a result of the underlying  
23 contract, it called for a transfer of copyright in any materials  
24 that Stephanie Clifford owned an interest in where she  
25 transferred that right to the other party in this Agreement.

1 MR. STEINGLASS: And if you could blow up the  
2 bottom here.

3 (Displayed.)

4 Q Did Stormy Daniels sign the Agreement?

5 A She did.

6 Q Where?

7 A Above the line, her signature line, "PP."

8 Q And what name did she use to sign it?

9 A Stephanie Clifford.

10 Q Who signed the Agreement on behalf of David Dennison?

11 A Michael Cohen, Esquire.

12 Q And is that above the line -- is that the line that we  
13 have highlighted above the "DD"?

14 A Yes.

15 Q Now, did he also place the initials "EC" for Essential  
16 Consultants at the bottom of the page over the line for "DD"?

17 A Yes.

18 Q All right.

19 So, Mr. Davidson, how much money did you personally make for  
20 this deal?

21 A \$10,000.

22 Q Did there come a time when you disbursed the monies  
23 that you received in a wire from Michael Cohen on October 27th?

24 A Yes.

25 Q And do you remember how much you disbursed to Stormy

1 Daniels, approximately?

2 A (Pause.) I fear that that invades attorney-client  
3 privilege.

4 I disbursed everything other than my attorney fees.

5 Q So let me ask you this, did you also, without invading  
6 attorney-client privilege, did you also disburse some of the  
7 money to Gina Rodriguez?

8 A I disbursed everything to -- pursuant to my client's  
9 directives, her net aspect of the settlement pursuant to her  
10 directive.

11 Q Okay. So directing your attention to November of 2016.  
12 Did there come a time when the Agreement between Karen McDougal  
13 and AMI became public?

14 A Yes.

15 Q Do you remember how that happened?

16 A Yes.

17 Q How?

18 A Well, I -- I should clarify.

19 Q Let me ask you that a different way. I don't want to  
20 ask you to invade any privilege.

21 Was there an article that was published in a particular  
22 publication?

23 A There was an article published in the Wall Street  
24 Journal that initially publicized the underlying contract  
25 between Karen McDougal and AMI.

1 Q Okay. I want to show you quickly People's 108 in  
2 evidence.

3 (Displayed.)

4 Q It's in evidence so everybody can see it. Do you  
5 recognize this?

6 A I do.

7 Q Is this the Wall Street Journal article that you  
8 referenced that broke the story between -- about the deal  
9 between AMI and Karen McDougal?

10 A It is.

11 Q And what is the date of this article?

12 A November 4th, 2016.

13 Q After this article was published, or around the time  
14 the article was published, did you speak with Michael Cohen  
15 about it?

16 A I did.

17 Q Once or more than once?

18 A More than once.

19 Q What do you recall about those conversations?

20 A That he was very upset.

21 Q Can you elaborate?

22 A He was very upset that the article had been published.  
23 He was very upset about the timing of the article.

24 He wanted to know who the source of the article was; why  
25 someone would be the source of this type of an article.

1 He was very upset about the timing.

2 He stated that his boss was very upset.

3 And he threatened to sue Karen McDougal.

4 Q And when Michael Cohen said that "his boss was very  
5 upset," who did you understand that to mean?

6 A Donald Trump.

7 Q And when Michael Cohen complained about the timing of  
8 the article, what did you understand that to mean?

9 A That it was in close proximity to the Election of 2016.

10 Q As you sit here, do you remember the date of Election  
11 Day 2016?

12 A It may have been the 6th, I'm not sure.

13 Q Okay. What is your recollection about Karen McDougal's  
14 whereabouts at the time that this article was published?

15 If you can answer that without violating privilege?

16 A Yeah, I don't know that I have -- I don't know that I  
17 have an answer to that question.

18 Q Okay.

19 A I don't recall.

20 Q So now I want to direct your attention back to People's  
21 Exhibit 176A.

22 (Displayed.)

23 Q And this might refresh your recollection as to the date  
24 of Election Night.

25 From the context of this -- of the text exchange, can you

1 tell, and keeping in mind that this is in London time, UTC time,  
2 can you tell -- does this refresh your recollection about when  
3 Election Day was in 2016?

4 A November 9th.

5 Q I'm just reminding you about the UTC time.

6 So I think you said you weren't a hundred percent familiar  
7 with the relationship between UTC Time and East Coast Time; is  
8 that true?

9 A I don't have a particular knowledge of it.

10 Q Okay. And does, in UTC time, was that text sent at  
11 approximately 3:00 in the morning?

12 A Yes.

13 Q Okay. And the first text in this exchange is from you;  
14 is that correct?

15 A Yes.

16 Q And what did you say?

17 A "What have we done?"

18 Q What did you mean by that, Mr. Davidson?

19 A This was -- this is sort of gallows humor.

20 It was on Election Night as the results were coming in, and  
21 there was sort of a surprise amongst the broadcasters and  
22 others that Donald Trump was leading in the polls and that there  
23 was a growing sense that folks were about ready to call the  
24 election.

25 Q And you referred to it as "gallows humor."

1 Can you explain that a little bit more?

2 What did you mean when you say: "What have we done?"

3 A I think that there was an understanding that this is a  
4 text between Dylan Howard and I, and that there was an  
5 understanding that our efforts may have in some way -- I should  
6 strike that.

7 That our activities may have in some way assisted the  
8 presidential campaign of Donald Trump.

9 Q And how did Dylan Howard respond to your text?

10 A "Oh my God."

11 Q After the election -- I should ask you the obvious  
12 question: Who won the election?

13 A Donald Trump.

14 Q After the election, did you continue to speak with  
15 Michael Cohen?

16 A I did.

17 Q Did -- well, did there come any times during the month  
18 or two that followed the election when the topic of the Stormy  
19 Daniels deal came up?

20 A Yes.

21 Q Can you tell the jury a little bit about that?

22 A Ummm, after the election, Michael Cohen called me  
23 fairly frequently.

24 And there was one particular day, it was on a weekend in  
25 mid-December, and this is the period of time after the election,

1 but before Donald Trump had been sworn in as President, and it  
2 was -- I think it was on Saturday morning, and I was shopping  
3 for the holiday and I got a call from a very despondent and  
4 saddened Michael Cohen.

5 And I was at a department store -- which is kind of a whole  
6 another story because it was sort of strangely decorated -- and  
7 so the whole situation was very odd -- that he was calling me  
8 and I was in this strangely-decorated department store.

9 And it was a long phone call, and he had told me -- he  
10 was -- he was depressed and despondent and he said that -- he  
11 used very colorful language about that stage of his life.

12 Q You are quoting so you can repeat the language.

13 A He said something to the effect of: "Jesus Christ.  
14 Can you fucking believe I'm not going to Washington. After  
15 everything I've done for that fucking guy. I can't believe I'm  
16 not going to Washington. I've saved that guy's ass so many  
17 times, you don't even know."

18 Q And did --

19 A And then --

20 Q I'm sorry. I didn't mean to interrupt you.

21 A And then he made reference to, he said, you know, I  
22 never even got paid -- he said: "That fucking guy is not even  
23 paying me the 130,000 back."

24 Q And what did you interpret that to mean, that last  
25 part?

1 A That -- that he was not getting repaid the 130,000.

2 Q And do you remember when that conversation took place?

3 A It was some time in mid-December.

4 Q I'm going to show you privately a document.

5 MR. STEINGLASS: And, obviously, show counsel and  
6 the Court as well.

7 (Displayed only for the previously-described  
8 parties.)

9 Q And I'm going to ask you if this is a receipt from the  
10 store that you were shopping in from the time that you got the  
11 call from Michael Cohen?

12 A Yes.

13 Q And does that refresh your recollection as to the day  
14 you had this particular conversation with Michael Cohen?

15 A Yes.

16 MR. STEINGLASS: And we can take that down. Thank  
17 you.

18 Q What was that day?

19 A December 9th.

20 Q And I'm almost afraid to ask this question, but how was  
21 the store decorated?

22 A It was this store, I think, that has -- I don't know if  
23 it's even in still in business -- but it was a store called --  
24 well, it was a warehouse store, like a big box store, and it  
25 had -- it was decorated like Alice In Wonderland, and so you

1 felt very small in it.

2 And there were these huge rabbits and a cat in the hat on  
3 the ceiling and things like that.

4 It was just a very odd feeling.

5 Q Okay. So going back to the period of time between the  
6 election and the inauguration, during that period did you  
7 communicate with Michael Cohen on multiple occasions?

8 A Yes.

9 Q Did you use phone, texts, encrypted apps, or all of the  
10 above?

11 A All of the above.

12 Q I am now showing you what's in evidence as People's  
13 Exhibit 286.

14 MR. STEINGLASS: And it can be shown to everyone.  
15 It's in evidence.

16 (Displayed.)

17 Q And I'm going to direct your attention, I guess, to  
18 early 2018 now.

19 Do you recognize this document?

20 A I do.

21 Q And can you explain to the jury what it is, please?

22 A I had received -- I had received a "comment call,"  
23 which is when the press is about to publish an article.

24 And I had received a request for comment from the Wall  
25 Street Journal in 2018 and shortly before this email and they

1 wanted a comment on -- on any interactions regarding Stormy  
2 Daniels and Donald Trump.

3 Q And so, just to clarify, you received an inquiry from  
4 the Wall Street Journal that led you to believe that they were  
5 getting ready to publish an article about the contact between  
6 Stormy Daniels and Donald Trump?

7 A Yes.

8 Q And this was how you responded?

9 A Yes.

10 Q And tell us how you responded, please. Just read it  
11 for us.

12 A "Nothing about the present day regurgitation of these  
13 rumors causes us to rethink our prior denial issued in 2011."

14 Q And did you write that to the Wall Street Journal  
15 reporter?

16 A I did.

17 Q On what day?

18 A January 10th, 2018.

19 Q And what did you mean when you said "Our prior denial  
20 issued in 2011"?

21 What was that a reference to?

22 A The cease and desist demand letter that was sent to  
23 TheDirty.com in 2011.

24 Q And did you forward your response to the Wall Street  
25 Journal reporter to anyone?

1 A To Michael Cohen. Yes, to Michael Cohen.

2 Q And why did you do that?

3 A Because we had a mutuality of interest at this period  
4 of time.

5 Q Can you explain that a little bit to the jury?

6 A Well, we had a fully executed Settlement Agreement and  
7 Confidentiality Agreement, and now the underlying matter that  
8 was the subject of that Settlement Agreement/Confidentiality  
9 Agreement was about to be published, and I think I had a  
10 contractual duty to let him know that something was about to be  
11 published.

12 And we had sort of -- we were acting in unison to address  
13 it.

14 Q Okay. So I want to now show you what has been  
15 privately -- what has been marked for identification as People's  
16 Exhibit --

17 MR. STEINGLASS: Privately, please, thank you.

18 Q What has been marked for identification as People's  
19 Exhibit 255.

20 (Displayed only to those previously-described.)

21 Q Do you recognize this exhibit?

22 A Yes.

23 Q What is it?

24 A I believe that these are -- it's a database of  
25 messaging between Michael Cohen and I.

1 Q And are these instant messages back and forth between  
2 yourself and Michael Cohen during this period in January and  
3 perhaps in February of 2018?

4 A Yes.

5 Q Do you remember sending and receiving these texts?

6 A For the most part, yes.

7 Q And do they pertain to your conversations with Michael  
8 Cohen at -- at or around the time that the details of the Stormy  
9 Daniels payoff became public?

10 A The Stormy Daniels settlement.

11 Q The Stormy Daniels settlement, yes?

12 A Yes.

13 Q And are they exact copies of your instant messages back  
14 and forth between Michael Cohen, to the best of your  
15 recollection?

16 A Yes.

17 Q And do the date and timestamps appear to be accurate,  
18 to the best of your recollection?

19 A Yes.

20 MR. STEINGLASS: I offer them into evidence. Or I  
21 offer this exhibit into evidence.

22 MR. BOVE: No objection.

23 THE COURT: Accepted into evidence.

24 (So marked in evidence.)

25 \*\*\*\*\*

1 MR. STEINGLASS: Thank you.

2 And I am now displaying publicly People's  
3 Exhibit 255, starting on Page 1.

4 And I am going to ask that we blow up -- thank  
5 you -- lines 1 and 2.

6 Q And kind of the way we did with the Exhibit 176A, I'm  
7 just going to ask you to read some of these text back and forth  
8 and explain what they mean.

9 And give us the date when appropriate.

10 So starting with this top one. What is the date of these  
11 blown-up texts?

12 A January 10th, 2018.

13 Q And who is that first one from and who is it to?

14 A From me to Michael Cohen.

15 Q And what is the body of the texts or instant message?

16 A You know, when I look at this -- I think earlier I  
17 testified that that email that I sent to the Wall Street  
18 Journal, they called me for a comment.

19 Now that I read this, it makes me think that maybe they  
20 called her for comment and I responded on her behalf, for  
21 whatever that's worth.

22 Q Thank you for clarifying that.

23 A Thanks.

24 Q You can proceed, please.

25 A Okay. WSJ -- the Wall Street Journal -- called

1 Stormy. She didn't answer.

2 They say they are running a story and have a deadline of  
3 tonight for her comment -- tonight for her to comment.

4 Q Thank you.

5 And how did Michael Cohen respond to that?

6 A Write a strong denial for her like you did before.

7 Q And what did you understand that to mean?

8 A Like, I understood that he wanted me to write a strong  
9 denial comment for her.

10 Q A denial of what?

11 A Everything.

12 Q Including the sexual encounter with Donald Trump?

13 A Yes.

14 Q So without revealing privileged communications, did you  
15 send a denial to Stormy Daniels for her to sign?

16 A I don't recall.

17 Q Okay. Take a look, please, at People's Exhibit 277 in  
18 evidence.

19 (Displayed.)

20 Q Do you recognize this document?

21 A I do.

22 Q What is it?

23 A This is a statement from Stormy Daniels dated  
24 January 10th, 2018.

25 Q And did you prepare this statement?

1 A I believe so.

2 Q Can you read it to us, please?

3 A "January 10th, 2018. To Whom it May Concern: I  
4 recently became aware that certain news outlets are alleging  
5 that I had a sexual and/or romantic affair with Donald Trump  
6 many, many, many years ago.

7 I am stating with complete clarity that this is absolutely  
8 false.

9 My involvement with Donald Trump was limited to a few public  
10 appearances and nothing more.

11 When I met Donald Trump, he was gracious, professional and a  
12 complete gentleman to me and everyone in my presence.

13 Rumors that I have received hush money from Donald Trump are  
14 completely false.

15 If indeed I did have a relationship with Donald Trump, trust  
16 me, you wouldn't be reading about it in the news, you would be  
17 reading about it in my book.

18 But the fact of the matter is, these stories are not true.  
19 Stormy Daniels.

20 Q How would you characterize, Mr. Davidson, the  
21 truthfulness of this statement?

22 A Well, I think that this is a tactic that is oftentimes  
23 used in the, oftentimes, the cat and mouse interactions between  
24 publicists and attorneys and the press and that an extremely  
25 strict, extremely strict reading of this denial would

1 technically be true.

2 Q Can you explain that? How is this technically true?

3 A Well, I think you have to go through it word by word,  
4 and it would -- if you did so, I think it would technically be  
5 true with an extremely fine reading of it.

6 Q So let me direct you to two parts in particular.

7 The first two sentences, when it states that she -- that  
8 Ms. Daniels was contacted by certain news outlets alleging that  
9 she had a sexual and/or romantic affair with Donald Trump, many,  
10 many, many years ago and then it states that that's absolutely  
11 false.

12 How is that technically correct?

13 A Well, I think you would have to hone in on the  
14 definition of romantic, sexual and affair.

15 Q Okay. Can you explain that?

16 A Well, I don't think that anyone had ever alleged that  
17 any interaction between she and Mr. Trump was romantic.

18 Q Okay. How about sexual?

19 A Well, that would be a sexual and/or romantic.

20 Q Okay. So let me just zoom out for a second and say,  
21 did you understand this statement to be cleverly misleading?

22 A I don't understand the question.

23 Q Did you understand, at the time that you wrote this  
24 letter, that Stormy Daniels had, in fact, had a sexual encounter  
25 with Donald Trump at some point?

1 A That was my understanding.

2 Q Okay. So I want to direct your attention to the first  
3 line of the second paragraph: "Rumors that I received hush  
4 money from Donald Trump are completely false," okay.

5 A Yes.

6 Q How is that technically true?

7 A Well, it's really no different than our interaction a  
8 few minutes ago where you called it a payoff.

9 Q Okay.

10 A It wasn't a payoff and it wasn't hush money. It was  
11 consideration in a civil Settlement Agreement.

12 Q Can you just explain that a little bit more of what  
13 consideration is for, what you mean when you say a  
14 consideration?

15 A Well, I think, in the simplest of examples, a  
16 consideration is money or something of value that's exchanged in  
17 a contract.

18 I will pay you \$5 if you mow my lawn. The \$5 will be a  
19 consideration.

20 Q So do I understand you correctly to be saying that you  
21 don't think the term "hush money" accurately describes the  
22 exchange of money that -- the money that was paid to Stormy  
23 Daniels by Donald Trump?

24 A Can you please restate that.

25 Q Yeah. Do I understand you -- withdrawn.

1           Would you use the phrase "hush money" to describe the money  
2 that was paid to your client by Donald Trump?

3           A     I would never use that word.

4           Q     And what would be the word that you would use to  
5 describe it?

6           A     Consideration.

7           Q     Okay.

8           I now want to ask you if you sent a copy of this document to  
9 Michael Cohen?

10          A     I did.

11          Q     All right. I now want to move on and show you more of  
12 what's in evidence as People's Exhibit 255.

13                   (Displayed.)

14          Q     Is that a series of text exchanges from January 2018  
15 with Michael Cohen?

16          And particularly I want to direct your attention to Page 2,  
17 Entry 19.

18                   (Displayed.)

19          Q     And ask you what is being said and by whom and when?

20          A     This is January 17th, 2018, from Michael Cohen to me.  
21 "I have her tentatively scheduled for Hannity tonight. Call me  
22 after your trial."

23          Q     Now, can you tell us what you understood that to mean,  
24 please, Mr. Davidson?

25          A     I understood this to mean that he had her tentatively,

1 "her," Stormy Daniels, tentatively scheduled to appear on the  
2 television show Hannity that night.

3 Q Do you know for what purpose?

4 A No.

5 Q So you understood this to mean, to be saying -- for  
6 Michael Cohen to be is stating that he had scheduled your client  
7 to appear on Hannity that night?

8 A Yes.

9 Q And did your client actually appear on Hannity that  
10 night?

11 A No.

12 Q Have you previously examined this text exchange?

13 A I have previously seen it.

14 Q Are there a series of texts about whether -- whether  
15 or not she should appear and when on Hannity that followed this?

16 A I think. And preceded it.

17 But this was sort of in one of Michael Cohen's pants on fire  
18 stages, where he was sort of frantically trying to address the  
19 fact that Stormy's story had percolated into public consumption  
20 and he -- he was frantic.

21 I was in a trial and -- which is fairly all consuming -- and  
22 it was just many, many, many phone calls and many, many text  
23 messages with little regard for my schedule.

24 Q Did you have any understanding of how having your  
25 client appear on Hannity would help Michael Cohen? Why he was

1 pushing for that?

2 A A few minutes ago, we discussed the -- Michael Cohen's  
3 request for me to write a strong denial the way that I did way  
4 back then.

5 And what he was referring to, I think, was the letter that I  
6 sent to The Dirty in 2011.

7 But there was no denial in the -- in the cease and desist  
8 demand that I sent to The Dirty in 2011. And that as a fact was  
9 just wrong.

10 And then I sent him the exhibit that we just looked at,  
11 which was sort of that carefully worded denial.

12 And I believe that he thought that her -- he, Michael Cohen,  
13 thought that Stormy going on Hannity, which -- would somehow  
14 help him and his client.

15 I believe that I -- I had an understanding that he believed  
16 that she would further deny the interaction.

17 Q Okay. Moving on to another text that I want to bring  
18 to your attention.

19 And this is the one beginning "Keith, the wise men," okay.  
20 What was the date that this text was sent and who was it sent  
21 from and who was it sent to?

22 A It was January 17th, 2018, from Michael Cohen to me.

23 Q And what does it say?

24 A "Keith, the wise men all believe the story is dying and  
25 don't think it's smart for her to do any interviews." Period.

1 "Let her do her thing, but no interviews at all with anyone."

2 Q And did you respond?

3 MR. STEINGLASS: I think we need to blow up one  
4 more text here.

5 (Displayed.)

6 A "100 percent."

7 MR. STEINGLASS: Can we have them together,  
8 please.

9 (Displayed.)

10 Q Okay. Mr. Davidson, what did you understand Michael  
11 Cohen's text to mean when he said "The wise men all believe the  
12 story is dying and she shouldn't do any interviews"?

13 A Again, that this was sort of in one of his pants on  
14 fire stages and that he was running around planning things.

15 And then when he ran it up the flag pole or consulted  
16 someone or some group, whoever "wise men" are, that they didn't  
17 think that it was a good idea for her to actually appear on  
18 Hannity.

19 Q And, to your knowledge, did she appear on Hannity?

20 A She never appeared on Hannity, to my knowledge.

21 Q Okay. And just turning your attention to the next  
22 page, continuing this same exchange, how does -- after you say  
23 "100 percent," how does Michael Cohen respond?

24 A "Thanks, pal."

25 Q And does he send a follow-up text after that?

1 A Yes.

2 Q And what does he say?

3 A "Just no interviews or statements unless through you."

4 Q And what did you understand that to mean?

5 A That it was his request that I manage the  
6 communications for her.

7 Q "Her" being Stormy Daniels?

8 A Yes.

9 Q Okay. And how did you respond?

10 A "Got it."

11 Q Showing you some more of this exchange on Page 7,  
12 Lines 64 through 73.

13 And, again, I will just ask you to kind of walk us through  
14 who sends which texts when and what they mean.

15 Starting --

16 MR. STEINGLASS: And maybe we can zoom in a little  
17 bit.

18 (Displayed.)

19 Q Starting with, "And she's 64."

20 A So you would just like me to read it?

21 Q Well, I would like you to tell us the date, who is it  
22 from, who is it to.

23 And then, yes, please read?

24 A Okay. January 24th, 2018, from me to Michael Cohen.

25 "Spoke to her." Meaning Stormy. "Everything is as we

1 discussed. She steadfastly refuses to speak about the past."

2 Q And what did Michael Cohen say?

3 A 1/25/2018: "We will see because it airs tonight."

4 Q And did he then send another text that same day?

5 A I think it might be the next day, the 26th.

6 Q Oh. It's a little small for me to read from here.

7 Thank you. The 26th. Yes, please?

8 A From Michael Cohen to me, "Why is she going on Kimmel  
9 after the SOTU."

10 Q Do you have an understanding of what "S-O-T-U" meant?

11 A Yes.

12 Q What?

13 A State of the Union Address.

14 Q And does that particular text from Michael Cohen stand  
15 out to you for any reason?

16 A No.

17 Q Okay. How did you respond, if at all?

18 A I responded very shortly thereafter, "IDK" -- I don't  
19 know -- "I was pissed. She said this is her shot. I'm not  
20 meeting with her this weekend to prep her."

21 "Prep her and" -- I would like to start over.

22 Q Sure.

23 A "IDK." I don't know. "I was pissed. She said this is  
24 her shot. I'm meeting with her this weekend to prep her and get  
25 the statement."

1 Q What statement were you trying to get?

2 A He had asked -- at this moment in time, I was in a very  
3 difficult situation and I think Stormy was in a very difficult  
4 situation.

5 She had that lengthy Settlement Agreement, which called for  
6 penalties if she breached the non-disparagement, she would have  
7 to give back any profits that she made.

8 She would have to return the consideration, the 130,000, and  
9 she may have to pay, if it was enforceable, the liquidated  
10 damage clause.

11 And so we have Cohen saying -- and what I understood him  
12 saying -- let her do her thing, just don't talk about the past.

13 And Stormy saying, I, you know, this was her shot. She  
14 wanted to -- she wanted to talk about her life and reinvigorate  
15 her career.

16 So this was a conversation about Stormy Daniels going on the  
17 Late Night Show with Jimmy Kimmel.

18 Q Okay. So continue onto the next page, Page 8, entries  
19 74 to 75.

20 Again, I will just ask you to give us, the same way you have  
21 been doing, the date, and who is texting who and what is being  
22 said?

23 A This is a text from Michael to me on January 30th,  
24 2018, "It is out."

25 MR. STEINGLASS: Can we just blow this up a

1 little bit more or zoom in a little bit more.

2 (Displayed.)

3 Q And what are these series of -- you don't have to read  
4 every single one of these, what are these texts about and did  
5 you already tell us the date of these?

6 A January 30th.

7 Q So what are you texting about at this point?

8 A Apparently, there was a news article that had been  
9 published. I was receiving hundreds of phone calls at my  
10 office.

11 Q Okay.

12 MR. STEINGLASS: Let's scroll down a little bit.

13 (Displayed.)

14 Q Do you see the texts that is -- it looks like it's on  
15 January 30th, 2018, at 5:49:59 p.m.?

16 A Yes.

17 Q And who is that from?

18 A From me to Michael Cohen.

19 Q And what is the body of the text?

20 A "She is stating that she authorized it and she released  
21 it of her own volition."

22 Q And what did you understand that to mean or what did  
23 you mean when you wrote that, I should say?

24 A That's the -- Michael Cohen had requested yet another  
25 statement from Stormy Daniels and that on the day of -- that she

1 was appearing on Jimmy Kimmel -- and he wanted to know whether  
2 or not she was going to release it.

3 Q Okay. I want to show you Page 9, just to continue  
4 this, of the same exhibit, lines 86 through 87.

5 And, again, I would just ask you to tell us who is texting  
6 who when and what it means?

7 A This is January 30th, 2018, from me to Michael Cohen.  
8 Quote: "She's good for now... but it's a shit load of work."

9 Q But what did you mean by that? What was a lot of  
10 work?

11 A Just this case had begun to eat up a lot of time.

12 Q And how did Michael Cohen respond?

13 A "I'm sorry but thank you."

14 Q And so you just referenced another statement. Did you,  
15 in fact, prepare another denial for her to sign immediately  
16 prior to her appearance on Jimmy Kimmel?

17 A There was another statement that was prepared and  
18 released.

19 Q Okay. Let me show you People's Exhibit 278. This is  
20 in evidence.

21 MR. STEINGLASS: I will ask that we blow it up a  
22 little bit.

23 Q And I will ask you, is this the statement of denial  
24 from January 30th, 2018?

25 A Yes.

1 Q And did -- withdrawn.

2 Who typed this document?

3 A I did.

4 Q And where were you when you did that?

5 A I was in the Marilyn Monroe Suite at the Roosevelt  
6 Hotel in Hollywood, California.

7 Q And who else was present?

8 A There were make-up artists. To my recollection, there  
9 were make-up artists and hair dressers.

10 There was the -- Gina Rodriguez was there; her then  
11 boyfriend Anthony was there.

12 Stormy was there.

13 I was there.

14 I think that's it.

15 Q And where in relation did -- withdrawn.

16 Did you say why you were in that room in the hotel? What  
17 was happening?

18 Why was hair and make up there?

19 A The -- the Roosevelt Hotel is a classic, old Hollywood  
20 place on Hollywood Boulevard where they have the Hollywood Walk  
21 of Fame and the stars.

22 And it's right next to where Kimmel films.

23 And the Jimmy Kimmel Show had put Stormy up at the Roosevelt  
24 Hotel and specifically requested that suite.

25 And I think she was preparing to go on Kimmel that night.

1 Q Okay. Can you read for us the statement.

2 A "To Whom it May Concern:"

3 Next paragraph.

4 "Over the past few weeks, I have been asked countless times  
5 to comment on reports of an alleged sexual relationship that I  
6 had with Donald Trump many, many, many years ago."

7 Next paragraph.

8 "The fact of the matter is that each party to this alleged  
9 affair denied its existence in 2006, 2011, 2016, 2017 and now  
10 again in 2018."

11 "I am not denying this affair because I was paid 'hush  
12 money' as has been reported in overseas owned tabloids. I am  
13 denying this affair because it never happened." Period.

14 Next paragraph.

15 "I will have no further comment on this matter." Period.

16 "Please feel free to check me out on Instagram at  
17 @TheStormyDaniels."

18 Excuse me, "@TheStormyDaniels."

19 Q Mr. Davidson, how would you characterize truthfulness  
20 of this statement?

21 A I think it's technically true.

22 Q Can you explain that?

23 Can you explain how it's true that it says an alleged sexual  
24 relationship, which basically denies them having a sexual  
25 relationship; is that right?

1 A Yes.

2 Q And how is that -- how is that technically true?

3 A Because I don't think that anyone had ever alleged that  
4 there was a relationship between Stormy Daniels and Donald  
5 Trump.

6 I believe their relationship is an ongoing interaction.

7 Q And it also makes a reference -- withdrawn.

8 It denies that Stormy Daniels was paid hush money.

9 If I asked you to explain that, would you give basically the  
10 same answer that you gave in connection with the denial from  
11 January 10th of 2018?

12 A I would.

13 Q Okay. I want to go back to your exchange with Michael  
14 Cohen on People's Exhibit 255.

15 Directing your attention, in particular, to Page 9, starting  
16 with Entries 88 to 97.

17 (Displayed.)

18 Q Starting with the top. Can you give us the time,  
19 please, and the date.

20 A The date is -- they are all January 31st, 2018. It  
21 starts at 12:21 a.m., from Michael Cohen to me.

22 Q And is that 12:21 a.m. UTC minus 5?

23 A I don't know.

24 Q Does it say UTC minus 5?

25 A It does.

1 Q Okay. But you don't know what that means; is that  
2 right?

3 A Well, I could figure it out, but.

4 Q Well, I don't want you to guess --

5 A All right.

6 Q -- if you're not sure?

7 A I don't know.

8 Q Okay. So what did the -- who is the first text from in  
9 this particular exchange?

10 A "She just denied the letter." This is from Michael  
11 Cohen to me.

12 (Whereupon, Senior Court Reporter Laurie Eisenberg  
13 relieved Senior Court Reporter Lisa Kramsky as the official  
14 court reporter.)

15 \*\*\*\*\*

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1 Q Okay.

2 And what did you understand it to mean?

3 A Well, I took it to mean that he was watching Stormy  
4 Daniels on Kimmel, and that he was reporting to me what was  
5 being broadcast.

6 Q So, who do you understand "she" to be in reference to?

7 A Stormy Daniels.

8 Q What is the next text in this chain, from whom to  
9 whom?

10 A From Michael Cohen to me: "Claiming it's not her  
11 signature."

12 Q Keep going, please.

13 A "You said she did it in front of you."

14 Q I should just ask, this series of texts that's up on  
15 the screen, are these sent within fairly rapid succession, all  
16 within a five-minute window?

17 A Yes.

18 Q And I believe you testified that you understood this  
19 to be happening while Michael Cohen was watching Stormy Daniels  
20 appearing on the Kimmel show; correct?

21 A Yes.

22 Q So, what do you understand it to mean when Michael  
23 Cohen said to you, "You said she did it in front of you"?

24 A Um, that he was repeating something I had previously  
25 told him, which is that that most recent statement was signed

1 in front of me.

2 Q The one that was signed in the Roosevelt Hotel?

3 A That's right.

4 Q So, then did you respond to Michael Cohen?

5 A Yes.

6 Q And what did you say?

7 A "She did." Period. "Impossible. She posted it on her  
8 own Twitter page."

9 Q How did Michael Cohen respond?

10 A "They showed her signature and she claimed it was not  
11 hers on Kimmel."

12 Q Did you respond in any way?

13 A "WTF."

14 Q I hate to ask, what does that mean?

15 A It's sort of an -- it's a signal of exasperation of:  
16 What the fuck.

17 I didn't watch Kimmel, so I was getting all this  
18 information, but I wasn't watching the show.

19 Q Got it.

20 Scrolling down to Page 11, Lines 112 to 113.

21 I should ask before I blow this up, in the interim, is  
22 there some back and forth about Stormy Daniels' appearance on  
23 Kimmel?

24 A Yes.

25 Q So, now, going to Lines 112 and 113 on Page 11, I'm

1 going to ask you what time this text was sent and by whom?

2 A January 31, 2018, at 1:30 UTC, from Michael to me:  
3 "Please tell Gina to ensure she responds the same as your  
4 statement tomorrow when she does The View." That television  
5 show. "This is not a comedy show!" Exclamation point.

6 Q What did you understand that to mean?

7 A That Michael was upset about what he understood was  
8 Stormy denying that she had signed the statement.

9 Q Before we move on, I believe you testified this was  
10 UTC.

11 But, does it actually say UTC minus five?

12 A Yes.

13 Q Shortly thereafter, did you respond to Michael Cohen?

14 A Yes.

15 Q What did you say?

16 A "Gina is ticked off at Stormy because Stormy made her  
17 look like a liar. Gina says she is going to have a long talk  
18 with Stormy on the plane to New York tomorrow. She assured me  
19 that this will get handled."

20 Apparently, they were going to New York to film The View.

21 Q What were you saying to Michael Cohen here? What did  
22 you mean?

23 A Well, again, like I mentioned earlier, we're trying to  
24 thread a needle and hold off allegations of breach and all the  
25 penalties that would come with that, where -- where Cohen

1 would -- would -- you know, file an arbitration or sue Stormy,  
2 and that would be a whole 'nother disaster. So, we're trying  
3 to placate him while also trying to meet Stormy's desires.

4 Q And without getting into any privileged communications  
5 between yourself and Stormy Daniels, did Michael Cohen threaten  
6 a lawsuit against Stormy Daniels?

7 A Many times.

8 Q Can you tell us, basically, what he said about that?

9 A He would -- I mean, he can be a very aggressive guy.  
10 Aggressive in his pursuits to protect his client.

11 And he would, often times, you know, make legal threats,  
12 say that he would bankrupt her and, um, "Rain legal hell down  
13 upon her," um, and, "Don't fuck with us. You don't know who  
14 you're fucking with," things like that.

15 Q And what did you -- if you had an understanding, what  
16 did you understand Michael Cohen to be attempting to get you to  
17 do?

18 A I don't understand your question.

19 Q Okay.

20 Regarding Stormy Daniels' story, did you have an  
21 understanding about what Michael Cohen wanted you to do  
22 regarding Stormy Daniels and her story?

23 A Well, he wants to hear her deny her story to protect  
24 his client.

25 Q That's what I was asking.

1           Okay.

2           Going back to this -- excuse me one second.

3           Going back to People's 255, your text exchange with Michael  
4 Cohen, and turning to Page 12, Lines 122 to 123. I'm sorry.  
5 122 to 133.

6                           (Whereupon, an exhibit is shown on the screens.)

7           MR. STEINGLASS: I'll just ask you to blow it up a  
8           little bit.

9           Q     You don't have to read every single one of these, but  
10 could you read them to yourself and tell us a little bit about  
11 what's happening here?

12          A     No.

13          Q     You want me to keep going?

14                       MR. STEINGLASS: Let's scroll down a little bit  
15 more.

16                       (Whereupon, the exhibit scrolls on the screens.)

17          Q     Let me stop right there for a second and direct you to  
18 the text that appears to be on February 13, 2018, at 10:30 PM,  
19 UTC minus five time.

20           Okay?

21          A     Okay.

22          Q     It says Michael Cohen appeared to text you a  
23 particular email address.

24          A     Yes.

25          Q     Whose email address does he text you?

1 A Christopher Cuomo.

2 Q Who did you understand Christopher Cuomo to be?

3 A He's a news broadcaster, then with CNN.

4 Q Okay.

5 Scrolling down a little bit.

6 Did you see the text that's sent about 11:55 PM from  
7 Michael Cohen?

8 A Yes. Yes.

9 Q What is he saying?

10 A The first one is: "Yes."

11 The second one is: "Can you send me the statement."

12 Q And did you respond to that within a little less than  
13 an hour or so?

14 A Yes.

15 Q And what did you say?

16 A "I am sending you this draft because it is truthful.  
17 What do you think? I represented Stephanie Clifford in the  
18 Michael Cohen, slash, Stephanie Clifford transaction. I read  
19 today that Michael Cohen reports that the source of the  
20 \$130,000 paid to Ms. Clifford was from his own personal funds.  
21 Period. That assertion is in complete harmony with what he  
22 informed me of at the time of the transaction."

23 Q And did Michael Cohen respond?

24 A Yes.

25 Q What did he say?

1 A "Perfect. Send to Cuomo."

2 Q What's going on here, Mr. Davidson?

3 A Uh, I don't know. I think that he was under some fire,  
4 um, and wanted validation or corroboration that the 130,000  
5 was, in fact, paid from him and not paid from anyone else.

6 Q And did he ask you to write a statement to that effect  
7 to send to Christopher Cuomo?

8 A Yes.

9 Q And did you share it with Michael Cohen before sending  
10 it to Christopher Cuomo?

11 A I did.

12 Q And did you, ultimately, send it to Christopher Cuomo?

13 A I did. I recall that I did. I believe I did.

14 Q How would you characterize the truthfulness of this  
15 statement?

16 A I believe it's truthful.

17 Q Did you -- you told us yesterday that you believe that  
18 the ultimate source of the funds was Donald Trump; is that  
19 correct?

20 A Yes.

21 Q So, how do you reconcile those two -- how do you  
22 reconcile that with the statement?

23 A The going back and forth in the days before that this  
24 Stormy Daniels/Michael Cohen deal was consummated in  
25 October 2016; and if you recall, there was a period where he

1 said, Fuck it. I'll just do it myself." That's what I was  
2 referring to in the statement.

3 Q So, the statement does not undermine your belief that  
4 the ultimate source of the funds was Mike -- was Donald Trump?

5 A At the time of the transaction.

6 Q Can you just clarify that for a second?

7 A At the time of the transaction, Michael Cohen told  
8 me -- as the statement said, at the time of the transaction,  
9 Michael Cohen told me, "Fuck it. I'll just do it myself."

10 Q Okay. So -- all right. I understand.

11 Thank you.

12 Um, my next question is, did you -- directing your  
13 attention, I guess, to early April of 2018, did you go on CNN  
14 and say that Michael Cohen used his own funds to pay Stormy  
15 Daniels?

16 A I believe so.

17 Q And why did you say that?

18 A Because I understood that he did.

19 Q Based on the same statement that he made at the time  
20 of the transaction?

21 A And even later on, that December 9th conversation that  
22 I had with him at the department store where he said that he  
23 had not been reimbursed.

24 Q Okay.

25 MR. STEINGLASS: Um, one more moment, please.

1 (Whereupon, the People confer.)

2 Q Mr. Davidson, do you have any stake in the outcome of  
3 this trial?

4 A No. Not at all.

5 MR. STEINGLASS: No further questions.

6 THE COURT: Thank you.

7 Let's go ahead and take our morning recess,  
8 jurors.

9 Step out, and I'll see you in about ten minutes

10 COURT OFFICER: All rise.

11 (Whereupon, the jurors and the alternate jurors  
12 are excused.)

13 (Whereupon, the witness is excused.)

14 (Whereupon, a recess is taken.)

15 \*\*\*\*\*

16 THE COURT: We can get the witness.

17 COURT OFFICER: Witness entering.

18 (Whereupon, the witness, Keith Davidson, having  
19 been previously duly sworn and/or affirmed, resumes the  
20 witness stand and testifies as follows:)

21 COURT OFFICER: All rise.

22 Jury entering.

23 (Whereupon, the jurors and the alternate jurors  
24 are present and properly seated.)

25 THE CLERK: Case on trial continued.

1 All jurors are present and properly seated.

2 THE COURT: Counsel, will you stipulate that the  
3 jurors are present.

4 MR. STEINGLASS: I'm sorry.

5 Yes, Judge.

6 THE COURT: Mr. Bove.

7 MR. BOVE: Thank you, Judge.

8 CROSS-EXAMINATION

9 BY MR. BOVE:

10

11 Q Good morning, Mr. Davidson.

12 A Good morning.

13 Q Barely good morning.

14 My name is Emil Bove, and I represent President Trump,  
15 who's here on my left.

16 A Nice to meet you.

17 Q It's nice to meet you, too.

18 You've never met President Trump; correct?

19 A Never.

20 Q And Tuesday was the first time that you've been in the  
21 same room as him; right?

22 A That's true.

23 Q You've never spoken to President Trump?

24 A Never.

25 Q You have no first-hand knowledge of the business

1 records of The Trump Organization; right?

2 A Only those that I received.

3 Q Well, you received some records from Michael Cohen;  
4 correct?

5 A Emails and such.

6 Q In fact, everything that you know about President  
7 Trump came from either TV or Michael Cohen; right?

8 A No.

9 Q Much of what you testified to today with respect to  
10 your beliefs about Mr. Trump came from Mr. Cohen; right?

11 A I have -- I have had no personal interactions with  
12 Donald Trump. And either it came from my clients, Michael  
13 Cohen, and from some other source, but certainly not from him.

14 Q I would like to focus on 2016.

15 A All right.

16 Q In that period, you had a strong professional  
17 relationship with Dylan Howard; right?

18 A Yes.

19 Q And a close personal relationship, also; right?  
20 Friends?

21 A Fair.

22 Q I think you said you'd known him for over a decade;  
23 right?

24 A Yes.

25 Q How did you guys meet?

1 A I'm not sure.

2 Q Was it in connection with your work?

3 A I believe so.

4 Q And in 2016, you were talking to Mr. Howard just about  
5 every day; right?

6 A I would think. Several times a week.

7 Q And on the professional side of things, Mr. Howard  
8 helped you get business from AMI; right?

9 A Yes.

10 Q You got a couple of matters from AMI; right?

11 A Limited, yes.

12 Q One was an employment claim by a reporter; right?

13 A I think so.

14 I seem to recall there was a California matter. They were  
15 being sued, and I was being consulted on that.

16 Q And there was an entertainment deal with film rights  
17 AMI decided not to move forward on?

18 A That's right.

19 Q Would it surprise you to learn that Mr. Howard  
20 considered you to be a major source of information?

21 A Yes.

22 Q And that surprises you, notwithstanding the near-daily  
23 contact in 2016?

24 A Correct.

25 Q And is part of the reason for your surprise is that

1 you're an attorney; right?

2 A Yes.

3 Q And you're not suggesting that you were providing  
4 client confidences to Dylan Howard; right?

5 A Not at all.

6 Q And then, one of the things you talked about on  
7 Tuesday and today, I think, was your representation of Karen  
8 McDougal; correct?

9 A Yes.

10 Q If I understood it correctly, Ms. McDougal did not  
11 want to publish an article about the claims that have been  
12 discussed here; right?

13 A True.

14 Q And you testified in the Grand Jury in this case;  
15 right?

16 A I did.

17 Q At the District Attorney's Office; correct?

18 A Yes.

19 Q They were the ones asking the questions; right?

20 A Fair.

21 Q And that was in 2023?

22 A I -- I can't recall.

23 Q It was within the last 18 months?

24 A Roughly.

25 Q In there, you testified that Miss McDougal never

1 really wanted to tell her story to the public; right?

2 A Yes.

3 Q And I think you said on Tuesday that she had three  
4 goals; right?

5 A Yes.

6 Q One goal was to rejuvenate her career; right?

7 A True.

8 Q And that was your understanding in 2016; correct?

9 A That's true.

10 Q And Ms. McDougal had had a real career up to that  
11 point; is that right?

12 A She certainly had had a real career prior to, yes.

13 Q She had been on magazine covers; correct?

14 A More than that. Yeah. She had -- she had a very  
15 healthy career.

16 Q And that included not just on the Playboy part, but  
17 also in the fitness industry; right?

18 A I believe so.

19 Q And so, by "rejuvenate", there was -- at the time, in  
20 2016, when you say "rejuvenate", there was ongoing value in her  
21 image and likeness; right?

22 A Yes.

23 Q And I think you said that one of the other goals was  
24 to make money; right?

25 A Yes.

1 Q And I want to talk about this, more about this a  
2 little later.

3 That wasn't just her goal, but it was also the goal of some  
4 of the people around her?

5 A That's fair.

6 Q And the third goal was the one we were talking about,  
7 to avoid having to tell her story; correct?

8 A True.

9 Q And Ms. McDougal has been clear about that publicly;  
10 right?

11 A That's my understanding.

12 Q She said that on -- in an interview with Anderson  
13 Cooper?

14 A Yes.

15 Q And you have described the deal that she got with AMI  
16 as her "dream deal"; right?

17 A I think she described it as her "dream deal".

18 Q And that's consistent with your interactions with her;  
19 correct?

20 A Yes.

21 Q And you don't think -- tell me if this is wrong.  
22 You did not discuss the McDougal AMI deal with Michael Cohen  
23 until after it was closed; right?

24 A Yes. That is true.

25 Q And I think -- sorry to cut you off.

1 I think you said on Tuesday that you reached out to him  
2 afterwards as a professional courtesy?

3 A Yes.

4 Q But he wasn't involved in any negotiations; correct?

5 A Not that I'm aware of.

6 Q Let's focus on Cohen a little bit.

7 I think you said you encountered him for the first time in  
8 2011?

9 A True.

10 Q And that was in connection with this kind of blog post  
11 on The Dirty?

12 A True.

13 Q The Dirty was a web post at the time that focused on  
14 gossip?

15 A Fair.

16 Q And there was a post with the general substance of the  
17 same allegations that Stormy Daniels made subsequently, in  
18 2016; right?

19 A Yes.

20 Q And at that time, 2011, Gina Rodriguez was Stormy  
21 Daniels' manager?

22 A Yes.

23 Q She told you that she wanted to get the story taken  
24 down?

25 A That's true.

1 Q And you described Ms. Rodriguez as sort of a story  
2 broker?

3 A That's part of what she does, yes.

4 Q And part of her business, I think you said, was in  
5 monetizing stories?

6 A That's true.

7 Q Monetizing news?

8 A Yes.

9 Q And in 2011, you had already been working with  
10 Ms. Rodriguez for a while; right?

11 A Yes.

12 Q And, so, you served as a conduit to help get this  
13 story down?

14 A I was asked. I was, in essence, retained to use my  
15 best efforts to get that blog taken down, yes.

16 Q And you said, "in essence, retained".

17 You were, in fact, retained by Stormy Daniels in connection  
18 with that engagement; right?

19 A Yes.

20 Q And that engagement, the attorney-client engagement  
21 was not committed to writing; was it?

22 A It was not.

23 Q And there's nothing wrong with that; is there?

24 A There is not.

25 Q That's an ethical practice, to have an attorney-client

1 relationship without an Engagement Letter; right?

2 A Yes.

3 Q Now, focusing on Ms. Rodriguez for a minute.

4 Is it fair to say that you've had a reciprocal referral  
5 relationship with Gina Rodriguez?

6 A I think that's fair.

7 Q She sends you some business?

8 A Yes.

9 Q Some clients?

10 A Yes.

11 Q And vice-versa; you send her some clients; right?

12 A I think less so, but perhaps.

13 Q Reciprocal, but a little bit one-sided?

14 A I don't know.

15 Q You're still fairly close with Ms. Rodriguez; right?

16 A Somewhat.

17 Q I mean, you actually tried to represent her in  
18 connection with this investigation; right?

19 A Well, I didn't try to.

20 She was contacted by the District Attorney's Office. They  
21 wanted her to come in and give a statement. And I returned the  
22 call on her behalf as my client.

23 Q The reason I used the word "try" is that you were  
24 instructed by the District Attorney's Office that they viewed  
25 that as a conflict because of your status as a witness; right?

1 A Well, I took issue with that, but yes.

2 Q You didn't necessarily agree, but that was the  
3 instruction?

4 A I don't agree with the word "instruction".  
5 That was their --

6 Q Position?

7 A -- position. That was their position.

8 Q My point here was, the relationship with Rodriguez and  
9 you was close enough in 2023 that she still looked at you as  
10 someone that she still trusted to be her counsel?

11 A True.

12 Q And in 2011, the way that this worked, as I understand  
13 it, is that you sent a Cease and Desist Letter to The Dirty?

14 A Yes.

15 Q And at some point around this time, the blog post got  
16 picked up by the New York Daily News; correct?

17 A Correct.

18 Q The story started to get out there a little bit;  
19 right?

20 A That's right. Yes. It was republished or repurposed by  
21 other elements.

22 Q So, the news had been disseminated; right?

23 A Yes.

24 Q And you also worked to have the Daily News take down  
25 their internet article reflecting Ms. Daniels' allegations;

1 correct?

2 A I believe so.

3 Q And in connection with that effort, you working to get  
4 the story from the Daily News down, you were also acting as  
5 Ms. Daniels' attorney; right?

6 A Yes.

7 Q Still no Retainer Agreement; right?

8 A Correct.

9 Q Did you ever have an Engagement Letter with  
10 Ms. Daniels?

11 A Yes.

12 Q Was that in 2016?

13 A Yes.

14 Q Now let's focus a little bit on that 2016 engagement.  
15 You had an Engagement Letter for providing legal services  
16 to Ms. Daniels; right?

17 A Yes.

18 Q And I think you described reaching a settlement;  
19 correct?

20 A Yes.

21 Q And you've used during your testimony litigation terms  
22 like "plaintiff" and "defendant" to describe the parties to  
23 that Settlement Agreement; right?

24 A Yes.

25 Q So, from your perspective, it is true, is it not, that

1 you're providing Ms. Daniels legal services with regard to the  
2 Agreement that led to the payment of \$130,000?

3 A Yes.

4 Q You talked a little bit today about the Side Letter to  
5 the Agreement in 2016.

6 A Yes.

7 Q Remember that?

8 A (Nods).

9 Q I think the word "decoded" was used; right?

10 A Yes.

11 Q These acronyms, Peggy Peterson and David Dennison;  
12 right?

13 A Yes.

14 Q That was something you had used in the past; right?

15 A Yes.

16 Q That was your idea; right?

17 A No. No. It's not my idea.

18 It's widely used with these types of agreements.

19 Q You talked a little bit, today, about a December 9th,  
20 2016 conversation with Michael Cohen; right?

21 A Yes.

22 Q And I think you said he sounded disheartened; correct?

23 A I -- yes.

24 Q And at other times, do you recall having described  
25 that conversation in terms of you left the talk in concern for

1 his physical safety, his wellbeing, that's how bad he sounded?

2 A I thought he was gonna kill himself.

3 Q And the concern on that call was that he understood  
4 he wasn't going to get a position in President Trump's  
5 Administration; right?

6 A Yes.

7 Q And he had at times, in conversation with you,  
8 referenced potentially being President Trump's Chief of Staff;  
9 right?

10 A Amongst others.

11 Q Amongst others. Right.

12 He also mentioned potentially being the Attorney General of  
13 the United States; right?

14 A That's true.

15 Q In this call at the Wonderland Warehouse, he was  
16 conveying to you that's not going to happen; and he was, very  
17 very upset about it; correct?

18 A That's true.

19 Q Now, I would like to take a step back and talk about,  
20 sort of, how you've interacted with law enforcement during the  
21 course of this investigation.

22 Okay?

23 A Fair.

24 Q It started out in 2018, with some meetings with  
25 Federal Prosecutors; right?

1 A Yes.

2 Q Do you recall how many meetings?

3 A I do.

4 Q How many?

5 A Three.

6 Q And that was in 2018; right?

7 A Yes.

8 Q And you were asked during those meetings about your  
9 interactions with Stormy Daniels; right?

10 A Yes.

11 Q And with Karen McDougal; correct?

12 A Yes.

13 Q And in those meetings, the attorney-client privilege  
14 did not come up as much; right?

15 A I don't -- I don't know how to answer that question.

16 Q You've invoked the privilege in your testimony at this  
17 trial several times; correct?

18 A A few times, yes.

19 Q And you've also invoked it with meetings with the  
20 District Attorney that we'll talk about in a little bit; right?

21 A Yes.

22 Q And my question is, do you recall invoking the  
23 privilege during those three meetings with the Federal  
24 Prosecutors in 2018?

25 A Yes.

1 Q And then, at some point, you started to meet with the  
2 District Attorney's Office; right?

3 A Yes.

4 Q And that was several years later, correct; time went  
5 by?

6 A True.

7 Q Do you remember when the first meeting was?

8 A Not particularly.

9 Q Does 2021 sound about right?

10 A I don't recall.

11 Q And do you recall if the first meeting was actually  
12 remote, I think by Zoom?

13 A Yes.

14 Q And the main person asking the questions during that  
15 meeting was Mark Pomerantz; do you recall that?

16 A I do.

17 Q Do you recall, at some point in the meeting,  
18 Mr. Pomerantz said to you: "You've -- You're obviously  
19 concerned about making statements" --

20 MR. STEINGLASS: Objection.

21 THE COURT: Sustained.

22 MR. BOVE: May we approach?

23 THE COURT: Sure.

24 (Whereupon, the following proceedings were held  
25 at sidebar:)

1 THE COURT: Let me hear the objection.

2 MR. STEINGLASS: Well, since I don't know what  
3 he's going to ask, it's a little hard for me to object.

4 But, I don't think he could possibly be getting  
5 into what Mark Pomerantz said to him, especially because  
6 it sounded like he was getting into Mark Pomerantz's  
7 impression of something the witness was saying, which is  
8 something -- prosecutor's perceptions of witnesses'  
9 perceptions -- is something you precluded in other  
10 contexts.

11 So, I didn't want the question to be asked on the  
12 record.

13 THE COURT: What were you going to ask?

14 MR. BOVE: I was going to ask -- I'm summarizing  
15 whether he recalled Mr. Pomerantz saying he was choosing  
16 his words carefully because there was extortion inferred.

17 The reason I'm asking that question is because of  
18 the effect on the witness' state of mind in connection  
19 with his subsequent interactions with the Government,  
20 because the way that that meeting ended was he was  
21 instructed to get an attorney.

22 There was then a conversation that I would  
23 like to probe, where he -- and I don't have to use  
24 Mr. Pomerantz's name if that's offensive. I am happy to  
25 take that out.

1                   But, lawyers -- a member of the District  
2                   Attorney's Office said: We're not looking at him for  
3                   extortion.

4                   THE COURT: We're not looking at who?

5                   MR. BOVE: Mr. Davidson.

6                   So, there's a benefit.

7                   It's not, sort of, the automatic benefit that  
8                   attaches to the Grand Jury proceedings.

9                   MR. STEINGLASS: So, let me see if I understand  
10                  this correctly.

11                  What Mr. Bove is trying to elicit, one prosecutor  
12                  expressed a view that seemed to suggest that that  
13                  prosecutor believed that Mr. Davidson's conduct approached  
14                  extortion, but then a subsequent person said, We're not  
15                  looking at you for extortion, so the internal --

16                  MR. BOVE: The same prosecutor.

17                  THE COURT: Objection sustained.

18                  (Whereupon, the following proceedings were held  
19                  in open court:)

20                  THE COURT: Objection sustained.

21                  MR. BOVE: May I continue?

22                  THE COURT: Yes.

23                  CONTINUED CROSS-EXAMINATION

24                  BY MR. BOVE:

25                  Q        You said something this morning along the lines of

1 Michael Cohen could be an "aggressive" guy; right?

2 A Yes.

3 Q I think that was your word, "aggressive"?

4 A That's my opinion now. I think that was my word.

5 Q And you can be aggressive, too; can't you?

6 A I don't know.

7 Q You don't know?

8 A I suppose.

9 Q What does the word "extortion" mean to you?

10 A Extortion is the -- it's the obtaining of property by  
11 threat of fear or force.

12 Q Compelling an action by force or coercion.

13 How's that?

14 A (Shrugs).

15 Q Is that accurate?

16 A Sure.

17 Q And that can be a State or Federal crime; right?

18 A True.

19 Q And as you sit here today, it's your belief, is it  
20 not, that the statute of limitations on any extortion crimes  
21 has run?

22 MR. STEINGLASS: Objection.

23 THE COURT: Sustained as to form.

24 Please be more specific.

25 Q As you sit here today, is it your belief that any

1 exposure that you have to State or Federal extortion crimes is  
2 excluded by the statute of limitations?

3 A I have no opinion.

4 Q You're an attorney, and you have not thought about  
5 that prior to your testimony?

6 A I have not.

7 Q When you were negotiating on behalf of Ms. McDougal  
8 and on behalf of Stormy Daniels, one of your concerns was on  
9 staying on the right side of the line with respect to  
10 extortion; correct?

11 A I suppose.

12 Q I mean, that's something any attorney would naturally  
13 want to be doing in a negotiation like this; right?

14 You were making a demand.

15 A Well, I don't know what any attorney making a demand.  
16 That's, I suppose, fair.

17 Q But, in your mind, you were concerned about avoiding  
18 creating evidence of extortion; correct?

19 A Not particularly.

20 Q Well, one of the issues that you had to be sensitive  
21 about was not to threaten that the payment needed to be made  
22 prior to the election; correct?

23 A I don't recall that.

24 Q You were concerned about linking those two issues --  
25 payment, election -- were concerned in written communications;

1 right?

2 A That was not my concern.

3 Q Do you recall being asked about this issue in meetings  
4 in 2023 by the District Attorney's Office?

5 A I do not.

6 Q Do you recall a meeting where you indicated that you  
7 could not recall whether the thought of election as a deadline  
8 for getting stuff done had come up?

9 A You're asking me --

10 Q Do you remember saying that?

11 A I remember saying I do not recall.

12 Q And it's your testimony that you -- even today, you  
13 don't remember whether or not you were concerned about linking  
14 the election in these payments?

15 A Correct.

16 Q You said on Tuesday that in the timeframe 2015 to  
17 2017, your focus was on, I think you said, media cases; right?

18 A Somewhat.

19 Q And you also testified that you agreed with  
20 Mr. Steinglass, that those cases frequently involved  
21 Non-Disclosure Agreements; do you remember that?

22 A Fair.

23 Q And in terms of media practices and the types of work  
24 that you were doing in 2015 through 2017, there's nothing out  
25 of the ordinary about a NDA agreement; correct?

1 A That's fair.

2 Q They're used all the time; right?

3 A Fair.

4 Q In many different contexts; right?

5 A Agreed.

6 Q They are enforceable; right?

7 A True.

8 Q They're litigated sometimes; correct?

9 A Agreed.

10 Q They are upheld often; right?

11 A Agreed.

12 Q And so, there's nothing strange to you about the fact  
13 that your practice involved NDA's in 2015 through 2017; right?

14 A Correct.

15 Q As far as you know, that's during the time of the  
16 media lawsuits during that period?

17 A As far as I know.

18 Q In 2016, you were pretty well-versed in getting right  
19 up to the line without committing extortion; right?

20 A I don't understand your question.

21 Q My question is, that you had had several  
22 representations that involved situations where you were making  
23 demands on third-parties on behalf of your clients; right?

24 A True.

25 Q And you were asking for money and other benefits in

1 those representations; correct?

2 A True.

3 Q And you knew you had to be careful so as to not  
4 violate the law prohibiting extortion; right?

5 A True.

6 Q And in 2016, you had, in fact, familiarized yourself  
7 with the law of extortion based on very specific experience;  
8 right?

9 A No.

10 Q Isn't it a fact that in connection with events in  
11 2012, you were investigated by State and Federal authorities  
12 for committing extortion against Terry Bollea, Hulk Hogan?

13 A That's true.

14 Q And in connection with that investigation, did you or  
15 did you not familiarize yourself with the extortion offenses  
16 that were applicable in Florida and under Federal Law at the  
17 time?

18 A That's fair.

19 Q And so, getting back to my question, by 2016, you had,  
20 in fact, familiarized yourself with where that line was; right?

21 A I had familiarized myself with the law. I'm a lawyer.

22 Q And you did everything that you could to get as close  
23 to that line as possible in these negotiations without crossing  
24 it; right?

25 A I did everything I could to make sure that my

1 activities were lawful.

2 Q And that included not making overt threats connected  
3 to the 2016 election; didn't it?

4 A Threats to who?

5 Q To Michael Cohen.

6 A No.

7 Q No?

8 You made no threats to Michael Cohen relating to the 2016  
9 election; is that the answer that you give?

10 A I made no threats to anyone.

11 Q You never linked these negotiations to the 2016  
12 election with anyone; is that your testimony?

13 A That's fair.

14 Q In 2010, you represented a woman named Dawn Holland;  
15 right?

16 A Yes.

17 Q And Dawn Holland leaked information about the  
18 treatment of Lindsay Lohan at a rehab facility; correct?

19 A It was reported that that's what she did.

20 Q And you had connections as TMZ at the time; right?

21 A True.

22 Q You still do; right?

23 A No. Well, perhaps.

24 Q Perhaps.

25 You helped Ms. Holland get that information posted at TMZ;

1 right?

2 A No.

3 Q TMZ posted information relating to this incident with  
4 Ms. Lohan, including aspects of her confidential patient file  
5 from the facility; right?

6 A I don't know.

7 Q It's your testimony that you don't even know what I'm  
8 talking about?

9 A No. I'm answering your question.

10 Q So, I just asked, did TMZ post information from  
11 Ms. Lohan's confidential patient file?

12 A I don't know.

13 Q You helped Ms. Holland get paid in connection with  
14 what I just described; didn't you?

15 MR. STEINGLASS: Objection.

16 THE COURT: Overruled.

17 A I helped Ms. Holland get paid?

18 Q Correct. That's the question.

19 A I don't recall.

20 Q You don't recall that TMZ paid Ms. Holland \$10,000  
21 around this time?

22 A I don't recall.

23 Q She was your client; right?

24 A At some point, yes.

25 Q Is it your testimony that she was not your client in

1 connection with the incident I just described?

2 A No.

3 Q So, she was your client in connection with the  
4 incident I just described; correct?

5 A Well, you're describing a few different incidents.

6 I don't know what you're recalling -- what you're referring  
7 to.

8 Q What I am referring to is the posting of information  
9 regarding Ms. Lohan on TMZ, and that information related to her  
10 treatment at a rehab facility.

11 A I don't recall that.

12 Q And you don't recall Ms. Holland getting paid \$10,000  
13 by TMZ?

14 A I don't recall that.

15 Q Do you know who Tila Tequila is?

16 A I do.

17 Q And in 2010, you took steps to broker -- steps to  
18 broker a deal of a sex tape involving her; correct?

19 A I believe so.

20 Q And you were working on that -- what should I call it  
21 -- "engagement" -- with a man named Kevin Black?

22 A Yes.

23 Q And at the time, he was sort of known as a sex tape  
24 broker; is that right?

25 A I think that's fair.

1 Q Is that how he was making his living in 2010?

2 A I don't know.

3 Q You just said it was "fair" to characterize him as  
4 that, but you're not sure if that was how he was making his  
5 living?

6 A That's correct.

7 Q Is there a distinction?

8 A Yes.

9 Q In connection with the Tila Tequila tape, you  
10 represented the client; right?

11 A Client?

12 Q That's my question.

13 A I don't recall.

14 Q You don't recall representing Francis Hall?

15 A I do not.

16 Q Do you recall that Mr. Hall, who also goes by Francis  
17 Thien, threatened Ms. Tequila that if she didn't pay him  
18 \$75,000, the tape would be published?

19 A I don't recall that.

20 Q You don't recall at the time of that transaction, you  
21 were on a 90-day Bar suspension?

22 A I don't recall that.

23 Q You know who Charlie Sheen is; right?

24 A I do.

25 Q And you've represented some clients who you helped get

1 paid by Charlie Sheen; right?

2 A I've represented several clients who had claims  
3 against Charlie Sheen.

4 Q And who you extracted sums of money from Charlie Sheen  
5 on behalf of; correct?

6 A There was no extraction.

7 Q You took steps to cause Mr. Sheen to pay; correct?

8 A We asserted that there was tortious activity committed  
9 and valid settlements that were executed.

10 Q And one of those settlements involved a client named  
11 Karen Montgomery; right?

12 A Yes.

13 Q And she was your client in 2011; correct?

14 A I don't recall the year.

15 Q Do you recall that Mr. Black referred her to you?

16 A I do recall that.

17 Q And do you recall that you entered into an Engagement  
18 Letter with her that required a 60 percent contingency fee?

19 A I don't recall that.

20 Q Do you recall that she had recently been under the  
21 influence of methamphetamine at the time you got her to sign  
22 the Engagement Letter?

23 A No, I don't recall that.

24 Q You don't recall she was barely completing sentences  
25 when you got her to sign the letter?

1 MR. STEINGLASS: Objection.

2 THE COURT: Sustained.

3 Q In connection with that representation, Charlie Sheen  
4 paid \$2 million; right?

5 A I have no -- I'm not gonna answer that question.

6 Q You're -- \$2 million was paid to your client; correct?

7 A I don't recall.

8 Q Is it fair to say that your memory seems a little  
9 fuzzy around some of these issues?

10 A I've had over 1500 clients in my career.

11 You're asking me about events that took place many, many  
12 years ago.

13 Q A \$2 million payment is a typical payout for you on  
14 one of these cases, so much so that you don't remember it; is  
15 that your testimony?

16 A I don't remember a settlement from 13 years ago.

17 Q What about Capri Anderson? Do you remember her?

18 A I do remember her.

19 Q And do you remember extracting another settlement from  
20 Mr. Sheen while representing her?

21 A Again, it was no extraction.

22 Q You got Mr. Sheen to pay; correct?

23 A Assuming arguendo that he did pay and there was a  
24 Settlement Agreement, that settlement would be confidential,  
25 and I would not discuss it here.

1 Q Look. We're both lawyers. I'm not here to play lawyer  
2 games with you.

3 I'm just here to ask questions and get straight answers.

4 MR. STEINGLASS: Objection.

5 THE COURT: Sustained.

6 Q I'm not asking you to assume anything.

7 I'm asking what you remember.

8 All right?

9 Can you answer?

10 A In answer to what?

11 Q I'm not asking you to assume anything.

12 I'm just asking for truthful answers.

13 Okay?

14 A You're getting truthful answers, sir.

15 Q So, when I ask a question, I'm not asking you to  
16 assume arguendo; alright. I'm just asking for what you  
17 remember.

18 A I'm not going to discuss confidential matters.

19 Q Well, that's a different answer; isn't it?

20 Now you're invoking the privilege.

21 A No, I'm not invoking the privilege.

22 And if you're not here to play legal games, then don't say  
23 "extract".

24 Q Do you remember Mr. Sheen paying your client, Capri  
25 Anderson?

1 A I'm not going to discuss that.

2 MR. BOVE: Judge, I ask that the witness be  
3 instructed to answer the question.

4 THE COURT: Please approach.

5 (Whereupon, the following proceedings were held  
6 at sidebar:)

7 THE COURT: So, this is a sensitive area here.

8 I think we need to establish, first, that he's  
9 definitely not asserting any kind of privilege.

10 MR. BOVE: Okay.

11 THE COURT: Once he says he's not asserting  
12 privilege, you can ask him the question again.

13 If he refuses to answer, you can ask me for help.

14 MR. BOVE: Yes.

15 Thank you.

16 (Whereupon, the following proceedings were held  
17 in open court:)

18 Q So, I want to focus on your representation of Capri  
19 Anderson; okay?

20 A Fair.

21 Q My question is, was there a settlement between  
22 Ms. Anderson and Mr. Sheen in connection with that  
23 representation?

24 A I'm not going to answer that.

25 Q When you say "that", you're not invoking a privilege;

1 correct?

2 A I'm not going to answer that question based on  
3 privilege and confidentiality.

4 Q And what privilege are you invoking?

5 A The attorney-client privilege.

6 Q So, what I'm asking for is details about  
7 communications between you and your client and a third-party,  
8 Mr. Sheen, and maybe his representatives, maybe not.

9 Do you understand my point?

10 A No.

11 Q Is it your position that those types of communications  
12 are privileged in an adversarial negotiation context?

13 A Yes.

14 MR. BOVE: Your Honor, I ask that the witness be  
15 instructed to answer the question.

16 THE COURT: You can ask him another question.

17 He's asserting privilege.

18 Q Let's focus on 2012.

19 Okay?

20 A Yes.

21 Q Do you recall that Gawker ran a clip from a purported  
22 sex tape regarding Hulk Hogan that year?

23 A I do.

24 Q Do you recall that, prior to that post, still images  
25 from one of the images appeared on The Dirty; right?

1 A Yes.

2 Q That same website that in 2011 had the post about  
3 Ms. Daniels' allegations; correct?

4 A Yes.

5 Q And you used your connections at The Dirty to help get  
6 the Hulk Hogan stills posted; right?

7 A No.

8 Q You had nothing to do with that?

9 A Nothing to do with it.

10 Q And at some point in 2012, you reached out to Hulk  
11 Hogan's representatives; right?

12 A Yes.

13 Q And you indicated to them that the Gawker post was a,  
14 quote, shot across the bow; right?

15 A I don't recall that.

16 Q Do you recall that during the negotiations of  
17 Mr. Hogan's representatives, you said, "I'm an expert at doing  
18 this type of thing"?

19 A I don't recall that.

20 Q Do you recall discussing this issue, the conversations  
21 that you had with Mr. Hogan's representatives, with Michael  
22 Cohen?

23 A I do not.

24 MR. BOVE: Mr. Bernik, if we could bring up  
25 People's Exhibit 255 in evidence and go to -- this can be

1 for everybody.

2 (Whereupon, an exhibit is shown on the screens.)

3 MR. BOVE: If you go to the page of Bates number  
4 ending 214573.

5 If we could zoom in, please, on row 53 I think it  
6 is.

7 Q Now, I think you said this morning these are messages  
8 between you and Mr. Cohen; right?

9 A Yes.

10 Q So, does this refresh your recollection that in  
11 January 2018, you were communicating with Mr. Hogan [sic] about  
12 your prior dispute with Hulk Hogan and communication regarding  
13 that?

14 A I was communicating with Michael Cohen about Hulk  
15 Hogan.

16 Q Right.  
17 You were communicating with Michael Cohen about Hulk Hogan?

18 A Yes.

19 Q So, this communication refreshes you?

20 A Yes.

21 MR. BOVE: We can take that down.

22 Q I want to go back to focusing on October 2012, and you  
23 had reached out to Hulk Hogan's representatives regarding this  
24 Gawker post and the sex tapes; right?

25 A Yes.

1 Q At that time, you were acting as an attorney; correct?

2 A Yes.

3 Q You had clients; right?

4 A Yes.

5 Q Who possessed the tapes; right?

6 A Yes.

7 Q And you said to Hulk Hogan's representatives, did you  
8 not, "We got a lot of people, they get caught on tape. They're  
9 not all celebrities. We have family men that are gay, and they  
10 want to keep their gay identity undercover, so we approach  
11 them, too."

12 Do you remember saying that?

13 A I do not.

14 Q Do you remember demanding a million dollars?

15 A I do not.

16 Q You made a monetary demand to Hulk Hogan's  
17 representatives in order to not publish these tapes; correct?

18 A No.

19 Q Did you ask for money?

20 A There was a monetary demand made.

21 Q Was it for purchase, so that Hulk Hogan could purchase  
22 the tapes, the right to the tapes?

23 A Yes.

24 Q Do you recall that the National Enquirer published  
25 information relating to these tapes in 2015?

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A No.

(Whereupon, Senior Court Reporter Theresa  
Magniccari relieves Senior Court Reporter Laurie  
Eisenberg, and the transcript continues on the following  
page.)

1 (Whereupon, the proceedings are continued from  
2 previous page:)

3 MR. BOVE: This is just for parties and the  
4 witness and the Court. If we can take a look at Defense  
5 Exhibit F27. If we can go to Page 2, please.

6 (Displayed.)

7 CONTINUED CROSS EXAMINATION

8 BY MR. BOVE:

9 Q. Take a look at that and let me know when you are done.

10 A. Okay.

11 Q. Did you have a chance to take a look?

12 A. Yes.

13 Q. Does this refresh your recollection that the National  
14 Enquirer ran stories about the tapes in the summer of 2015?

15 A. Yes.

16 Q. Did they?

17 A. Yes.

18 Q. And do you recall that Dylan Howard had a byline on one  
19 of those articles?

20 A. I do not.

21 Q. Can you take a look at Defense F27, please, and see if  
22 that refreshes your recollection?

23 A. Yes.

24 Q. So Dylan Howard did, in fact, have a byline on articles  
25 relating to the Hulk Hogan tapes, right?

1 A. In this article, yes.

2 Q. And that's because you referred this information to  
3 him, correct?

4 A. No, that's not.

5 Q. It is just happenstance?

6 A. I don't know.

7 Q. You don't know?

8 A. No, I don't know if it's happenstance.

9 Q. Did you or did you not provide information to Dylan  
10 Howard so he could break the story about the content of one of  
11 the tapes?

12 A. No, I did not.

13 Q. Did you cause information to be disclosed to Dylan  
14 Howard so he could publish an article in the National Enquirer  
15 about the content of one of these tapes?

16 A. I did not.

17 Q. And there was an FBI investigation relating to this,  
18 correct?

19 A. Yes.

20 Q. You practiced criminal law in the beginning of your  
21 career?

22 A. True.

23 Q. State and Federal?

24 A. Yes.

25 Q. So you understand, do you not, that the FBI needs

1 enough information to actually predicate a criminal  
2 investigation?

3 MR. STEINGLASS: Objection.

4 THE COURT: Sustained.

5 Q. The FBI ran a sting operation targeting your meetings  
6 with Hulk Hogan's representatives, correct?

7 A. They had an investigation, yes.

8 Q. When I say "sting operation," you know what I mean,  
9 right?

10 A. Not technically.

11 Q. They set up a meeting where someone was recording what  
12 you were saying in connection with the negotiations?

13 A. Yes.

14 Q. That was at a hotel, right?

15 A. Yes.

16 Q. And the FBI was sitting a couple of doors down,  
17 correct?

18 A. I don't know. They were in close proximity.

19 Q. They were in close proximity monitoring the situation,  
20 right?

21 A. I presume so.

22 Q. You know that this was also investigated by local  
23 authorities, correct?

24 A. Yes.

25 Q. And that there was a report issued relating to the two

1 investigations, and the local authorities?

2 A. There was a report issued.

3 Q. Do you recall that?

4 A. (No response.)

5 MR. BOVE: Mr. Bernik, this is for the Court and  
6 the parties and the witness.

7 Q. If you can take a look at Defense F35, please.

8 I'm going to hand you a copy so you could flip through.  
9 Have you had a chance to look at that?

10 A. It's 31 pages. I have looked at that.

11 Q. My question is: Does that refresh your recollection  
12 that the Tampa Police Department issued a report relating to the  
13 investigation that we have been talking about?

14 A. I didn't -- yes.

15 Q. Do you recall that in that report the Tampa Police  
16 Department indicated that the operation --

17 MR. STEINGLASS: Objection.

18 THE COURT: Sustained.

19 Q. You can put the document to the side.

20 Thank you.

21 The Tampa Police Department referenced concerns about  
22 extortion in connection with this investigation, correct?

23 MR. STEINGLASS: Objection.

24 THE COURT: I will allow it.

25 You can answer it.

1 A. They conducted an investigation, yes.

2 Q. An investigation relating to extortion, right?

3 A. I believe so.

4 Q. And there were conclusions about concerns relating to  
5 extortion; just yes or no?

6 MR. STEINGLASS: Objection.

7 THE COURT: Sustained.

8 Q. And you were not ultimately charged, right?

9 A. True.

10 Q. But that experience gave you familiarity with extortion  
11 law, correct?

12 A. Perhaps. I -- I don't know.

13 Q. Do you know who Gabriel Rueda is?

14 A. Yes.

15 Q. And he had a dispute with CBS and Manny Pacquiao?

16 A. Dispute is loosely used.

17 Q. He felt that he was owed a finder's fee relating to one  
18 of Mr. Pacquiao's fights, right?

19 A. Yes.

20 Q. A big fight?

21 A. Yes.

22 Q. With Floyd Mayweather?

23 A. Yes.

24 Q. You tried to convince Mr. Rueda to settle that dispute,  
25 right?

1 A. I offered him a settlement.

2 Q. He felt he was owed millions and millions and millions  
3 of dollars, right?

4 A. A hundred million dollars.

5 Q. One hundred million dollars?

6 A. Yes.

7 Q. You offered him \$50,000, correct?

8 A. No.

9 Q. You made a settlement offer to him, right?

10 A. Yes.

11 Q. And it involved a sum of money that was much less than  
12 100 million dollars?

13 A. It was far less than 100 million dollars.

14 Q. On June 25, 2015, you told Mr. Rueda he was dealing  
15 with powerful people who did not care if Rueda got hurt, right?

16 A. I never ever said that. I did not say that.

17 Q. You also threatened he would not be able to find work  
18 in California if he did not accept your settlement, correct?

19 A. That's false.

20 Q. Now, I want to get back to the clients that you talked  
21 about in this case.

22 A. Fair.

23 Q. Let start with Ms. McDougal. I think you said that  
24 your attorney-client relationship started in June 2016, right?

25 A. I believe so.

1 Q. By that time, there was someone else leaking  
2 information publically about this alleged relationship between  
3 Ms. McDougal and President Trump, right?

4 A. I don't know about that, about leaking. Ms. McDougal  
5 had a friend, and when your client was ascending in the polls,  
6 one of Ms. McDougal's former friends attempted to publicize Ms.  
7 McDougal's interactions with your client.

8 Q. That is Gary Stevens, right?

9 A. I don't know.

10 Q. Do you remember telling the District Attorney's office  
11 that Ms. McDougal had a friend who was trying to publish a story  
12 without her consent?

13 A. Telling whom?

14 Q. That there was a friend of Ms. McDougal's who was  
15 trying to publish a story without her consent?

16 A. Who did I say that to?

17 Q. The District Attorney's office.

18 A. Yes.

19 Q. At the time, you said that you knew who you were  
20 talking about, right?

21 A. I don't know if I ever heard that name Stevens.

22 Q. I think you testified on direct that your fee in  
23 connection with the representation of Ms. McDougal is 45  
24 percent; is that right?

25 A. I believe so.

1 Q. You testified on direct that Jay Grdina had introduced  
2 you to Ms. McDougal; is that right?

3 A. No.

4 Q. You knew Ms. McDougal for a while, but Jay came to you  
5 about this particular representation?

6 A. Yes.

7 Q. Jay Grdina had been a client of yourself?

8 A. Yes.

9 Q. Jay has a brother, correct?

10 A. Yes.

11 Q. Named James?

12 A. Yes.

13 Q. If I call him James, you know who I am talking about?

14 A. I do.

15 Q. So James was married to McDougal, correct?

16 A. That's my understanding.

17 Q. There was sort of a referral chain for how you became  
18 involved in 2016?

19 A. Yes.

20 Q. And you mentioned somebody named John Crawford; do you  
21 remember that?

22 A. Yes.

23 Q. I think you said he provided security at a meeting or  
24 two?

25 A. He was, I think, a retired police officer from Phoenix.

1 Q. He also owns some UPS stores in Phoenix?

2 A. True. That's my understanding, that he owned UPS  
3 stores.

4 MR. BOVE: Mr. Bernik, can we please take a look  
5 at People's 279 in evidence. This can be for everybody.

6 Can we zoom in on the email, please.

7 (Displayed.)

8 Q. So I think we looked at this on Tuesday. This is  
9 you submitting a proposed Engagement Letter to Ms. McDougal,  
10 right?

11 A. Yes.

12 Q. Do you see the BCC line?

13 A. Yes.

14 Q. That JG, is that Jay Grdina?

15 A. Yes.

16 Q. Why did you include him on the BCC line?

17 A. I don't know.

18 Q. And this document was never executed, right?

19 A. I don't know if there was a Retainer Agreement that was  
20 executed.

21 Q. Do you know if it's the one that is attached to the  
22 email or a different letter?

23 A. I don't know.

24 Q. You said you got a subpoena at some point from the  
25 District Attorney's office?

1 A. Yes.

2 Q. And did you search your files for the signed version of  
3 this letter?

4 A. I believe so.

5 Q. And is it fair to say you did not find one?

6 A. I provided whatever was located.

7 Q. My point is: There was nothing wrong in terms of your  
8 relationship with Ms. McDougal that it wasn't signed?

9 A. It was my recollection that I had a fully executed --  
10 excuse me -- a Retention Agreement with Ms. McDougal.

11 MR. BOVE: Mr. Bernik, can we take a look at  
12 Paragraph 4.2 and the subparagraphs.

13 (Displayed.)

14 Q. I am focused on Paragraph 4.2, where it seems to  
15 indicate that the fee contemplated in this letter was 35  
16 percent.

17 Do you see that?

18 A. Yes.

19 Q. Do you recall a subsequent negotiation that increased  
20 your fee to 45 percent?

21 A. I don't recall that conversation.

22 Q. And now the difference between these two numbers, 35  
23 and 45 percent, on the \$150,000 payment, is 10 percent, about  
24 15 grand, right?

25 A. Yes.

1 Q. And some of the fee that you were paid was split,  
2 correct?

3 A. No.

4 Q. So is it your testimony that Jay Grdina made nothing in  
5 connection with the payment of the \$150,000?

6 A. He was compensated.

7 Q. Out of the legal fees, correct?

8 A. No.

9 Q. What about John Crawford?

10 A. He was compensated as well.

11 Q. He was compensated out of your fee? Yes or no?

12 A. No.

13 Q. You know -- do you know that the California Ethnics  
14 Rules prohibit non-attorneys from being paid out of legal fees,  
15 right?

16 A. Correct.

17 Q. You have been disciplined on that basis, correct?

18 A. No.

19 Q. So we'll go back to the first page of the email.

20 Can you see it?

21 That is dated June 15, 2016?

22 A. Yes.

23 Q. This was sent right around the time that you went to  
24 Phoenix to meet with Ms. McDougal, Mr. Grdina, and Mr. Crawford,  
25 correct?

1 A. Yes.

2 Q. Before the meeting, you had already talked to Dylan  
3 Howard, right?

4 A. I don't recall.

5 MR. BOVE: Mr. Bernik, if we can take a look at  
6 People's 176A.

7 I would like to go to the page with the text  
8 messages on June 7, 2016.

9 Zoom in on the rows beginning 11-111.

10 (Displayed.)

11 Q. Have you had a chance to take a look?

12 A. Yes.

13 Q. These are messages dated June 7, 2016, between you and  
14 Dylan Howard?

15 A. Yes.

16 Q. In these message, you indicated, "I have a block buster  
17 Trump story."

18 Do you see that on the top?

19 A. Yes.

20 Q. You were reaching out to Dylan Howard to tell him about  
21 Ms. McDougal's allegations, correct?

22 A. Not necessarily.

23 Q. You were reaching out to Mr. Howard to get him  
24 interested in the potential story, right?

25 A. I think that's fair.

1 Q. And it would make -- it would make you look better when  
2 you went to Phoenix to be able to say, "I have already got the  
3 National Enquirer interested in this," correct?

4 A. I don't know about that.

5 Q. It did not help you gain trust with the client to be  
6 able to say that you had already generated interest in the  
7 potential story; is that your testimony?

8 A. No, that's not my testimony.

9 Q. So it was helpful to you to be able to say to Karen  
10 McDougal and Jay Grdina in mid June of 2016, you had already  
11 communicated with the National Enquirer, right?

12 A. Maybe, or maybe not. Perhaps.

13 Q. And this is one of the ways your relationship with  
14 Dylan Howard benefited your law practice, right?

15 A. I don't see that the two are related.

16 Q. You testified on Tuesday about a meeting that you had  
17 with Ms. McDougal in Los Angeles.

18 Do you remember that?

19 A. Yes.

20 Q. I think you showed some text messages. We eventually  
21 got to the point where you remembered that the meeting was on  
22 June 20, 2016?

23 A. I believe so.

24 Q. Mr. Howard travelled to Los Angeles for the meeting,  
25 right?

1 A. Yes.

2 Q. At the meeting was also Ms. McDougal?

3 A. Yes.

4 Q. Jay Grdina?

5 A. Yes.

6 Q. Mr. Crawford, correct?

7 A. Yes.

8 Q. And the purpose of that meeting was for Dylan Howard to  
9 sort of vet Ms. McDougal's story, right?

10 A. Yes.

11 Q. You knew he was going to take the information and his  
12 observations and report back to AMI's leadership, right?

13 A. To David Pecker.

14 Q. To Mr. Pecker, the top of the totem pole of AMI?

15 A. Yes.

16 Q. You were informed, were you not, the next day, AMI was  
17 not interested?

18 A. Yes, I was informed at that time they were not  
19 interested.

20 Q. I think we saw a text message where Mr. Howard wrote to  
21 you that AMI was "immovable."

22 Do you remember that?

23 A. Vaguely.

24 Q. And the issue was, one of them, that AMI felt Ms.  
25 McDougal had not provided enough corroborating information,

1 right?

2 A. Yes.

3 Q. Meaning, evidence to back up her story, correct?

4 A. Yes.

5 Q. And that is why shortly thereafter you texted Mr.  
6 Howard, you said, "Ms. McDougal found her Blackberry," right?

7 A. But he asked her to locate additional documents and,  
8 so, yes.

9 Q. It was in response to that request you wrote to Mr.  
10 Howard shortly after the meeting, "She found her Blackberry?"

11 A. Correct.

12 Q. There were efforts made to take information off that  
13 Blackberry, right?

14 A. I don't know about that.

15 Q. The Blackberry ended not moving the needle for AMI in  
16 terms of corroboration, correct?

17 A. I don't know.

18 Q. There was no conversation that you were a party to  
19 where AMI said, "Oh, great, now that we know the Blackberry  
20 exists, let's move forward with the story," right?

21 A. I never had that conversation.

22 Q. In this same month, June 2016, things had broke down  
23 enough that you sent a message to Mr. Howard indicating you were  
24 drafting a Declination Letter.

25 Do you remember that?

1 A. I don't recall that.

2 MR. BOVE: If we can take a look at Government  
3 Exhibit 176A, Page 3.

4 Zoom in on 1115 and 56.

5 (Displayed.)

6 THE WITNESS: Yes. Okay.

7 Q. Does this refresh your recollection that you told Mr.  
8 Howard in June 2016 that you were drafting a Declination Letter?

9 A. Yes.

10 Q. You were, correct?

11 A. I don't recall. I -- I don't recall.

12 Q. At this point, Ms. McDougal started to negotiate with  
13 other companies, right?

14 A. I don't know.

15 THE COURT: Is this a good time to stop?

16 MR. BOVE: Yes, Judge.

17 THE COURT: Jurors, we'll start back up at 2:15.

18 Do not discuss the case among yourselves or with  
19 anyone else.

20 Please keep an open mind as to the defendant's  
21 guilt or innocence.

22 Please do not form or express an opinion as to the  
23 defendant's guilt or incense.

24 Enjoy your lunch.

25 (Jury leaving courtroom.)

1 THE COURT: Please be seated.

2 Thank you, sir.

3 You may step down.

4 (Witness leaving courtroom.)

5 THE COURT: Mr. Bove, I am not rushing you at all.  
6 I want to get a sense of how much more you have.

7 MR. BOVE: I will make some adjustments at the  
8 lunch break. I expect it's under an hour.

9 THE COURT: Thank you.

10 Enjoy your lunch.

11 (Whereupon, the Court took a luncheon recess.)

12 \*\*\*\*\*

13

14 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N .

15 THE COURT: Good afternoon.

16 Is there anything that we need to discuss before  
17 we bring the witness out?

18 MS. NECHELES: There is one issue, if I could have  
19 a few minutes to discuss.

20 I wanted to raise an issue about the Gag Order and  
21 just some clarification before we start.

22 If I could hand up some articles here, and give a  
23 copy.

24 Thank you.

25 Your Honor, I just handed up a stack of newspaper

1 articles by legal commentators and others.

2 People like, the first one is entitled "Trump's  
3 New York Prosecution is a Bogus Case by Bogus Prosecutors."

4 And these articles are by a number of legal  
5 commentators, including Jonathan Turley and Andrew  
6 McCarthy.

7 These articles are all articles which President  
8 Trump would like to post on his Truth, but they all discuss  
9 this case. They discuss witnesses who have testified.  
10 They discuss what the aspects of the case are.

11 They're very critical of this case. They're  
12 important for his election campaign. They're talking about  
13 the kinds of issues that he has been raising.

14 But he has some concerns because they do mention  
15 witnesses. They mention the prosecutors in this case by  
16 name.

17 We think they are perfectly fine, but we think  
18 there is some ambiguity in the Gag Order.

19 So we're asking for your Honor to take a look at  
20 them so that he knows he is not violating the Gag Order  
21 when he posts this.

22 THE COURT: People?

23 MR. STEINGLASS: Judge, first of all, we've just  
24 been handed this stack. If anything, we need to go through  
25 them.

1                   But it seems odd that they're asking the Court for  
2                   sort of an advanced ruling on these kinds of things.

3                   I think the Gag Order is very specific.

4                   So I guess my first request would be to have  
5                   sometime to look at it.

6                   We don't want to be in this position either. If  
7                   they're talking about witnesses in the case, people that  
8                   the defendant is not supposed to be talking about based  
9                   on the Gag Order -- I understand and fully respect that  
10                  there is a political campaign going on. There is also a  
11                  criminal case going on in this courtroom. That's what the  
12                  Order is seeking to protect. I think we need to really be  
13                  careful with this situation.

14                  THE COURT: I appreciate what you are bringing to  
15                  my attention, Ms. Necheles.

16                  I'm not going to give advanced rulings. I'm not  
17                  going to be in a position of looking at posts and  
18                  determining in advance whether you should or should post  
19                  these on Truth Social as part of your official campaign  
20                  website.

21                  There is no ambiguity in the Order. The Appellate  
22                  Division has already weighed in on that.

23                  We'll see where it goes from there.

24                  At this point, this Court and the higher court  
25                  have found there is nothing wrong with the Gag Order.

1 I think the best advice you can give your client  
2 is to do without, steer clear.

3 MS. NECHELES: Your Honor, I hear what you are  
4 saying. I heard what the Appellate Court has ruled. I  
5 think they're ruling in the abstract. I believe there is  
6 ambiguity.

7 THE COURT: I am not going to argue with you.  
8 If you have an issue, take it up to the Appellate Division.  
9 Take it up to the Court of Appeals. I am not revisiting my  
10 Order. I am not going to.

11 MS. NECHELES: What we're seeking a clarification  
12 on, when the witnesses have testified, or when there is an  
13 analysis of the case and it mentions witnesses, or it  
14 mentions that the prosecutors made certain arguments in  
15 this Court, or the prosecutors were appointed by a certain  
16 justice, these are people who are analyzing the case and  
17 talking about it being a political hit. That is what  
18 President Trump wants to be arguing at its core.

19 And I, frankly, don't know whether that violates  
20 the Gag Order.

21 THE COURT: I am not going to give you an advanced  
22 ruling on this.

23 Let's get the witness.

24 I think, when it doubt, steer clear. That's all I  
25 can say.

1 (Witness entering courtroom.)

2 \*\*\*

3 THE COURT: Good afternoon sir.

4 Let's get the jury.

5 THE CLERK: Do all parties stipulate that all  
6 jurors are present and properly seated?

7 MR. STEINGLASS: Yes.

8 MR. BOVE: Yes.

9 THE COURT: Good afternoon, jurors.

10 MR. BOVE: May I?

11 THE COURT: Yes.

12 CONTINUED CROSS EXAMINATION

13 BY MR. BOVE:

14 Q. Mr. Davidson, I would like to talk a little bit more  
15 about the 2011 blog post.

16 You have testified a little bit about a woman named  
17 Gina Rodriguez, right?

18 A. Yes.

19 Q. Who you said was Stormy Daniels' manager for a long  
20 period of time, right?

21 A. Yes.

22 Q. Perhaps on and off at times?

23 A. I'm not sure.

24 Q. But in 2011, Gina Rodriguez was Stormy Daniels'  
25 manager, correct?

1 A. That's my understanding.

2 Q. And you referenced at times that Gina Rodriguez had a  
3 boyfriend that was involved in some of these things, right?

4 A. Yes.

5 Q. And his name was Anthony Kotsev?

6 A. Yes.

7 Q. Am I pronouncing that right?

8 A. Yes.

9 Q. Isn't it a fact that Mr. Kotsev actually wrote the blog  
10 post that was put on "The Dirty" in 2011?

11 A. I don't know. He was an employee of The Dirty.

12 Q. You don't recall saying that to the Government?

13 A. I recall that.

14 Q. The Dirty was owned, in part, by James Grdina, right?

15 A. I don't think so.

16 Q. He worked there, correct?

17 A. James Grdina?

18 Q. Yes.

19 A. I don't know.

20 Q. And James Grdina is Karen McDougal's ex-husband, right?

21 A. Yes.

22 Q. James Grdina and Jay Grdina are brothers, right?

23 A. Yes.

24 Q. And Jay Grdina brokered your connection to Ms. McDougal  
25 in that representation?

1 A. Yes.

2 Q. And is also connected to Gina Rodriguez, right?

3 A. Jay?

4 Q. Jay, right.

5 A. I don't think so.

6 Q. So it's your testimony that Jay Grdina has never worked  
7 with Gina Rodriguez?

8 A. I don't know.

9 Q. So let's focus then on that 2011 representation of  
10 Stormy Daniels.

11 A. Yes.

12 Q. The reason that you were able to get that blog post  
13 taken down is because Gina Rodriguez's boyfriend had written it,  
14 correct?

15 A. I don't know who wrote it, but I don't think they were  
16 dating at the time.

17 Q. It's your testimony that Gina Rodriguez did not -- was  
18 not involved with Anthony Kotsev in 2011?

19 A. I don't know if she was. I don't think she would have  
20 needed me, she would have called her boyfriend.

21 Q. You used this network of connections to get the blog  
22 post taken down, correct?

23 A. In addition to the Cease and Desist.

24 Q. You practiced law for a long time, right?

25 A. Yes.

1 Q. You won cases in court?

2 A. Yes.

3 Q. This Cease and Desist Letter was not one of your  
4 greatest litigation victories?

5 A. It was a form letter.

6 Q. It was a form letter created in that context because  
7 you had connections to The Dirty?

8 A. I certainly followed the Cease and Desist up with a  
9 phone call.

10 Q. Isn't it a fact that the reason that Ms. Daniels and  
11 Ms. Rodriguez wanted that blog post taken down, they were trying  
12 to negotiate a better deal with In Touch magazine?

13 A. That's a fact that I learned later, yes.

14 Q. They were using you in connection with them?

15 A. I don't understand your question. They were using my  
16 efforts to create an exclusive opportunity with a different  
17 publication.

18 Q. And that exclusive opportunity was more valuable to Ms.  
19 Daniels', right?

20 A. Yes.

21 Q. They were using you to make more money, right?

22 A. Yes.

23 Q. Now, you testified about some public statements that  
24 Ms. Daniels made in January 2018, correct?

25 A. Yes.

1 Q. At around this time Larry Flynt offered to indemnify  
2 Stormy Daniels in connection with any litigation arising out of  
3 the settlement agreement, correct?

4 A. There were others. I was not involved. It's my  
5 understanding there were other terms as well.

6 Q. But one of the terms, if there was going to be  
7 litigation relating to the Settlement Agreement that you helped  
8 to negotiate, he would indemnify her?

9 A. Yes.

10 Q. Indemnify means he would be paying her legal bills,  
11 correct?

12 A. True.

13 Q. You testified this morning about some stress that you  
14 perceived Ms. Daniels to be going through in January 2018  
15 relating to this agreement, right?

16 A. Yes.

17 Q. In fact, she had this opportunity to have her legal  
18 fees paid if she wanted to fight the agreement, right?

19 A. Yes. But you can -- even if someone is going to pay  
20 your legal bills, it's still an obstruction in your life. Yes.

21 Q. From your perspective, this Settlement Agreement was a  
22 valid legal document, right?

23 A. Yes.

24 Q. You had negotiated it, right?

25 A. True.

1 Q. It had legal terms, right?

2 A. Yes.

3 Q. And it was certainly consistent with your beliefs about  
4 your ethnical obligations, right?

5 A. Yes.

6 Q. You didn't do anything wrong in connection with that  
7 agreement, right?

8 A. I don't believe so.

9 Q. I want to talk a little bit about your relationship  
10 with Michael Cohen.

11 A. Yes.

12 Q. You continued to work with him after the Stormy Daniels  
13 settlement, right?

14 A. Yes.

15 Q. On other matters?

16 A. Not with him. But I continued to certainly speak with  
17 him, correspond with him. He was opposing counsel on another  
18 matter.

19 Q. And he sent you some business, right?

20 A. He sent me work.

21 Q. He sent you a client?

22 A. He sent me a non-paying client.

23 Q. So it's not as if the experience with him was so  
24 horrific that you ceased interacting with him, correct?

25 A. No, our relationship changed over time.

1 Q. And, in 2018, had you heard the name Summer Zervos?

2 A. I believe so.

3 Q. Did you discuss Summer Zervos with Mr. Cohen?

4 A. I can't recall.

5 Q. What about Justin Best?

6 A. Yes.

7 Q. That's the client he was talking about, right?

8 A. Yes.

9 Q. So this is a situation where Mr. Cohen referred you a  
10 client?

11 A. Yes.

12 Q. And you accepted that, right?

13 A. Yes.

14 Q. Because you were continuing to work together, correct?

15 A. No.

16 Q. You were continuing to interact professionally, right?

17 A. That's fair.

18 Q. And you also had a client named Shera Bechard?

19 A. I had a client named Shera Bechard.

20 Q. She retained you in about November 2017, correct?

21 A. I'm not sure of the date.

22 Q. Late 2017, give or take?

23 A. I would have to look. That doesn't strike me as wrong.

24 Q. And she had made allegations about a sexual

25 relationship with a man named Elliott Broidy?

1 A. I think that's been publically reported.

2 Q. Just so I understand the privilege analysis, if  
3 something from your perspective -- if something is publically  
4 reported, you are comfortable reporting privileged conversations  
5 about it?

6 A. No.

7 Q. You are aware of the public reports about Ms. Bechard's  
8 allegations?

9 A. I was aware of the public reporting of her allegations.

10 Q. She was your client?

11 A. Yes.

12 Q. Mr. Cohen represented Mr. Broidy?

13 A. Ultimately.

14 Q. There was a Settlement Agreement, correct?

15 A. True.

16 Q. This Settlement Agreement was legal work for you,  
17 right?

18 A. I don't understand the question.

19 Q. You were practicing law when you negotiated the  
20 agreement?

21 A. True.

22 Q. So was Mr. Cohen, as far you could tell?

23 A. True.

24 Q. It resolved in a contract?

25 A. True.

1 Q. It probably had terms like the ones you negotiated on  
2 behalf of Ms. Daniels, correct?

3 A. I would imagine.

4 Q. Maybe with one notable exception, that the dollar  
5 figure was a lot higher right?

6 A. I don't recall.

7 Q. You don't recall that the settlement was for 1.6  
8 million dollars to be paid in installments?

9 A. I don't recall.

10 Q. As you sit here today, you don't recall events from  
11 2018; is that your testimony?

12 A. I don't recall specific dollar amounts in a settlement  
13 agreement from six some odd years ago.

14 Q. Even after this settlement between Ms. Bechard and Mr.  
15 Broidy, you continued to communicate with Mr. Cohen, right?

16 A. I believe so.

17 Q. Well, I mean, you know -- so we looked at the text  
18 messages, right?

19 A. Yes.

20 Q. You remember this morning, correct?

21 A. Yes, I remember this morning.

22 Q. The text messages from January 2018, right?

23 A. Yes.

24 Q. They continued in February 2018, right?

25 A. Yes.

1 Q. And March 2018, correct?

2 A. Yes.

3 Q. In the context of those discussions, did you ever talk  
4 to Mr. Cohen about Stormy Daniels having "settler's remorse?"

5 A. I may have.

6 Q. And do you recall in that conversation also using the  
7 word "leverage?"

8 A. No.

9 Q. Is leverage a word that you used in conversations with  
10 Mr. Cohen?

11 A. I may have.

12 Q. And you did, in fact, in March of 2018, correct?

13 A. Use the word "leverage?"

14 Q. In a conversation with Michael Cohen about Stormy  
15 Daniels?

16 A. I don't know.

17 Q. During meetings with the District Attorney's office,  
18 they asked you questions about whether Mr. Cohen had ever  
19 recorded your conversations, correct?

20 A. I don't recall if it was -- what agencies. It came up  
21 at some point in an interview.

22 Q. And I think you said, did you not, "Yeah, I was under  
23 the impression that he did record some of these talks?"

24 A. Certainly, I recall a few conversations when I was  
25 speaking with Mr. Cohen when his conversations were odd, and

1 that led me to believe that I was being recorded.

2 Q. I think you said the reason they seemed odd to you, he  
3 was talking in a linear fashion?

4 A. Yes. Because, ordinarily, he was sort of all over the  
5 place. In these particular calls, it was a very structured  
6 conversation which really wasn't his personality.

7 Q. Less pants on fire, more straightforward?

8 A. Maybe a little bit more self-serving.

9 Q. Do you recall saying to Michael Cohen on March 7, 2018,  
10 "Sometimes people get settler's remorse, you know, and other  
11 times people think that, hey, I need to resolve this case  
12 before a date certain because this is when I have the most?"

13 A. No.

14 MR. BOVE: If we can bring up for the parties, the  
15 Court and the witness, Defense Exhibit F15-AT.

16 There is also a set of headphones on the bench.  
17 I think the way this works, there is a dial in the middle.

18 I'm told, if you put the volume up above two,  
19 there's a risk of catastrophic damage to your ears.

20 Thank you.

21 Q. So we're going to play Defense Exhibit F158A over the  
22 headphones.

23 I'm going to ask you to listen to see if it refreshes  
24 your recollection about whether you said what I just said.

25 A. Are you playing it?

1 Q. I think it might help, that's the receiver, whatever  
2 you call this, it should come on.

3 Any luck?

4 A. If you could restart it.

5 (Whereupon, witness was given headphones to listen  
6 to audio recording.)

7 MR. BOVE: Restart it, please.

8 (Whereupon, audio recording was played for the  
9 witness and the Court only.)

10 THE WITNESS: Is this the beginning?

11 THE COURT: Play it one more time.

12 MR. BOVE: Start it from the beginning.

13 (Whereupon, the witness and the Court listened to  
14 audio recording.)

15 MR. BOVE: Stop it.

16 Q. So, Mr. Davidson, it continues. We're going to go back  
17 to it.

18 That was your voice?

19 A. Yes.

20 Q. Does that refresh your recollection that you said to  
21 Mr. Cohen, "Sometimes people get settler's remorse, you know,  
22 and other times people think, hey, I need to resolve this case  
23 before a date certain because this is when I have the most."

24 What you just listened to, does it refresh your  
25 recollection that you said that?

1 A. Yes.

2 Q. You were talking about Stormy Daniels here, correct?

3 A. Probably.

4 Q. Just yes or no; were you talking about Stormy Daniels  
5 with Michael Cohen on March 7, 2018?

6 MR. STEINGLASS: Objection.

7 THE COURT: Overruled.

8 If you could answer yes or no.

9 A. It certainly appears to be, yes.

10 Q. And do you see the reference to "before a date  
11 certain?"

12 A. Yes.

13 Q. That's something you said to Mr. Cohen in March 2018,  
14 right?

15 A. Yes.

16 Q. And that is a comment that you were attributing in  
17 substance to Ms. Daniels, correct?

18 A. Not necessarily.

19 Q. I am asking you: What was going on in your head at the  
20 time?

21 A. What time?

22 Q. When you had said these things.

23 A. This is 2018; yes? I don't know what time you are  
24 referring to.

25 Q. When you said what is written on the page, were you

1 referring in substance to something that Ms. Daniels had  
2 conveyed to you?

3 A. I don't believe so.

4 Q. And when you use -- do you see where it says  
5 "hypothetically speaking?"

6 A. Yes.

7 Q. That was a code, right?

8 A. No.

9 Q. Because you were using the word "hypothetical," so you  
10 could sit in a chair like this and say, "I'm not sure if I was  
11 talking about Stormy Daniels?"

12 A. No.

13 Q. Do you recall saying during the same conversation with  
14 Mr. Cohen, "Well, if things don't turn out the way that you  
15 thought they were going to turn out, and now you're realizing  
16 you have a lot more leverage, you tried to settle it twice"

17 A. Can I see the transcript?

18 Q. Yes.

19 A. Thank you.

20 MR. BOVE: So we're going to bring up Defense  
21 Exhibit F15-AT again.

22 (Displayed.)

23 Q. I want to do whatever I can to refresh your  
24 recollection.

25 Is the transcript sufficient?

1 A. That's fine. Thanks.

2 Q. Does looking at the transcript refresh your  
3 recollection that you had said that to Mr. Cohen in March of  
4 2018?

5 A. Yes.

6 Q. And you use the word "leverage," correct?

7 A. Yes.

8 Q. And that was Ms. Daniels' goal, was it not, to create  
9 leverage over President Trump?

10 A. No.

11 Q. Do you recall saying during that same conversation,  
12 "If someone like Larry Flynt or someone else comes in and says,  
13 I will give you 1 million dollars, but first you got to get out  
14 of the agreement, hypothetically speaking."

15 Do you recall saying that to Mr. Cohen on March 7,  
16 2018?

17 A. Yes.

18 Q. That was a reference to Larry Flynt?

19 A. Yes.

20 Q. Who made the offer to Ms. Daniels, right?

21 A. Yes.

22 Q. Does that refresh your recollection that this entire  
23 conversation is about Ms. Daniels?

24 A. Yes. But I think you are grossly mistaken about it.

25 Q. There is no question pending.

1 MR. STEINGLASS: Objection.

2 I would ask that the witness be allowed to answer.

3 THE COURT: You can go ahead and answer the  
4 question.

5 A. I think you are grossly mistaken about the date. This  
6 is years after the settlement, and this is talking about a  
7 potential breach, where Larry Flynt had offered to give Ms.  
8 Daniels 1 million dollars plus indemnify her from any legal  
9 costs because she wanted to get out of the Settlement Agreement  
10 that she had entered into two years before.

11 Q. Which is shorthand for "settler's remorse," correct,  
12 which was your phrase?

13 A. That's true.

14 Q. Now, at some point, Ms. Daniels got new counsel, right?

15 A. Yes.

16 Q. Michael Avenatti?

17 A. True.

18 Q. And Gina Rodriguez continued to work with Ms. Daniels  
19 in that timeframe, right?

20 A. For a period.

21 Q. So for some period of time Ms. Daniels' legal  
22 representation was Mr. Avenatti, assisted in that agent capacity  
23 that we talked about by Gina Rodriguez?

24 A. For some period of time.

25 Q. And, certainly, that was the case in, let's say, the

1 second-third of 2018?

2 A. I don't know. It's my recollection that Miss  
3 Rodriguez's tenure did not last for very long once Mr. Avennati  
4 came in.

5 Q. Do you recall saying to Michael Cohen, "Avennati has  
6 really driven a wedge, a serious between Stormy and Gina.  
7 Avennati is leaning on Gina, saying, you know, basically, we  
8 know we're lying. We know we're full of shit in the media. We  
9 know that she was never threatened in Las Vegas. We know all  
10 these things."

11 Do you recall saying that to Mr. Cohen?

12 A. That sounds like something I recall.

13 Q. Yes or no; do you recall saying that to Mr. Cohen?

14 A. I don't doubt I said that. I don't have a specific  
15 recollection of that quote.

16 Q. That's fair.

17 MR. BOVE: We'll listen it. You can put the  
18 headphones back on, please.

19 I am going to ask Mr. Bernik to play Defense F17C,  
20 which corresponds to the transcript.

21 (Whereupon, the witness, using the headphones,  
22 played the audio recording.)

23 Q. Does that refresh your recollection that you did say  
24 those things to Michael Cohen on April 4th of 2018?

25 A. Yes.

1 Q. That was your voice on Defense Exhibit F17C?

2 A. Yes.

3 Q. In that same timeframe, April 2018, you did some public  
4 interviews, right?

5 A. Yes.

6 Q. I believe CNN?

7 A. I believe so.

8 Q. You talked with Michael Cohen about the questions and  
9 answers during the interviews, right?

10 A. Can you rephrase your question, please?

11 Q. Did you speak to Michael Cohen about your CNN  
12 interviews?

13 A. Yes.

14 Q. Do you recall saying this to Michael Cohen about one of  
15 the interviews:

16 "The \$130,000, was there ever any indication that the  
17 money was coming from --"

18 Answer is "No."

19 "Was there ever any indication that Michael Cohen  
20 needed authority from Donald Trump before he made that payment?"

21 And I said: "No, it was never discussed."

22 Do you recall saying that to Michael Cohen?

23 A. Vaguely.

24 Q. Go back to the headphones.

25 A. It's fine.

1 Q. I appreciate it.

2 MR. BOVE: Let me state it for the record. We're  
3 now going to play Defense F17A, with the corresponding  
4 transcript is dash 18.

5 (Whereupon, audio recording was played for the  
6 witness and Court only.)

7 A. I think the wrong transcript is up.

8 (Displayed.)

9 Q. Please stop that there.

10 Does that refresh your recollection that you said to  
11 Mr. Cohen: "Was there ever any indication that Michael Cohen  
12 needed authority from Donald Trump before he made that payment?  
13 And I said, No, it was never discussed."

14 You said that, right?

15 A. That's true.

16 Q. You also in that conversation with Michael Cohen said  
17 "And why would an attorney have ever asked opposing counsel what  
18 kind of conversations they had with their client."

19 You said that, right?

20 A. Yes.

21 Q. And you believed that, right?

22 A. Yes.

23 Q. And the same way you invoked the privilege here,  
24 correct?

25 A. Yes.

1 Q. And Michael Cohen didn't breach any privilege in  
2 talking to you about the Stormy Daniels negotiations, did he?

3 A. Not that I am aware of.

4 Q. And in that conversation later, did you or did you not  
5 say: "Look, it's the truth, Michael, you know that, but I think  
6 that you and I both want the truth out there?"

7 A. Yes.

8 Q. You said that, right?

9 A. Yes.

10 Q. In this timeframe, around the time of the CNN  
11 interviews, April 2018, do you recall speaking with Michael  
12 Cohen about Gina Rodriguez and Mr. Kotsev?

13 A. No.

14 Q. Do you recall saying to Mr. Cohen, "Gina Rodriguez's  
15 boyfriend goes out in the media and tells the story that Stormy  
16 Daniels, you know, in the weeks prior to the election was  
17 basically yelling and screaming and calling me a pussy."

18 Do you recall saying that to Mr. Cohen?

19 A. I don't.

20 MR. BOVE: So if we could bring up the transcript  
21 on the screen, please. Defense Exhibit F17-ET, and play  
22 the corresponding audio, Defense F17E, please.

23 (Whereupon, the witness, using the headphones,  
24 played audio.)

25 Q. Does that refresh your recollection that you said that

1 to Michael Cohen around the time of the CNN interview?

2 A. I don't know what date the CNN interview was, but I  
3 said it on April 4th.

4 Q. Do you recall also saying to Mr. Cohen, "I wouldn't be  
5 the least bit surprised if he comes out and says, you know what,  
6 Stormy Daniels, she wanted this money more than you could ever  
7 imagine. I remember hearing her on the phone saying: You  
8 fucking, Keith Davidson, you better settle this God damn story  
9 because if he loses this election, and he is going to lose, if  
10 he loses this election, we all lose all fucking leverage. This  
11 case is worth zero."

12 Do you recall saying that to Mr. Cohen?

13 A. I do.

14 Q. Do you remember at the beginning of my questions when I  
15 asked about whether the election was used as a leverage point in  
16 connection with the Stormy Daniels negotiations?

17 A. I do.

18 Q. I would like you to take a look at the agreement that  
19 you negotiated on behalf of Ms. Daniels. People's 26 in  
20 evidence.

21 This could be for everyone.

22 From your perspective, this is a legal document?

23 A. Yes.

24 Q. The type of Settlement Agreement that you've negotiated  
25 many times over the course of your career, correct?

1 A. That's fair.

2 Q. You've negotiated nondisclosure provisions?

3 A. Yes.

4 Q. And you did that here on behalf of Stormy Daniels as an  
5 attorney, correct?

6 A. Yes. Yes.

7 Q. There isn't fake language designed to hide something,  
8 right?

9 A. I don't know. It's a very long document. It's not  
10 fake language.

11 Q. It has copyright provisions, right?

12 A. A Transfer of Copyright.

13 Q. I don't know what that means, honestly.

14 It's a serious legal part of this agreement, right?

15 A. Yes.

16 Q. So if we can take a look at Bates ending 021.

17 This is the Copyright Transfer, right?

18 A. Yes.

19 Q. You have used similar documents like this before,  
20 right?

21 A. Yes.

22 Q. In the course of your practice on behalf of other  
23 clients, right?

24 A. Yes.

25 Q. You did that here because you were trying to help Ms.

1 Daniels negotiate an agreement, right?

2 A. This was the agreement, yes.

3 Q. And these are valid terms from your perspective,  
4 right?

5 A. Yes.

6 Q. As is the rest of the agreement?

7 A. I believe so.

8 MR. BOVE: If we could look at the Bates ending  
9 020, please.

10 (Displayed.)

11 Q. This is the signature page, right?

12 A. Yes.

13 MR. BOVE: And can we zoom in on the signature,  
14 please.

15 (Displayed.)

16 Q. And I think you said Mr. Cohen signed at the bottom,  
17 right?

18 A. Yes.

19 Q. There is an Esquire by his name?

20 A. Yes.

21 Q. From your perspective, he signed this agreement as an  
22 attorney, correct?

23 A. Yes.

24 Q. There is a blank for David Dennison?

25 A. Yes.

1 Q. You don't know one way or the other what happened with  
2 this agreement after you sent it to Michael Cohen?

3 A. I do not.

4 Q. It's unsigned here, correct?

5 A. True.

6 MR. BOVE: If we can take that down and look at  
7 Bait's 017.

8 (Displayed.)

9 Q. This is another signature page, correct?

10 A. What was the last page, Page 15?

11 Q. We'll back up one page, please.

12 A. It's just a continuation of the signature block.

13 Q. Look at 017 -- 016. This is the end part of the main  
14 agreement?

15 A. Yes.

16 Q. Now, go back to the signature page, 017.

17 A. It's blank here as well in the DD space, right?

18 Q. Yes?

19 A. Yes.

20 Q. That's the initials for David Dennison?

21 A. Yes.

22 Q. This is a practice that you used before, using initials  
23 in the main body of the agreement?

24 A. It's common.

25 Q. You even used it with Hulk Hogan, right?

1 A. I believe so.

2 Q. This is unsigned, correct?

3 A. Yes.

4 Q. You don't know one way or the other whether it was  
5 signed by DD?

6 A. By DD; yes.

7 MR. BOVE: I have nothing.

8 Any redirect?

9 MR. STEINGLASS: Can I have five minutes?

10 THE COURT: Are you asking for five minutes?

11 MR. STEINGLASS: Yes.

12 THE COURT: All right, jurors, let's take five  
13 minutes.

14 (Jury leaving court courtroom.)

15 THE COURT: You may be seated.

16 Thank you, sir.

17 You can step down.

18 (Witness leaving courtroom.)

19 \*\*\*

20 (Recess.)

21

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23 (T. Magniccari relieved by  
24 L. Eisenberg as Court Reporter.)

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(Whereupon, a recess is taken.)

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COURT OFFICER: Come to Order. Part 59 is back in session.

THE COURT: Mr. Steinglass, are you ready?

MR. STEINGLASS: Yes, Judge.

Thank you for the opportunity.

THE COURT: Let's get the witness, please.

COURT OFFICER: Witness entering.

(Whereupon, the witness, Keith Davidson, having been previously duly sworn and/or affirmed, resumes the witness stand.)

COURT OFFICER: Jury entering.

(Whereupon, the jurors and the alternate jurors are present and properly seated.)

THE CLERK: Case on trial continues.

All parties are present.

Appearances remain the same.

Jury is present and properly seated.

THE COURT: Mr. Steinglass.

MR. STEINGLASS: Thank you.

Thank you for that, as well.

REDIRECT EXAMINATION

BY MR. STEINGLASS:

Q Hello, Mr. Davidson.

1 A Hello.

2 Q On cross-examination, Mr. Bove asked you several  
3 questions about a recorded conversation that you had with  
4 Michael Cohen on April 4th of 2018.

5 Do you remember that?

6 A Yes.

7 Q And, at the time, as of April 4th of 2018, had Stormy  
8 Daniels hired Michael Avenatti?

9 A I believe so.

10 Q And was Michael Avenatti suing you and Michael Cohen  
11 at the time --

12 A Yes.

13 Q -- that you had this conversation with Michael Cohen?

14 A Yes.

15 Q Would you like me to put or hand you copies of some of  
16 the transcript segments that Mr. Bove showed you?

17 A Yes, please.

18 Q I'm going to hand you Defendant's F17-CT and  
19 Defendant's F17-ET.

20 MS. HOFFINGER: AT.

21 MR. STEINGLASS: Dash ET.

22 (Whereupon, the documents are shown to the  
23 defense and then shown to the witness.)

24 THE WITNESS: Thanks.

25 Q You have them?

1 A Yes.

2 Q Okay.

3 So, let's start with F17-CT.

4 Mr. Bove asked you if you said to Michael Cohen: "And now  
5 that Avenatti has really driven a wedge, a serious wedge in  
6 between Stormy and Gina, Avenatti is leaning on Gina and  
7 saying, you know, basically we're lying, we know we're full of  
8 shit in the media, we know that she was never threatened in Las  
9 Vegas, we know all these things."

10 What did you mean when you said that?

11 A I meant that, uh, that Avenatti was trying to, uh,  
12 persuade Gina's testimony.

13 Q So, were you in any way acknowledging that you were  
14 lying?

15 A No.

16 Q Were you in any way acknowledging that Stormy Daniels  
17 was never threatened in Las Vegas?

18 A No.

19 Q Is it your belief that -- or is it your meaning that  
20 when you said that, you were talking about the things that  
21 Avenatti was going to allege or was alleging?

22 A That's correct.

23 Q Similarly, Mr. Bove showed you, or read you, or played  
24 for you, or all of the above, a portion of the same call and  
25 gave you the transcript F17-ET.

1 Can you take a look at that one, please?

2 A Yes.

3 Q And he asked you if you said: "I wouldn't be the least  
4 bit surprised if he comes out and says" -- let me just stop  
5 myself for one second to ask, who is "he" in that?

6 A Anthony Kotsev.

7 Q Okay.

8 "I wouldn't be surprised if he comes out and says: You know  
9 what, Stormy Daniels, she wanted this money more than you could  
10 ever imagine. I remember hearing her on the phone saying, you,  
11 fucking Keith Davidson, you better settle this goddamn story  
12 because if he loses this election, and he's going to lose, if  
13 he loses this election, then we lose all fucking leverage and  
14 this case is worth zero."

15 Mr. Bove asked you if you were discussing the Stormy  
16 Daniels case when you said these things to Michael Cohen?

17 A Yes.

18 Q Are you at all saying that Stormy Daniels said those  
19 things?

20 A It was my understanding at the time that -- that this  
21 was April 4th, and that Anthony Kotsev was about to give a  
22 media interview, in sum and substance, in alignment with this  
23 text.

24 Q Just to be very clear, you were not telling Michael  
25 Cohen that Stormy Daniels was talking about the election and

1 how she's gonna lose her leverage after the election; it was  
2 your understanding that those were things that Anthony Kotsev  
3 was going to say?

4 A Correct.

5 Q You testified on direct examination that you had an  
6 opportunity to review documents and exhibits that were  
7 contained on a thumb drive.

8 Do you remember that?

9 A Yes.

10 Q Did you have a chance to listen to another recorded  
11 conversation from October 16, 2017 between yourself and Michael  
12 Cohen that has been marked for identification as People's  
13 Exhibit 265?

14 A Yes.

15 Q Do you know who made that recording?

16 A Michael Cohen surreptitiously made the recording.

17 Q When you say "surreptitiously", did that mean you did  
18 not know you were being recorded?

19 A I did not know I was being recorded.

20 Q Does that fairly and accurately depict a conversation  
21 that you had with Michael Cohen on October 16, 2017?

22 A Yes.

23 MR. STEINGLASS: I offer it into evidence.

24 MR. BOVE: No objection.

25 THE COURT: Accepted into evidence.

1 (Whereupon, the exhibit is received in evidence.)

2 Q Similarly, did you also have the opportunity to review  
3 what has been marked for identification as People's  
4 Exhibit 267?

5 A Yes.

6 Q Is that a transcript of the recorded phone  
7 conversation that we just admitted as People's Exhibit 265?

8 A Yes.

9 Q Have you compared the transcript to the recording  
10 itself?

11 A I have.

12 Q Is it accurate?

13 A Yes.

14 MR. STEINGLASS: I offer that into evidence.

15 MR. BOVE: Can I have one moment to confer with  
16 Mr. Steinglass?

17 THE COURT: Yes.

18 (Whereupon, Counsel confer.)

19 MR. BOVE: No objection.

20 Thank you, Judge.

21 THE COURT: People's 267 is accepted into  
22 evidence.

23 (Whereupon, the exhibit is received in evidence.)

24 MR. STEINGLASS: What I would like to do, please,  
25 is display People's 267, Pages 10 to 11, while I'm playing

1 a portion of 265, from 11 minutes and 13 seconds into the  
2 call through 13 minutes and 33 seconds into the call.

3 And we can display this to everyone, please.

4 (Whereupon, the audio exhibit is played in open  
5 court and the exhibit is shown on the screens.)

6 Q So, the portions of that tape that are attributed to  
7 "Keith", is that your voice?

8 A Yes.

9 Q And the portions of the tape that are attributed to  
10 "Michael", is that Michael Cohen's voice?

11 A Yes.

12 Q I want to blow up a particular paragraph here at the  
13 top of Page 11.

14 Do you see the paragraph we're blowing up?

15 A Yes.

16 Q When Mr. Cohen said to you, "I can't even tell you how  
17 many times he said to me," who did you understand "he" to be a  
18 reference to?

19 A Mr. Trump.

20 Q And what did you understand, "I hate the fact that we  
21 did it," attributed to Mr. Trump, to be a reference to?

22 A I attributed that to be a quote from Mr. Trump.

23 Q About what? "Did" what?

24 A The Stormy Daniels settlement.

25 MR. STEINGLASS: One minute, please.

1 (Whereupon, the People confer.)

2 MR. STEINGLASS: No further questions.

3 THE COURT: Thank you.

4 Mr. Bove, anything else?

5 MR. BOVE: Yes, please.

6 RECROSS EXAMINATION

7 BY MR. BOVE:

8 Q Mr. Davidson, you don't know the day of that  
9 recording; do you?

10 A Not offhand.

11 Q And, so, when you're interpreting words of Michael  
12 Cohen, without understanding the date, you don't know what  
13 conversations had taken place by that time between you and  
14 Mr. Cohen; do you?

15 A I don't understand your question.

16 Q You have no frame of reference for when that was said  
17 in the context of all the other events that you testified about  
18 today; right?

19 A No, I have a pretty good understanding of the context.

20 Q My question is not the date, sir.

21 You don't know when the conversation occurred, as you sit  
22 here; do you?

23 A Not offhand.

24 Q And you were asked questions by Mr. Steinglass about  
25 the recordings that you and I discussed; right?

1 A Yes.

2 Q And those are recordings that had your voice; correct?

3 A True.

4 Q And Mr. Cohen's voice; correct?

5 A True.

6 Q And the transcripts were accurate, and you followed  
7 along with those; right?

8 A Yes.

9 MR. BOVE: The defense offers F15-A and the  
10 corresponding transcript, F17-A and the corresponding  
11 transcript, F17-C and the corresponding transcript, F17-E  
12 and the corresponding transcript.

13 THE COURT: Any objection?

14 MR. STEINGLASS: No objection.

15 THE COURT: Accepted into evidence.

16 (Whereupon, the aforementioned Defense Exhibits  
17 are received in evidence.)

18 MR. BOVE: Mr. Bernick, let's start with F15-AT  
19 on the screen. This is in evidence, so the jury can see  
20 it.

21 (Whereupon, an exhibit is shown on the screens.)

22 MR. BOVE: And you can play the corresponding  
23 call, please.

24 (Whereupon, an audio exhibit plays in open  
25 court.)

1 MR. BOVE: Now I'd like to publish to the jury  
2 F17-CT, that's the transcript, and play the corresponding  
3 audio, F17-C.

4 (Whereupon, the exhibit is shown on the screens  
5 and the audio exhibit plays in open court.)

6 MR. BOVE: Now, if we could please publish  
7 F17-AT.

8 (Whereupon, an exhibit is shown on the screens.)

9 MR. BOVE: And please play the corresponding  
10 audio.

11 (Whereupon, an audio exhibit is played in open  
12 court.)

13 MR. BOVE: If we can, please, now publish the  
14 last Defense Exhibit, F17-ET.

15 (Whereupon, an exhibit is shown on the screens.)

16 MR. BOVE: Zoom in on the text, please, and then  
17 play the corresponding audio.

18 (Whereupon, an audio exhibit is played.)

19 Q Am I understanding you correctly in saying that you  
20 believe that statements that Stormy Daniels made to you about  
21 using the election as leverage are subject to attorney-client  
22 privilege?

23 MR. STEINGLASS: Objection.

24 THE COURT: Sustained.

25 Q The agreement that you signed in connection with the

1 Stormy Daniels settlement used the initials DD; right?

2 A Yes.

3 Q That was in a decoded Side Letter, was in connection  
4 with President Trump; correct?

5 A Yes.

6 Q A man you've never talked to; correct?

7 A Correct.

8 MR. STEINGLASS: Objection.

9 THE COURT: Overruled.

10 Q And a man you've never been in the same room with  
11 before Tuesday; is that correct?

12 A Yes.

13 MR. BOVE: I have no further questions.

14 THE COURT: Anything else?

15 MR. STEINGLASS: No thank you, Judge.

16 THE COURT: You can step down.

17 (Whereupon, the witness is excused.)

18 THE COURT: People, call your next witness.

19 MR. CONROY: At this time, the People call Doug  
20 Daus.

21 COURT OFFICER: Witness entering.

22 D O U G L A S D A U S, having first been duly sworn and/or  
23 affirmed by the court clerk, was examined and testified as  
24 follows:

25 COURT OFFICER: State your full name, spelling

1 your last name.

2 THE WITNESS: Douglas Daus. D-A-U-S.

3 COURT OFFICER: Your county of residence?

4 THE WITNESS: Westchester County.

5 THE COURT: Good afternoon.

6 You may inquire.

7 MR. CONROY: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY MR. CONROY:

10 Q Where do you work?

11 A I work for the New York County District Attorney's  
12 Office.

13 Q How long have you worked in the District Attorney's  
14 Office?

15 A It will be ten years in July.

16 Q Where do you work in the DA's Office?

17 A HTAU. High Technology Analysis Unit.

18 Q What does HTAU do?

19 A Process all types of digital evidence that comes  
20 through our Lab to this Office. We take extractions from this  
21 type of evidence and produce reports for them.

22 Q How long have you worked at HTAU?

23 A It will be ten years in July.

24 Q Can you tell us a little bit about your educational  
25 background?

1           A     I have a degree in psychology.

2           I've been in this field a number of -- 20 years. I have a  
3 number of industry standards, as well.

4           Q     Can you tell us about some of your certifications?

5           A     Certainly. One is a CCME, a Cellebrite Certified  
6 Mobile Examiner. Another one would be a Certified Computer  
7 Examiner.

8           Q     Where did you receive that training?

9           A     That training has been over the years that I've been  
10 accompanied with this type of job. It comes from the company  
11 itself. For Cellebrite, the other certification happens to be  
12 an internal body of trainees and trainers.

13          Q     Can you tell us about your experience in the field and  
14 your work history?

15          A     Certainly. So, before the ten years here, I worked two  
16 years for Guidance Software. It was a company that created  
17 EnCase. It's software that does forensics.

18          Two years prior to that, I was embedded in the military in  
19 Iraq, doing the same type of work here.

20          Q     When were you in Iraq?

21          A     From April -- end of April '09 to when we closed, in  
22 November of 2011.

23          Q     And what were you doing over there?

24          A     Same type of work here.

25          Q     What's your current role in HTAU?

1           A     I'm a Supervising Computer Forensic Analyst.

2           Q     Can you just give a brief description of what computer  
3 and phone forensics means?

4           A     It means that when we get a device that is a computer  
5 or phone, we then process that device. At that moment, we take  
6 a digital copy of the entire evidence, preserve it, and then  
7 work with that copy to perform an analysis of those devices.

8           Q     Can you describe your day-to-day responsibilities as a  
9 supervising analyst in HTAU?

10          A     Besides the daily supervision of the Lab, keeping up  
11 with technology, software, hardware, I am also an analyst. So,  
12 any type of cases that come my way, I may also perform the  
13 extractions and produce reports for them.

14          Q     What kinds of devices do you analyze on a day-to-day  
15 basis?

16          A     Cell phones, primarily. It could be computers, as  
17 well, thumb drives, iCloud accounts. Actually, anything that  
18 would contain digital media.

19          Q     In the time you've been in HTAU, about how many  
20 devices have you analyzed?

21          A     Here, as of today, 3,392.

22          Q     Approximately?

23          A     Approximately.

24          Q     How many of those are phones?

25          A     Anywhere from 80 to 90 percent are phones.

1 Q So, thousands of phones?

2 A Yes.

3 Q Does HTAU have a standard intake procedure for when  
4 the Unit receives digital evidence?

5 A We do.

6 Q Can you describe that intake procedure that HTAU uses?

7 A So, once an intake email is set up from the attorneys  
8 to our Department, typically, devices will come either pursuant  
9 to a Search Warrant or a Consent Form. Those devices then come  
10 to our office. We will examine them, take pictures of them,  
11 label them, keep records of those licenses, and then produce  
12 Chain of Custody Forms, and then begin the extractions and  
13 analysis.

14 Q Would it be routine to -- for the person doing intake  
15 to know what authority HTAU has to do the search of the device?

16 A We don't do any devices without such.

17 Q That's where you mentioned Search Warrant or Consent?

18 A That is correct.

19 Q Briefly, what is a Search Warrant?

20 A A Search Warrant is authority from a judge that signs,  
21 that allows us to examine the devices obtained for our Search  
22 Warrant.

23 Q What is Consent?

24 A Consent, just simply, the owner of the device consents  
25 to the examination of the device.

1 Q Once the intake has been done, what happens to the  
2 device?

3 A Once the intake is done, it is assigned an analyst. In  
4 this case, it would have been me. We then look at the Search  
5 Warrant or Consent Form, make sure all the numbers are correct,  
6 and then proceed with the extraction of devices.

7 Q Would it be fair to say that the person who does the  
8 intake is not always the person that does the analysis of a  
9 particular device?

10 A Not always, that's correct.

11 Q Have you, yourself, extracted data from and performed  
12 analysis on smart phones, including Apple iPhones?

13 A Yes, I have.

14 Q Can you tell us a little bit more about the extraction  
15 process, specifically for a cell phone?

16 A Depending upon whether it's an Android or an Apple  
17 iPhone, we then take it into a particular room. If we have a  
18 PIN code to it, then we'll proceed with the extraction of the  
19 device.

20 Q When you say, "If we have a PIN code," what do you  
21 mean?

22 A In Consents, we are usually provided the PIN code.

23 Q You mean the password?

24 A That is correct.

25 Q What types of tools or programs do you use to extract

1 data from smart phones or cell phones?

2 A As mentioned before, Cellebrite is one of them.  
3 Graykey is another one.

4 Q What do those tools do when they're extracting  
5 information from the phone? What does it extract?

6 A It extracts the entire content of the device and puts  
7 it in a format that's readable by the format itself.

8 Q When you say "content of the device", is that data?

9 A That is all the data on those devices.

10 Q How do you read that data once its been extracted?

11 A We use, again, the software called Cellebrite to then  
12 take the contents of those devices and put it into a meaningful  
13 format.

14 Q Once it's in that format, what kinds of things can you  
15 look at from the extraction?

16 A Anything that you would normally see on the device,  
17 your call history, your contacts, your text messages, videos,  
18 pictures and such.

19 Q In that process, is any of the data on the phone  
20 changed in any way?

21 A We're dealing with a live phone, so perhaps some  
22 things in the background like software. But, for all intents  
23 and purposes, things do not change.

24 Q Can -- withdrawn.

25 What kinds of data, specifically, can be extracted from a

1 smart phone?

2 A Um, text messages, all types of software, call  
3 history, log files, anything that is normally on a phone.

4 Q Can you get contact lists?

5 A You can.

6 Q Pictures?

7 A Pictures.

8 Q Calendar entries?

9 A Calendar entries.

10 Q Audio recordings?

11 A Audios.

12 Q Can you pull the phone number associated with the  
13 smart phone?

14 A Absolutely.

15 Q The user name?

16 A The user name.

17 Q Can you get emails?

18 A You can.

19 Q And can you get downloaded apps?

20 A Yes, you may.

21 Q Can you also get something called metadata?

22 A You can.

23 Q Can you tell us a little about what metadata is?

24 A Simply, metadata is data about data.

25 To give an analogy, let's say you look at a book. Before

1 you open it up, you may see the title of it, maybe the author,  
2 but you don't know who published it, who wrote it and when it  
3 was done. You would simply open up the book cover, and that's  
4 the information that would be considered metadata.

5 Q How is that metadata on the phone created?

6 A It's created by the year and/or the operating system  
7 itself and applications.

8 Q And does that depend on what kind of metadata it is?

9 A It just depends on the artifact.

10 Q As part of your work in HTAU, were you assigned to an  
11 investigation involving Donald Trump?

12 A I was.

13 Q Were you assigned to two devices to analyze as part of  
14 that investigation?

15 A Yes, I was.

16 Q What kinds of devices?

17 A There are two iPhones. The first one is a iPhone 6s,  
18 and the second one is an iPhone 7.

19 Q Did you understand the authority that HTAU had to be  
20 in possession and look at those two phones?

21 A As mentioned before, it was a Consent.

22 Q And whose Consent, if you know?

23 A The Consent was Michael Cohen.

24 Q And do you know whose phones those were?

25 A They were Michael Cohen's.

1 Q Did one of the phones that you received have a gold  
2 case?

3 A It did.

4 Q Was that the 6s?

5 A That was.

6 Q Did you assign an identifier to that phone to use  
7 within HTAU?

8 A I did.

9 Q What was the identifier?

10 A CP-0001.

11 "CP" stands for cell phone.

12 Q Is that sort of a standard practice in a particular  
13 case, you would name any phone CP-001 through any phones?

14 A That's correct.

15 Q Is that okay if I call that "CP1" going forward?

16 A Yes.

17 Q Do you recall the last four digits of the phone number  
18 for that phone?

19 A 0114.

20 Q Did you note the serial number of that phone?

21 A I did.

22 I don't recall it.

23 Q Is there something that could refresh your  
24 recollection?

25 A Notes would, yes.

1 MR. CONROY: Just for the parties and the Court  
2 and the witness, could we display those notes?

3 THE COURT: Is there an identification of it?  
4 Mark it for identification.

5 MR. CONROY: We could mark that as People's --  
6 just one moment, Judge.

7 (Whereupon, the People confer.)

8 MR. CONROY: If we could mark that as People's  
9 511-A.

10 THE COURT: Thank you.

11 (Whereupon, the exhibit is shown on the witness'  
12 screen and on the parties' screens.)

13 Q Mr. Daus, take a look at that.

14 Does that refresh your memory what the serial number for  
15 the phone is?

16 A Yes, it does.

17 Q Tell us what it was.

18 A Delta, November, Papa, Quebec, Charlie, Zero, Hotel,  
19 One, Golf, Ralph, Yellow, and Three.

20 Q And if I may to put that into the regular alphabet, is  
21 that DNPQC0H1GRY3?

22 A That is correct.

23 Q Did the other phone that you received have a black  
24 case?

25 A It did.

1 Q Was that the iPhone 7?

2 A It was.

3 Q Was an identifier assigned to this phone?

4 A It was.

5 Q What was that?

6 A CP-0002.

7 Q Is that okay if I refer to that as "CP2" going  
8 forward?

9 A Yes.

10 Q Do you remember the last four digits of the phone  
11 number for that phone?

12 A 6866.

13 Q Again, do you remember the serial number for that  
14 phone?

15 A I do not.

16 MR. CONROY: If we could pull up what I would deem  
17 marked People's 15 -- People's 511-B, just for the parties  
18 and the witness.

19 (Whereupon, the exhibit is shown on the witness'  
20 screen and on the parties' screens.)

21 Q Take a look at that, and tell us if it refreshes your  
22 recollection.

23 A It does.

24 Q What was the serial number?

25 A F18T2PHHG7K.

1 Q Thank you.

2 MR. CONROY: You can take that down.

3 Q When you received the phones to forensically examine,  
4 do you recall if CP1 and CP2 were powered on or powered off?

5 A They were off.

6 Q Did each of these two devices go through the intake  
7 process, as you just described for us?

8 A Yes, they did.

9 Q Did you do the intake yourself?

10 A I did not.

11 Q Once you were assigned the phones, what did you do  
12 with them?

13 A Once I received the phones, I kind of mentioned  
14 before, I take them to what's called our F Room, our Faraday  
15 Room. F-A-R-A-D-A-Y. It's a room that separates the room from  
16 outside sources so there's no interference.

17 We'll then plug that into a device, hardware device, and  
18 then proceed, after given the passcode, to extract the data  
19 from the device.

20 Q Once you did all of that, did you end up with a full  
21 forensic extraction on each of the data on CP1 and CP2?

22 A It was a full extraction.

23 Q We talked a little about this. In layman's terms,  
24 could you explain for the members of the jury what "full  
25 forensic extraction" means?

1           A     It's just an extraction from the beginning of the  
2 storage device to the end of it, meaning it captures all the  
3 data.

4                     MR. CONROY:  If I could hand the witness a thumb  
5 drive that contains People's Exhibits 246 to 266.

6                     (Whereupon, the thumb drive is given to the  
7 witness.)

8           Q     Mr. Daus, before testifying here today, did you have a  
9 chance to review each of these exhibits that are marked as  
10 People's 246 to 266 on the thumb drive?

11          A     I did.

12          Q     Is that the same thumb drive that you reviewed?

13          A     Yes, it is.

14          Q     How do you know that?

15          A     I dated it and initialed it after examining it.

16          Q     Are all of the exhibits on the thumb drive, except for  
17 People's 248 which we'll come back to, an exact copy of  
18 portions of data forensically extracted from either CP1 or CP2?

19          A     Yes, they are.

20                     MR. CONROY:  This thumb drive, for the record, I  
21 will note, contains People's 255 and People's 266, which  
22 are already in evidence.

23                     One moment.

24                     (Whereupon, the People confer.)

25                     MR. CONROY:  I'm sorry.  It's 255 and 265, which

1           are both already in evidence.

2           Q     Mr. Daus, when you reviewed those exhibits, did you  
3 see redactions in many of the exhibits?

4           A     Yes, I did.

5           Q     Did you, as you were looking at the exhibit on the  
6 thumb drive, look at both an unredacted and redacted copy of  
7 each of the exhibits?

8           A     Yes, I did.

9           Q     Where there were redactions, were the exhibits, but  
10 for the redactions, the same as the corresponding exhibit  
11 without redactions?

12          A     Yes, they were.

13          Q     What kinds of information was redacted on the exhibits  
14 that you were looking at with redactions?

15          A     The parties' names.

16          Q     Was it, primarily, personal identifying information,  
17 names, email addresses, phone numbers, that kind of thing?

18          A     Yes, it was.

19          Q     Did you review each of these exhibits, except for  
20 Exhibit 248, against the data that you forensically extracted  
21 from either CP1 or CP2, depending which it came from, to make  
22 sure that each of the exhibits contained exact copies of the  
23 portions of data that you extracted from each of the phones?

24          A     Yes, I did.

25          Q     Other than People's 248, do People's Exhibits 246 to

1 266 contain exact copies of data extracted from CP1 or CP2?

2 A Yes, they do.

3 MR. CONROY: Judge, at this time I'd like to  
4 offer as -- into evidence People's 246, 247, 249 to 254,  
5 256 to 264, and 266.

6 THE COURT: Any objections?

7 MR. BOVE: No, your Honor.

8 THE COURT: Accepted into evidence.

9 (Whereupon, the aforementioned exhibits are  
10 received in evidence.)

11 Q Now, I want to, first, talk about the group exhibits,  
12 numbers 249 to 251, 255, which was already in evidence, 257 to  
13 260, and 262.

14 Are each of those Cellebrite reports created from the  
15 extraction that you did on CP1?

16 A Yes, they are.

17 Q And are they all text messages with Michael Cohen as  
18 one of the parties; and with respect to each of the exhibits,  
19 are different parties corresponding with Michael Cohen?

20 A Yes, they are.

21 Q I would like to pull up an example just to go through  
22 what a report looks like.

23 MR. CONROY: You can pull this up for everybody.  
24 You can pull up People's 259.

25 (Whereupon, an exhibit is shown on the screens.)

1 Q If you look at those, who are those texts between?

2 A The parties would be the owner of the phone, Michael  
3 Cohen, and Hope Hicks.

4 Q And can you tell us the last four digits of Hope  
5 Hicks' phone number?

6 A 0226.

7 Q Now, could you just tell us a little bit about each of  
8 the columns that's blown up there?

9 First of all, is this format what you would see in one of  
10 the Cellebrite Reports that you were talking about earlier?

11 A Yes, it is.

12 Q So, this was data extracted from the phone and then  
13 put into a Cellebrite Report?

14 A That's correct.

15 Q Can you tell us about each of the columns, the header  
16 columns on this exhibit?

17 A Certainly.

18 The first one is self-explanatory, the date, your next  
19 column is the time, then the parties. The description is the  
20 content of the message. And the source is just what particular  
21 artifact it came from, being the native messaging app.

22 Q Okay.

23 That's sort of where the data lived on the phone?

24 A Yes.

25 Q When you say "description", that's the body of the

1 text?

2 A That's correct.

3 Q I want to talk a little bit about the time here.

4 In your work, have you become familiar with different time  
5 zones and how timestamps work on different phones and other  
6 devices?

7 A Yes, I have.

8 Q Are you familiar with UTC?

9 A Yes.

10 Q What is UTC?

11 A Universal Time Coordinated. Basically stands for the  
12 old way of weighing time. GMT, Greenwich Mean Time.

13 We're on an Earth with 24 Time Zones, so one place starts  
14 with zero. There are a few zones that go around. New York here,  
15 we're either two different times, depending upon when it  
16 changes twice a year. So, it would be UTC minus 4 or UTC minus  
17 5.

18 Q Meaning, if the time up there says 7:09:12 P.M. UTC  
19 minus 4, what Time Zone is that time in?

20 A So, it's already converted to Eastern Standard Time,  
21 so it's 7:09 PM.

22 Q And you mentioned the time change either being UTC  
23 minus 4 or UTC minus 5.

24 Does that relate to Daylight Saving Time?

25 A Yes, it does.

1 MR. CONROY: If we could now pull up People's 263  
2 in evidence.

3 (Whereupon, an exhibit is shown on the screens.)

4 Q Is this a report of contacts from CP1?

5 A Yes, it is.

6 Q How many contacts were in -- on CP1?

7 A 39,745.

8 Q Is that unusual?

9 A That is unusual.

10 Q In what way?

11 A I've not seen contacts, that many being on a phone.

12 Q What would be a more -- what would be an average  
13 number of contacts that you would see when you do this kind of  
14 examination of a phone?

15 A Maybe hundreds.

16 Q Hundreds.

17 Maybe thousands?

18 A Thousands. A thousand, at the most.

19 Q Can we pull up a few examples of the contacts from the  
20 phone?

21 First, could we pull up -- this is three pages of contacts  
22 that were on CP1 for David Pecker.

23 (Whereupon, an exhibit is shown on the screens.)

24 Q Is that what that is?

25 A Yes.

1 Q Could we next pull up -- is this two pages of contacts  
2 for Hope Hicks?

3 MR. CONROY: The next one.

4 (Whereupon, an exhibit is shown on the screens.)

5 A Yes, it is.

6 Q Could we also look -- is this the next 12 pages of  
7 contacts for Allen Weisselberg?

8 A Yes, it is.

9 Q And, finally, could we pull up -- is this three pages  
10 of contacts for Donald Trump?

11 A Yes, it is.

12 Q New, if you recall, was this all the pages of accounts  
13 for Donald Trump?

14 A No.

15 Q Do you remember how many pages of contacts for Donald  
16 Trump were on CP1?

17 A I think there were ten.

18 Q We're not gonna pull up additional pages, but did the  
19 contacts on CP1 also include contacts for Dylan Howard?

20 A Yes.

21 Q Keith Davidson?

22 A Yes.

23 Q Keith Schiller?

24 A Yes.

25 Q Melania Trump?

1 A Yes.

2 Q Rhona Graff?

3 A Yes.

4 Q Jay Sekulow?

5 A Yes.

6 Q Larry Rosen?

7 A Yes.

8 Q Daniel Rotstein?

9 A Yes.

10 Q And Gary Farro?

11 A Yes.

12 MR. CONROY: Could we now quickly pull up what's  
13 in evidence as People's 264?

14 (Whereupon, an exhibit is shown on the screens.)

15 Q Is this the contacts from CP2?

16 A It is.

17 Q How many contacts were on this phone?

18 A 385.

19 Q Is that more what you're used to seeing?

20 A Yes.

21 MR. CONROY: If we could next pull up People's  
22 256.

23 (Whereupon, an exhibit is shown on the screens.)

24 Q Is this an example of emails that were pulled off of  
25 CP1?

1 A They are.

2 Q I, again, just want to kind of walk through for the  
3 jury the different columns that we see in -- is it okay if I  
4 call this a Cellebrite Report?

5 A Yes, you can.

6 Q Can you walk us through the headers of the columns and  
7 explain a little bit about what the information is in each  
8 column?

9 A Certainly.

10 There's the date, the time, which is also in -- posted by  
11 the date, the party, between the two parties sending and  
12 receiving emails, the description, and the source, just saying  
13 that it's from emails.

14 Q Who are the parties on this?

15 A From Patty to Michael Cohen.

16 Q What's Patty's email, the end of her email address?

17 A That's @Delaneycorporate.com.

18 Q Thanks.

19 MR. CONROY: If we could next pull up what's in  
20 evidence as People's 253.

21 (Whereupon, an exhibit is shown on the screen.)

22 Q Taking a look at People's 253, is this a photograph  
23 that you pulled up from CP1?

24 A It is.

25 Q Do you know who that is in that photograph?

1 A I do.

2 Q Who is that?

3 A That's Michael Cohen.

4 Q Have you ever met Michael Cohen?

5 A I haven't.

6 Q Sorry?

7 A I have not.

8 Sorry.

9 Q How do you know that that's him?

10 A I watch a lot of news.

11 Q And do you know, can you tell from looking at that,  
12 where that photograph was taken?

13 A Looks like the White House.

14 MR. CONROY: If we could now pull up what's in  
15 evidence as People's 252.

16 (Whereupon, an exhibit is shown on the screens.)

17 MR. CONROY: And if you could blow that up a  
18 little bit.

19 Thank you.

20 Q Mr. Daus, what is this?

21 A This is, as mentioned before, the metadata about that  
22 picture.

23 (Whereupon, Senior Court Reporter Lisa Kramsky  
24 relieves Senior Court Reporter Laurie Eisenberg, and the  
25 transcript continues on the following page.)

1 (The following proceedings are continued from the  
2 following page.)

3 \*\*\*\*\*

4 CONTINUED DIRECT EXAMINATION

5 BY MR. CONROY:

6 Q And can you tell us, what does that metadata tell us  
7 about that picture?

8 If you could sort of explain that as you walk through the  
9 columns?

10 A All right. So you have modified time, created time,  
11 access time.

12 They are all on February 8th of 2017 at approximately  
13 5:39 p.m.

14 Q Okay. And what does each of those things mean?

15 A It just means that those are the dates, the times that  
16 existed on that phone.

17 Q Okay. And does that mean that's when that photo was  
18 created?

19 A Yes.

20 Q Okay.

21 MR. CONROY: If we could now pull up what's in  
22 evidence as People's 254.

23 And if you could blow that up a little bit.

24 (Displayed.)

25 Q Is this a copy of a calendar invite?

1 A Yes, it is.

2 Q Again, a Cellebrite report?

3 A That's correct.

4 Q So this was extracted, this is part of your forensic  
5 extraction of the phone?

6 A Yes, it is.

7 Q What -- can you tell us again the date, and sort of  
8 walk us through the columns?

9 A As mentioned before, so date, time, and description,  
10 February 8th, 2017, at 4:30 p.m., Of a calendar event.

11 The description is called "Meeting with POTUS."

12 And, again, up there, can you tell us about the time zone,  
13 you see UTC minus five. Can you tell us what time zone this is  
14 in?

15 A Eastern Standard Time. This is before the time changes  
16 in March.

17 This is February, so that's why it's minus five.

18 MR. CONROY: Could we now look at People's 261 in  
19 evidence.

20 (Displayed.)

21 Q What is this report?

22 A It's another report of a call log from the What's App  
23 application that existed on the device.

24 Q What is a call log?

25 A A call log is just a log that identifies when calls

1 were made.

2 Q And you said it was from an app called "What's App?"

3 A That's correct.

4 Q What is What's App?

5 A What's App is an app, an encrypted app that users use  
6 to communicate with each other.

7 Q And you said -- what is an encrypted app?

8 A It just means that the conversation between you and the  
9 next party is encrypted.

10 It can't be intercepted and/or vetted.

11 Q What's App is an example of that type of an app?

12 A It's an example.

13 Q Did you find other encrypted apps on either CP1 and/or  
14 CP2?

15 A I did.

16 Q Which ones did you find, if you remember?

17 A Telegram and Signal.

18 Q Now, if you recall, was People's 265, which is in  
19 evidence and was already in evidence, an audio recording that  
20 you extracted from CP2?

21 A Yes, it was.

22 MR. CONROY: Could we pull up what's in evidence as  
23 People's 266.

24 And if you could blow that up a little bit.

25 (Displayed.)

1 Q What is People's 266?

2 A This is the information about the recording.

3 Q Is this the metadata for that recording?

4 A It is.

5 Q And what's the title of that recording?

6 A The title was labeled "Keith Davidson October 16th,  
7 2017."

8 Q And was that recording made, if you know, on  
9 October 16th, 2017?

10 A It was.

11 Q And how do you know that?

12 A Based upon the application called "Voice Memos," how it  
13 names the file itself and keeps track of the timestamp, that is  
14 embedded within the file.

15 Q And do we see that same date in some of the other  
16 columns?

17 A Yes, we do.

18 Q Including in the timestamp date column?

19 A That is correct.

20 Q And also the timestamp time column?

21 A Yes.

22 Q And, again, that's all metadata forensically extracted  
23 from CP2?

24 A That is correct.

25 Q Now, can we look at People's 247.

1 (Displayed.)

2 \*\*\*\*\*

3 MR. CONROY: And if we could blow that up a little  
4 bit.

5 (Displayed.)

6 Q Is this the metadata for this audio recording?

7 A It is.

8 Q And can you walk us through the columns here and walk  
9 us through the title and what kind of file this is and the date  
10 and time it's created?

11 A The title is entitled "New Recording 3," which  
12 indicates that there are two previous recordings on the voice  
13 memo app on the iPhone.

14 It's just an audio recording; it's on the app, which is the  
15 audio recording software.

16 It gives the date and timestamp of September 6th, 2016 at  
17 approximately 10:56:42 a.m. in the morning, Eastern Standard  
18 Time, with a duration of two minutes and 51 seconds.

19 The Link is just the name of the file again.

20 And the end is just the source.

21 Every file has a source path where it exists on the device.

22 Q Now, People's 246 is an audio file. It's not a  
23 recording that you were able to forensically extract from CP1;  
24 right?

25 A That is correct.

1 Q Did you have a chance to listen to People's 246?

2 A I did.

3 MR. CONROY: And if we could just for the parties  
4 and the Judge take a look at what's marked or what's in  
5 evidence as People's 248.

6 (Displayed on the screen for the previously-  
7 mentioned parties.)

8 \*\*\*\*\*

9 MR. CONROY: I'm sorry. What had been marked for  
10 identification as People's 248.

11 Q Mr. Daus, do you recognize what that is?

12 A I do.

13 Q What is that?

14 A That's a transcript of that aforementioned audio.

15 Q Is it a transcript of approximately 46 seconds of the  
16 audio file that is People's Exhibit 246?

17 A Yes, it is.

18 Q Is that recording longer than 46 seconds?

19 A It is.

20 Q So this is a transcript just of the last 46 seconds of  
21 that recording?

22 A That's correct.

23 Q Did you have an opportunity to compare that transcript  
24 to the last 46 seconds of that recording as you were listening  
25 to it?

1 A I have.

2 Q Is the transcript a fair and accurate rendering of the  
3 words that you hear, what you listened to, the last 46 seconds  
4 in People's 246?

5 A To the best of my ability.

6 MR. CONROY: At this point I would offer People's  
7 248 into evidence.

8 THE COURT: Any objections?

9 MR. BOVE: No, your Honor.

10 THE COURT: Accepted into evidence.

11 (So marked in evidence.)

12 \*\*\*\*\*

13 MR. CONROY: If we could now click People's 248 or,  
14 actually, can you pull that down for a minute.

15 And if we could play People's 246 and then stop it  
16 when we get to 46 seconds from the end and then I will ask  
17 to put the transcript up on the screens.

18 (Audio playing.)

19 MR. CONROY: Can we pull up the transcript.

20 (Displayed.)

21 MR. CONROY: And if we can play the last  
22 46 seconds.

23 (Audio playing.)

24 Q And just so the record is clear, the metadata that we  
25 just looked at, that was People's 247, is the date and time that

1 that recording was created; is that right?

2 A It is.

3 MR. CONROY: One moment.

4 (Pause.)

5 MR. CONROY: Thank you, Judge.

6 Nothing further.

7 THE COURT: Any cross?

8 MR. BOVE: Yes, Judge, thank you.

9 May I inquire?

10 THE COURT: Yes.

11 MR. BOVE: Thank you, Judge.

12 \*\*\*\*\*

13 CROSS-EXAMINATION

14 BY MR. BOVE:

15 Q Is it Mr. Daus?

16 Am I saying that right?

17 A That's correct.

18 Q My name is Emil Bove. I represent President Trump.

19 It sounded like, to me, like you started your career in  
20 forensics in Iraq?

21 A I didn't start it in Iraq, but before that actually.

22 Q You did some work over there. And I think you said  
23 that that work is similar to what you are doing for the District  
24 Attorney's office?

25 A That's correct.

1 Q But there are some differences; right?

2 A Yeah.

3 Q And, to me, one of the differences breaks down to the  
4 difference between Intel collection and the presentation of  
5 evidence in criminal cases; correct?

6 A Sure.

7 Q Do you know what I mean by "Intel collection?"

8 A A collection of things that are important for national  
9 security.

10 Q Right.

11 And in Iraq you were doing that, essentially, on a  
12 battlefield more or less; right?

13 A In a lab, yes.

14 Q And it was important to get information to parties who  
15 could use it as quickly as possible; right?

16 A Absolutely.

17 Q That is, in that setting, in the Intel setting, that's  
18 probably the top priority?

19 A I would say.

20 Q And it's not necessarily a top priority in connection  
21 with a criminal investigation; right?

22 A I do the same thing on every case.

23 Q Well, the integrity of the data matters more in a  
24 criminal case than on a battlefield; doesn't it?

25 A I would say so, sure.

1 Q Because different rights are at stake?

2 A Certainly.

3 Q And so things that you might be able to do more quickly  
4 outside the United States requires more caution in the United  
5 States; right?

6 A Yes.

7 Q And that's the distinction that I'm trying to touch on.  
8 There are some procedures that you follow here in the US  
9 that are just different than what you were doing outside the  
10 US?

11 A That's correct.

12 Q And you work in a Department now that -- how do you say  
13 the acronym, HTAU?

14 A HTAU.

15 Q Which is basically a multimillion dollar cyber lab;  
16 right?

17 A Yes.

18 Q Funded in part by the District Attorney's Office and  
19 some others?

20 A That is correct.

21 Q And it sounded to me like you are basically, when you  
22 are doing these phone reviews, you are operating in a secure  
23 environment?

24 A Yes, sir.

25 Q I have seen pictures. It looks like a vault; right?

1 A Yes, sir.

2 Q There are some parts of this that are a SCIF?

3 A Sure. There are no signals coming out, so it would be  
4 a SCIF.

5 Q And I'm guessing no windows and it has heavy doors;  
6 right?

7 A Yes, that's correct.

8 Q And that is to prevent the devices that you are  
9 working on from being manipulated while you are working on it;  
10 correct?

11 A Yes. That's absolutely correct.

12 Q And the director of HTAU is Steve Moran; right?

13 A He is.

14 Q And I think I've seen him say publicly that there is a  
15 real concern that investigative targets can manipulate data and  
16 their devices remotely?

17 A Yes.

18 MR. CONROY: Objection.

19 THE COURT: Overruled.

20 You can answer.

21 A Yes.

22 Q You agree with Mr. Moran; right?

23 A I do.

24 Q And so here in New York, one of the top priorities for  
25 the analysis and the forensics that you are conducting is

1 maintaining the integrity of the data?

2 A Absolutely.

3 Q And it's important to maintain that integrity, because  
4 it ultimately goes to the reliability and the evidence that you  
5 present in a criminal trial setting like this; right?

6 A Yes.

7 Q That goes to how much weight the jury should put on  
8 it?

9 A That's correct.

10 Q Evidence that has been subject to a risk of  
11 manipulation is less reliable; isn't it?

12 A Certainly.

13 Q That's a basic principle of the forensic certifications  
14 that you described; right?

15 A That is correct.

16 Q And so, in your field, there are processes and  
17 procedures that are designed to maintain the integrity of the  
18 data?

19 A Yes, there are.

20 Q So let's talk a little bit more about the different  
21 steps in the process.

22 Let's start with device collection, which I think is the  
23 first step; right?

24 A That is correct.

25 Q It sometimes called the "acquisition phase?"

1 A That's correct.

2 Q Meaning how does law enforcement get the device that  
3 you ultimately search; right?

4 A That's correct.

5 Q And that could happen in a lot of ways; right?

6 A Yes.

7 Q Law enforcement can collect a device at a crime scene;  
8 right?

9 A That's correct.

10 Q Execute a search warrant, seize a device, and bring it  
11 to you; right?

12 A Yes.

13 Q Issue a subpoena and collect a device and bring it to  
14 you; right?

15 A That's correct.

16 Q Or in this case, a device was delivered to you with an  
17 authorization from Michael Cohen; right?

18 That's how it was acquired, the two devices were acquired?

19 A Yes, it was.

20 Q And if you got to pick from the kinds of just pure  
21 forensics, the best case scenario would be that once acquired,  
22 the device goes immediately in the vault; right?

23 A That's correct.

24 Q It is immediately secured, to be kept away from radio  
25 waves; right?

1 A Yes.

2 Q And that -- I don't want to sound crazy, but that's  
3 radio waves that we are talking about, the internet we're  
4 talking about, phone signals; right?

5 A Phone signals, yeah.

6 Q So if you got to pick the top priority it would be,  
7 let's get the phone or phones in the vault; right?

8 A Yes.

9 Q That can't always happen; right?

10 A It can't.

11 Q It can be your priority, but there are other people  
12 involved in the investigation; right?

13 A That's correct.

14 Q They have other priorities; correct?

15 A That is absolutely correct.

16 Q And so sometimes there is a lag time?

17 A There is.

18 Q Some delays in getting the device in the vault?

19 A Yes.

20 Q Some delays in getting the device protected from  
21 manipulation?

22 A That's correct.

23 Q There are interim measures in your field for sort of  
24 protecting the device while it's in that transit process;  
25 right?

1 A That's correct.

2 Q I think you mentioned -- did you mention a Faraday  
3 room?

4 A Faraday room, yes.

5 Q But there's also a Faraday bag?

6 A There is.

7 Q So sometimes you can get the device, throw it in the  
8 bag and it's protected from the radio signals; right?

9 A Yes.

10 Q You can do it immediately?

11 A You can do it immediately.

12 Q And that is the soundest way to do a device  
13 acquisition; correct?

14 A The soundest way.

15 Q One of the considerations here in the acquisition phase  
16 is chain of custody; right?

17 A Yes.

18 Q And you know what that means?

19 A Yep.

20 Q Chain of custody is the process by which who handles  
21 the device is tracked; right?

22 A That's correct.

23 Q Who acquired it; right?

24 A Yes.

25 Q Who brought it --

1 A Who brought it.

2 Q -- back to your office; right?

3 A That is correct.

4 Q Who participated in the intake process; right?

5 A Yes.

6 Q And now there are two sides of that, somebody brings  
7 the device and somebody accepts it, right, and so those are  
8 links in the chain?

9 A Links in the chain.

10 Q The more secure the chain of custody, the more reliable  
11 the evidence; right?

12 A One could ascertain.

13 Q But you believe that? I mean, you have been practicing  
14 this for a long time; right?

15 A Certainly.

16 Q And you believe that to be true; don't you?

17 A Certainly.

18 Q That is correct?

19 A That is correct.

20 Q And a break in the chain of custody, it presents a  
21 risk; right?

22 A It could be.

23 Q It could be a big risk; it could be a little one,  
24 but it creates a risk and I'm not trying to quantify it right  
25 now?

1 A That's correct.

2 Q But that's a basic principle of forensic analysis;  
3 correct?

4 A A basic principle.

5 Q If there was a gap in -- of who was handling the  
6 evidence at a certain time, that's an open question; right?

7 A Yes, it is.

8 Q Once the device is acquired and we get it into the  
9 vault, we get it into that room, the next stage is to actually  
10 look -- extract the data; right?

11 A Yes, it is.

12 Q And there are a couple of ways -- well, there are a few  
13 ways to do that; right?

14 A Yes.

15 Q One is manual extraction?

16 A Uh-huh.

17 Q Which is not really an extraction at all, it's just  
18 looking at what's on the phone physically; right?

19 A Yes, that's correct.

20 Q Basically taking screen shots of what you can see in  
21 the phone as, like, I would look at my own phone as I was using  
22 it; right?

23 A That's correct.

24 Q And there is equipment for that that can help you take  
25 better pictures, but you really are ultimately just taking

1 pictures of what's on the screen?

2 A Yes.

3 Q And this is, would you say, the least sophisticated way  
4 to acquire data from an electronic device?

5 A The less sophisticated.

6 Q And so you can't access metadata in a meaningful way;  
7 correct?

8 A No, you can't.

9 Q And you can't recover items deleted by the user; right?

10 A You cannot.

11 Q You can't look at the coding of specific files, like an  
12 image that you see on a phone; right?

13 A No.

14 Q So there are other ways to do this; correct?

15 A There are.

16 Q And another one is a logical extraction?

17 A Uh-huh.

18 Q And so for a logical extraction, you are pulling the  
19 data off of the device, sort of in the same format that it looks  
20 -- the same way Windows looks, right, a folder, a hierarchical  
21 formation; right?

22 A Files, yes.

23 Q What was that?

24 A Files.

25 Q I didn't hear you?

1 A Files. Files. Folders.

2 Q Right. And this is, again, similar -- if you are  
3 looking at a logical extraction, it's similar to the way that  
4 you might look at the way you operate your PC from a Windows  
5 environment?

6 A The same.

7 Q And so in that way, say you connect the phone to a  
8 piece of equipment in your lab; right?

9 A That's correct.

10 Q And you pull the data off the phone; correct?

11 A Yes.

12 Q And it brings the data on in this file folder  
13 structure?

14 A It does.

15 Q And is one of the drawbacks to this logical extraction  
16 that it doesn't look at the unallocated space; right?

17 A That's correct.

18 Q The unallocated space is where -- I'm going to use  
19 layman's terms and you will fix it up for me -- it's where the  
20 deleted stuff goes to reside?

21 A An artifact, yes.

22 Q And an artifact is a piece of data of one of these  
23 items that you are examining; right?

24 A Yes.

25 Q And when you do a logical extraction, one of the

1 drawbacks is you can't tell what the user deleted or has not  
2 deleted; isn't that right?

3 A Correct.

4 Q Yes, it just pulls out the information that was present  
5 at the time that it was acquired?

6 A That's correct.

7 Q And there is a better way?

8 A Yes, a better way.

9 Q A physical acquisition?

10 A Yes, a physical acquisition in some ways is more of an  
11 older approach for Apple iPhones.

12 It's a full file system.

13 Q And in a full file system, you are basically pulling a  
14 forensic image of the whole memory chip?

15 A Yeah, the whole memory chip; that's correct.

16 Q And you -- and it's a process that you connect the  
17 phone to a piece of equipment that you have and it pulls the  
18 data out, and there is a giant -- depending on how much metadata  
19 is on the phone, a giant file; right?

20 A That's correct.

21 Q And when it gets onto that equipment, it's ones and  
22 zeroes; right?

23 A That's correct.

24 Q And so you need something to parse the data?

25 A You do.

1 Q Parsing the data means converting ones and zeroes into  
2 the types of things that you and I are used to looking at;  
3 right?

4 A Yes.

5 Q And so pictures, right, we looked at that picture of  
6 Michael Cohen at the podium; right?

7 A That's correct.

8 Q That came onto your machine as ones and zeroes and then  
9 you had some equipment that converted it so that you could see  
10 what the picture looked like?

11 A Yes.

12 Q Same thing with the phone logs; right?

13 A It's in the format on the phone, yes.

14 Q It's pulled out as ones and zeroes parsed on your  
15 machine, ultimately generates these reports that we are looking  
16 at in evidence; right?

17 A It does.

18 Q When you are working with these -- just a back up for  
19 one minute, so we just talked about three methods: Manual,  
20 logical, physical.

21 You did all of those on both of these phones; right?

22 A I did a full file system on the phone, that's it.

23 Q You also -- someone from your staff did a manual  
24 review; correct?

25 A When I turned -- when I got the device, I simply

1 plugged it into the device, pulled the extraction and then put  
2 it away into evidence.

3 Q So there were other people from HTAU who worked on the  
4 phone and did searches?

5 A There is. They are part of the investigative team, but  
6 not at HTAU.

7 Q So it -- and I am just trying to understand  
8 process-wise.

9 Is it possible that someone outside of HTAU did manual  
10 searches on these device?

11 A Whoever had the phone before, some other agency, if  
12 that's what you are asking.

13 Q Well, the FBI searched both of these phones before you  
14 did; right?

15 A I heard that they did.

16 Q You know that they did; correct?

17 A I heard that they did, yes.

18 Q And we are going to talk about that.

19 But what I want to focus on right now is just what happened  
20 when the phones were acquired at the District Attorney's office;  
21 okay.

22 A (Nods head.)

23 Q Let's talk a little bit about the file, the BIN file,  
24 the image that's pulled off?

25 A It's called the zip file.

1 Q The zip file, that's pulled off of the extraction.

2 When a file is that big and it's pulled off in that way,  
3 there is some risk that the data can degrade; is that correct?

4 A So once the data is pulled off, it's then hashed or  
5 checks are done, which means that entire file gets a very unique  
6 number that says this is the hash that contains all these  
7 contents. If anything was affected, that hash file would  
8 change.

9 Q Thank you. That's right where I was going.

10 So the hash value associated with the particular giant zip  
11 file is like a digital fingerprint; right?

12 A It's a digital fingerprint.

13 Q Maybe even more detailed like a DNA for us; right?

14 A Sure.

15 Q If you trust the hash system you are using, if one of  
16 those files with ones or zeroes changes, it's a different hash  
17 value; correct?

18 A That's correct.

19 Q And this is a way to check an ongoing basis the  
20 integrity of the data that you are working with; right?

21 A Absolutely.

22 Q And it's a way to ensure that over points in time  
23 during the acquisition and review process that the data itself  
24 has not been manipulated; right?

25 A Each time you look at it, it hashes or verifies it,

1 each time you look at it.

2 Q That is an automatic process; right?

3 A It's automatic.

4 Q Just the check mark, yes, the hashes match; correct?

5 A That's correct.

6 Q And that's because these hashes, if you are really  
7 being secure about it, they are very, very long sets of numbers  
8 and letters; right?

9 A Yes, they are.

10 Q You don't want to spend a lot of time checking those  
11 numbers and letters one by one; right?

12 A You do not.

13 Q The computer does it for you. But it's as if, say,  
14 fingerprints that match. If the hash is the same, these are the  
15 same two types of -- this is the same file; right?

16 A That's correct.

17 Q And so you testified today about some of the artifacts  
18 that you extracted from two phones that were acquired from  
19 Michael Cohen; right?

20 A Yes, I did.

21 Q And these artifacts are segments of a much broader set  
22 of data that was pulled off of each phone; correct?

23 A They are just segments.

24 Q That's because you are able to, once the data is  
25 parsed, you can use the program to select what the pieces of it

1 are that you want to highlight; right?

2 A You can.

3 Q About so we have certain excerpts, but not the whole  
4 phone; correct?

5 A That's correct.

6 Q You pulled certain excerpts that you were instructed to  
7 pull by the Prosecutors; right?

8 A Of course.

9 Q And you don't know, do you, why they picked certain  
10 things and not others?

11 A I'm not part of the investigative team.

12 Q And you are not a part of the investigative team, and  
13 there are also situations where the evidence raises questions,  
14 but they are not your questions to answer; right?

15 A That's correct.

16 Q And so just as an example, we played, I'm sorry, not  
17 "we," the Government played a recording from September 6th of  
18 2016, that was the metadata associated with that file; right?

19 Do you remember that?

20 A Yes, it was.

21 Q And there was a transcript associated with that and we  
22 put that up on the screen and as we listened, the audio cuts  
23 off; right?

24 A Towards the end, yeah.

25 Q And you don't have firsthand knowledge of why it cuts

1 off; right?

2 A I don't. I mean, I heard a phone call was coming in,  
3 that's all I know.

4 Q So somebody gave you some instructions --

5 A That's correct.

6 Q -- about why the phone was cut off; right?

7 A Yes.

8 Q But, as a result, you know that that wasn't the whole  
9 conversation; correct?

10 A That's correct.

11 Q And you don't know what was going on before or after;  
12 right?

13 A I do not.

14 Q And you were instructed, were you not, to check the  
15 phone itself, the physical device, to see if there was incoming  
16 or outgoing calls on it, around the time of that recording?

17 A Look at -- I wasn't instructed, per say, to look at the  
18 calls coming in at that time.

19 Q You -- at one point you prepared a report, did you not,  
20 of all incoming and outgoing calls on CP1, the device from which  
21 that recording was extracted?

22 A Yes, those reports were pulled after.

23 Q And you found a call around the time of the recording  
24 on the physical device; correct?

25 A I wasn't specifically asked to look at that.

1 Q But you do know that the recording cuts off. And you  
2 don't know what happened after that; right?

3 A Just that it cut off.

4 Q And you don't know what was going on before that?

5 A That's correct.

6 Q I want to now get back to the actual acquisition  
7 process for these two devices.

8 These came to HTAU on January 23rd of 2023; right?

9 A They did come to our Office, yes.

10 Q And I'm being a little imprecise. There are two  
11 iPhones; right?

12 A That's right.

13 Q If I say CP1 and CP2, you will know what I mean?

14 A I will.

15 Q And at the time these phones came to HTAU, is it your  
16 testimony that you were not provided with the copies that the  
17 FBI had seized?

18 A Yeah, I did not receive those.

19 Q You did not have access to the data that the FBI seized  
20 from these devices in 2018; did you?

21 A I did not.

22 Q And you did not ask for that data; did you?

23 A I did not.

24 Q And you didn't ask any questions about what the FBI had  
25 done to the devices in 2018; correct?

1 A That is correct.

2 Q And there -- this acquisition process, there are so  
3 many different ways to do it, some of the acquisition processes  
4 are more invasive than others; right?

5 A Yes.

6 Q Well --

7 A Manually looking at a device is invasive.

8 Q And so, just to clarify, when I was using the term  
9 "manual" earlier, I mean, taking some pictures on the top of the  
10 phone?

11 (Indicating.)

12 A That's correct.

13 Q There are also really invasive methods, other types of  
14 methods; right?

15 A Right.

16 Q Rip the phone apart; right?

17 A For Androids, not for Apple iPhones.

18 Q And that's a specific situation where you really can't  
19 do a second search; right?

20 A That's correct.

21 Q And in addition to there being acquisition processes  
22 that are particularly invasive, there is room for user error in  
23 the acquisition process; right?

24 A Sure.

25 Q And so if somebody makes a mistake at one point in the

1 acquisition, that can affect the data; correct?

2 A It could.

3 Q And that is why, for example, you are in these Faraday  
4 rooms; right?

5 A Uh-huh. That's correct.

6 Q That's why you received a lot of training; right?

7 A That's correct.

8 Q And there is at least, at least a risk that a prior  
9 acquisition and extraction could impact the data that you looked  
10 at in 2023; isn't there?

11 A That's correct.

12 Q And you didn't talk to the FBI about the methods they  
13 used; did you?

14 A I did not.

15 Q And as far as you know, nobody at this table did?

16 A As far as I know.

17 Q It's an open question?

18 A That it is.

19 THE COURT: Is this a good time?

20 MR. BOVE: Yes, Judge.

21 THE COURT: All right. Jurors, we are going to  
22 stop here. Call it a day.

23 Before you leave, and before I give you the  
24 required admonitions, I did want you to know that it was  
25 brought to my attention that one of your fellow jurors has

1 an important appointment tomorrow in the later afternoon so  
2 we will have to break a little bit early tomorrow, about a  
3 quarter to four.

4 I just want to let you know now so you can plan  
5 ahead.

6 Jurors, I ask you to, please, not talk amongst  
7 yourselves or with anyone else about anything related to the  
8 case.

9 Please continue to keep an open mind.

10 Do not form or express an opinion about the  
11 defendant's guilt or innocence until all of the evidence is  
12 in and I have given you my final instructions on the law and  
13 you begin your deliberations.

14 Do not request, accept, agree to accept or discuss  
15 with any person the receipt or acceptance of any payment or  
16 benefit in return for supplying any information concerning  
17 this trial.

18 Report directly to me any incident within your  
19 knowledge involving an attempt by any person improperly to  
20 influence you or any member of the jury.

21 Do not visit or view any of the locations discussed  
22 in the testimony.

23 And do not use any program or electronic device  
24 to search for and view any location discussed in the  
25 testimony.

1 Do not read, view or listen to any accounts or  
2 discussions of the case, that includes the reading or the  
3 listening to the reading of any transcripts of the trial or  
4 the reading of any posts on any court site.

5 Please do not communicate with anyone about the  
6 case by any means, including by telephone, text messages,  
7 email, or the internet.

8 Again, do not attempt to research any fact, issue  
9 or law related to the case.

10 And, please, do not Google or otherwise search for  
11 any information about the case or the law, which applies to  
12 the case, or the people involved in the case.

13 Thank you.

14 Have a good night.

15 And I will see you tomorrow.

16 THE COURT OFFICER: All rise.

17 (Jury exits.)

18 \*\*\*\*\*

19 THE COURT: You may be seated.

20 You may step down.

21 (Witness excused.)

22 \*\*\*\*\*

23 THE COURT: So as you just heard, one of the jurors  
24 has to leave a little bit early tomorrow.

25 So we will break between a quarter to 4 and

1 4 o'clock.

2 Whoever is at the podium, let me know if you are at  
3 a natural breaking point.

4 Is there anything else that we need to go over?

5 MR. STEINGLASS: No. Thank you.

6 THE COURT: Defense?

7 MR. BOVE: No.

8 THE COURT: Thank you.

9 Have a good night.

10 (Matter adjourned to Friday, May 3rd, 2024 at 9:30  
11 a.m.)

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|-------------------------|--------------------------|------------------------|------------------------|-----------------------|
| <b>A</b>                | 2028:19                  | <b>addition</b>        | 1825:20                | 1846:6,18             |
| <b>A-F-T-E-R-N-...</b>  | <b>accompanied</b>       | 1818:21                | <b>affirmed</b>        | 1847:9,20,22          |
| 1940:14                 | 1981:10                  | 1946:23                | 1888:19                | 1848:2,5,7,7,8        |
| <b>a.m</b> 1837:12      | <b>account</b> 1839:6    | 2029:21                | 1969:11                | 1848:9,12,16          |
| 1878:21,22              | 1841:25                  | <b>additional</b>      | 1979:23                | 1848:17               |
| 2006:17                 | <b>accounts</b>          | 1816:25                | <b>aforementioned</b>  | 1849:19,25            |
| 2033:11                 | 1982:17                  | 1819:17                | 1977:16                | 1850:4,10             |
| <b>a/k/a</b> 1846:15,15 | 1998:12                  | 1938:7                 | 1994:9                 | 1851:12               |
| 1848:22,23              | 2032:1                   | 1998:18                | 2007:14                | 1860:6,7,9            |
| <b>ability</b> 2008:5   | <b>accurate</b>          | <b>additionally</b>    | <b>afraid</b> 1857:20  | 1866:11               |
| <b>able</b> 1825:3      | 1861:17                  | 1839:8                 | <b>afternoon</b>       | 1873:5 1899:7         |
| 1834:11,22              | 1906:15                  | <b>address</b> 1825:19 | 1836:7,11              | 1899:23               |
| 1929:17                 | 1974:12                  | 1832:4                 | 1940:15                | 1900:2,5              |
| 1936:2,6,9              | 1977:6 2008:2            | 1860:12                | 1944:3,9               | 1908:25               |
| 1946:12                 | <b>accurately</b>        | 1868:18                | 1980:5 2031:1          | 1916:24               |
| 2006:23                 | 1866:21                  | 1872:13                | <b>against-</b> 1803:4 | 1932:19               |
| 2011:3                  | 1973:20                  | 1884:23,25             | <b>agencies</b>        | 1933:10               |
| 2025:24                 | <b>acknowledging</b>     | 2000:16                | 1953:20                | 1948:3,7,15,18        |
| <b>absolutely</b>       | 1971:13,16               | <b>addresses</b>       | <b>agency</b> 2023:11  | 1948:21               |
| 1813:12                 | <b>acquire</b> 2019:4    | 1993:17                | <b>agent</b> 1959:22   | 1949:7                |
| 1825:14                 | <b>acquired</b>          | <b>adjourned</b>       | <b>aggressive</b>      | 1951:14,16,20         |
| 1833:4 1864:7           | 2014:18,18,21            | 2033:10                | 1883:9,10              | 1952:13               |
| 1865:10                 | 2016:23                  | <b>adjustments</b>     | 1906:1,3,5             | 1958:14               |
| 1986:14                 | 2018:8 2021:5            | 1940:7                 | <b>ago</b> 1815:23     | 1959:9                |
| 2010:16                 | 2023:20                  | <b>administration</b>  | 1816:7,19,19           | 1964:18,24            |
| 2012:11                 | 2025:18                  | 1812:19                | 1819:18                | 1965:14               |
| 2013:2                  | <b>acquisition</b>       | 1901:5                 | 1864:6                 | 1966:1,2,6,21         |
| 2015:15                 | 2013:25                  | <b>admitted</b> 1974:7 | 1865:10                | 1967:2,14,23          |
| 2024:21                 | 2016:13,15               | <b>admonitions</b>     | 1866:8 1869:2          | 1978:25               |
| <b>abstract</b> 1943:5  | 2021:9,10                | 2030:24                | 1877:6                 | <b>Agreement/C...</b> |
| <b>accept</b> 1929:18   | 2024:23                  | <b>advance</b>         | 1916:12,16             | 1860:8                |
| 2031:14,14              | 2028:6 2029:2            | 1839:11                | 1952:13                | <b>agreements</b>     |
| <b>acceptance</b>       | 2029:3,21,23             | 1942:18                | <b>agree</b> 1805:9    | 1843:1                |
| 2031:15                 | 2030:1,9                 | <b>advanced</b>        | 1824:23                | 1900:18               |
| <b>accepted</b>         | <b>acronym</b>           | 1942:2,16              | 1847:22                | 1908:21               |
| 1861:23                 | 2011:13                  | 1943:21                | 1898:2,4               | <b>ahead</b> 1888:7   |
| 1950:12                 | <b>acronyms</b>          | <b>adversarial</b>     | 2012:22                | 1959:3 2031:5         |
| 1973:25                 | 1900:11                  | 1919:12                | 2031:14                | <b>aimed</b> 1805:19  |
| 1974:21                 | <b>acting</b> 1860:12    | <b>advertising</b>     | <b>agreed</b> 1847:16  | <b>air</b> 1807:1     |
| 1977:15                 | 1899:4 1922:1            | 1830:6                 | 1908:19                | 1809:1                |
| 1994:8                  | <b>action</b> 1906:12    | <b>advice</b> 1943:1   | 1909:5,9,11            | <b>aired</b> 1820:7   |
| 2008:10                 | <b>actively</b> 1831:12  | <b>affair</b> 1864:5   | <b>agreement</b>       | <b>airs</b> 1872:3    |
| <b>accepting</b>        | <b>activities</b> 1855:7 | 1865:9,14              | 1837:5,6,9,13          | <b>Alice</b> 1857:25  |
| 1833:2                  | 1911:1                   | 1877:9,11,13           | 1839:23                | <b>alignment</b>      |
| 1846:14                 | <b>activity</b> 1915:8   | <b>affect</b> 2030:1   | 1840:6                 | 1972:22               |
| <b>accepts</b> 2017:7   | <b>actual</b> 2028:6     | <b>Affirmation</b>     | 1842:10,10,21          | <b>allegations</b>    |
| <b>access</b> 1847:19   | <b>ADA</b> 1804:4        | 1806:4 1807:8          | 1842:22                | 1882:24               |
| 2002:11                 | <b>addendum</b>          | 1808:23                | 1843:3,4,17            | 1895:17               |
| 2019:6                  | 1849:19                  | 1810:10                | 1844:2,9               | 1898:25               |

|                        |                         |                       |                        |                        |
|------------------------|-------------------------|-----------------------|------------------------|------------------------|
| 1920:3                 | 1806:25                 | 1853:15,17            | <b>appearance</b>      | <b>appropriate</b>     |
| 1935:21                | <b>analogy</b> 1823:20  | 1863:1                | 1875:16                | 1817:3                 |
| 1950:24                | 1823:24                 | 1878:10               | 1881:22                | 1822:14                |
| 1951:8,9               | 1986:25                 | 1902:15               | <b>appearances</b>     | 1862:9                 |
| <b>allege</b> 1971:21  | <b>analysis</b> 1943:13 | 1911:9 1916:5         | 1804:3                 | <b>approximately</b>   |
| <b>alleged</b> 1819:25 | 1951:2                  | 1917:9,10,19          | 1864:10                | 1851:1                 |
| 1865:16                | 1980:17                 | 1918:3,13,24          | 1969:18                | 1854:11                |
| 1877:5,8,23            | 1982:7                  | 1919:2,15             | <b>appeared</b>        | 1982:22,23             |
| 1878:3 1930:2          | 1983:13                 | 1927:25               | 1870:20                | 2002:12                |
| <b>alleging</b> 1807:7 | 1984:8,12               | 1956:8 1959:2         | 1884:22                | 2006:17                |
| 1864:4 1865:8          | 2012:25                 | 1959:3                | 1919:25                | 2007:15                |
| 1971:21                | 2018:2                  | 1961:18               | <b>appearing</b>       | <b>apps</b> 1858:9     |
| <b>Allen</b> 1998:7    | <b>analyst</b> 1982:1,9 | 2012:20               | 1875:1                 | 1986:19                |
| <b>allow</b> 1805:16   | 1982:11                 | 2026:14               | 1880:20                | 2004:13                |
| 1805:16                | 1984:3                  | <b>answered</b>       | <b>appears</b> 1836:19 | <b>April</b> 1806:4    |
| 1813:11                | <b>analyze</b> 1982:14  | 1808:11               | 1884:18                | 1809:1 1810:9          |
| 1815:7                 | 1987:13                 | 1845:24               | 1956:9                 | 1810:10                |
| 1819:21                | <b>analyzed</b>         | <b>answering</b>      | <b>Appellate</b>       | 1813:5,8,17            |
| 1927:24                | 1982:20                 | 1819:14               | 1942:21                | 1814:18                |
| <b>allowed</b> 1818:6  | <b>analyzing</b>        | 1912:9                | 1943:4,8               | 1820:6 1827:8          |
| 1818:7,8,12            | 1943:16                 | <b>answers</b> 1917:3 | <b>Apple</b> 1984:12   | 1828:10,13,19          |
| 1825:9 1959:2          | <b>and/or</b> 1843:21   | 1917:12,14            | 1984:16                | 1829:8,11              |
| <b>allows</b> 1813:11  | 1864:5 1865:9           | 1961:9                | 2021:11                | 1830:10                |
| 1983:21                | 1865:19                 | <b>Anthony</b>        | 2029:17                | 1831:15                |
| <b>aloud</b> 1843:9,14 | 1888:19                 | 1876:11               | <b>applicable</b>      | 1887:13                |
| <b>alphabet</b>        | 1969:11                 | 1945:5                | 1910:16                | 1960:24                |
| 1989:20                | 1979:22                 | 1946:18               | <b>application</b>     | 1961:3                 |
| <b>alright</b> 1917:16 | 1987:6                  | 1972:6,21             | 2003:23                | 1963:11                |
| <b>alternate</b>       | 2004:10,13              | 1973:2                | 2005:12                | 1964:3 1970:4          |
| 1888:11,23             | <b>Anderson</b>         | <b>anybody</b>        | <b>applications</b>    | 1970:7                 |
| 1969:14                | 1894:12                 | 1815:14               | 1987:7                 | 1972:21                |
| <b>ALVIN</b> 1803:12   | 1916:17                 | 1833:11               | <b>applied</b> 1821:20 | 1981:21,21             |
| <b>ambiguity</b>       | 1917:25                 | <b>anyway</b> 1807:5  | <b>applies</b> 2032:11 | <b>arbitration</b>     |
| 1941:18                | 1918:19,22              | <b>apart</b> 2029:16  | <b>appointed</b>       | 1883:1                 |
| 1942:21                | <b>Andrew</b> 1941:5    | <b>app</b> 1995:21    | 1943:15                | <b>area</b> 1806:11,12 |
| 1943:6                 | <b>Android</b>          | 2003:22               | <b>appointment</b>     | 1824:15                |
| <b>AMI</b> 1851:13,25  | 1984:16                 | 2004:2,2,4,5,5        | 2031:1                 | 1825:11                |
| 1852:9 1891:8          | <b>Androids</b>         | 2004:5,7,11,11        | <b>appreciate</b>      | 1918:7                 |
| 1891:10,17             | 2029:17                 | 2006:13,14            | 1822:12                | <b>argue</b> 1943:7    |
| 1894:15,22             | <b>Angeles</b> 1936:17  | <b>apparently</b>     | 1942:14                | <b>arguendo</b>        |
| 1937:14,16,21          | 1936:24                 | 1831:10               | 1962:1                 | 1916:23                |
| 1937:24                | <b>animosity</b>        | 1874:8                | <b>approach</b>        | 1917:16                |
| 1938:15,19             | 1826:9                  | 1882:20               | 1814:11                | <b>arguing</b> 1943:18 |
| <b>AMI's</b> 1937:12   | <b>announced</b>        | <b>Appeals</b> 1943:9 | 1903:22                | <b>argument</b>        |
| <b>amount</b> 1843:4   | 1815:21                 | <b>appear</b> 1838:14 | 1918:4                 | 1806:23                |
| 1845:19,22             | <b>answer</b> 1807:21   | 1861:17               | 1922:10                | 1814:17                |
| <b>amounts</b>         | 1814:12                 | 1868:1,7,9,15         | 2021:11                | 1827:19                |
| 1952:12                | 1820:14                 | 1868:25               | <b>approached</b>      | 1832:25                |
| <b>amplifies</b>       | 1838:23                 | 1870:17,19            | 1905:13                | 1833:2                 |

|                         |                         |                        |                        |                        |
|-------------------------|-------------------------|------------------------|------------------------|------------------------|
| 1834:24                 | 1976:24                 | 2026:18,21             | 1962:17                | <b>author</b> 1987:1   |
| <b>arguments</b>        | 2027:25                 | <b>assume</b> 1917:6   | 1965:5                 | <b>authored</b>        |
| 1943:14                 | <b>asking</b> 1807:14   | 1917:11,16             | 1966:22                | 1844:16                |
| <b>arising</b> 1948:2   | 1808:9 1814:4           | <b>assumed</b>         | <b>attorney's</b>      | <b>authorities</b>     |
| <b>article</b> 1823:22  | 1823:23                 | 1841:19                | 1839:5                 | 1910:11                |
| 1830:10,14              | 1833:3                  | <b>Assuming</b>        | 1847:23                | 1926:23                |
| 1851:21,23              | 1883:25                 | 1916:23                | 1892:17                | 1927:1                 |
| 1852:7,11,13            | 1892:19                 | <b>assured</b> 1882:18 | 1897:20,24             | <b>authority</b>       |
| 1852:14,22,23           | 1903:14                 | <b>attached</b>        | 1903:2 1905:2          | 1823:14,15,18          |
| 1852:24,25              | 1904:17                 | 1818:21                | 1908:4                 | 1961:20                |
| 1853:8,14               | 1908:9                  | 1932:21                | 1930:10,17             | 1962:12                |
| 1858:23                 | 1909:25                 | <b>attaches</b> 1905:8 | 1932:25                | 1983:15,20             |
| 1859:5 1874:8           | 1916:11                 | <b>attack</b> 1805:16  | 1953:17                | 1987:19                |
| 1892:11                 | 1917:6,7,11,12          | 1830:1                 | 1980:11,13             | <b>authorization</b>   |
| 1898:25                 | 1917:15,16              | <b>attacking</b>       | 2009:24                | 2014:17                |
| 1925:1,14               | 1919:6                  | 1805:21                | 2011:18                | <b>authorized</b>      |
| <b>articles</b> 1820:23 | 1941:19                 | 1816:4,5               | 2023:20                | 1874:20                |
| 1820:24                 | 1942:1                  | <b>attacks</b> 1815:7  | <b>attorney-client</b> | <b>automatic</b>       |
| 1826:15                 | 1956:19                 | 1815:15,16,23          | 1851:2,6               | 1905:7 2025:2          |
| 1924:19,24              | 1968:10                 | 1827:14                | 1896:20,25             | 2025:3                 |
| 1940:22                 | 2023:12                 | 1829:5,18,22           | 1902:13                | <b>Avenatti</b>        |
| 1941:1,4,7,7            | <b>aspect</b> 1844:1    | <b>attempt</b> 2031:19 | 1919:5                 | 1959:16                |
| <b>artifact</b> 1987:9  | 1851:9                  | 2032:8                 | 1929:24                | 1970:8,10              |
| 1995:21                 | <b>aspects</b> 1912:4   | <b>attempted</b>       | 1978:21                | 1971:5,6,11,21         |
| 2020:21,22              | 1941:10                 | 1930:6                 | <b>attorneys</b>       | <b>Avenatti</b>        |
| <b>artifacts</b>        | <b>ass</b> 1856:16      | <b>attempting</b>      | 1803:17,21             | 1959:22                |
| 2025:17,21              | <b>asserted</b> 1915:8  | 1883:16                | 1864:24                | 1960:3,5,7             |
| <b>artists</b> 1876:8,9 | <b>asserting</b> 1918:9 | <b>attention</b>       | 1983:7                 | <b>Avenues</b>         |
| <b>ascending</b>        | 1918:11                 | 1851:11                | <b>attributed</b>      | 1807:12                |
| 1930:5                  | 1919:17                 | 1853:20                | 1975:6,9,21,22         | <b>average</b> 1997:12 |
| <b>ascertain</b>        | <b>assertion</b>        | 1858:17                | <b>attributing</b>     | <b>avoid</b> 1894:7    |
| 1845:17                 | 1885:21                 | 1866:2                 | 1956:16                | <b>AVOIDANCE</b>       |
| 2017:12                 | <b>assign</b> 1988:6    | 1867:16                | <b>audio</b> 1955:6,8  | 1847:21                |
| <b>asked</b> 1804:16    | <b>assigned</b> 1984:3  | 1869:18                | 1955:14                | <b>avoiding</b>        |
| 1808:6 1822:6           | 1987:10,13              | 1870:21                | 1960:22                | 1907:17                |
| 1825:21                 | 1990:3                  | 1878:15                | 1962:5                 | <b>aware</b> 1832:16   |
| 1873:2 1877:4           | 1991:11                 | 1887:13                | 1963:22,24             | 1864:4 1895:5          |
| 1878:9                  | <b>Assignment</b>       | 1942:15                | 1975:4                 | 1951:7,9               |
| 1896:14                 | 1842:21                 | 2030:25                | 1977:24                | 1963:3                 |
| 1902:8                  | 1849:18                 | <b>attorney</b>        | 1978:3,5,10,11         |                        |
| 1904:11                 | <b>assistance</b>       | 1803:13                | 1978:17,18             | <hr/> <b>B</b> <hr/>   |
| 1908:3                  | 1839:12                 | 1825:15                | 1986:10                | <b>B</b> 1803:9        |
| 1912:10                 | <b>Assistant</b>        | 1851:4 1892:1          | 2004:19                | <b>back</b> 1834:4,5   |
| 1938:7                  | 1803:17                 | 1899:5                 | 2006:6,14,15           | 1835:7,13,25           |
| 1953:18                 | <b>assisted</b> 1855:7  | 1901:12                | 2006:22                | 1836:12                |
| 1962:17                 | 1959:22                 | 1902:20                | 2007:14,16             | 1840:7 1841:6          |
| 1964:15                 | <b>associated</b>       | 1904:21                | 2008:18,23             | 1853:20                |
| 1970:2 1971:4           | 1986:12                 | 1907:4,12,15           | 2026:22                | 1856:23                |
| 1972:3,15               | 2024:10                 | 1922:1                 | <b>Audios</b> 1986:11  | 1858:5 1861:1          |

|                       |                       |                         |                         |                        |
|-----------------------|-----------------------|-------------------------|-------------------------|------------------------|
| 1861:13               | 1878:9 1883:8         | 1887:3                  | <b>benefits</b> 1909:25 | 1900:4,19              |
| 1862:7 1869:4         | 1960:7                | 1906:19,25              | <b>Bernick</b> 1977:18  | 1902:20                |
| 1873:7                | 1963:17               | 1971:19                 | <b>Bernik</b> 1920:24   | 1944:14,16             |
| 1878:13               | 1971:7                | <b>beliefs</b> 1890:10  | 1927:5 1932:4           | 1949:9 1954:8          |
| 1881:22               | 1996:11               | 1949:3                  | 1933:11                 | 1964:5 1972:4          |
| 1884:2,3              | 2011:15,21            | <b>believe</b> 1804:23  | 1935:5                  | 1980:24                |
| 1886:23               | 2018:20               | 1805:1 1817:1           | 1960:19                 | 1984:14                |
| 1901:19               | 2021:13               | 1819:2                  | <b>best</b> 1861:14,18  | 1995:7 1996:3          |
| 1910:19               | <b>basis</b> 1934:17  | 1832:17                 | 1896:15                 | 2000:7                 |
| 1921:22               | 1982:15               | 1840:6 1844:3           | 1943:1 1950:5           | 2001:18                |
| 1929:20               | 2024:19               | 1845:8,10,24            | 2008:5                  | 2002:23                |
| 1934:19               | <b>Bates</b> 1838:22  | 1856:14,15              | 2014:21                 | 2004:24                |
| 1937:12               | 1921:3                | 1859:4                  | <b>better</b> 1822:9    | 2006:4                 |
| 1938:3                | 1965:16               | 1860:24                 | 1936:1                  | 2013:20                |
| 1939:17               | 1966:8                | 1864:1                  | 1947:12                 | 2023:23                |
| 1955:16               | <b>battlefield</b>    | 1869:12,15,24           | 1964:8                  | 2031:2                 |
| 1960:18               | 2010:12,24            | 1870:11                 | 1972:11                 | 2032:24                |
| 1961:24               | <b>BCC</b> 1932:12,16 | 1878:6                  | 2018:25                 | <b>black</b> 1913:21   |
| 1967:11,16            | <b>bear</b> 1817:2    | 1880:18                 | 2021:7,8                | 1915:15                |
| 1969:3                | <b>Bechard</b>        | 1882:9                  | <b>beyond</b> 1813:2    | 1989:23                |
| 1992:17               | 1950:18,19            | 1886:13,16,17           | 1817:5,6                | <b>Blackberry</b>      |
| 2017:2                | 1952:14               | 1887:16                 | 1824:2                  | 1938:6,10,13           |
| 2022:18               | <b>Bechard's</b>      | 1891:3                  | <b>Biden</b> 1817:12    | 1938:15,19             |
| 2028:6                | 1951:7                | 1893:18                 | 1818:2,9,12,13          | <b>Blanche</b> 1803:18 |
| <b>background</b>     | <b>Becky</b> 1803:16  | 1899:2                  | 1818:15                 | 1803:19                |
| 1980:25               | 1804:6                | 1913:19                 | <b>big</b> 1857:24      | 1804:9,10              |
| 1985:22               | <b>beginning</b>      | 1928:3                  | 1928:20                 | 1813:5                 |
| <b>bad</b> 1809:12    | 1869:19               | 1929:25                 | 2017:23                 | 1814:15,16             |
| 1901:1                | 1925:20               | 1930:25                 | 2024:2                  | 1816:9,15,21           |
| <b>bag</b> 2016:5,8   | 1935:9                | 1933:4                  | <b>bill</b> 1811:4      | 1817:11,22             |
| <b>Baits</b> 1967:7   | 1955:10,12            | 1936:23                 | <b>bills</b> 1948:10,20 | 1818:4,11              |
| <b>banking</b>        | 1964:14               | 1943:5 1949:8           | <b>BIN</b> 2023:23      | 1819:15,17             |
| 1809:13               | 1992:1                | 1950:2                  | <b>bit</b> 1804:17      | 1821:20,24             |
| <b>bankrupt</b>       | <b>begun</b> 1875:11  | 1952:16                 | 1806:23                 | 1823:2,23              |
| 1883:12               | <b>behalf</b> 1804:10 | 1954:1 1957:3           | 1809:24                 | 1824:23                |
| <b>Bar</b> 1914:21    | 1838:11               | 1961:6,7                | 1810:2                  | 1825:17                |
| <b>barely</b> 1889:13 | 1846:14               | 1966:7 1968:1           | 1819:24                 | 1827:3,20              |
| 1915:24               | 1848:22               | 1970:9                  | 1827:25                 | 1828:8                 |
| <b>based</b> 1812:23  | 1849:4                | 1978:20                 | 1855:1,21               | 1830:21                |
| 1813:23               | 1850:10               | 2017:13,16              | 1860:5                  | 1832:6,25              |
| 1827:1 1830:4         | 1862:20               | <b>believed</b> 1838:3  | 1866:12                 | 1833:4,6,13            |
| 1887:19               | 1897:22               | 1869:15                 | 1871:17                 | 1834:1                 |
| 1910:7 1919:2         | 1907:7,8              | 1905:13                 | 1874:1,1,12             | <b>blank</b> 1966:24   |
| 1942:8                | 1909:23               | 1962:21                 | 1875:22                 | 1967:17                |
| 2005:12               | 1915:5 1952:2         | <b>bench</b> 1954:16    | 1884:8,10,14            | <b>blast</b> 1831:1    |
| <b>basic</b> 2013:13  | 1964:19               | <b>benefit</b> 1905:6,7 | 1885:5 1895:6           | <b>blindly</b> 1834:6  |
| 2018:2,4              | 1965:4,22             | 2031:16                 | 1897:13                 | <b>block</b> 1847:7    |
| <b>basically</b>      | <b>belief</b> 1832:18 | <b>benefited</b>        | 1898:18                 | 1935:16                |
| 1877:24               | 1832:19               | 1936:14                 | 1899:14                 | 1967:12                |

|   |   |  |  |   |
|---|---|--|--|---|
| <b>blog</b> 1895:10<br>1896:15<br>1898:15<br>1944:15<br>1945:9<br>1946:12,21<br>1947:11 | <b>Bove</b> 1803:19<br>1804:12<br>1861:22<br>1889:6,7,9,14<br>1903:22<br>1904:14<br>1905:5,11,16<br>1905:21,24<br>1918:2,10,14<br>1919:14<br>1920:24<br>1921:3,21<br>1924:3,8<br>1927:5 1932:4<br>1933:11<br>1935:5 1939:2<br>1939:16<br>1940:5,7<br>1944:8,10,13<br>1954:14<br>1955:7,12,15<br>1957:20<br>1960:17<br>1962:2<br>1963:20<br>1966:8,13<br>1967:6 1968:7<br>1970:2,16<br>1971:4,23<br>1972:15<br>1973:24<br>1974:15,19<br>1976:4,5,7<br>1977:9,18,22<br>1978:1,6,9,13<br>1978:16<br>1979:13<br>1994:7 2008:9<br>2009:8,11,14<br>2009:18<br>2030:20<br>2033:7 | 1963:15<br><b>BRAGG</b><br>1803:12<br><b>breach</b> 1845:4<br>1845:12,15,17<br>1882:24<br>1959:7 1963:1<br><b>breached</b> 1873:6<br><b>break</b> 1925:10<br>1940:8<br>2017:20<br>2031:2<br>2032:25<br><b>breaking</b> 2033:3<br><b>breaks</b> 2010:3<br><b>brief</b> 1982:2<br><b>briefly</b> 1825:19<br>1830:17<br>1983:19<br><b>bring</b> 1816:6<br>1830:9 1835:5<br>1869:17<br>1920:24<br>1940:17<br>1954:14<br>1957:20<br>1963:20<br>2014:10,13<br><b>bringing</b><br>1942:14<br><b>brings</b> 2017:6<br>2020:12<br><b>broadcast</b><br>1880:5<br><b>broadcaster</b><br>1885:3<br><b>broadcasters</b><br>1854:21<br><b>broader</b> 2025:21<br><b>Broidy</b> 1950:25<br>1951:12<br>1952:15<br><b>broke</b> 1836:11<br>1852:8<br>1938:22<br><b>broker</b> 1896:2<br>1913:17,18,24<br><b>brokered</b><br>1945:24 | <b>brother</b> 1931:9<br><b>brothers</b><br>1945:22<br><b>brought</b> 2016:25<br>2017:1<br>2030:25<br><b>building</b><br>1810:23,23<br><b>bullet</b> 1837:6,9<br>1837:11<br><b>burden</b> 1813:25<br><b>business</b> 1803:5<br>1829:13,13<br>1857:23<br>1889:25<br>1891:8 1896:4<br>1897:7<br>1949:19<br><b>buster</b> 1935:16<br><b>byline</b> 1924:18<br>1924:24 | 1913:20<br>1931:13<br>1947:9 1955:2<br>1971:24<br>1975:2,2<br>1977:23<br>1979:18,19<br>1985:17<br>1986:2<br>1988:15<br>2000:4<br>2003:22,24,25<br>2027:2,23<br>2030:22<br><b>called</b> 1810:21<br>1810:23<br>1835:16<br>1840:11<br>1849:23<br>1855:22<br>1857:23<br>1862:18,20,25<br>1866:8 1873:5<br>1946:20<br>1985:11<br>1986:21<br>1991:14<br>2003:11<br>2004:2<br>2005:12<br>2013:25<br>2023:25<br><b>calling</b> 1856:7<br>1963:17<br><b>calls</b> 1868:22<br>1874:9 1954:5<br>2003:25<br>2027:16,18,20<br><b>cameras</b> 1808:5<br><b>campaign</b><br>1809:10<br>1813:13<br>1815:8,9,10,12<br>1855:8<br>1941:12<br>1942:10,19<br><b>candidacy</b><br>1815:21<br>1827:15 |
|   |   |  | <b>C</b>   |   |
|   |   |  | <b>C</b> 1803:11<br><b>calculating</b><br>1808:12<br><b>calendar</b> 1986:8<br>1986:9<br>2002:25<br>2003:10<br><b>California</b><br>1838:20<br>1876:6<br>1891:14<br>1929:18<br>1934:13<br><b>call</b> 1810:22<br>1811:5<br>1817:17<br>1824:13<br>1826:12<br>1837:19<br>1854:23<br>1856:3,9<br>1857:11<br>1858:22<br>1867:21<br>1897:22<br>1901:3,15                |   |

|                        |                         |                         |                        |                         |
|------------------------|-------------------------|-------------------------|------------------------|-------------------------|
| 1829:23                | 1955:22                 | 1981:5,11               | 1840:14,16             | <b>cited</b> 1820:22,23 |
| 1830:12,25             | 1959:25                 | 1985:2,11               | 1985:23                | <b>civil</b> 1866:11    |
| 1834:19                | 1964:11                 | 1994:14                 | 1996:22                | <b>claim</b> 1891:12    |
| <b>candidate</b>       | 1969:16                 | 1995:10,13              | 2024:8                 | <b>claimed</b> 1881:10  |
| 1822:19                | 1972:14,16              | 2000:4 2003:2           | <b>changed</b>         | <b>Claiming</b>         |
| 1825:13                | 1984:4 1988:2           | <b>Centre</b> 1803:8    | 1842:11                | 1880:10                 |
| 1829:20                | 1988:13                 | <b>certain</b> 1818:17  | 1949:25                | <b>claims</b> 1892:11   |
| <b>capacity</b>        | 1989:24                 | 1819:1,3,21             | 1985:20                | 1915:2                  |
| 1959:22                | 2010:22,24              | 1864:4 1865:8           | <b>changes</b> 1996:16 | <b>clarification</b>    |
| <b>Capri</b> 1916:17   | 2014:16,21              | 1943:14,15              | 2003:15                | 1940:21                 |
| 1917:24                | 2031:8 2032:2           | 1954:12                 | 2024:16                | 1943:11                 |
| 1918:18                | 2032:6,9,11,12          | 1955:23                 | <b>character</b>       | <b>clarify</b> 1848:10  |
| <b>caps</b> 1847:21    | 2032:12                 | 1956:11                 | 1827:14                | 1851:18                 |
| <b>captures</b> 1992:2 | <b>cases</b> 1908:17,20 | 2018:6 2026:3           | 1829:19                | 1859:3 1887:6           |
| <b>care</b> 1846:16    | 1916:14                 | 2026:6,9                | 1830:24                | 2029:8                  |
| 1929:15                | 1947:1                  | <b>certainly</b> 1818:8 | <b>characterize</b>    | <b>clarifying</b>       |
| <b>career</b> 1873:15  | 1982:12                 | 1820:16                 | 1864:20                | 1862:22                 |
| 1893:6,10,12           | 2010:5                  | 1890:13                 | 1877:19                | <b>clarity</b> 1864:7   |
| 1893:15                | <b>cat</b> 1858:2       | 1893:12                 | 1886:14                | <b>classic</b> 1807:23  |
| 1916:10                | 1864:23                 | 1947:8 1949:3           | 1914:3                 | 1876:19                 |
| 1925:21                | <b>catastrophic</b>     | 1949:16                 | <b>CHARGE</b>          | <b>clause</b> 1873:10   |
| 1964:25                | 1954:19                 | 1953:24                 | 1803:4                 | <b>clear</b> 1808:6     |
| 2009:19                | <b>caught</b> 1811:10   | 1956:9                  | <b>charged</b> 1817:2  | 1812:23                 |
| <b>careful</b> 1910:3  | 1811:11                 | 1959:25                 | 1928:8                 | 1813:10                 |
| 1942:13                | 1922:8                  | 1981:5,15               | <b>charges</b> 1809:11 | 1838:19                 |
| <b>carefully</b>       | <b>cause</b> 1804:18    | 1995:17                 | <b>Charlie</b> 1914:23 | 1848:4 1894:9           |
| 1869:11                | 1806:3 1807:8           | 2000:9 2011:2           | 1915:1,3,4             | 1943:2,24               |
| 1904:16                | 1808:22                 | 2013:12                 | 1916:3                 | 1972:24                 |
| <b>carrot</b> 1807:23  | 1810:9 1915:7           | 2017:15,17              | 1989:18                | 2008:24                 |
| <b>case</b> 1805:15,21 | 1925:13                 | <b>certification</b>    | <b>chatting</b> 1837:3 | <b>clearly</b> 1809:22  |
| 1805:22                | <b>caused</b> 1845:12   | 1981:11                 | <b>check</b> 1877:16   | 1809:22                 |
| 1806:17,19             | <b>causes</b> 1859:13   | <b>certifications</b>   | 2024:19                | 1811:13,14              |
| 1808:7                 | <b>caution</b> 2011:4   | 1981:4                  | 2025:4                 | <b>clerk</b> 1804:1     |
| 1811:15                | <b>CBS</b> 1928:15      | 2013:13                 | 2027:14                | 1835:22                 |
| 1812:16                | <b>CCME</b> 1981:5      | <b>Certified</b> 1981:5 | <b>checking</b>        | 1888:25                 |
| 1818:8                 | <b>cease</b> 1859:22    | 1981:6                  | 2025:10                | 1944:5                  |
| 1821:20                | 1869:7                  | <b>chain</b> 1839:1     | <b>checks</b> 2024:5   | 1969:16                 |
| 1823:11                | 1898:13                 | 1880:8                  | <b>Chief</b> 1901:8    | 1979:23                 |
| 1845:1,14              | 1946:23                 | 1931:17                 | <b>chip</b> 2021:14,15 | <b>cleverly</b> 1865:21 |
| 1875:11                | 1947:3,8                | 1983:12                 | <b>choosing</b>        | <b>click</b> 2008:13    |
| 1888:25                | <b>ceased</b> 1949:24   | 2016:16,20              | 1904:15                | <b>client</b> 1822:3    |
| 1892:14                | <b>ceiling</b> 1858:3   | 2017:8,9,10,20          | <b>Christ</b> 1856:13  | 1823:21                 |
| 1929:21                | <b>celebrities</b>      | <b>chair</b> 1957:10    | <b>Christopher</b>     | 1824:14,21              |
| 1939:18                | 1922:9                  | <b>chance</b> 1924:11   | 1803:16                | 1825:12                 |
| 1941:3,9,10,11         | <b>cell</b> 1982:16     | 1927:9                  | 1804:5 1885:1          | 1837:7 1867:2           |
| 1941:15                | 1984:15                 | 1935:11                 | 1885:2 1886:7          | 1868:6,9,25             |
| 1942:7,11              | 1985:1                  | 1973:10                 | 1886:10,12             | 1869:14                 |
| 1943:13,16             | 1988:11                 | 1992:9 2007:1           | <b>chronologically</b> | 1883:10,24              |
| 1954:11                | <b>Celebrite</b>        | <b>change</b> 1837:9    | 1838:15                | 1892:4                  |

|                         |                       |                |                          |                       |
|-------------------------|-----------------------|----------------|--------------------------|-----------------------|
| 1897:22                 | <b>coercion</b>       | 1879:11        | 2001:3,4                 | 1980:19               |
| 1912:23,25              | 1906:12               | 1880:10,19,23  | 2014:17                  | 1981:10               |
| 1913:3                  | <b>Cohen</b> 1809:3,5 | 1881:4,9       | 2022:6                   | <b>comfortable</b>    |
| 1914:10,11              | 1810:2,5,18,24        | 1882:13,21,25  | 2025:19                  | 1951:4                |
| 1915:10,13              | 1811:8,24             | 1883:5,16,21   | <b>Cohen's</b> 1812:12   | <b>coming</b> 1819:23 |
| 1916:6                  | 1812:1,10,11          | 1884:4,22      | 1816:3                   | 1854:20               |
| 1917:24                 | 1815:24,25            | 1885:7,18,19   | 1868:17                  | 1961:17               |
| 1919:7 1930:5           | 1819:1,5              | 1885:23        | 1869:2                   | 2012:3 2027:2         |
| 1930:7 1931:7           | 1820:10               | 1886:9,24      | 1870:11                  | 2027:18               |
| 1936:5 1943:1           | 1821:10,13,13         | 1887:7,9,14    | 1975:10                  | <b>comma</b> 1843:17  |
| 1949:21,22              | 1825:1,18             | 1890:3,7,10,13 | 1977:4                   | 1847:21               |
| 1950:7,10,18            | 1827:4,9,21           | 1894:22        | 1987:25                  | <b>comment</b>        |
| 1950:19                 | 1828:3,16,23          | 1895:6         | <b>Colangelo</b>         | 1813:24               |
| 1951:10                 | 1829:4,12,17          | 1900:20        | 1803:15                  | 1822:11               |
| 1962:18                 | 1829:23               | 1906:1 1911:5  | 1804:5                   | 1828:15               |
| <b>client's</b> 1851:8  | 1830:3,11             | 1911:8         | <b>collect</b> 2014:7,13 | 1833:12               |
| <b>clients</b> 1890:12  | 1831:8,23             | 1920:22        | <b>collection</b>        | 1858:22,24            |
| 1897:9,11               | 1834:2,3,14           | 1921:8,14,17   | 2010:4,7,8               | 1859:1                |
| 1909:23                 | 1836:13               | 1949:10        | 2013:22                  | 1862:18,20            |
| 1914:25                 | 1837:16,20,22         | 1950:3,9       | <b>colorful</b> 1856:11  | 1863:3,3,9            |
| 1915:2                  | 1838:2,8              | 1951:12,22     | <b>column</b> 1995:19    | 1877:5,15             |
| 1916:10                 | 1839:1,13             | 1952:15        | 2000:8                   | 1956:16               |
| 1922:3                  | 1840:7,10             | 1953:4,10,14   | 2005:18,20               | <b>commentary</b>     |
| 1929:20                 | 1841:19               | 1953:18,25     | <b>columns</b> 1995:8    | 1820:15               |
| 1965:23                 | 1845:21               | 1954:9         | 1995:15,16               | <b>commentators</b>   |
| <b>Clifford</b> 1848:23 | 1846:1,16             | 1955:21        | 2000:3,6                 | 1941:1,5              |
| 1849:24                 | 1847:18               | 1956:5,13      | 2002:9 2003:8            | <b>comments</b>       |
| 1850:9                  | 1848:2 1849:6         | 1957:14        | 2005:16                  | 1809:25               |
| 1885:17,18,20           | 1850:11,23            | 1958:3,15      | 2006:8                   | 1812:11               |
| <b>clip</b> 1919:21     | 1852:14               | 1960:5,11,13   | <b>come</b> 1804:16      | 1813:23               |
| <b>clips</b> 1805:5     | 1853:4,7              | 1960:24        | 1808:18                  | 1826:24               |
| <b>close</b> 1804:24    | 1855:15,22            | 1961:8,11,14   | 1821:8 1823:4            | 1832:4                |
| 1853:9                  | 1856:4                | 1961:19,22     | 1850:22                  | 1834:18               |
| 1890:19                 | 1857:11,14            | 1962:11,11,16  | 1851:12                  | <b>commissary</b>     |
| 1897:15                 | 1858:7 1860:1         | 1963:1,12,14   | 1855:17                  | 1828:15               |
| 1898:9                  | 1860:1,25             | 1963:18        | 1882:25                  | <b>committed</b>      |
| 1910:22                 | 1861:2,8,14           | 1964:1,4,12    | 1897:21                  | 1896:21               |
| 1926:18,19              | 1862:14               | 1966:16        | 1902:14                  | 1915:8                |
| <b>closed</b> 1894:23   | 1863:5 1867:9         | 1967:2 1970:4  | 1908:8 1955:2            | <b>committing</b>     |
| 1981:21                 | 1867:15,20            | 1970:10,13     | 1969:3                   | 1909:19               |
| <b>CNN</b> 1885:3       | 1868:6,25             | 1971:4         | 1982:12                  | 1910:12               |
| 1887:13                 | 1869:12,22            | 1972:16,25     | 1983:8,9                 | <b>common</b>         |
| 1961:6,11               | 1870:23               | 1973:12,16,21  | 1992:17                  | 1967:24               |
| 1963:10                 | 1871:24               | 1975:16        | 2028:9                   | <b>communicate</b>    |
| 1964:1,2                | 1872:2,8,14           | 1976:12,14     | <b>comedy</b> 1882:5     | 1858:7                |
| <b>Coast</b> 1854:7     | 1873:11               | 1987:23        | <b>comes</b> 1821:5      | 1952:15               |
| <b>code</b> 1957:7      | 1874:18,24            | 1994:17,19     | 1958:12                  | 2004:6 2032:5         |
| 1984:18,20,22           | 1875:7,12             | 1995:3         | 1964:5 1972:4            | <b>communicated</b>   |
| <b>coding</b> 2019:11   | 1878:14,21            | 2000:15        | 1972:8                   | 1936:11               |

|                                       |                                     |   |                                       |                                 |
|---------------------------------------|-------------------------------------|---|---------------------------------------|---------------------------------|
| <b>communicating</b><br>1921:11,14,17 | <b>concept</b> 1815:3               | 1917:18                                 | 1813:16,19                            | 1805:2                          |
| <b>communication</b><br>1921:12,19    | <b>concern</b> 1811:23              | <b>confidentiality</b><br>1860:7 1919:3 | 1979:19                               | <b>Constitutional</b><br>1834:8 |
| <b>communicatio...</b><br>1837:21     | 1815:1                              | <b>confirm</b> 1839:4                   | 1980:7,9                              | <b>construction</b><br>1810:22  |
| 1863:14                               | 1816:10                             | 1847:22                                 | 1989:1,5,8                            | <b>Consultants</b><br>1838:11   |
| 1871:6 1883:4                         | 1820:9,12                           | <b>confirmation</b><br>1843:20          | 1990:16                               | 1839:9,14,25                    |
| 1907:25                               | 1821:12,18                          | <b>confirmed</b><br>1839:20             | 1991:2 1992:4                         | 1840:11,17                      |
| 1919:7,11                             | 1822:12                             | <b>confirming</b><br>1837:5             | 1992:20,25                            | 1841:24                         |
| <b>companies</b><br>1939:13           | 1826:25                             | 1843:21                                 | 1994:3,23                             | 1842:12,12                      |
| <b>company</b><br>1981:10,16          | 1864:3 1877:2                       | <b>conflict</b> 1897:25                 | 1997:1 1998:3                         | 1846:16                         |
| <b>compare</b><br>1826:16             | 1900:25                             | <b>connect</b> 2020:7                   | 1999:12,21                            | 1849:5                          |
| 2007:23                               | 1901:3 1908:2                       | 2021:16                                 | 2000:19                               | 1850:16                         |
| <b>compared</b><br>1974:9             | 2012:15                             | <b>connected</b><br>1911:2 1946:2       | 2001:14,17                            | <b>consulted</b><br>1870:15     |
| <b>comparing</b><br>1823:20,24        | <b>concerned</b><br>1826:23         | <b>connection</b><br>1878:10            | 2002:5,21                             | 1891:15                         |
| <b>comparison</b><br>1823:19          | 1827:2                              | 1891:2                                  | 2003:18                               | <b>consuming</b><br>1868:21     |
| <b>Compelling</b><br>1906:12          | 1903:19                             | 1895:10                                 | 2004:22                               | <b>consummated</b><br>1886:24   |
| <b>compensated</b><br>1934:6,10,11    | 1907:17,24,25                       | 1896:17                                 | 2006:3 2007:3                         | <b>consumption</b><br>1868:19   |
| <b>complained</b><br>1853:7           | 1908:13                             | 1897:18                                 | 2007:9 2008:6                         | <b>contact</b> 1859:5           |
| <b>complaining</b><br>1805:14         | <b>concerning</b><br>2031:16        | 1899:3                                  | 2008:13,19,21                         | 1891:23                         |
| <b>complete</b> 1864:7                | <b>concerns</b><br>1821:13          | 1904:18                                 | 2009:3,5                              | 1986:4                          |
| 1864:12                               | 1907:8                              | 1910:10,14                              | 2012:18                               | <b>contacted</b><br>1865:8      |
| 1885:21                               | 1927:21                             | 1912:13                                 | <b>consent</b> 1930:12                | 1897:20                         |
| <b>completely</b><br>1821:2           | 1928:4                              | 1913:1,3                                | 1930:15                               | <b>contacts</b><br>1985:17      |
| 1829:21                               | 1941:14                             | 1914:9 1916:3                           | 1983:9,17,23                          | 1997:4,6,11,13                  |
| 1864:14                               | <b>conclusions</b><br>1817:7 1928:4 | 1918:22                                 | 1983:24                               | 1997:19,21                      |
| 1866:4                                | <b>conduct</b> 1812:17              | 1926:12                                 | 1984:5                                | 1998:1,7,10,15                  |
| <b>completing</b><br>1915:24          | 1816:10                             | 1927:22                                 | 1984:22                               | 1998:19,19                      |
| <b>composition</b><br>1819:5          | 1905:13                             | 1930:23                                 | <b>consider</b><br>1817:10            | 1999:15,17                      |
| <b>computer</b><br>1981:6 1982:1      | <b>conducted</b><br>1928:1          | 1934:5                                  | <b>consideration</b><br>1866:11,13,14 | <b>contained</b><br>1994:1      |
| 1982:2,4                              | <b>conducting</b><br>2012:25        | 1945:24                                 | 1866:16,19                            | 1973:7                          |
| 2025:13                               | <b>conduit</b> 1896:12              | 1947:14                                 | 1867:6 1873:8                         | 1993:22                         |
| <b>computers</b><br>1982:16           | <b>confer</b> 1888:1                | 1948:2 1949:6                           | <b>considerations</b><br>2016:15      | <b>contains</b> 1839:9          |
|                                       | 1974:15,18                          | 1964:16                                 | <b>considered</b><br>1891:20          | 1992:5,21                       |
|                                       | 1976:1 1989:7                       | 1978:25                                 | 1987:4                                | 2024:6                          |
|                                       | 1992:24                             | 1979:3                                  | <b>considering</b><br>1817:4          | <b>contemplated</b><br>1933:15  |
|                                       | <b>conference</b><br>1837:19        | 2010:20                                 | 1823:25                               | 1814:7                          |
|                                       | <b>confidences</b><br>1892:4        | <b>connections</b><br>1911:20           | 1826:18                               | <b>content</b> 1925:10          |
|                                       | <b>confidential</b><br>1842:21      | 1920:5                                  | <b>consistent</b><br>1829:18          |                                 |
|                                       | 1843:19                             | 1946:21                                 | 1894:18                               |                                 |
|                                       | 1912:4,11                           | 1947:7                                  | 1949:3                                |                                 |
|                                       | 1916:24                             | <b>Conroy</b> 1803:16                   | <b>constitutes</b>                    |                                 |
|                                       |                                     | 1804:6 1805:3                           |                                       |                                 |
|                                       |                                     | 1805:12                                 |                                       |                                 |

|                        |                        |                        |                |                      |
|------------------------|------------------------|------------------------|----------------|----------------------|
| 1925:15                | 1866:17                | 1832:2                 | 1909:8,14      | 1995:14              |
| 1985:6,8               | 1951:24                | <b>convince</b>        | 1910:1         | 1996:2 2003:3        |
| 1995:20                | <b>contracts</b>       | 1928:24                | 1911:18        | 2004:3               |
| <b>contents</b>        | 1845:16                | <b>Cooper</b> 1894:13  | 1912:18        | 2005:19,24           |
| 1985:12                | <b>contractual</b>     | <b>Coordinated</b>     | 1913:4,18      | 2006:25              |
| 2024:7                 | 1860:10                | 1996:11                | 1914:6 1915:5  | 2007:22              |
| <b>context</b> 1814:19 | <b>contrary</b>        | <b>copies</b> 1861:13  | 1915:7,13      | 2009:17,25           |
| 1818:19                | 1834:22                | 1970:15                | 1916:6,22      | 2010:5               |
| 1853:25                | <b>contrived</b>       | 1993:22                | 1919:1 1920:3  | 2011:11,20           |
| 1919:12                | 1806:21                | 1994:1                 | 1922:1,17      | 2012:7,10,11         |
| 1947:6 1953:3          | <b>conversation</b>    | 2028:16                | 1925:3,18      | 2013:9,15,24         |
| 1976:17,19             | 1837:19,20             | <b>copy</b> 1847:16    | 1926:6,17,23   | 2014:1,4,9,15        |
| <b>contexts</b>        | 1857:2,14              | 1848:1,3               | 1927:22        | 2014:23              |
| 1904:10                | 1873:16                | 1867:8 1927:8          | 1928:11        | 2015:13,14,15        |
| 1909:4                 | 1887:21                | 1940:23                | 1929:7,18      | 2015:22              |
| <b>contingency</b>     | 1900:20,25             | 1982:6,7               | 1931:9,15      | 2016:1,13,22         |
| 1915:18                | 1901:7                 | 1992:17                | 1934:2,7,16,17 | 2017:3,18,19         |
| <b>continuation</b>    | 1904:22                | 1993:6                 | 1934:25        | 2018:1,3,19,23       |
| 1967:12                | 1933:21                | 2002:25                | 1935:21        | 2019:7,14            |
| <b>continue</b> 1842:2 | 1938:18,21             | <b>copyright</b>       | 1936:3 1937:6  | 2020:9,10,17         |
| 1844:19                | 1953:6,14              | 1842:22                | 1938:3,11,16   | 2021:3,6,15,20       |
| 1855:14                | 1954:6                 | 1849:18,23             | 1939:10        | 2021:23              |
| 1873:18                | 1957:13                | 1965:11,12,17          | 1944:25        | 2022:7,24            |
| 1875:3                 | 1958:11,23             | <b>copyrights</b>      | 1945:16        | 2023:16              |
| 1905:21                | 1962:16                | 1849:21                | 1946:14,22     | 2024:3,17,18         |
| 2031:9                 | 1963:4 1970:3          | <b>core</b> 1943:18    | 1947:24        | 2025:4,5,16,22       |
| <b>continued</b>       | 1970:13                | <b>corporation</b>     | 1948:3,11      | 2026:4,5,15          |
| 1841:1,4               | 1973:11,20             | 1839:24                | 1949:24        | 2027:5,9,10,24       |
| 1888:25                | 1974:7                 | <b>correct</b> 1837:10 | 1950:14,20     | 2028:5,25            |
| 1905:23                | 1976:21                | 1839:9,24              | 1951:14        | 2029:1,12,20         |
| 1924:1,7               | 2004:8 2027:9          | 1854:14                | 1952:2,20      | 2030:1,5,7,11        |
| 1944:12                | <b>conversations</b>   | 1865:12                | 1953:1,12,19   | <b>correctly</b>     |
| 1949:12,16             | 1852:19                | 1880:20                | 1956:2,17      | 1866:20              |
| 1952:15,24             | 1861:7                 | 1886:19                | 1958:6         | 1892:10              |
| 1959:18                | 1920:20                | 1889:18                | 1959:11        | 1905:10              |
| 2002:1,4               | 1951:4 1953:9          | 1890:4                 | 1962:24        | 1978:19              |
| <b>continues</b>       | 1953:19,24,25          | 1891:24                | 1964:25        | <b>correspond</b>    |
| 1811:22                | 1962:18                | 1892:8,17              | 1965:5         | 1949:17              |
| 1923:4                 | 1976:13                | 1893:8,13              | 1966:22        | <b>corresponding</b> |
| 1955:16                | <b>converted</b>       | 1894:7,19              | 1967:4,9       | 1962:3               |
| 1969:16                | 1996:20                | 1895:4                 | 1968:2         | 1963:22              |
| 2001:25                | 2022:9                 | 1898:16,17             | 1971:22        | 1977:10,10,11        |
| <b>continuing</b>      | <b>converting</b>      | 1899:1,8,19            | 1973:4 1977:2  | 1977:12,22           |
| 1870:22                | 2022:1                 | 1900:22                | 1977:4 1979:4  | 1978:2,9,17          |
| 1950:14,16             | <b>conveyed</b> 1957:2 | 1901:17                | 1979:6,7,11    | 1993:10              |
| <b>contract</b> 1845:2 | <b>conveying</b>       | 1902:11,17             | 1983:18        | 1994:19              |
| 1845:15,19,22          | 1901:16                | 1903:4                 | 1984:5,10,24   | <b>corresponds</b>   |
| 1849:23                | <b>convicted</b>       | 1907:10,18,22          | 1988:14        | 1960:20              |
| 1851:24                | 1809:3,5               | 1908:15,25             | 1989:22        | <b>corroborating</b> |

|                         |                |                        |                        |                          |
|-------------------------|----------------|------------------------|------------------------|--------------------------|
| 1937:25                 | 1824:2,9       | 1973:25                | 1992:18                | 1833:15                  |
| <b>corroboration</b>    | 1825:9         | 1974:17,21             | 1993:21                | 1925:20                  |
| 1886:4                  | 1826:16,18,22  | 1975:5 1976:3          | 1994:1,15              | 1926:1                   |
| 1938:16                 | 1827:18        | 1977:13,15,25          | 1997:4,6,22            | 1942:11                  |
| <b>corrosive</b>        | 1828:7         | 1978:5,12,24           | 1998:16,19             | 2010:5,21,24             |
| 1812:18                 | 1830:19        | 1979:9,14,16           | 1999:25                | 2013:5                   |
| <b>costs</b> 1959:9     | 1832:4,23      | 1979:18,21,23          | 2000:23                | <b>critical</b> 1811:17  |
| <b>counsel</b> 1808:15  | 1833:2,5,7,23  | 1979:25                | 2004:13                | 1941:11                  |
| 1847:18                 | 1834:5,24      | 1980:3,5               | 2006:23                | <b>criticize</b> 1806:17 |
| 1857:5 1889:2           | 1835:4,7,9,12  | 1989:1,3,10            | 2027:20                | <b>criticizes</b>        |
| 1898:10                 | 1835:18,21,25  | 1994:6,8               | 2028:13                | 1831:14                  |
| 1949:17                 | 1840:18,19     | 2001:23,24             | <b>CP2</b> 1990:7      | <b>criticizing</b>       |
| 1959:14                 | 1857:6         | 2008:8,10              | 1991:4,21              | 1828:3 1829:4            |
| 1962:17                 | 1861:23        | 2009:7,10              | 1992:18                | 1829:12                  |
| 1974:18                 | 1879:12,13,14  | 2012:19                | 1993:21                | 1830:12                  |
| <b>counsel's</b>        | 1888:6,10,16   | 2030:19,21             | 1994:1                 | 1831:20                  |
| 1804:11                 | 1888:17,21     | 2032:4,16,19           | 1999:15                | <b>cross</b> 1924:7      |
| <b>countless</b> 1877:4 | 1889:2,6       | 2032:23                | 2004:14,20             | 1944:12                  |
| <b>counts</b> 1817:2    | 1903:21,23     | 2033:6,8               | 2005:23                | 2009:7                   |
| <b>county</b> 1803:1    | 1904:1,13      | <b>Court's</b> 1811:23 | 2028:13                | <b>cross-examina...</b>  |
| 1803:13                 | 1905:4,17,19   | 1812:23                | <b>Crawford</b>        | 1889:8                   |
| 1825:15                 | 1905:20,22     | 1814:10,18,19          | 1931:20                | 1905:23                  |
| 1980:3,4,11             | 1906:23        | 1816:23                | 1934:9,24              | 1970:2                   |
| <b>couple</b> 1891:10   | 1912:16        | 1817:4                 | 1937:6                 | 2009:13                  |
| 1926:16                 | 1916:2 1917:5  | 1822:12                | <b>crazy</b> 1806:8    | <b>crossing</b> 1910:23  |
| 2018:12                 | 1918:4,7,11,17 | <b>courtesy</b> 1895:2 | 2015:2                 | <b>crying</b> 1828:24    |
| <b>course</b> 1816:16   | 1919:16        | <b>courtroom</b>       | <b>create</b> 1947:16  | <b>CSR</b> 1803:23,24    |
| 1901:21                 | 1923:2,3       | 1808:18                | 1958:8                 | <b>Culpa</b> 1819:1      |
| 1964:25                 | 1924:4 1926:4  | 1810:14,18             | <b>created</b> 1947:6  | 1829:21                  |
| 1965:22                 | 1927:5,18,24   | 1815:9 1822:1          | 1981:16                | 1830:23                  |
| 2026:8                  | 1928:7         | 1827:6 1829:7          | 1987:5,6               | <b>Cuomo</b> 1885:1,2    |
| <b>court</b> 1803:1,10  | 1939:15,17     | 1835:11,19             | 1994:14                | 1886:1,7,10,12           |
| 1803:23                 | 1940:1,5,9,11  | 1939:25                | 2002:10,18             | <b>current</b> 1981:25   |
| 1804:8,14               | 1940:15        | 1940:4                 | 2006:10                | <b>custody</b> 1983:12   |
| 1805:9,23               | 1941:22        | 1942:11                | 2009:1                 | 2016:16,20               |
| 1813:4,5,15,18          | 1942:1,14,24   | 1944:1                 | <b>creates</b> 1807:1  | 2017:10,20               |
| 1813:21                 | 1942:24        | 1968:14,18             | 2017:24                | <b>cut</b> 1894:25       |
| 1814:2,4,7,14           | 1943:4,7,9,15  | <b>cover</b> 1842:20   | <b>creating</b>        | 2027:6 2028:3            |
| 1814:20,21              | 1943:21        | 1987:3                 | 1907:18                | <b>cuts</b> 2026:22,25   |
| 1815:5,15               | 1944:3,9,11    | <b>coverage</b>        | <b>credibility</b>     | 2028:1                   |
| 1816:8,17               | 1947:1         | 1821:25                | 1809:4 1810:5          | <b>cyber</b> 2011:15     |
| 1817:9,21               | 1954:15        | <b>covers</b> 1893:13  | 1816:4,5               |                          |
| 1818:1,7,23             | 1955:9,11,13   | <b>CP</b> 1988:11      | <b>crime</b> 1906:17   | <b>D</b>                 |
| 1819:9,12,13            | 1956:7 1959:3  | <b>CP-0001</b>         | 2014:7                 | <b>D</b> 1835:15,15      |
| 1819:16                 | 1962:6         | 1988:10                | <b>crimes</b> 1906:20  | 1843:16                  |
| 1820:17                 | 1968:10,12,14  | <b>CP-0002</b> 1990:6  | 1907:1                 | 1847:18                  |
| 1821:7,23               | 1968:15,23     | <b>CP-001</b> 1988:13  | <b>criminal</b> 1803:1 | 1979:22,22               |
| 1822:16                 | 1969:3,5,8,9   | <b>CP1</b> 1988:15     | 1812:17                | <b>D-A-U-S</b> 1980:2    |
| 1823:10                 | 1969:13,20     | 1991:4,21              | 1831:17                | <b>DA's</b> 1980:16      |

|                        |                         |                       |                        |                         |
|------------------------|-------------------------|-----------------------|------------------------|-------------------------|
| 1899:4                 | 1964:6,16,19            | 1838:12               | 1937:13                | <b>day-to-day</b>       |
| 1982:10                | 1965:4 1966:1           | 1841:12               | 1966:24                | 1982:8,14               |
| <b>damage</b> 1873:10  | 1970:8                  | 1843:17               | 1967:20                | <b>Daylight</b>         |
| 1954:19                | 1971:16                 | 1847:5,8              | 1997:22                | 1996:24                 |
| <b>damages</b>         | 1972:9,16,18            | 1848:25               | <b>David's</b> 1807:22 | <b>days</b> 1817:16     |
| 1844:18,19,25          | 1972:25                 | 1849:2,7              | 1826:1,20              | 1826:3                  |
| 1845:2,6,11,12         | 1975:24                 | 1852:11               | <b>Davidson</b>        | 1886:23                 |
| 1845:14,15,16          | 1978:20                 | 1853:10,23            | 1836:5                 | <b>DD</b> 1846:3,4,8    |
| 1845:20,25             | 1979:1                  | 1861:17               | 1847:17                | 1846:14                 |
| <b>damn</b> 1964:8     | <b>Daniels'</b> 1881:22 | 1862:9,10             | 1850:19                | 1850:13,16              |
| <b>Daniel</b> 1999:8   | 1883:20                 | 1869:20               | 1854:18                | 1967:17                 |
| <b>Daniels</b> 1817:25 | 1895:21                 | 1871:21               | 1864:20                | 1968:5,6                |
| 1818:3,5               | 1898:25                 | 1873:21               | 1867:24                | 1979:1                  |
| 1821:13                | 1899:5 1920:3           | 1874:5                | 1870:10                | <b>deadline</b> 1863:2  |
| 1834:4,16              | 1944:19,24              | 1878:19,20            | 1877:19                | 1908:7                  |
| 1842:9,23              | 1947:19                 | 1950:21               | 1886:2 1888:2          | <b>deal</b> 1840:11     |
| 1844:4 1848:5          | 1958:8                  | 1954:12               | 1888:18                | 1842:11                 |
| 1848:23                | 1959:21                 | 1955:23               | 1889:11                | 1850:20                 |
| 1850:4 1851:1          | <b>Daniels/Michael</b>  | 1956:10               | 1905:5                 | 1852:8                  |
| 1855:19                | 1886:24                 | 1959:5 1964:2         | 1944:14                | 1855:19                 |
| 1859:2,6               | <b>daring</b> 1827:11   | 1976:12,20            | 1955:16                | 1886:24                 |
| 1861:9,10,11           | <b>dash</b> 1962:4      | 1995:18               | 1964:8                 | 1891:16                 |
| 1863:15,23             | 1970:21                 | 2000:10,11            | 1969:10,25             | 1894:15,16,17           |
| 1864:19                | <b>data</b> 1984:11     | 2003:7,9              | 1972:11                | 1894:22                 |
| 1865:8,24              | 1985:1,8,9,10           | 2005:15,18            | 1976:8                 | 1913:18                 |
| 1866:23                | 1985:19,25              | 2006:9,16             | 1998:21                | 1947:12                 |
| 1868:1 1871:7          | 1986:24,24              | 2008:25               | 2005:6                 | <b>dealing</b> 1929:14  |
| 1873:16                | 1991:18,21              | <b>dated</b> 1863:23  | <b>Davidson's</b>      | 1985:21                 |
| 1874:25                | 1992:3,18               | 1934:21               | 1905:13                | <b>decade</b> 1890:22   |
| 1878:4,8               | 1993:20,23              | 1935:13               | <b>Dawn</b> 1911:14    | <b>decades</b> 1820:19  |
| 1880:4,7,19            | 1994:1                  | 1992:15               | 1911:17                | 1820:20                 |
| 1883:5,6,22            | 1995:12,23              | <b>dates</b> 2002:15  | <b>day</b> 1808:3      | <b>December</b>         |
| 1887:15                | 2010:23                 | <b>dating</b> 1946:16 | 1810:11,12             | 1857:19                 |
| 1895:17                | 2012:15                 | <b>Daus</b> 1979:20   | 1812:21                | 1887:21                 |
| 1896:17                | 2013:1,18               | 1980:2                | 1813:22                | 1900:19                 |
| 1899:10,16             | 2018:10                 | 1989:13               | 1815:8,20              | <b>decided</b> 1891:17  |
| 1900:1 1902:9          | 2019:4,19               | 1992:8 1993:2         | 1824:22                | <b>decision</b> 1812:23 |
| 1907:8                 | 2020:10,12,22           | 2001:20               | 1837:7                 | 1813:22                 |
| 1946:10                | 2021:18,24              | 2007:11               | 1853:11                | 1814:10                 |
| 1947:10,24             | 2022:1 2024:3           | 2009:15               | 1854:3                 | 1816:18                 |
| 1948:2,14              | 2024:4,20,23            | <b>David</b> 1807:18  | 1855:24                | 1817:10                 |
| 1949:12                | 2025:22,24              | 1809:15               | 1857:13,18             | 1821:14                 |
| 1952:2 1953:4          | 2028:19,22              | 1810:6 1820:2         | 1859:12,17             | <b>Declination</b>      |
| 1953:15                | 2030:1,9                | 1820:10,11            | 1872:4,5               | 1938:24                 |
| 1956:2,4,17            | <b>database</b>         | 1825:22               | 1874:25                | 1939:8                  |
| 1957:1,11              | 1860:24                 | 1846:15,21            | 1891:5                 | <b>decode</b> 1848:10   |
| 1958:20,23             | <b>date</b> 1810:18     | 1849:11               | 1937:16                | <b>decoded</b> 1900:9   |
| 1959:8,14,18           | 1828:7,8,12,17          | 1850:10               | 1976:8                 | 1979:3                  |
| 1963:2,16              | 1836:22                 | 1900:11               | 2030:22                | <b>decodes</b> 1848:4   |

|                        |                        |                        |                         |                          |
|------------------------|------------------------|------------------------|-------------------------|--------------------------|
| 1848:8                 | 1977:9,16              | <b>denied</b> 1877:9   | 1866:21                 | 1984:6 1985:9            |
| <b>decorated</b>       | 1978:14                | 1879:10                | <b>describing</b>       | 1985:12                  |
| 1856:6                 | 2033:6                 | <b>denies</b> 1877:24  | 1913:5                  | 1987:13,16               |
| 1857:21,25             | <b>definitely</b>      | 1878:8                 | <b>description</b>      | 1991:6 1996:6            |
| <b>deem</b> 1990:16    | 1918:9                 | <b>Dennison</b>        | 1982:2                  | 2012:8,16                |
| <b>DEEMED</b>          | <b>definition</b>      | 1846:15,21             | 1995:19,25              | 2014:18                  |
| 1847:23                | 1865:14                | 1850:10                | 2000:12                 | 2028:7,20,25             |
| <b>defendant</b>       | <b>degrade</b> 2024:3  | 1900:11                | 2003:9,11               | <b>dial</b> 1954:17      |
| 1803:6,21              | <b>degree</b> 1803:6   | 1966:24                | <b>designed</b> 1965:7  | <b>difference</b>        |
| 1805:21                | 1981:1                 | 1967:20                | 2013:17                 | 1933:22                  |
| 1806:6,25              | <b>Delaneycorpo...</b> | <b>Dennison's</b>      | <b>desires</b> 1883:3   | 2010:4                   |
| 1807:13                | 2000:17                | 1849:11                | <b>desist</b> 1859:22   | <b>differences</b>       |
| 1808:1,3,8,19          | <b>delays</b> 1838:5,5 | <b>deny</b> 1815:3     | 1869:7                  | 2010:1,3                 |
| 1808:24                | 2015:18,20             | 1869:16                | 1898:13                 | <b>different</b> 1807:1  |
| 1809:19,23             | <b>deleted</b> 2019:9  | 1883:23                | 1946:23                 | 1809:24                  |
| 1811:7,14,19           | 2020:20                | <b>denying</b> 1877:11 | 1947:3,8                | 1810:19                  |
| 1811:21,24             | 2021:1,2               | 1877:13                | <b>desperation</b>      | 1824:25                  |
| 1812:7,15,15           | <b>deliberate</b>      | 1882:8                 | 1829:5                  | 1851:19                  |
| 1813:5,25              | 1808:12,17             | <b>department</b>      | <b>despondent</b>       | 1866:7 1909:4            |
| 1814:7,25              | <b>deliberations</b>   | 1856:5,8               | 1856:3,10               | 1913:5                   |
| 1823:21                | 2031:13                | 1887:22                | <b>detailed</b> 2024:13 | 1917:19                  |
| 1827:4                 | <b>delivered</b>       | 1927:12,16,21          | <b>details</b> 1820:24  | 1932:22                  |
| 1828:25                | 2014:16                | 1983:8                 | 1849:21                 | 1947:16                  |
| 1831:17                | <b>Delta</b> 1989:18   | 2011:12                | 1861:8 1919:6           | 1994:19                  |
| 1846:5                 | <b>demand</b> 1859:22  | <b>depend</b> 1987:8   | <b>determining</b>      | 1996:4,5,15              |
| 1899:22                | 1869:8                 | <b>depending</b>       | 1942:18                 | 2000:3 2011:1            |
| 1942:8                 | 1907:14,15             | 1984:16                | <b>device</b> 1982:4,5  | 2011:9                   |
| <b>defendant's</b>     | 1922:16,20             | 1993:21                | 1983:15,24,25           | 2013:20                  |
| 1805:14,18             | <b>demanded</b>        | 1996:15                | 1984:2,9,19             | 2024:16                  |
| 1807:17,21             | 1845:21                | 2021:18                | 1985:6,8,16             | 2029:3                   |
| 1812:2,11              | <b>demanding</b>       | <b>depends</b> 1987:9  | 1991:17,17,19           | <b>difficult</b> 1845:17 |
| 1813:6                 | 1922:14                | <b>depict</b> 1973:20  | 1992:2                  | 1873:3,3                 |
| 1939:20,23             | <b>demands</b>         | <b>depressed</b>       | 2003:23                 | <b>difficulty</b>        |
| 1970:18,19             | 1909:23                | 1856:10                | 2006:21                 | 1837:21                  |
| 2031:11                | <b>democrat</b>        | <b>describe</b> 1867:1 | 2013:22                 | <b>digital</b> 1980:19   |
| <b>defendants</b>      | 1806:11,12             | 1867:5                 | 2014:2,7,10,13          | 1982:6,18                |
| 1823:11                | 1833:17,19             | 1899:22                | 2014:16,22              | 1983:4                   |
| <b>defense</b> 1804:21 | <b>Democrats</b>       | 1982:8 1983:6          | 2015:18,20,24           | 2024:11,12               |
| 1804:23                | 1806:11                | <b>described</b>       | 2016:7,12,21            | <b>digits</b> 1988:17    |
| 1808:15                | 1833:8                 | 1808:15                | 2017:7 2018:8           | 1990:10                  |
| 1812:5 1829:6          | <b>demonstrated</b>    | 1894:15,17             | 2019:4,19               | 1995:4                   |
| 1924:4,21              | 1811:19                | 1896:1                 | 2022:25                 | <b>direct</b> 1805:5     |
| 1927:7                 | <b>denial</b> 1859:13  | 1899:18                | 2023:1,10               | 1836:2 1841:4            |
| 1954:15,21             | 1859:19                | 1900:24                | 2027:15,20,24           | 1853:20                  |
| 1957:20                | 1863:6,9,10,15         | 1912:14                | 2029:7                  | 1858:17                  |
| 1960:19                | 1864:25                | 1913:1,4               | 2031:23                 | 1865:6 1866:2            |
| 1961:1 1962:3          | 1869:3,7,11            | 1991:7                 | <b>devices</b> 1982:7   | 1867:16                  |
| 1963:21,22             | 1875:15,23             | 2013:14                | 1982:14,20              | 1884:17                  |
| 1970:23                | 1878:10                | <b>describes</b>       | 1983:8,9,16,21          | 1930:22                  |

|                         |                        |                         |                         |                        |
|-------------------------|------------------------|-------------------------|-------------------------|------------------------|
| 1931:1 1973:5           | 1836:8 1869:2          | 2003:20                 | 1932:18                 | 1855:8,13              |
| 1980:8 2002:4           | 1872:1                 | 2004:25                 | 1948:22                 | 1856:1 1859:2          |
| <b>directed</b> 1839:6  | 1892:12                | 2006:1,5                | 1964:22                 | 1859:6                 |
| <b>directing</b>        | 1961:21                | 2007:6                  | 1965:9                  | 1863:12                |
| 1851:11                 | 1962:13                | 2008:20                 | <b>documents</b>        | 1864:5,9,11,13         |
| 1878:15                 | 1976:25                | <b>displaying</b>       | 1812:5                  | 1864:15                |
| 1887:12                 | 2031:21,24             | 1862:2                  | 1819:11                 | 1865:9,25              |
| <b>direction</b>        | <b>discussing</b>      | <b>dispute</b> 1815:14  | 1840:14                 | 1866:4,23              |
| 1824:18                 | 1920:20                | 1921:12                 | 1842:17                 | 1867:2 1877:6          |
| <b>directive</b>        | 1972:15                | 1928:15,16,24           | 1938:7                  | 1878:4                 |
| 1851:10                 | <b>discussions</b>     | <b>disrupt</b> 1811:21  | 1965:19                 | 1886:18                |
| <b>directives</b>       | 1953:3 2032:2          | <b>disruptions</b>      | 1970:22                 | 1887:4                 |
| 1851:9                  | <b>disheartened</b>    | 1814:9                  | 1973:6                  | 1890:12                |
| <b>directly</b> 1815:20 | 1900:22                | <b>disseminate</b>      | <b>doing</b> 1808:4     | 1961:20                |
| 1843:18                 | <b>disperse</b> 1840:3 | 1843:18                 | 1812:15                 | 1962:12                |
| 2031:18                 | <b>display</b> 1841:7  | <b>disseminated</b>     | 1815:8                  | 1987:11                |
| <b>director</b> 2012:12 | 1843:6                 | 1898:22                 | 1829:25                 | 1998:10,13,15          |
| <b>Dirty</b> 1869:6,8   | 1846:11                | <b>distinction</b>      | 1830:5                  | <b>door</b> 1811:16    |
| 1895:11,13              | 1974:25                | 1914:7 2011:7           | 1831:11                 | 1824:19                |
| 1898:13                 | 1975:3 1989:2          | <b>District</b> 1803:13 | 1873:21                 | <b>doors</b> 1810:13   |
| 1919:25                 | <b>displayed</b>       | 1803:17                 | 1907:13                 | 1810:13                |
| 1920:5                  | 1836:17                | 1825:14                 | 1908:24                 | 1926:16                |
| 1945:10,11,14           | 1841:10                | 1892:17                 | 1920:17                 | 2012:5                 |
| 1947:7                  | 1842:5,16              | 1897:20,24              | 1981:19,23              | <b>doubt</b> 1813:3    |
| <b>disagree</b>         | 1843:8                 | 1902:20                 | 1983:14                 | 1817:5 1824:2          |
| 1814:19                 | 1844:10,24             | 1903:2 1905:1           | 2009:23                 | 1847:21                |
| 1815:18,18              | 1846:12,19             | 1908:4                  | 2010:11                 | 1943:24                |
| <b>disaster</b> 1883:2  | 1847:4,13              | 1930:10,17              | 2011:9,22               | 1960:14                |
| <b>disburse</b> 1851:6  | 1849:17                | 1932:25                 | <b>dollar</b> 1952:4,12 | <b>Doug</b> 1979:19    |
| <b>disbursed</b>        | 1850:3 1852:3          | 1953:17                 | 2011:15                 | <b>Douglas</b> 1980:2  |
| 1839:21                 | 1853:22                | 1980:11,13              | <b>dollars</b> 1845:3,4 | <b>downloaded</b>      |
| 1850:22,25              | 1857:7                 | 2009:23                 | 1845:13,21              | 1986:19                |
| 1851:4,8                | 1858:16                | 2011:18                 | 1922:14                 | <b>draft</b> 1840:6    |
| <b>disciplined</b>      | 1860:20                | 2023:20                 | 1929:3,4,5,12           | 1885:16                |
| 1934:17                 | 1863:19                | <b>Division</b>         | 1929:13                 | <b>drafted</b> 1845:9  |
| <b>disclose</b> 1843:18 | 1867:13,18             | 1942:22                 | 1952:8                  | <b>drafting</b> 1843:1 |
| <b>disclosed</b>        | 1870:5,9               | 1943:8                  | 1958:13                 | 1938:24                |
| 1925:13                 | 1871:18                | <b>DNA</b> 2024:13      | 1959:8                  | 1939:8                 |
| <b>discuss</b> 1894:22  | 1874:2,13              | <b>DNPQC0H1G...</b>     | <b>Donald</b> 1803:5    | <b>drawbacks</b>       |
| 1916:25                 | 1878:17                | 1989:21                 | 1804:2,10               | 2020:15                |
| 1917:18                 | 1924:6 1932:7          | <b>DOCs</b> 1839:24     | 1817:16                 | 2021:1                 |
| 1918:1                  | 1933:13                | <b>document</b>         | 1826:13                 | <b>dream</b> 1894:16   |
| 1939:18                 | 1935:10                | 1838:19                 | 1828:14                 | 1894:17                |
| 1940:16,19              | 1939:5                 | 1847:17,25              | 1830:14                 | <b>dressers</b> 1876:9 |
| 1941:8,9,10             | 1957:22                | 1848:4 1857:4           | 1831:18                 | <b>drive</b> 1819:8,11 |
| 1950:3                  | 1962:8                 | 1858:19                 | 1842:25                 | 1973:7 1992:5          |
| 2031:14                 | 1966:10,15             | 1863:20                 | 1846:9,15               | 1992:6,10,12           |
| <b>discussed</b>        | 1967:8                 | 1867:8 1876:2           | 1848:6 1853:6           | 1992:16,20             |
| 1813:14                 | 2002:24                | 1927:19                 | 1854:22                 | 1993:6                 |

|                                |                                 |                                 |                                    |                         |
|--------------------------------|---------------------------------|---------------------------------|------------------------------------|-------------------------|
| <b>driven</b> 1960:6<br>1971:5 | <b>effect</b> 1812:8<br>1856:13 | <b>email</b> 1836:12<br>1836:22 | <b>engagement</b><br>1896:18,20,20 | 2018:24                 |
| <b>drives</b> 1982:17          | 1886:6                          | 1837:1,15,17                    | 1897:1 1899:9                      | 2020:8                  |
| <b>duly</b> 1888:19            | 1904:18                         | 1837:19,25                      | 1899:14,15                         | 2021:17,21              |
| 1969:11                        | <b>effort</b> 1899:3            | 1838:8,10,12                    | 1913:21                            | 2022:9                  |
| 1979:22                        | <b>efforts</b> 1855:5           | 1838:17                         | 1915:17,22                         | <b>error</b> 2029:22    |
| <b>duration</b>                | 1896:15                         | 1839:1                          | 1932:9                             | <b>escalating</b>       |
| 2006:18                        | 1938:12                         | 1858:25                         | <b>Enjoy</b> 1939:24               | 1805:19                 |
| <b>duty</b> 1860:10            | 1947:16                         | 1862:17                         | 1940:10                            | <b>escrow</b> 1837:12   |
| <b>dying</b> 1869:24           | <b>Eisenberg</b>                | 1884:23,25                      | <b>Enquirer</b>                    | 1841:25                 |
| 1870:12                        | 1803:24                         | 1932:6,22                       | 1922:24                            | <b>especially</b>       |
| <b>Dylan</b> 1836:19           | 1879:12                         | 1934:19                         | 1924:14                            | 1904:5                  |
| 1837:14,15,20                  | 1923:4                          | 1983:7                          | 1925:14                            | <b>ESQ</b> 1803:12,14   |
| 1837:24                        | 1968:23                         | 1993:17                         | 1936:3,11                          | 1803:15,15,16           |
| 1841:9,16,17                   | 2001:24                         | 2000:16,16                      | <b>ensure</b> 1825:12              | 1803:16,17,19           |
| 1855:4,9                       | <b>either</b> 1835:1            | 2032:7                          | 1839:8 1882:3                      | 1803:19,20,21           |
| 1890:17                        | 1890:7,12                       | <b>emails</b> 1890:5            | 2024:22                            | <b>Esquire</b> 1846:16  |
| 1892:4                         | 1942:6 1983:8                   | 1986:17                         | <b>entered</b> 1835:10             | 1847:17,18              |
| 1924:18,24                     | 1992:18                         | 1999:24                         | 1835:19                            | 1850:11                 |
| 1925:9,13                      | 1993:21                         | 2000:12,13                      | 1847:5                             | 1966:19                 |
| 1935:2,14,20                   | 1996:15,22                      | <b>embedded</b>                 | 1915:17                            | <b>essence</b> 1896:14  |
| 1936:14                        | 2004:13                         | 1981:18                         | 1959:10                            | 1896:16                 |
| 1937:8                         | <b>elaborate</b>                | 2005:14                         | <b>entering</b> 1835:9             | <b>Essential</b>        |
| 1998:19                        | 1852:21                         | <b>Emil</b> 1803:19             | 1835:18                            | 1838:11                 |
| <hr/>                          | <b>elected</b> 1831:3           | 1804:12                         | 1888:17,22                         | 1839:9,14,25            |
| <b>E</b>                       | <b>election</b> 1815:22         | 1889:14                         | 1944:1 1969:9                      | 1840:17                 |
| <b>E</b> 1803:9,9,11,11        | 1853:9,10,24                    | 2009:18                         | 1969:13                            | 1841:24                 |
| 1810:9                         | 1854:3,20,24                    | <b>employee</b>                 | 1979:21                            | 1842:12                 |
| 1835:15                        | 1855:11,12,14                   | 1945:11                         | <b>entertainment</b>               | 1846:16                 |
| <b>earlier</b> 1810:11         | 1855:18,22,25                   | <b>employment</b>               | 1891:16                            | 1849:4                  |
| 1837:4                         | 1858:6                          | 1891:12                         | <b>entire</b> 1825:11              | 1850:15                 |
| 1862:16                        | 1907:22,25                      | <b>EnCase</b> 1981:17           | 1832:12                            | <b>essentially</b>      |
| 1882:23                        | 1908:7,14                       | <b>encounter</b>                | 1958:22                            | 1809:9 1844:1           |
| 1995:10                        | 1911:3,9,12                     | 1863:12                         | 1982:6 1985:6                      | 2010:11                 |
| 2029:9                         | 1941:12                         | 1865:24                         | 2024:5                             | <b>establish</b> 1918:8 |
| <b>early</b> 1858:18           | 1963:16                         | <b>encountered</b>              | <b>entitled</b> 1825:6             | <b>established</b>      |
| 1887:13                        | 1964:9,10,15                    | 1895:7                          | 1941:2                             | 1813:25                 |
| 2031:2                         | 1972:12,13,25                   | <b>encourages</b>               | 2006:11                            | <b>ET</b> 1970:21       |
| 2032:24                        | 1973:1                          | 1831:12                         | <b>entity</b> 1840:10              | <b>ethical</b> 1896:25  |
| <b>ears</b> 1954:19            | 1978:21                         | <b>encrypted</b>                | 1840:14                            | <b>ethnic</b> 1949:4    |
| <b>Earth</b> 1996:13           | <b>electronic</b>               | 1858:9 2004:5                   | 1842:11                            | <b>Ethnics</b> 1934:13  |
| <b>East</b> 1854:7             | 2019:4                          | 2004:7,9,13                     | <b>entries</b> 1873:18             | <b>evening</b> 1809:1   |
| <b>Eastern</b> 1996:20         | 2031:23                         | <b>ended</b> 1904:20            | 1878:16                            | 1818:22                 |
| 2003:15                        | <b>elements</b>                 | 1938:15                         | 1986:8,9                           | 1820:7                  |
| 2006:17                        | 1898:21                         | <b>enforceable</b>              | <b>Entry</b> 1867:17               | <b>event</b> 1807:12    |
| <b>eat</b> 1875:11             | <b>elicit</b> 1905:11           | 1873:9 1909:6                   | <b>environment</b>                 | 2003:10                 |
| <b>EC</b> 1850:15              | <b>Elliott</b> 1950:25          | <b>enforcement</b>              | 2011:23                            | <b>events</b> 1910:10   |
| <b>educational</b>             | <b>Ellis</b> 1803:17            | 1901:20                         | 2020:5                             | 1916:11                 |
| 1980:24                        | 1804:6                          | 2014:2,7                        | <b>equipment</b>                   | 1952:10                 |
|                                |                                 |                                 |                                    | 1976:17                 |

|                   |                        |                        |                         |                        |
|-------------------|------------------------|------------------------|-------------------------|------------------------|
| <b>eventually</b> | 2026:13                | <b>excerpts</b>        | 1827:21                 | 1816:25,25             |
| 1936:20           | 2031:11                | 1810:20                | 1828:22                 | 1817:2,22              |
| <b>everybody</b>  | <b>Ex</b> 1837:7       | 2026:3,6               | 1829:3,9,24             | 1818:21,23,24          |
| 1821:16           | 1840:1,2               | <b>excess</b> 1831:5,5 | 1830:9                  | 1818:25                |
| 1822:7,23         | <b>ex-husband</b>      | 1845:22                | 1836:16                 | 1819:17                |
| 1823:8 1852:4     | 1945:20                | <b>exchange</b> 1838:8 | 1838:6 1841:6           | 1830:8 1973:6          |
| 1921:1 1932:5     | <b>exact</b> 1805:10   | 1842:3                 | 1842:15                 | 1977:16                |
| 1994:23           | 1861:13                | 1853:25                | 1846:17                 | 1992:5,9,16            |
| <b>everyday</b>   | 1992:17                | 1854:13                | 1847:11                 | 1993:2,3,7,9           |
| 1810:15           | 1993:22                | 1866:22                | 1849:14,15              | 1993:13,19,22          |
| <b>evidence</b>   | 1994:1                 | 1868:12                | 1853:21                 | 1993:25                |
| 1836:17           | <b>exactly</b> 1809:15 | 1870:22                | 1858:13                 | 1994:9,11,18           |
| 1838:6 1841:7     | 1818:4 1820:3          | 1871:11                | 1860:16,19,21           | <b>existed</b> 1843:21 |
| 1842:14           | <b>examination</b>     | 1878:13                | 1861:21                 | 2002:16                |
| 1852:2,4          | 1836:2 1841:4          | 1879:9 1884:3          | 1862:3,6                | 2003:23                |
| 1858:12,15        | 1924:7                 | <b>exchanged</b>       | 1863:17                 | <b>existence</b>       |
| 1861:20,21,23     | 1944:12                | 1840:7                 | 1867:12                 | 1812:21                |
| 1861:24           | 1969:23                | 1866:16                | 1869:10                 | 1813:19                |
| 1863:18           | 1973:5 1976:6          | <b>exchanges</b>       | 1875:4,19               | 1843:21                |
| 1867:12           | 1980:8                 | 1836:12                | 1878:14                 | 1877:9                 |
| 1875:20           | 1983:25                | 1867:14                | 1884:6,16               | <b>exists</b> 1843:20  |
| 1907:18           | 1997:14                | <b>Exclamation</b>     | 1920:25                 | 1938:20                |
| 1920:25           | 2002:4                 | 1882:5                 | 1921:2 1924:5           | 2006:21                |
| 1932:5 1938:3     | <b>examine</b>         | <b>exclude</b> 1832:12 | 1939:3                  | <b>exits</b> 2032:17   |
| 1964:20           | 1983:10,21             | <b>excluded</b> 1907:2 | 1954:15,21              | <b>expect</b> 1940:8   |
| 1973:23,25        | 1991:3                 | <b>exclusive</b>       | 1957:21                 | <b>expected</b>        |
| 1974:1,14,22      | <b>examined</b>        | 1947:16,18             | 1961:1                  | 1845:14,16             |
| 1974:23           | 1835:17                | <b>excruciating</b>    | 1963:21                 | <b>expense</b> 1810:22 |
| 1977:15,17,19     | 1868:12                | 1820:24                | 1973:13                 | 1811:5                 |
| 1980:19,21        | 1979:23                | <b>excuse</b> 1829:24  | 1974:1,4,7,23           | <b>experience</b>      |
| 1982:6 1983:4     | <b>Examiner</b>        | 1877:18                | 1975:4,5                | 1910:7                 |
| 1992:22           | 1981:6,7               | 1884:2                 | 1977:21,24              | 1928:10                |
| 1993:1 1994:4     | <b>examining</b>       | 1933:10                | 1978:4,5,8,11           | 1949:23                |
| 1994:8,10,12      | 1992:15                | <b>excused</b> 1888:12 | 1978:14,15,18           | 1981:13                |
| 1997:2            | 2020:23                | 1888:13                | 1989:11                 | <b>expert</b> 1920:17  |
| 1999:13           | <b>example</b>         | 1979:17                | 1990:19                 | <b>explain</b> 1805:1  |
| 2000:20           | 1994:21                | 2032:21                | 1993:5,10,20            | 1855:1                 |
| 2001:15           | 1999:24                | <b>Execute</b> 2014:10 | 1994:25                 | 1858:21                |
| 2002:22           | 2004:11,12             | <b>executed</b> 1837:6 | 1995:16                 | 1860:5 1862:8          |
| 2003:19           | 2026:16                | 1848:3 1860:6          | 1997:3,23               | 1865:2,15              |
| 2004:19,19,22     | 2030:3                 | 1915:9                 | 1998:4                  | 1866:12                |
| 2007:5 2008:7     | <b>examples</b> 1830:7 | 1932:18,20             | 1999:14,23              | 1877:22,23             |
| 2008:10,11        | 1830:23                | 1933:9                 | 2000:21                 | 1878:9                 |
| 2010:5 2013:4     | 1866:15                | <b>exhibit</b> 1806:3  | 2001:16                 | 1991:24                |
| 2013:10           | 1997:19                | 1807:8                 | 2007:16                 | 2000:7 2002:8          |
| 2017:11           | <b>exasperation</b>    | 1808:22                | <b>exhibits</b> 1804:20 | <b>exposure</b> 1907:1 |
| 2018:6            | 1881:15                | 1810:9                 | 1804:22,23              | <b>express</b> 1939:22 |
| 2022:16           | <b>exception</b>       | 1824:12,13             | 1812:4,4                | 2031:10                |
| 2023:2            | 1952:4                 | 1825:20                | 1816:2,12,18            | <b>expressed</b>       |

|                         |                         |                        |                         |                        |
|-------------------------|-------------------------|------------------------|-------------------------|------------------------|
| 1821:13                 | 2019:16,18              | 1913:10                | <b>fairly</b> 1855:23   | 1884:18                |
| 1905:12                 | 2020:3,15,25            | <b>fact</b> 1813:10    | 1868:21                 | 1952:24                |
| <b>expressing</b>       | 2023:1 2024:1           | 1821:25                | 1880:15                 | 2002:12                |
| 1812:22                 | 2030:9                  | 1832:2,21              | 1897:15                 | 2003:10,17             |
| <b>extend</b> 1823:17   | <b>extractions</b>      | 1841:23                | 1973:20                 | <b>Fed</b> 1837:7      |
| <b>extensively</b>      | 1980:20                 | 1843:20                | <b>faith</b> 1839:20    | 1840:1,2               |
| 1830:11                 | 1982:13                 | 1864:18                | <b>fake</b> 1965:7,10   | <b>Federal</b> 1901:25 |
| 1831:20                 | 1983:12                 | 1865:24                | <b>false</b> 1864:8,14  | 1902:23                |
| 1834:12                 | <b>extracts</b> 1985:6  | 1868:19                | 1865:11                 | 1906:17                |
| <b>extortion</b>        | <b>extrajudicial</b>    | 1869:8                 | 1866:4                  | 1907:1                 |
| 1904:16                 | 1805:15                 | 1875:15                | 1929:19                 | 1910:11,16             |
| 1905:3,14,15            | 1814:23                 | 1877:8 1886:5          | <b>FALSIFYING</b>       | 1925:23                |
| 1906:9,10,20            | <b>extremely</b>        | 1890:6                 | 1803:5                  | <b>fee</b> 1915:18     |
| 1907:1,10,18            | 1827:10                 | 1896:17                | <b>Fame</b> 1876:21     | 1928:17                |
| 1909:19                 | 1864:24,25              | 1909:12                | <b>familiar</b> 1844:16 | 1930:22                |
| 1910:4,7,12,15          | 1865:5                  | 1910:6,10,20           | 1854:6 1996:4           | 1933:15,20             |
| 1927:22                 | <b>EYES</b> 1847:23     | 1924:24                | 1996:8                  | 1934:1,11              |
| 1928:2,5,10             |                         | 1945:9                 | <b>familiarity</b>      | <b>feel</b> 1877:16    |
| <b>extract</b> 1917:23  | <b>F</b>                | 1947:10,13             | 1928:10                 | <b>feeling</b> 1858:4  |
| 1984:25                 | <b>F</b> 1803:9 1806:3  | 1948:17                | <b>familiarize</b>      | <b>fees</b> 1851:4     |
| 1985:5                  | 1991:14                 | 1953:12                | 1910:15                 | 1934:7,14              |
| 1991:18                 | <b>F-A-R-A-D-A...</b>   | 1975:20                | <b>familiarized</b>     | 1948:18                |
| 2006:23                 | 1991:15                 | 2032:8                 | 1910:6,20,21            | <b>fellow</b> 2030:25  |
| 2018:10                 | <b>F15-A</b> 1977:9     | <b>factual</b> 1820:14 | <b>family</b> 1922:9    | <b>felt</b> 1858:1     |
| <b>extracted</b> 1915:4 | <b>F15-AT</b> 1954:15   | <b>fair</b> 1812:19    | <b>far</b> 1807:19      | 1928:17                |
| 1984:11                 | 1957:21                 | 1821:22                | 1825:23                 | 1929:2                 |
| 1985:10,25              | 1977:18                 | 1833:9,12              | 1845:21                 | 1937:24                |
| 1992:18                 | <b>F158A</b> 1954:21    | 1840:4                 | 1909:15,17              | <b>field</b> 1981:2,13 |
| 1993:20,23              | <b>F17-A</b> 1977:10    | 1890:21                | 1929:13                 | 2013:16                |
| 1994:1                  | <b>F17-AT</b> 1978:7    | 1892:20                | 1951:22                 | 2015:23                |
| 1995:12                 | <b>F17-C</b> 1977:11    | 1894:5                 | 2030:15,16              | <b>Fifth</b> 1807:12   |
| 2003:4                  | 1978:3                  | 1895:15                | <b>Faraday</b>          | <b>fight</b> 1928:20   |
| 2004:20                 | <b>F17-CT</b> 1970:18   | 1897:4,6               | 1991:14                 | 1948:18                |
| 2005:22                 | 1971:3 1978:2           | 1901:23                | 2016:2,4,5              | <b>fight</b> 1928:18   |
| 2025:18                 | <b>F17-E</b> 1977:11    | 1907:16                | 2030:3                  | <b>figure</b> 1879:3   |
| 2027:21                 | <b>F17-ET</b> 1963:21   | 1908:22                | <b>Farro</b> 1999:10    | 1952:5                 |
| <b>extracting</b>       | 1970:19                 | 1909:1,3               | <b>fashion</b> 1954:3   | <b>file</b> 1883:1     |
| 1916:19                 | 1971:25                 | 1910:18                | <b>fast</b> 1806:10     | 1912:4,11              |
| 1985:4                  | 1978:14                 | 1911:13                | <b>FBI</b> 1925:17,25   | 2005:13,14             |
| <b>extraction</b>       | <b>F17A</b> 1962:3      | 1913:25                | 1926:5,16               | 2006:9,19,21           |
| 1915:6                  | <b>F17C</b> 1960:19     | 1914:3 1916:8          | 2023:13                 | 2006:22                |
| 1916:21                 | 1961:1                  | 1918:20                | 2028:17,19,24           | 2007:16                |
| 1984:6,14,18            | <b>F17E</b> 1963:22     | 1929:22                | 2030:12                 | 2020:12                |
| 1985:15                 | <b>F18T2PHHG...</b>     | 1933:5                 | <b>fear</b> 1821:6      | 2021:12,13,19          |
| 1991:21,22,25           | 1990:25                 | 1935:25                | 1823:5 1851:2           | 2022:22                |
| 1992:1                  | <b>F27</b> 1924:5,21    | 1950:17                | 1906:11                 | 2023:23,23,25          |
| 1994:15                 | <b>F35</b> 1927:7       | 1960:16                | <b>fearful</b> 1814:25  | 2024:1,2,5,7           |
| 2003:5                  | <b>facility</b> 1911:18 | 1965:1 1984:7          | <b>February</b>         | 2024:11                |
| 2018:15,17              | 1912:5                  | 2008:2                 | 1861:3                  | 2025:15                |

|  |   |   |   |   |
|--|---|---|---|---|
| <b>filed</b> 1807:9<br>1808:23<br>1812:5<br><b>files</b> 1933:2<br>1986:3<br>2019:11,22,24<br>2020:1,1<br>2024:16<br><b>film</b> 1882:20<br>1891:16<br><b>films</b> 1876:22<br><b>final</b> 1837:11,12<br>1840:13<br>1843:4<br>2031:12<br><b>finalized</b><br>1846:18<br><b>finally</b> 1810:8<br>1829:9 1831:7<br>1998:9<br><b>find</b> 1929:17<br>1933:5<br>2004:13,16<br><b>finder's</b> 1928:17<br><b>fine</b> 1814:5<br>1816:13<br>1865:5<br>1941:17<br>1958:1<br>1961:25<br><b>fingerprint</b><br>2024:11,12<br><b>fingerprints</b><br>2025:14<br><b>fire</b> 1868:17<br>1870:14<br>1886:3 1954:7<br><b>first</b> 1806:1<br>1807:24<br>1810:8<br>1814:22<br>1824:12<br>1828:18<br>1832:11,13<br>1838:17<br>1839:1<br>1846:18<br>1854:13<br>1862:13 | 1865:7 1866:2<br>1879:8<br>1885:10<br>1889:20<br>1895:7 1903:7<br>1903:11<br>1918:8<br>1934:19<br>1941:2,23<br>1942:4<br>1958:13<br>1979:22<br>1987:17<br>1994:11<br>1995:9,18<br>1997:21<br>2013:23<br><b>first-hand</b><br>1889:25<br><b>firsthand</b><br>2026:25<br><b>fit</b> 1990:21<br><b>fitness</b> 1893:17<br><b>five</b> 1808:16<br>1812:8 1835:4<br>1882:11<br>1884:19<br>1968:9,10,12<br>2003:13,17<br><b>five-minute</b><br>1880:16<br><b>fix</b> 2020:19<br><b>flag</b> 1870:15<br><b>flip</b> 1927:8<br><b>Florida</b> 1910:16<br><b>Floyd</b> 1928:22<br><b>Flynt</b> 1948:1<br>1958:12,18<br>1959:7<br><b>focus</b> 1828:12<br>1836:18<br>1890:14<br>1895:6<br>1899:14<br>1908:17<br>1918:18<br>1919:18<br>1946:9<br>2023:19 | <b>focused</b> 1895:13<br>1933:14<br><b>focusing</b><br>1820:11<br>1897:3<br>1921:22<br><b>folder</b> 2019:20<br>2020:12<br><b>Folders</b> 2020:1<br><b>folks</b> 1815:24<br>1831:1,12<br>1854:23<br><b>follow</b> 2011:8<br><b>follow-up</b><br>1870:25<br><b>followed</b><br>1837:19,25<br>1855:18<br>1868:15<br>1947:8 1977:6<br><b>following</b> 1806:6<br>1813:6 1841:1<br>1841:2<br>1903:24<br>1905:18<br>1918:5,16<br>1923:4<br>2001:25<br>2002:1,2<br><b>follows</b> 1809:2<br>1835:17<br>1888:20<br>1979:24<br><b>forbids</b> 1807:4<br><b>force</b> 1906:11,12<br><b>forced</b> 1824:21<br><b>forcing</b> 1825:2<br><b>forensic</b> 1982:1<br>1991:21,25<br>2003:4<br>2013:13<br>2018:2<br>2021:14<br><b>forensically</b><br>1991:3<br>1992:18<br>1993:20<br>2005:22<br>2006:23 | <b>forensics</b><br>1829:14<br>1833:16<br>1834:17<br>1988:17<br>1990:10<br>1995:4 2031:3<br><b>foreseeable</b><br>1818:8<br><b>forget</b> 1828:19<br><b>form</b> 1839:22<br>1906:23<br>1939:22<br>1947:5,6<br>1983:9 1984:5<br>2031:10<br><b>format</b> 1985:7,7<br>1985:13,14<br>1995:9<br>2019:19<br>2022:13<br><b>formation</b><br>2019:21<br><b>former</b> 1822:17<br>1930:6<br><b>Forms</b> 1983:12<br><b>forth</b> 1836:12<br>1861:1,14<br>1862:7<br>1881:22<br>1886:23<br><b>forum</b> 1817:13<br><b>forward</b> 1839:12<br>1843:17<br>1859:24<br>1891:17<br>1938:20<br>1988:15<br>1990:8<br><b>found</b> 1805:23<br>1938:6,10<br>1942:25<br>2027:23<br><b>foundation</b><br>1833:1<br><b>four</b> 1804:21<br>1812:8 1814:2<br>1814:5 1815:3<br>1816:7 1817:2<br>1818:19 | 1829:14<br>1833:16<br>1834:17<br>1988:17<br>1990:10<br>1995:4 2031:3<br><b>fourth</b> 1807:7<br><b>frame</b> 1976:16<br><b>Francis</b> 1914:14<br>1914:16<br><b>frankly</b> 1943:19<br><b>frantic</b> 1868:20<br><b>frantically</b><br>1868:18<br><b>free</b> 1877:16<br><b>frequently</b><br>1855:23<br>1908:20<br><b>Friday</b> 2033:10<br><b>friend</b> 1930:5,11<br>1930:14<br><b>friends</b> 1820:19<br>1890:20<br>1930:6<br><b>friendship</b><br>1826:12<br><b>front</b> 1808:5<br>1824:15<br>1826:15<br>1880:13,23<br>1881:1<br><b>frustrated</b><br>1826:19<br><b>fuck</b> 1881:16<br>1883:13<br>1887:1,9<br><b>fucking</b> 1856:14<br>1856:15,22<br>1883:14<br>1964:8,10<br>1972:11,13<br><b>full</b> 1847:14<br>1960:8 1971:7<br>1979:25<br>1991:20,22,24<br>2021:12,13<br>2022:22<br><b>fully</b> 1843:22<br>1848:3 1860:6 |
|--|---|---|---|---|

|                        |                         |                      |                      |                        |
|------------------------|-------------------------|----------------------|----------------------|------------------------|
| 1933:9 1942:9          | 1854:25                 | 1878:9,18            | <b>goal</b> 1893:6   | 1901:4,16              |
| <b>fund</b> 1840:11    | <b>games</b> 1917:2,22  | 1897:21              | 1894:3,3,6           | 1904:3,13,14           |
| <b>Funded</b> 2011:18  | <b>gap</b> 2018:5       | 1911:9               | 1958:8               | 1917:18                |
| <b>funding</b> 1838:5  | <b>Gary</b> 1930:8      | 1940:22              | <b>goals</b> 1812:14 | 1918:1,24              |
| 1842:11                | 1999:10                 | 1942:16              | 1893:4,23            | 1919:2 1927:8          |
| <b>funds</b> 1837:11   | <b>gathered</b>         | 1943:1,21            | <b>God</b> 1855:10   | 1937:11                |
| 1839:21                | 1810:15                 | 1950:22              | 1964:8               | 1942:10,11,16          |
| 1841:18,22,23          | <b>Gawker</b> 1919:21   | 1958:13              | <b>goddamn</b>       | 1942:17                |
| 1885:20                | 1920:13                 | 1959:7               | 1972:11              | 1943:7,10,21           |
| 1886:18                | 1921:24                 | 1972:21              | <b>goes</b> 1827:21  | 1948:6,14,19           |
| 1887:4,14              | <b>gay</b> 1922:9,10    | 1982:2               | 1834:5               | 1954:21,23             |
| <b>further</b> 1835:17 | <b>general</b> 1895:16  | 1986:25              | 1914:16              | 1955:16                |
| 1847:16                | 1901:12                 | 2030:23              | 1942:23              | 1956:19                |
| 1869:16                | <b>generated</b>        | <b>given</b> 1833:11 | 1963:15              | 1957:15,20             |
| 1877:15                | 1936:6                  | 1955:5               | 2013:4,7             | 1960:19                |
| 1888:5 1976:2          | <b>generates</b>        | 1991:18              | 2014:22              | 1962:3 1964:9          |
| 1979:13                | 2022:15                 | 1992:6               | 2020:20              | 1970:18                |
| 2009:6                 | <b>gentleman</b>        | 2031:12              | <b>going</b> 1804:25 | 1971:21                |
| <b>future</b> 1810:18  | 1864:12                 | <b>gives</b> 1826:17 | 1806:1               | 1972:12                |
| 1814:11                | <b>getting</b> 1857:1   | 2006:16              | 1807:25              | 1973:3                 |
| <b>fuzzy</b> 1916:9    | 1859:5                  | <b>GMT</b> 1996:12   | 1809:16              | 1988:15                |
|                        | 1881:17                 | <b>go</b> 1816:13    | 1810:17              | 1990:7                 |
| <b>G</b>               | 1883:4 1904:4           | 1819:6,24            | 1811:8,11            | 2020:18                |
| <b>G</b> 1808:22       | 1904:6 1908:8           | 1821:19              | 1814:20              | 2023:18                |
| 1979:22                | 1909:18                 | 1824:18,21           | 1816:15,17           | 2024:9                 |
| <b>Gabriel</b> 1928:13 | 1910:19                 | 1825:5,5             | 1817:9,14            | 2027:11                |
| <b>Gag</b> 1813:10,12  | 1913:12                 | 1827:23              | 1818:22              | 2028:4                 |
| 1814:22                | 1917:14                 | 1829:24              | 1819:6,7,24          | 2030:21                |
| 1815:6,16,20           | 2015:18,20              | 1834:4               | 1820:3,24            | <b>gold</b> 1988:1     |
| 1816:11,19             | <b>giant</b> 2021:18,19 | 1838:15              | 1823:4,4             | <b>Golf</b> 1989:19    |
| 1817:5,6,19            | 2024:10                 | 1865:3               | 1825:17              | <b>gonna</b> 1901:2    |
| 1818:10                | <b>Gina</b> 1851:7      | 1876:25              | 1827:9 1831:8        | 1916:5 1973:1          |
| 1819:2,22              | 1876:10                 | 1878:13              | 1836:18              | 1998:18                |
| 1821:4,4,22            | 1882:3,16,17            | 1887:13              | 1838:7,14,25         | <b>good</b> 1804:7,8,9 |
| 1823:11,17,21          | 1895:20                 | 1888:7               | 1843:9               | 1804:13,14,15          |
| 1824:1,8               | 1897:5                  | 1920:25              | 1844:11,15,22        | 1811:1                 |
| 1826:19                | 1944:17,24              | 1921:3,22            | 1856:14,16           | 1834:10                |
| 1828:25                | 1945:2 1946:2           | 1924:5               | 1857:4,9             | 1835:12,25             |
| 1829:1,10,17           | 1946:7,13,17            | 1934:19              | 1858:5,17            | 1836:5,6               |
| 1831:16,18,22          | 1959:18,23              | 1935:7               | 1862:4,7             | 1839:20                |
| 1832:23                | 1960:6,7                | 1941:24              | 1869:13              | 1870:17                |
| 1833:13                | 1963:12,14              | 1955:16              | 1872:8               | 1875:8                 |
| 1834:5,9,9,15          | 1971:6,6                | 1959:3               | 1873:16              | 1889:11,12,13          |
| 1940:20                | <b>Gina's</b> 1971:12   | 1961:24              | 1875:2               | 1939:15                |
| 1941:18,20             | <b>give</b> 1805:10     | 1967:16              | 1880:12              | 1940:15                |
| 1942:3,9,25            | 1818:19                 | 1991:6               | 1881:25              | 1944:3,9               |
| 1943:20                | 1831:12                 | 1994:21              | 1882:1,17,20         | 1976:19                |
| <b>gain</b> 1936:5     | 1862:9 1873:7           | 1996:14              | 1884:2,3,13          | 1980:5                 |
| <b>gallows</b> 1854:19 | 1873:20                 | 2033:4               | 1886:2,23            | 2030:19                |

|                        |                         |                        |                        |                         |
|------------------------|-------------------------|------------------------|------------------------|-------------------------|
| 2032:14                | <b>guessing</b> 2012:5  | 2023:19                | 1943:4 1950:1          | <b>High</b> 1980:17     |
| 2033:9                 | <b>Guidance</b>         | 2028:2                 | 2023:15,17             | <b>higher</b> 1942:24   |
| <b>Google</b> 2032:10  | 1981:16                 | <b>happening</b>       | 2027:2                 | 1952:5                  |
| <b>gossip</b> 1895:14  | <b>guided</b> 1814:20   | 1821:21                | 2032:23                | <b>highlight</b> 1819:7 |
| <b>government</b>      | <b>guilt</b> 1939:21,23 | 1822:1,15,16           | <b>hearing</b> 1804:18 | 2026:1                  |
| 1815:15                | 2031:11                 | 1876:17                | 1806:14                | <b>highlighted</b>      |
| 1818:23                | <b>guy</b> 1807:23      | 1880:19                | 1807:11                | 1833:18                 |
| 1820:5 1826:4          | 1826:1                  | 1884:11                | 1808:13                | 1850:13                 |
| 1827:5 1832:7          | 1856:15,22              | <b>happens</b>         | 1816:24                | <b>hired</b> 1970:8     |
| 1904:19                | 1883:9 1906:1           | 1981:11                | 1839:12                | <b>history</b> 1981:14  |
| 1939:2                 | <b>guy's</b> 1856:16    | 1984:1                 | 1964:7                 | 1985:17                 |
| 1945:12                | <b>guys</b> 1890:25     | <b>happenstance</b>    | 1972:10                | 1986:3                  |
| 2026:17                |                         | 1925:5,8               | <b>heart</b> 1812:12   | <b>hit</b> 1943:17      |
| <b>gracious</b>        | <b>H</b>                | <b>happy</b> 1814:12   | <b>heavily</b> 1816:18 | <b>Hoffinger</b>        |
| 1864:11                | <b>H</b> 1807:8         | 1904:24                | <b>heavy</b> 2012:5    | 1803:15                 |
| <b>Graff</b> 1999:2    | 1825:20                 | <b>hard</b> 1904:3     | <b>held</b> 1814:7     | 1804:5                  |
| <b>grand</b> 1892:14   | 1835:15                 | <b>hardware</b>        | 1837:12                | 1970:20                 |
| 1905:8                 | <b>hair</b> 1876:9,18   | 1982:11                | 1839:5                 | <b>Hogan</b> 1803:13    |
| 1933:24                | <b>Hall</b> 1914:14,16  | 1991:17                | 1903:24                | 1910:12                 |
| <b>Graykey</b> 1985:3  | <b>hand</b> 1818:22     | <b>harmony</b>         | 1905:18                | 1919:22                 |
| <b>Grdina</b> 1931:1,7 | 1927:8                  | 1885:21                | 1918:5,16              | 1920:6                  |
| 1932:14                | 1940:22                 | <b>hash</b> 2024:6,7   | <b>hell</b> 1883:12    | 1921:11,12,15           |
| 1934:4,24              | 1970:15,18              | 2024:10,15,16          | <b>Hello</b> 1969:25   | 1921:17                 |
| 1936:10                | 1992:4                  | 2025:14                | 1970:1                 | 1922:21                 |
| 1937:4                 | <b>hand-signed</b>      | <b>hashed</b> 2024:4   | <b>help</b> 1868:25    | 1924:25                 |
| 1945:14,17,20          | 1837:6                  | <b>hashes</b> 2024:25  | 1869:14                | 1967:25                 |
| 1945:22,22,24          | <b>handed</b> 1806:3    | 2025:4,6               | 1896:12                | <b>Hogan's</b>          |
| 1946:6                 | 1819:12                 | <b>hat</b> 1829:15     | 1918:13                | 1920:11,17,21           |
| <b>great</b> 1826:13   | 1940:25                 | 1858:2                 | 1920:5 1936:5          | 1921:23                 |
| 1938:19                | 1941:24                 | <b>hate</b> 1881:14    | 1955:1                 | 1922:7,16               |
| <b>greater</b> 1826:25 | <b>handled</b> 1882:19  | 1975:20                | 1965:25                | 1926:6                  |
| 1845:7                 | <b>handles</b> 2016:20  | <b>head</b> 1956:19    | 2018:24                | <b>hold</b> 1882:24     |
| <b>greatest</b> 1947:4 | <b>handling</b> 2018:5  | 2023:22                | <b>helped</b> 1891:8   | <b>holiday</b> 1856:3   |
| <b>Greenwich</b>       | <b>handwriting</b>      | <b>header</b> 1995:15  | 1911:25                | <b>Holland</b> 1911:14  |
| 1996:12                | 1846:22,24,25           | <b>headers</b> 2000:6  | 1912:13,17             | 1911:17,25              |
| <b>Gregory</b>         | <b>Hannity</b>          | <b>headphones</b>      | 1914:25                | 1912:13,17,20           |
| 1848:23                | 1867:21                 | 1954:16,22             | 1948:7                 | 1913:12                 |
| <b>grossly</b> 1958:24 | 1868:2,7,9,15           | 1955:5                 | <b>helpful</b> 1936:9  | <b>Hollywood</b>        |
| 1959:5                 | 1868:25                 | 1960:18,21             | <b>helps</b> 1838:22   | 1876:6,19,20            |
| <b>group</b> 1870:16   | 1869:13                 | 1961:24                | <b>HERETO</b>          | 1876:20                 |
| 1994:11                | 1870:18,19,20           | 1963:23                | 1847:22                | <b>hone</b> 1865:13     |
| <b>growing</b>         | <b>happen</b> 1822:24   | <b>healthy</b> 1893:15 | <b>hey</b> 1954:11     | <b>honestly</b> 1823:5  |
| 1854:23                | 1901:16                 | <b>hear</b> 1883:23    | 1955:22                | 1965:13                 |
| <b>guess</b> 1809:13   | 2014:5 2015:9           | 1904:1 1943:3          | <b>Hicks</b> 1995:3    | <b>Honor</b> 1804:9     |
| 1848:5                 | <b>happened</b>         | 2008:3                 | 1998:2                 | 1805:4                  |
| 1858:17                | 1818:18                 | 2019:25                | <b>Hicks'</b> 1995:5   | 1812:20                 |
| 1879:4                 | 1851:15                 | <b>heard</b> 1827:1    | <b>hide</b> 1965:7     | 1814:16,22              |
| 1887:13                | 1877:13                 | 1833:12                | <b>hierarchical</b>    | 1815:3,12               |
| 1942:4                 | 1967:1                  | 1930:21                | 2019:20                | 1816:2,21               |

|                         |                       |                          |                         |                          |
|-------------------------|-----------------------|--------------------------|-------------------------|--------------------------|
| 1817:6,23               | 1935:3,14,20          | <b>idea</b> 1870:17      | 2028:10                 | 1962:11                  |
| 1818:6,11,17            | 1935:23               | 1900:16,17               | <b>impression</b>       | <b>Indict</b> 1803:2     |
| 1818:22                 | 1936:14,24            | <b>identification</b>    | 1904:7                  | <b>indicted</b> 1811:6   |
| 1819:19,23              | 1937:8,20             | 1860:15,18               | 1953:23                 | <b>indirectly</b>        |
| 1821:20                 | 1938:6,10,23          | 1973:12                  | <b>improperly</b>       | 1843:18                  |
| 1822:13                 | 1939:8                | 1974:3 1989:3            | 2031:19                 | <b>individuals</b>       |
| 1823:23,25              | 1998:19               | 1989:4                   | <b>inauguration</b>     | 1821:15                  |
| 1825:4,7,17             | <b>HTAU</b> 1980:17   | 2007:10                  | 1858:6                  | <b>industry</b>          |
| 1826:8 1828:8           | 1980:18,22            | <b>identified</b>        | <b>incense</b> 1939:23  | 1893:17                  |
| 1828:10                 | 1981:25               | 1804:18                  | <b>incident</b> 1912:3  | 1981:3                   |
| 1829:11,13,20           | 1982:9,19             | <b>identifier</b> 1988:6 | 1913:1,4                | <b>infect</b> 1811:21    |
| 1830:17                 | 1983:3,6,15           | 1988:9 1990:3            | 2031:18                 | <b>inference</b>         |
| 1832:16                 | 1987:10,19            | <b>identifies</b>        | <b>incidents</b> 1913:5 | 1806:18                  |
| 1834:9                  | 1988:7                | 2003:25                  | <b>include</b> 1932:16  | <b>inferred</b> 1904:16  |
| 1919:14                 | 2011:13,14            | <b>identifying</b>       | 1998:19                 | <b>influence</b>         |
| 1940:25                 | 2012:12               | 1993:16                  | <b>included</b>         | 1915:21                  |
| 1941:19                 | 2023:3,6,9            | <b>identity</b> 1922:10  | 1845:16                 | 2031:20                  |
| 1943:3 1994:7           | 2028:8,15             | <b>IDK</b> 1872:18,23    | 1893:16                 | <b>inform</b> 1814:11    |
| 2008:9                  | <b>huge</b> 1858:2    | <b>ignored</b> 1808:7    | 1911:2                  | <b>information</b>       |
| <b>Honor's</b> 1815:6   | <b>Hulk</b> 1910:12   | <b>image</b> 1893:21     | <b>includes</b> 2032:2  | 1843:19                  |
| 1819:18                 | 1919:22               | 2019:12                  | <b>including</b>        | 1881:18                  |
| <b>HONORABLE</b>        | 1920:6,10             | 2021:14                  | 1825:14                 | 1891:20                  |
| 1803:10                 | 1921:12,14,17         | 2023:24                  | 1830:25                 | 1911:17,25               |
| <b>hope</b> 1830:18     | 1921:23               | <b>images</b> 1919:24    | 1843:20                 | 1912:3,10                |
| 1995:3,4                | 1922:7,16,21          | 1919:25                  | 1863:12                 | 1913:8,9                 |
| 1998:2                  | 1924:25               | <b>imagine</b> 1952:3    | 1912:4 1941:5           | 1922:25                  |
| <b>hoping</b> 1829:5    | 1926:6                | 1964:7                   | 1984:12                 | 1925:2,9,13              |
| <b>horrific</b> 1949:24 | 1967:25               | 1972:10                  | 2005:18                 | 1926:1 1930:2            |
| <b>hotel</b> 1876:6,16  | <b>humor</b> 1854:19  | <b>immediately</b>       | 2032:6                  | 1937:11,25               |
| 1876:19,24              | 1854:25               | 1875:15                  | <b>incoming</b>         | 1938:12                  |
| 1881:2                  | <b>hundred</b> 1854:6 | 2014:22,24               | 2027:15,20              | 1985:5 1987:4            |
| 1926:14                 | 1929:4,5              | 2016:10,11               | <b>increased</b>        | 1993:13,16               |
| 1989:18                 | <b>hundreds</b>       | <b>immovable</b>         | 1933:19                 | 2000:7 2005:2            |
| <b>hour</b> 1808:1      | 1874:9                | 1937:21                  | <b>indemnify</b>        | 2010:14                  |
| 1885:13                 | 1997:15,16            | <b>impact</b> 1809:24    | 1948:1,8,10             | 2021:4                   |
| 1940:8                  | <b>hurt</b> 1929:15   | 2030:9                   | 1959:8                  | 2031:16                  |
| <b>hours</b> 1806:14    | <b>hush</b> 1864:13   | <b>implemented</b>       | <b>indicate</b> 1812:6  | 2032:11                  |
| <b>House</b> 2001:13    | 1866:3,10,21          | 1816:11                  | 1933:15                 | <b>informed</b>          |
| <b>How's</b> 1906:13    | 1867:1                | <b>implication</b>       | <b>indicated</b> 1908:6 | 1885:22                  |
| <b>Howard</b>           | 1877:11               | 1833:9,11                | 1920:13                 | 1937:16,18               |
| 1836:19                 | 1878:8                | <b>important</b>         | 1927:16                 | <b>initialed</b>         |
| 1841:9,16,18            | <b>hypothetical</b>   | 1827:10                  | 1935:16                 | 1992:15                  |
| 1842:4 1855:4           | 1957:9                | 1941:12                  | <b>indicates</b>        | <b>initially</b> 1851:24 |
| 1855:9                  | <b>hypothetically</b> | 2010:8,14                | 2006:12                 | <b>initials</b> 1850:15  |
| 1890:17                 | 1957:5                | 2013:3 2031:1            | <b>indicating</b>       | 1967:20,22               |
| 1891:4,7,19             | 1958:14               | <b>impose</b> 1814:4     | 1938:23                 | 1979:1                   |
| 1892:4                  |                       | <b>Impossible</b>        | 2029:11                 | <b>innocence</b>         |
| 1924:18,24              |                       | 1881:7                   | <b>indication</b>       | 1939:21                  |
| 1925:10,14              |                       | <b>imprecise</b>         | 1961:16,19              | 2031:11                  |
|                         | <b>I</b>              |                          |                         |                          |
|                         | <b>iCloud</b> 1982:17 |                          |                         |                          |

|  |   |  |  |  |
|--|---|--|--|--|
| <b>innocuous</b><br>1808:15  | <b>interacted</b><br>1901:20  | 1820:9<br>1831:24  | 1841:20<br>1843:1 1895:4   | 1941:13  |
| <b>inquire</b> 1980:6<br>2009:9  | <b>interacting</b><br>1949:24   | <b>interviews</b><br>1815:10   | 1908:20<br>1909:13,22  | <b>items</b> 2019:9<br>2020:23   |
| <b>inquiry</b> 1859:3  | <b>interaction</b><br>1865:17   | 1830:25<br>1869:25   | 1915:10<br>1929:11   | <hr/> <b>J</b> <hr/>   |
| <b>insidious</b> 1810:1  | 1866:7<br>1869:16   | 1870:1,12<br>1871:3 1961:4   | 1931:18<br>1945:3  | <b>J</b> 1803:5 1804:2<br>1804:10  |
| <b>Instagram</b><br>1877:16  | 1878:6  | 1961:9,12,15<br>1963:11  | 1946:18<br>1948:4  | <b>jail</b> 1814:10  |
| <b>installments</b><br>1952:8  | <b>interactions</b><br>1859:1   | <b>introduced</b><br>1931:1  | 2015:12<br>2032:12   | <b>James</b> 1931:11<br>1931:13,15<br>1945:14,17,20<br>1945:22   |
| <b>instant</b> 1861:1<br>1861:13<br>1862:15  | 1864:23<br>1890:11<br>1894:18   | <b>invade</b> 1851:20<br><b>invades</b> 1851:2   | <b>involvement</b><br>1864:9   | <b>January</b><br>1859:18<br>1861:2<br>1862:12<br>1863:24<br>1864:3<br>1867:14,20<br>1869:22<br>1871:24<br>1873:23<br>1874:6,15<br>1875:7,24<br>1878:11,20<br>1882:2<br>1921:11<br>1947:24<br>1948:14<br>1952:22<br>2028:8 |
| <b>instructed</b><br>1897:24<br>1904:21<br>1918:3<br>1919:15<br>2026:6<br>2027:14,17   | 1902:9<br>1904:19<br>1930:7   | <b>invading</b> 1851:5<br><b>invasive</b> 2029:4<br>2029:7,13,22   | <b>involving</b><br>1913:18<br>1987:11<br>2031:19  |  |
| <b>instruction</b><br>1898:3,4   | <b>intercepted</b><br>2004:10   | <b>investigated</b><br>1910:11<br>1926:22  | <b>iPhone</b> 1984:17<br>1987:17,18<br>1990:1<br>2006:13   |  |
| <b>instructions</b><br>2027:4<br>2031:12   | <b>interest</b> 1849:24<br>1860:3 1936:6  | <b>investigation</b><br>1897:18<br>1901:21<br>1910:14<br>1925:17<br>1926:2,7<br>1927:13,22<br>1928:1,2<br>1987:11,14<br>2010:21<br>2015:12 | <b>iPhones</b> 1984:12<br>1987:17<br>2021:11<br>2028:11<br>2029:17   |  |
| <b>intake</b> 1983:3,6<br>1983:7,14<br>1984:1,3,8<br>1991:6,9<br>2017:4                | <b>interested</b><br>1822:22<br>1935:24<br>1936:3<br>1937:17,19   | <b>investigations</b><br>1927:1  | <b>Iraq</b> 1981:19,20<br>2009:20,21<br>2010:11<br><b>issue</b> 1811:24<br>1812:2,24<br>1813:20<br>1823:13<br>1898:1 1908:3<br>1920:20<br>1937:24<br>1940:18,20<br>1943:8<br>2014:13<br>2032:8 |  |
| <b>integrity</b><br>1814:24<br>1821:19<br>1834:13<br>2010:23<br>2013:1,3,17<br>2024:20 | <b>interim</b> 1881:21<br>2015:23   | <b>investigative</b><br>2012:15<br>2023:5<br>2026:11,12  | <b>issue</b> 1811:24<br>1812:2,24<br>1813:20<br>1823:13<br>1898:1 1908:3<br>1920:20<br>1937:24<br>1940:18,20<br>1943:8<br>2014:13<br>2032:8  | <b>Jay</b> 1931:1,4,7,9<br>1932:14<br>1934:4<br>1936:10<br>1937:4<br>1945:22,24<br>1946:3,4,6<br>1999:4  |
| <b>Intel</b> 2010:4,7<br>2010:17   | <b>internal</b> 1905:15<br>1981:12  | <b>invite</b> 2002:25<br><b>inviting</b> 1827:11   | <b>issue</b> 1811:24<br>1812:2,24<br>1813:20<br>1823:13<br>1898:1 1908:3<br>1920:20<br>1937:24<br>1940:18,20<br>1943:8<br>2014:13<br>2032:8  |  |
| <b>intellectual</b><br>1849:22   | <b>internet</b> 1898:25<br>2015:3 2032:7  | <b>invoice</b> 1811:4<br><b>invoked</b> 1902:16<br>1902:19<br>1962:23  | <b>issued</b> 1805:18<br>1813:21<br>1859:13,20<br>1926:25<br>1927:2,12   | <b>jeopardy</b> 1807:3<br><b>Jesus</b> 1856:13<br><b>JG</b> 1932:14<br><b>Jimmy</b> 1873:17<br>1875:1,16<br>1876:23  |
| <b>intended</b><br>1805:15,20  | <b>interpret</b><br>1856:24   | <b>invoking</b><br>1902:22<br>1917:20,21<br>1918:25<br>1919:4  | <b>issues</b> 1812:11<br>1907:20,24<br>1916:9  | <b>job</b> 1981:10<br><b>John</b> 1931:20<br>1934:9<br><b>joined</b> 1804:11   |
| <b>intense</b> 1823:6  | <b>interpreting</b><br>1976:11  | <b>involved</b>  |  |  |
| <b>intent</b> 1821:4   | <b>interrupt</b><br>1856:20   |  |  |  |
| <b>intention</b> 1815:6<br>1816:21   | <b>interview</b><br>1808:24<br>1827:7 1832:8<br>1832:10,12<br>1894:12<br>1953:21<br>1964:1,2<br>1972:22 |  |  |  |
| <b>intents</b> 1985:22   | <b>interviewer</b>  |  |  |  |
| <b>interact</b> 1950:16  |   |  |  |  |

|                        |                        |                       |                      |                |
|------------------------|------------------------|-----------------------|----------------------|----------------|
| <b>Jonathan</b>        | 1888:8,11,11           | 1892:7                | 1987:8               | 1906:7         |
| 1941:5                 | 1888:23,23             | 1902:11               | 1991:13              | 1907:15        |
| <b>Joshua</b> 1803:14  | 1889:1,3               | 1915:11               | 1993:17              | 1909:15,17     |
| 1804:4                 | 1939:17                | 1936:9                | 1997:13              | 1912:6,7,12    |
| <b>Journal</b> 1851:24 | 1944:6,9               | 1945:20               | 2000:2 2006:9        | 1913:6,15      |
| 1852:7                 | 1968:12                | <b>Katherine</b>      | <b>kindly</b> 1839:4 | 1914:2,23      |
| 1858:25                | 1969:14,14             | 1803:17               | <b>kinds</b> 1941:13 | 1924:9 1925:6  |
| 1859:4,14,25           | 2030:21,25             | 1804:6                | 1942:2               | 1925:7,8       |
| 1862:18,25             | 2031:6                 | <b>keep</b> 1817:6    | 1982:14              | 1926:8,18,22   |
| <b>JR</b> 1803:12      | 2032:23                | 1828:14,24            | 1985:14,25           | 1928:12,13     |
| <b>JUAN</b> 1803:10    | <b>jury</b> 1803:7     | 1830:16               | 1987:16              | 1930:4,9,21    |
| <b>judge</b> 1805:3,13 | 1804:16                | 1847:16               | 1993:13              | 1931:13        |
| 1806:7                 | 1806:10,17             | 1880:12               | 2014:20              | 1932:17,19,21  |
| 1816:16                | 1807:2                 | 1884:13               | <b>knew</b> 1822:23  | 1932:23        |
| 1817:3,11              | 1811:15                | 1922:10               | 1910:3               | 1934:13,13     |
| 1823:2                 | 1819:4 1832:5          | 1939:20               | 1930:19              | 1936:4         |
| 1824:23                | 1833:5,7,8,10          | 1983:11               | 1931:4               | 1938:14,17,19  |
| 1827:5,9               | 1833:12,22             | 2031:9                | 1937:11              | 1939:14        |
| 1831:18                | 1834:1 1835:5          | <b>keeping</b> 1854:1 | <b>know</b> 1804:16  | 1943:19        |
| 1834:1,23              | 1835:18,19             | 1982:10               | 1805:7 1806:8        | 1945:11,19     |
| 1889:5,7               | 1855:21                | <b>keeps</b> 2005:13  | 1809:15              | 1946:8,15,19   |
| 1918:2                 | 1858:21                | <b>Keith</b> 1837:2   | 1810:12,24           | 1952:17        |
| 1939:16                | 1860:5                 | 1839:3                | 1813:10              | 1953:16        |
| 1941:23                | 1888:22                | 1847:17               | 1815:5               | 1954:10        |
| 1969:6                 | 1892:14                | 1869:19,24            | 1816:17              | 1955:21        |
| 1974:20                | 1905:8                 | 1888:18               | 1820:3               | 1956:23        |
| 1979:15                | 1939:25                | 1964:8                | 1824:20              | 1960:2,7,8,8,9 |
| 1980:7                 | 1944:4                 | 1969:10               | 1830:15              | 1960:9 1963:5  |
| 1983:20                | 1968:14                | 1972:11               | 1832:16,24           | 1963:16        |
| 1989:6 1994:3          | 1969:13,19             | 1975:7                | 1838:21              | 1964:2,5       |
| 2007:4 2009:5          | 1977:19                | 1998:21,23            | 1844:13              | 1965:9,13      |
| 2009:8,11              | 1978:1                 | 2005:6                | 1846:13              | 1967:1 1968:4  |
| 2030:20                | 1991:24                | <b>Keith's</b> 1837:7 | 1852:24              | 1971:7,7,8,9   |
| <b>July</b> 1980:15,23 | 2000:3 2013:7          | <b>kept</b> 2014:24   | 1853:16,16           | 1972:8         |
| <b>jumpsuit</b> 1828:2 | 2031:20                | <b>Kevin</b> 1913:21  | 1856:17,21           | 1973:15,18,19  |
| <b>June</b> 1929:14,24 | 2032:17                | <b>kill</b> 1901:2    | 1857:22              | 1976:8,12,21   |
| 1934:21                | <b>justice</b> 1803:10 | <b>Kimmel</b> 1872:8  | 1860:10              | 1983:15        |
| 1935:8,13              | 1812:19                | 1873:17               | 1862:16              | 1987:2,22,24   |
| 1936:10,22             | 1943:16                | 1875:1,16             | 1868:3               | 1992:14        |
| 1938:22                | <b>justification</b>   | 1876:22,23,25         | 1872:19,23           | 2000:25        |
| 1939:8                 | 1806:21                | 1880:4,20             | 1873:13              | 2001:9,11      |
| <b>jurisdiction</b>    | <b>Justin</b> 1950:5   | 1881:11,17,23         | 1875:1               | 2005:8,11      |
| 1832:21                |                        | <b>kind</b> 1807:12   | 1878:23              | 2010:7         |
| <b>juror</b> 1833:14   | <b>K</b>               | 1829:15               | 1879:1,7             | 2016:18        |
| 1833:14,16             | <b>K</b> 1835:15       | 1856:5 1862:6         | 1883:1,11,13         | 2023:16        |
| <b>jurors</b> 1805:21  | <b>Karen</b> 1851:12   | 1871:13               | 1886:3 1890:6        | 2026:9 2027:3  |
| 1806:18,19             | 1851:25                | 1895:10               | 1897:14              | 2027:8,11      |
| 1821:16                | 1852:9 1853:3          | 1918:9                | 1902:15              | 2028:1,2,4,13  |
| 1835:22,25             | 1853:13                | 1962:18               | 1904:2 1906:6        | 2030:15,16,24  |

|                        |                         |                        |                          |                         |
|------------------------|-------------------------|------------------------|--------------------------|-------------------------|
| 2031:4 2033:2          | 1959:7 1999:6           | <b>learn</b> 1891:19   | 1847:5,9,19,22           | 1849:10                 |
| <b>knowing</b>         | <b>Las</b> 1960:9       | <b>learned</b> 1947:13 | 1848:1,8                 | 1850:7,7,12,12          |
| 1809:22                | 1971:8,17               | <b>leave</b> 2030:23   | 1859:22                  | 1850:16                 |
| <b>knowingly</b>       | <b>late</b> 1819:23     | 2032:24                | 1865:24                  | 1866:3 1907:9           |
| 1814:1                 | 1873:17                 | <b>leaving</b> 1939:25 | 1869:5                   | 1909:19                 |
| <b>knowledge</b>       | 1950:22                 | 1940:4                 | 1879:10                  | 1910:20,23              |
| 1813:2,7               | <b>lately</b> 1817:16   | 1968:14,18             | 1897:1                   | 1932:12,16              |
| 1854:9                 | <b>Laurie</b> 1803:24   | <b>led</b> 1859:4      | 1898:13                  | <b>linear</b> 1954:3    |
| 1870:19,20             | 1879:12                 | 1900:2 1954:1          | 1899:9,15                | <b>lines</b> 1811:8     |
| 1889:25                | 1923:3                  | <b>left</b> 1804:11    | 1900:4                   | 1813:17                 |
| 2026:25                | 2001:24                 | 1825:5                 | 1915:18,22,25            | 1841:7 1862:5           |
| 2031:19                | <b>law</b> 1803:18,20   | 1889:15                | 1932:9,22                | 1871:12                 |
| <b>known</b> 1820:18   | 1901:20                 | 1900:25                | 1933:3,15                | 1875:4                  |
| 1890:22                | 1910:4,7,16,21          | <b>legal</b> 1810:21   | 1938:24                  | 1881:20,25              |
| 1913:23                | 1925:20                 | 1811:5                 | 1939:8 1947:3            | 1884:4                  |
| <b>knows</b> 1808:3    | 1928:11                 | 1883:11,12             | 1947:5,6                 | 1905:25                 |
| 1812:20                | 1936:14                 | 1899:15                | 1979:3                   | <b>Link</b> 2006:19     |
| 1820:18                | 1946:24                 | 1900:1                 | <b>letters</b> 2025:8,11 | <b>linked</b> 1911:11   |
| 1941:20                | 1951:19                 | 1917:22                | <b>level</b> 1820:9,12   | <b>linking</b> 1907:24  |
| <b>Kotsev</b> 1945:5,9 | 2014:2,7                | 1934:7,14              | <b>leverage</b> 1953:7   | 1908:13                 |
| 1946:18                | 2031:12                 | 1941:1,4               | 1953:9,13                | <b>links</b> 2017:8,9   |
| 1963:12                | 2032:9,11               | 1948:10,17,20          | 1957:16                  | <b>liquidated</b>       |
| 1972:6,21              | <b>lawful</b> 1812:22   | 1948:22                | 1958:6,9                 | 1844:18,19,25           |
| 1973:2                 | 1813:19                 | 1949:1                 | 1964:10,15               | 1845:2,6,11,15          |
| <b>Kramsky</b>         | 1814:1 1911:1           | 1951:16                | 1972:13                  | 1845:20,25              |
| 1803:24                | <b>lawn</b> 1866:18     | 1959:8,21              | 1973:1                   | 1873:9                  |
| 1840:20                | <b>lawsuit</b> 1883:6   | 1964:22                | 1978:21                  | <b>Lisa</b> 1803:24     |
| 1879:13                | <b>lawsuits</b> 1909:16 | 1965:14                | <b>liar</b> 1809:3       | 1840:20                 |
| 2001:23                | <b>lawyer</b> 1809:4,6  | <b>lengthy</b> 1873:5  | 1822:8 1832:2            | 1879:13                 |
|                        | 1809:6                  | <b>let's</b> 1835:4    | 1882:17                  | 2001:23                 |
| <b>L</b>               | 1810:21,24,25           | 1874:12                | <b>licenses</b> 1983:11  | <b>listen</b> 1954:23   |
| <b>L</b> 1968:23       | 1832:1                  | 1884:14                | <b>lied</b> 1830:15      | 1955:5                  |
| 1979:22                | 1910:21                 | 1888:7 1895:6          | <b>lies</b> 1830:16      | 1960:17                 |
| <b>lab</b> 1980:20     | 1917:1                  | 1899:14                | <b>life</b> 1856:11      | 1973:10                 |
| 1982:10                | <b>lawyers</b> 1809:5   | 1919:18                | 1873:14                  | 2007:1 2032:1           |
| 2010:13                | 1905:1 1917:1           | 1938:20                | 1948:20                  | <b>listened</b> 1955:13 |
| 2011:15                | <b>laying</b> 1833:1    | 1943:23                | <b>likeness</b> 1893:21  | 1955:24                 |
| 2020:8                 | <b>layman's</b>         | 1944:4 1946:9          | <b>limitations</b>       | 2008:3                  |
| <b>label</b> 1983:11   | 1991:23                 | 1959:25                | 1906:20                  | 2026:22                 |
| <b>labeled</b> 2005:6  | 2020:19                 | 1968:12                | 1907:2                   | <b>listening</b>        |
| <b>lag</b> 2015:16     | <b>leader</b> 1816:6    | 1969:8 1971:3          | <b>limited</b> 1818:13   | 2007:24                 |
| <b>language</b> 1805:6 | <b>leadership</b>       | 1977:18                | 1818:14                  | 2032:3                  |
| 1805:10                | 1937:12                 | 1986:25                | 1864:9                   | <b>lists</b> 1986:4     |
| 1856:11,12             | <b>leading</b> 1822:19  | 2013:20,22             | 1891:11                  | <b>literally</b> 1831:8 |
| 1965:7,10              | 1854:22                 | 2015:7                 | <b>limits</b> 1834:8     | <b>litigated</b> 1909:8 |
| <b>large</b> 1845:25   | <b>leaked</b> 1911:17   | 2023:23                | <b>Lindsay</b> 1911:18   | <b>litigation</b>       |
| <b>Largely</b> 1809:9  | <b>leaking</b> 1930:1,4 | <b>letter</b> 1824:13  | <b>line</b> 1813:8       | 1812:24                 |
| <b>Larry</b> 1948:1    | <b>leaning</b> 1960:7   | 1842:10                | 1838:10                  | 1813:21                 |
| 1958:12,18             | 1971:6                  | 1846:18                | 1848:20                  | 1899:21                 |

|                        |                         |                        |                         |                       |
|------------------------|-------------------------|------------------------|-------------------------|-----------------------|
| 1947:4 1948:2          | 1839:10,14,25           | 1935:5,11              | <b>looks</b> 1834:5     | 1968:23               |
| 1948:7                 | 1840:17                 | 1936:1 1939:2          | 1842:20                 | <b>main</b> 1816:10   |
| <b>little</b> 1804:16  | <b>LLP</b> 1803:20      | 1941:19                | 1874:14                 | 1903:14               |
| 1806:23                | <b>load</b> 1875:8      | 1942:5                 | 1994:22                 | 1967:13,23            |
| 1810:2,14              | <b>local</b> 1926:22    | 1950:23                | 2001:13                 | <b>maintain</b>       |
| 1819:24                | 1927:1                  | 1963:5                 | 2011:25                 | 1847:19               |
| 1827:24                | <b>locate</b> 1938:7    | 1964:18                | 2019:19,20              | 1848:1 2013:3         |
| 1855:1,21              | <b>located</b> 1933:6   | 1965:16                | <b>loosely</b> 1928:16  | 2013:17               |
| 1860:5                 | <b>location</b> 1813:24 | 1966:8 1967:6          | <b>Los</b> 1936:17,24   | <b>maintaining</b>    |
| 1866:12                | 1832:19                 | 1967:13                | <b>lose</b> 1964:9,10   | 2013:1                |
| 1868:23                | 2031:24                 | 1972:1 1984:4          | 1972:12,13              | <b>major</b> 1891:20  |
| 1871:16                | <b>locations</b>        | 1985:15                | 1973:1                  | <b>make-up</b> 1876:8 |
| 1872:6 1874:1          | 2031:21                 | 1986:25                | <b>loses</b> 1964:9,10  | 1876:9                |
| 1874:1,12              | <b>log</b> 1986:3       | 1987:20                | 1972:12,13              | <b>making</b> 1831:9  |
| 1875:22                | 2003:22,24,25           | 1989:13                | <b>losing</b> 1838:1    | 1832:25               |
| 1884:8,10,14           | 2003:25                 | 1990:21                | <b>lost</b> 1837:22     | 1903:19               |
| 1885:5,12              | <b>logical</b> 2019:16  | 1993:6 1995:1          | <b>lot</b> 1810:25      | 1907:14,15            |
| 1894:2 1895:6          | 2019:18                 | 1998:6                 | 1811:2,3                | 1909:22               |
| 1897:13                | 2020:3,15,25            | 2000:22                | 1829:14                 | 1911:2 1914:1         |
| 1898:18                | 2022:20                 | 2003:18                | 1875:9,11               | 1914:4                |
| 1899:14                | <b>logs</b> 2022:12     | 2005:25                | 1922:8 1952:5           | <b>man</b> 1820:18,19 |
| 1900:4,19              | <b>Lohan</b> 1911:18    | 2007:4                 | 1957:16                 | 1831:21               |
| 1902:20                | 1912:4 1913:9           | 2018:10,21             | 2001:10                 | 1913:21               |
| 1904:3 1916:8          | <b>Lohan's</b> 1912:11  | 2019:11                | 2014:5                  | 1950:25               |
| 1944:14,16             | <b>London</b> 1854:1    | 2020:4,16              | 2025:10                 | 1979:6,10             |
| 1949:9 1954:8          | <b>long</b> 1828:3      | 2024:25                | 2030:6                  | <b>manage</b> 1871:5  |
| 1980:24                | 1832:9 1841:8           | 2025:1                 | <b>loud</b> 1844:12     | <b>manager</b>        |
| 1984:14                | 1856:9                  | 2027:17,17,25          | 1847:15                 | 1895:21               |
| 1986:23                | 1882:17                 | <b>looked</b> 1804:20  | <b>luck</b> 1955:3      | 1944:19,25            |
| 1991:23                | 1944:19                 | 1816:12                | <b>lunch</b> 1939:24    | <b>Managing</b>       |
| 1995:7 1996:3          | 1946:24                 | 1869:10                | 1940:8,10               | 1839:13               |
| 2000:7                 | 1960:3 1965:9           | 1898:9                 | <b>luncheon</b>         | <b>mandate</b>        |
| 2001:18                | 1980:13,22              | 1927:10                | 1940:11                 | 1812:22               |
| 2002:23                | 2017:14                 | 1932:8                 | <b>lying</b> 1811:10,11 | <b>Mandela</b> 1828:3 |
| 2004:24                | 2025:7                  | 1952:17                | 1811:11                 | <b>Mangold</b>        |
| 2006:3                 | <b>longer</b> 2007:18   | 2008:25                | 1832:3 1960:8           | 1803:16               |
| 2013:20                | <b>look</b> 1811:8,11   | 2022:5,10              | 1971:7,14               | 1804:6                |
| 2017:23                | 1824:3,5,12             | 2030:9                 |                         | <b>Manhattan</b>      |
| 2023:23                | 1831:22                 | <b>looking</b> 1815:19 | <b>M</b>                | 1807:13               |
| 2028:10                | 1839:12                 | 1834:6 1905:2          | <b>M</b> 1803:10        | <b>manipulate</b>     |
| 2031:2                 | 1847:7                  | 1905:4,15              | 1847:17                 | 2012:15               |
| 2032:24                | 1862:16                 | 1942:17                | <b>machine</b> 2022:8   | <b>manipulated</b>    |
| <b>live</b> 1985:21    | 1863:17                 | 1958:2 1993:5          | 2022:15                 | 2012:9                |
| <b>live-streamed</b>   | 1882:17                 | 1993:14                | <b>magazine</b>         | 2024:24               |
| 1822:4                 | 1917:1 1924:4           | 2001:11                | 1893:13                 | <b>manipulation</b>   |
| <b>lived</b> 1995:23   | 1924:9,11,21            | 2018:18                | 1947:12                 | 2013:11               |
| <b>living</b> 1914:1,5 | 1927:7,9                | 2020:3 2022:2          | <b>Magniccari</b>       | 2015:21               |
| <b>LLC</b> 1837:10     | 1932:4                  | 2022:15                | 1803:25                 | <b>Manny</b> 1928:15  |
| 1838:11                | 1933:11                 | 2029:7                 | 1923:3                  | <b>manual</b> 2018:15 |

|                        |                     |                      |                        |                        |
|------------------------|---------------------|----------------------|------------------------|------------------------|
| 2022:19,23             | 1803:15             | 1855:2               | 2016:18                | 1998:25                |
| 2023:9 2029:9          | 1804:5              | 1856:20,24           | 2022:1 2024:5          | <b>member</b>          |
| <b>Manually</b>        | <b>maximum</b>      | 1859:19              | 2032:6                 | 1839:13                |
| 2029:7                 | 1814:5              | 1862:8 1863:7        | <b>meant</b> 1872:10   | 1905:1                 |
| <b>March</b> 1953:1    | <b>Mayweather</b>   | 1866:13              | 1971:11                | 2031:20                |
| 1953:12                | 1928:22             | 1867:23,25           | <b>measures</b>        | <b>members</b>         |
| 1954:9 1956:5          | <b>McCarthy</b>     | 1868:5               | 2015:23                | 1823:22                |
| 1956:13                | 1941:6              | 1870:11              | <b>media</b> 1806:16   | 1991:24                |
| 1958:3,15              | <b>McDougal</b>     | 1871:4,14            | 1806:22                | <b>memo</b> 1805:17    |
| 2003:16                | 1851:12,25          | 1874:22,23           | 1807:2                 | 1808:16                |
| <b>Marilyn</b> 1876:5  | 1852:9 1853:3       | 1875:9 1880:2        | 1810:15                | 2006:13                |
| <b>mark</b> 1903:15    | 1892:8,10,25        | 1880:3,22            | 1822:4 1824:3          | <b>memory</b> 1916:8   |
| 1904:5,6               | 1893:10             | 1881:14              | 1908:17,23             | 1989:14                |
| 1989:4,5,8             | 1894:9,22           | 1882:6,22            | 1909:16                | 2021:14,15             |
| 2025:4                 | 1902:11             | 1883:9               | 1960:8                 | <b>Memos</b> 2005:12   |
| <b>marked</b> 1860:15  | 1907:7              | 1897:17              | 1963:15                | <b>men</b> 1869:19,24  |
| 1860:18                | 1929:23             | 1906:9               | 1971:8                 | 1870:11,16             |
| 1861:24                | 1930:3,4,11,23      | 1907:12              | 1972:22                | 1922:9                 |
| 1973:12                | 1931:2,4,15         | 1926:8               | 1982:18                | <b>menace</b> 1807:1   |
| 1974:3                 | 1932:9 1933:8       | 1952:17              | <b>mediated</b>        | <b>menacing</b>        |
| 1990:17                | 1933:10             | 1971:10              | 1837:24                | 1826:10                |
| 1992:9 2007:4          | 1934:24             | 1973:17              | <b>mediator</b>        | <b>mention</b> 1812:3  |
| 2007:9                 | 1936:10,17          | 1984:21,23           | 1837:24                | 1941:14,15             |
| 2008:11                | 1937:2,25           | 1996:12              | <b>meet</b> 1883:3     | 2016:2                 |
| <b>married</b> 1931:15 | 1938:6              | 2002:14,17           | 1889:16,17             | <b>mentioned</b>       |
| <b>match</b> 1839:23   | 1939:12             | 2010:7               | 1890:25                | 1819:18                |
| 2025:4,14              | 1945:24             | 2017:13              | 1903:1                 | 1882:23                |
| <b>materials</b>       | <b>McDougal's</b>   | 2027:2               | 1934:24                | 1901:12                |
| 1849:23                | 1853:13             | 2028:13              | <b>meeting</b> 1837:25 | 1931:20                |
| <b>matter</b> 1824:6   | 1930:6,7,14         | 2029:9               | 1872:20,24             | 1983:17                |
| 1826:21                | 1935:21             | <b>meaning</b>       | 1903:7,11,15           | 1985:2                 |
| 1828:20                | 1937:9              | 1871:25              | 1903:17                | 1987:21                |
| 1831:17                | 1945:20             | 1938:3               | 1904:20                | 1991:13                |
| 1860:7                 | <b>Mea</b> 1819:1   | 1971:19              | 1908:6                 | 1996:22                |
| 1864:18                | 1829:21             | 1992:2               | 1926:11                | 2001:21                |
| 1877:8,15              | 1830:23             | 1996:18              | 1931:23                | 2003:9 2007:7          |
| 1891:14                | <b>mean</b> 1807:22 | 2014:2               | 1935:2                 | 2016:2                 |
| 1949:18                | 1820:17             | <b>meaningful</b>    | 1936:16,21,24          | <b>mentions</b>        |
| 2033:10                | 1822:17             | 1985:12              | 1937:2,8               | 1943:13,14             |
| <b>mattered</b>        | 1826:1,20           | 2019:6               | 1938:10                | <b>MERCHAN</b>         |
| 1832:14                | 1830:2,22           | <b>means</b> 1843:10 | 2003:11                | 1803:10                |
| <b>matters</b> 1824:6  | 1834:8              | 1844:15              | <b>meetings</b>        | <b>Merchan's</b>       |
| 1824:7                 | 1843:25             | 1875:6 1879:1        | 1815:10                | 1831:18                |
| 1832:14                | 1844:17             | 1948:10              | 1901:24                | <b>message</b> 1836:19 |
| 1891:10                | 1847:24             | 1965:13              | 1902:2,8,13,19         | 1862:15                |
| 1917:18                | 1848:10             | 1982:3,4             | 1902:23                | 1935:16                |
| 1949:15                | 1849:20             | 1991:25              | 1908:3 1926:5          | 1937:20                |
| 2010:23                | 1853:5,8            | 2002:15              | 1953:17                | 1938:23                |
| <b>Matthew</b>         | 1854:18             | 2004:8               | <b>Melania</b>         | 1995:20                |

|                          |                |                         |                        |                        |
|--------------------------|----------------|-------------------------|------------------------|------------------------|
| <b>messages</b> 1861:1   | 1838:1,8       | 1959:16                 | 1882:11                | <b>money</b> 1828:15   |
| 1861:13                  | 1839:1,13      | 1960:5,24               | 1884:19                | 1831:9,11,12           |
| 1868:23                  | 1840:7,10      | 1961:8,11,14            | 1996:16,16,19          | 1831:13                |
| 1921:7 1935:8            | 1841:19        | 1961:19,22              | 1996:23,23             | 1841:16                |
| 1935:13                  | 1845:21        | 1962:11,16              | 2003:13,17             | 1850:19                |
| 1936:20                  | 1846:1,16      | 1963:1,5,11             | <b>minute</b> 1816:2   | 1851:7                 |
| 1952:18,22               | 1847:18        | 1964:1 1967:2           | 1816:22                | 1864:13                |
| 1985:17                  | 1848:2 1849:6  | 1970:4,8,10,10          | 1825:1,18              | 1866:4,10,16           |
| 1986:2                   | 1850:11,23     | 1970:13                 | 1897:3                 | 1866:21,22,22          |
| 1994:17                  | 1852:14        | 1971:4                  | 1975:25                | 1867:1,1               |
| 2032:6                   | 1853:4,7       | 1972:16,24              | 2008:14                | 1878:8                 |
| <b>messaging</b>         | 1855:15,22     | 1973:11,16,21           | 2022:19                | 1893:24                |
| 1860:25                  | 1856:4         | 1975:10,10              | <b>minutes</b> 1806:20 | 1909:25                |
| 1995:21                  | 1857:11,14     | 1976:11                 | 1810:16                | 1915:4                 |
| <b>messaging</b> 1828:14 | 1858:7 1860:1  | 1987:23,25              | 1815:2                 | 1922:19                |
| <b>met</b> 1813:25       | 1860:1,25      | 1994:17,19              | 1819:18                | 1929:11                |
| 1864:11                  | 1861:2,7,14    | 1995:2                  | 1827:9 1835:4          | 1947:21                |
| 1889:18                  | 1862:14        | 2000:15                 | 1866:8 1869:2          | 1961:17                |
| 2001:4                   | 1863:5 1867:9  | 2001:3,4                | 1888:9                 | 1964:6 1972:9          |
| <b>metadata</b>          | 1867:15,20     | 2014:17                 | 1940:19                | <b>money'</b> 1877:12  |
| 1986:21,23,24            | 1868:6,17,25   | 2022:6                  | 1968:9,10,13           | <b>monies</b> 1850:22  |
| 1987:4,5,8               | 1869:2,12,22   | 2025:19                 | 1975:1,2               | <b>monitoring</b>      |
| 2001:21                  | 1870:10,23     | <b>mid</b> 1936:10      | 2006:18                | 1926:19                |
| 2002:6 2005:3            | 1871:24        | <b>mid-December</b>     | <b>misleading</b>      | <b>Monroe</b> 1876:5   |
| 2005:22                  | 1872:2,8,14    | 1855:25                 | 1865:21                | <b>Montgomery</b>      |
| 2006:6                   | 1873:23        | 1857:3                  | <b>mistake</b> 2029:25 | 1915:11                |
| 2008:24                  | 1874:18,24     | <b>middle</b> 1809:20   | <b>mistaken</b>        | <b>month</b> 1855:17   |
| 2019:6                   | 1875:7,12      | 1832:10                 | 1958:24                | 1938:22                |
| 2021:18                  | 1878:13,21     | 1954:17                 | 1959:5                 | <b>months</b> 1812:1,9 |
| 2026:18                  | 1879:10        | <b>Mike</b> 1887:4      | <b>Mobile</b> 1981:6   | 1892:23                |
| <b>methampheta...</b>    | 1880:10,19,22  | <b>military</b> 1981:18 | <b>mocked</b> 1817:15  | <b>Moran</b> 2012:12   |
| 1915:21                  | 1881:4,9       | <b>million</b> 1845:3,4 | <b>mocking</b>         | 2012:22                |
| <b>methods</b>           | 1882:2,7,13,21 | 1845:13,20              | 1827:14,21             | <b>morning</b> 1804:7  |
| 2022:19                  | 1883:5,16,21   | 1916:4,6,13             | 1831:15                | 1804:8,9,13,14         |
| 2029:13,14               | 1884:3,22      | 1922:14                 | <b>modified</b>        | 1804:15                |
| 2030:12                  | 1885:7,18,19   | 1929:4,5,12,13          | 2002:10                | 1807:10                |
| <b>Michael</b> 1809:3    | 1885:23        | 1952:8                  | <b>moment</b> 1810:3   | 1808:25                |
| 1809:5 1810:2            | 1886:9 1887:7  | 1958:13                 | 1827:1 1873:2          | 1814:17,20             |
| 1810:5,18                | 1887:9,14      | 1959:8                  | 1887:25                | 1815:4                 |
| 1811:23                  | 1890:3,7,12    | <b>millions</b> 1929:2  | 1974:15                | 1835:12,25             |
| 1812:1,10,11             | 1894:22        | 1929:2,2                | 1982:5 1989:6          | 1836:5,6               |
| 1812:12                  | 1900:20        | <b>mind</b> 1854:1      | 1992:23                | 1854:11                |
| 1815:24,25               | 1906:1 1911:5  | 1904:18                 | 2009:3                 | 1856:2 1888:7          |
| 1819:1                   | 1911:8         | 1907:17                 | <b>Monday</b> 1813:4   | 1889:11,12,13          |
| 1820:10                  | 1920:21        | 1939:20                 | 1818:22                | 1905:25                |
| 1831:23                  | 1921:14,17     | 2031:9                  | <b>monetary</b>        | 1921:7                 |
| 1836:13                  | 1949:10        | <b>minimize</b> 1814:9  | 1922:16,20             | 1948:13                |
| 1837:2,8,16,20           | 1953:14        | <b>minus</b> 1878:22    | <b>monetizing</b>      | 1952:20,21             |
| 1837:22                  | 1954:9 1956:5  | 1878:24                 | 1896:5,7               | 2006:17                |

|                       |                       |                        |                        |                         |
|-----------------------|-----------------------|------------------------|------------------------|-------------------------|
| <b>mouse</b> 1864:23  | 1915:10               | 2021:24                | 1877:13                | 1876:25                 |
| <b>move</b> 1807:6    | 1931:11,20            | 2033:4                 | 1889:18,19,23          | 2032:14                 |
| 1810:8                | 1944:16               | <b>needed</b> 1806:18  | 1889:24                | 2033:9                  |
| 1867:11               | 1950:18,19,25         | 1907:21                | 1892:25                | <b>nightly</b> 1831:8   |
| 1882:9                | <b>names</b> 1848:11  | 1946:20                | 1911:11                | <b>nine</b> 1805:24     |
| 1891:17               | 1993:15,17            | 1961:20                | 1929:16                | 1810:16                 |
| 1938:20               | 2005:13               | 1962:12                | 1932:18                | 1814:8                  |
| <b>moved</b> 1834:1   | <b>nation</b> 1816:6  | <b>needle</b> 1882:24  | 1938:21                | <b>Nods</b> 1900:8      |
| <b>moving</b> 1808:20 | <b>national</b>       | 1938:15                | 1946:6 1960:9          | 2023:22                 |
| 1810:4                | 1922:24               | <b>needs</b> 1811:18   | 1961:21                | <b>non-attorneys</b>    |
| 1869:17               | 1924:13               | 1831:21                | 1962:13                | 1934:14                 |
| 1938:15               | 1925:14               | 1845:13                | 1971:8,17              | <b>Non-Disclosure</b>   |
| <b>mow</b> 1866:18    | 1936:3,11             | 1925:25                | 1979:6,10              | 1908:21                 |
| <b>multimillion</b>   | 2010:8                | <b>negotiations</b>    | <b>new</b> 1803:1,1,2  | <b>non-disparage...</b> |
| 2011:15               | <b>native</b> 1995:21 | 1911:11                | 1803:8,8,13,14         | 1842:22                 |
| <b>multiple</b>       | <b>natural</b> 2033:3 | <b>negotiate</b>       | 1803:14                | 1873:6                  |
| 1815:23               | <b>naturally</b>      | 1939:12                | 1804:2                 | <b>non-paying</b>       |
| 1820:22               | 1907:12               | 1947:12                | 1822:22                | 1949:22                 |
| 1826:15               | <b>NDA</b> 1845:7     | 1948:8 1966:1          | 1825:15                | <b>nondisclosure</b>    |
| 1830:7,23,25          | 1908:25               | <b>negotiated</b>      | 1882:18,20             | 1844:1 1848:5           |
| 1831:4,5              | <b>NDA's</b> 1909:13  | 1948:24                | 1898:16                | 1848:7 1965:2           |
| 1858:7                | <b>near-daily</b>     | 1951:19                | 1941:3                 | <b>normally</b>         |
| <b>Mutual</b> 1842:21 | 1891:22               | 1952:1                 | 1959:14                | 1985:16                 |
| <b>mutuality</b>      | <b>necessarily</b>    | 1964:19,24             | 1980:11                | 1986:3                  |
| 1860:3                | 1829:11               | 1965:2                 | 1996:14                | <b>notable</b> 1952:4   |
|                       | 1898:2                | <b>negotiating</b>     | 1998:12                | <b>notarized</b>        |
|                       | 1935:22               | 1907:7                 | 2006:11                | 1840:1                  |
|                       | 1956:18               | <b>negotiation</b>     | 2012:24                | <b>note</b> 1988:20     |
| <b>N</b>              | 2010:20               | 1907:13                | <b>news</b> 1819:3     | 1992:21                 |
| <b>N</b> 1803:11      | <b>necessary</b>      | 1919:12                | 1820:6,23              | <b>noted</b> 1833:17    |
| 1835:15               | 1819:21               | 1933:19                | 1864:4,16              | <b>notes</b> 1988:25    |
| <b>name</b> 1839:9,24 | 1839:22               | <b>negotiations</b>    | 1865:8 1874:8          | 1989:2                  |
| 1840:14               | <b>Neches</b>         | 1895:4                 | 1885:3 1896:7          | <b>nother</b> 1883:2    |
| 1842:11               | 1803:20,20            | 1910:23                | 1898:16,22,24          | <b>notwithstandi...</b> |
| 1846:21,21            | 1804:12               | 1920:16                | 1899:4                 | 1891:22                 |
| 1848:19,20            | 1940:18               | 1926:12                | 2001:10                | <b>November</b>         |
| 1850:8                | 1942:15               | 1963:2                 | <b>newspaper</b>       | 1815:22                 |
| 1889:14               | 1943:3,11             | 1964:16                | 1940:25                | 1831:3                  |
| 1904:24               | <b>need</b> 1819:22   | <b>neither</b> 1847:16 | <b>nice</b> 1807:22,22 | 1851:11                 |
| 1930:21               | 1824:18               | 1848:1                 | 1807:23                | 1852:12                 |
| 1941:16               | 1826:5                | <b>Nelson</b> 1828:2   | 1808:5,13,14           | 1854:4                  |
| 1945:5 1950:1         | 1834:15,21            | <b>net</b> 1851:9      | 1825:25                | 1950:20                 |
| 1966:19               | 1846:13               | <b>network</b>         | 1826:1,1,5,7           | 1981:22                 |
| 1979:25               | 1870:3 1918:8         | 1946:21                | 1826:19,20             | 1989:18                 |
| 1980:1                | 1940:16               | <b>neutral</b> 1821:2  | 1889:16,17             | <b>number</b> 1804:23   |
| 1986:15,16            | 1941:24               | <b>never</b> 1842:8    | <b>night</b> 1853:24   | 1813:15                 |
| 1988:13               | 1942:12               | 1856:22                | 1854:20                | 1824:13                 |
| 2006:19               | 1954:11               | 1867:3                 | 1868:2,7,10            | 1832:11                 |
| 2009:18               | 1955:22               | 1870:20                | 1873:17                | 1833:16                 |
| <b>named</b> 1911:14  |                       |                        |                        |                         |
| 1913:21               |                       |                        |                        |                         |

|                        |                         |                         |                        |                        |
|------------------------|-------------------------|-------------------------|------------------------|------------------------|
| 1921:3 1941:4          | 1937:12                 | 1976:23                 | 1854:10,13             | <b>one-sided</b>       |
| 1981:2,3               | <b>observed</b> 1826:8  | <b>office</b> 1874:10   | 1858:5                 | 1897:13                |
| 1986:12                | <b>obstruction</b>      | 1892:17                 | 1860:14                | <b>ones</b> 1819:2     |
| 1988:17,20             | 1948:20                 | 1897:20,24              | 1862:25                | 1892:19                |
| 1989:14                | <b>obtained</b>         | 1903:2 1905:2           | 1863:17                | 1952:1                 |
| 1990:11,13,24          | 1983:21                 | 1908:4                  | 1865:15,18,20          | 2004:16                |
| 1995:5                 | <b>obtaining</b>        | 1930:10,17              | 1866:2,4,9             | 2021:21                |
| 1997:13                | 1906:10                 | 1932:25                 | 1867:7                 | 2022:1,8,14            |
| 2024:6                 | <b>obvious</b> 1817:24  | 1953:17                 | 1869:17,19             | 2024:16                |
| <b>numbers</b>         | 1855:11                 | 1980:12,14,16           | 1870:10,21             | <b>ongoing</b> 1812:22 |
| 1933:22                | <b>obviously</b>        | 1980:20                 | 1871:9,24              | 1878:6                 |
| 1984:5                 | 1857:5                  | 1983:10                 | 1872:17                | 1893:20                |
| 1993:17                | 1903:18                 | 2009:24                 | 1873:18                | 2024:19                |
| 1994:12                | <b>occasions</b>        | 2011:18                 | 1874:11                | <b>ONLY,</b> ' 1847:23 |
| 2025:7,11              | 1814:2 1858:7           | 2017:2                  | 1875:3,19              | <b>open</b> 1824:15    |
|                        | <b>occurred</b>         | 2023:20                 | 1877:1                 | 1905:19                |
|                        | 1976:21                 | 2028:9                  | 1878:13                | 1918:17                |
| <b>O</b>               | <b>October</b>          | <b>officer</b> 1835:9   | 1879:1,8               | 1939:20                |
| <b>O</b> 1803:9        | 1836:13,23              | 1835:18                 | 1880:1                 | 1975:4                 |
| 1835:15                | 1838:13                 | 1888:10,17,21           | 1883:19                | 1977:24                |
| 1979:22                | 1839:5 1840:8           | 1931:25                 | 1884:1,20,21           | 1978:5,11              |
| <b>o'clock</b> 1804:17 | 1841:14,24              | 1969:3,9,13             | 1885:4                 | 1987:1,3               |
| 1820:7 2033:1          | 1847:10                 | 1979:21,25              | 1887:10,24             | 2018:6                 |
| <b>oath</b> 1835:14    | 1849:1,3,8              | 1980:3                  | 1901:22                | 2030:17                |
| <b>object</b> 1904:3   | 1850:23                 | 2032:16                 | 1917:13                | 2031:9                 |
| <b>objection</b>       | 1886:25                 | <b>official</b> 1879:13 | 1918:10,19             | <b>opening</b> 1818:18 |
| 1861:22                | 1921:22                 | 1942:19                 | 1919:19                | <b>operate</b> 2020:4  |
| 1903:20                | 1973:11,21              | <b>oftentimes</b>       | 1924:10                | <b>operating</b>       |
| 1904:1                 | 2005:6,9                | 1864:22,23              | 1939:6 1971:2          | 1987:6                 |
| 1905:17,20             | <b>odd</b> 1856:7       | <b>oh</b> 1828:23       | 1972:7                 | 2011:22                |
| 1906:22                | 1858:4 1942:1           | 1848:14                 | 1988:15                | <b>operation</b>       |
| 1912:15                | 1952:13                 | 1855:10                 | 1990:7                 | 1926:5,8               |
| 1916:1 1917:4          | 1953:25                 | 1872:6                  | 1995:22                | 1927:16                |
| 1926:3                 | 1954:2                  | 1938:19                 | 2000:3                 | <b>opinion</b> 1906:4  |
| 1927:17,23             | <b>offenses</b> 1910:15 | <b>okay</b> 1805:12     | 2002:14,17,20          | 1907:3                 |
| 1928:6 1956:6          | <b>offensive</b>        | 1817:18                 | 2023:21                | 1939:22                |
| 1959:1                 | 1904:24                 | 1819:9                  | <b>old</b> 1876:19     | 2031:10                |
| 1973:24                | <b>offer</b> 1818:24    | 1830:21                 | 1996:12                | <b>opponent</b>        |
| 1974:19                | 1819:7                  | 1833:23                 | <b>older</b> 2021:11   | 1812:10                |
| 1977:13,14             | 1861:20,21              | 1838:6,25               | <b>once</b> 1852:17,17 | <b>opportunity</b>     |
| 1978:23                | 1929:9                  | 1840:10                 | 1852:18                | 1819:20                |
| 1979:8                 | 1958:20                 | 1843:25                 | 1918:11                | 1825:13                |
| 2012:18                | 1973:23                 | 1844:6,17,22            | 1960:3 1983:7          | 1947:16,18             |
| <b>objections</b>      | 1974:14                 | 1846:10                 | 1984:1,3               | 1948:17                |
| 1994:6 2008:8          | 1994:4 2008:6           | 1847:1,8,11             | 1985:10,14             | 1969:7 1973:6          |
| <b>obligations</b>     | <b>offered</b> 1929:1,7 | 1848:14                 | 1991:11,13,20          | 1974:2                 |
| 1949:4                 | 1948:1 1959:7           | 1851:11                 | 2014:21                | 2007:23                |
| <b>obnoxious</b>       | <b>offers</b> 1977:9    | 1852:1                  | 2018:8 2024:4          | <b>opposed</b> 1834:6  |
| 1828:16                | <b>offhand</b> 1976:10  | 1853:13,18              | 2025:24                | <b>opposing</b>        |
| <b>observations</b>    |                         |                         |                        |                        |

|                        |                        |                      |                       |                      |
|------------------------|------------------------|----------------------|-----------------------|----------------------|
| 1949:17                | <b>outgoing</b>        | 1928:15              | 1866:22               | 1807:15              |
| 1962:17                | 2027:16,20             | <b>Pacquiao's</b>    | 1867:2                | 1814:17              |
| <b>orange</b> 1828:2   | <b>outlets</b> 1822:4  | 1928:18              | 1877:11               | 1815:1,8,9           |
| <b>order</b> 1804:18   | 1823:1 1864:4          | <b>page</b> 1805:17  | 1878:8                | 1832:18,19           |
| 1805:14,18,20          | 1865:8                 | 1808:16              | 1885:20               | 1834:15,17           |
| 1805:24                | <b>outrageous</b>      | 1813:8,15,16         | 1886:5,5              | 1841:8 1844:1        |
| 1806:3 1807:4          | 1824:21                | 1827:23              | 1912:13,17,20         | 1856:25              |
| 1807:7                 | <b>outside</b> 1809:7  | 1828:5,5,17          | 1913:12               | 1861:6               |
| 1808:22                | 1810:13                | 1829:24,25           | 1915:1 1916:4         | 1891:25              |
| 1810:9 1812:8          | 1811:16                | 1830:9,9,14          | 1916:6 1934:1         | 1893:16              |
| 1812:22,25             | 1815:9 1827:6          | 1841:2,7             | 1934:14               | 1896:3,4             |
| 1813:7,11,12           | 1991:16                | 1842:2,20,20         | 1948:18               | 1942:19              |
| 1813:20                | 2011:4,9               | 1843:6 1844:7        | 1952:8                | 1945:14              |
| 1814:1,8,18,19         | 2023:9                 | 1844:9,20,23         | <b>pal</b> 1870:24    | 1965:14              |
| 1814:22,23             | <b>overall</b> 1833:21 | 1846:11,17,18        | <b>pants</b> 1828:24  | 1967:13              |
| 1815:6,12,17           | <b>overflow</b>        | 1847:11,11           | 1868:17               | 1969:3               |
| 1815:20                | 1822:21                | 1848:14,15           | 1870:13               | 1987:10,13           |
| 1816:11,19,23          | <b>overlooking</b>     | 1849:13,13           | 1954:7                | 2003:4               |
| 1817:5,6,19            | 1823:14                | 1850:16              | <b>Papa</b> 1989:18   | 2011:18              |
| 1818:10                | <b>overnight</b>       | 1862:3               | <b>papers</b> 1806:21 | 2023:5               |
| 1819:2,19,20           | 1837:7                 | 1867:16              | 1812:5                | 2026:11,12           |
| 1819:22,24             | <b>Overruled</b>       | 1870:22              | 1819:14               | <b>participants</b>  |
| 1821:4,4,22            | 1912:16                | 1871:11              | 1820:23               | 1805:19              |
| 1823:2,3,12,17         | 1956:7 1979:9          | 1873:18,18           | 1834:3                | <b>participated</b>  |
| 1823:22                | 2012:19                | 1875:3               | <b>paperwork</b>      | 2017:4               |
| 1824:2,8               | <b>overseas</b>        | 1878:15              | 1839:9,22             | <b>participation</b> |
| 1826:19                | 1877:12                | 1881:8,20,25         | <b>paragraph</b>      | 1812:13              |
| 1828:25                | <b>overt</b> 1911:2    | 1884:4 1921:3        | 1837:3,5              | <b>particular</b>    |
| 1829:1,10,17           | <b>owed</b> 1928:17    | 1923:5 1924:2        | 1839:4,8,11,13        | 1811:25              |
| 1831:17,18,22          | 1929:2                 | 1924:5               | 1840:2,4              | 1851:21              |
| 1832:23                | <b>owned</b> 1849:24   | 1934:19              | 1843:7,16             | 1854:9               |
| 1833:13                | 1877:12                | 1935:7 1939:3        | 1844:8,16             | 1855:24              |
| 1834:5,9,9,15          | 1932:2                 | 1956:25              | 1845:8 1846:2         | 1857:14              |
| 1922:17                | 1945:14                | 1966:11              | 1847:9,14             | 1865:6               |
| 1940:20                | <b>owner</b> 1983:24   | 1967:9,10,10         | 1866:3 1877:3         | 1872:14              |
| 1941:18,20             | 1995:2                 | 1967:11,16           | 1877:7,14             | 1878:15              |
| 1942:3,9,12,21         | <b>ownership</b>       | 1975:13              | 1933:12,14            | 1879:9               |
| 1942:25                | 1849:21                | 2001:25              | 1975:12,14            | 1884:23              |
| 1943:10,20             | <b>owns</b> 1932:1     | 2002:2               | <b>Pardon</b> 1833:6  | 1931:5 1954:5        |
| 1969:3                 |                        | <b>pages</b> 1804:24 | <b>parentheses</b>    | 1975:12              |
| <b>ordinarily</b>      | <b>P</b>               | 1812:5               | 1839:22,23,24         | 1984:9,17            |
| 1954:4                 | <b>P</b> 1803:11,11    | 1816:14              | 1839:25               | 1988:12              |
| <b>ordinary</b>        | <b>p.m</b> 1836:25     | 1828:11              | <b>parenthesis</b>    | 1995:20              |
| 1908:25                | 1839:18                | 1927:10              | 1843:19,22            | 2024:10              |
| <b>Organization</b>    | 1874:15                | 1974:25              | <b>parse</b> 2021:24  | <b>particularly</b>  |
| 1890:1                 | 1996:18                | 1997:21              | <b>parsed</b> 2022:14 | 1811:18              |
| <b>original</b> 1842:9 | 2002:13                | 1998:1,6,9,12        | 2025:25               | 1867:16              |
| 1845:7 1847:8          | 2003:10                | 1998:15,18           | <b>Parsing</b> 2022:1 | 1903:8               |
| <b>outcome</b> 1888:2  | <b>Pacquiao</b>        | <b>paid</b> 1856:22  | <b>part</b> 1803:1    | 1907:19              |

|                         |                         |                         |                        |                        |
|-------------------------|-------------------------|-------------------------|------------------------|------------------------|
| 2029:22                 | 1914:17                 | 1882:25                 | 1973:12                | 1890:16                |
| <b>parties</b> 1835:22  | 1915:7                  | <b>pending</b> 1958:25  | 1974:3,7,21,25         | 1909:16                |
| 1847:18,22,25           | 1916:22,23              | <b>Pennsylvania</b>     | 1989:5,8               | 1944:20                |
| 1848:11                 | 1948:19                 | 1808:25                 | 1990:17,17             | 1959:20,21,24          |
| 1857:8                  | <b>paying</b> 1856:23   | <b>people</b> 1803:2    | 1992:5,10,17           | <b>persecution</b>     |
| 1899:22                 | 1917:24                 | 1803:12                 | 1992:21,21             | 1832:17                |
| 1924:3 1927:6           | 1948:10                 | 1804:1,3,4,21           | 1993:25,25             | <b>persistent</b>      |
| 1944:5                  | <b>payment</b>          | 1804:21,25              | 1994:4,24              | 1805:19                |
| 1954:14                 | 1810:21,24              | 1809:6                  | 1997:1                 | <b>person</b> 1846:8   |
| 1969:17                 | 1843:4 1845:7           | 1810:25                 | 1999:13,21             | 1903:14                |
| 1989:1                  | 1900:2                  | 1811:3                  | 2000:20,22             | 1905:14                |
| 1990:17                 | 1907:21,25              | 1813:13                 | 2001:15                | 1983:14                |
| 1994:18,19              | 1916:13                 | 1815:18,24              | 2002:22                | 1984:7,8               |
| 1995:2,19               | 1933:23                 | 1819:12,21              | 2003:18                | 2031:15,19             |
| 2000:11,14              | 1934:5                  | 1822:22                 | 2004:18,23             | <b>personal</b>        |
| 2007:3,7                | 1961:20                 | 1823:15                 | 2005:1,25              | 1809:13                |
| 2010:14                 | 1962:12                 | 1831:11                 | 2006:22                | 1827:14                |
| <b>parties'</b> 1989:12 | 2031:15                 | 1834:21                 | 2007:1,5,10,16         | 1834:19                |
| 1990:20                 | <b>payments</b>         | 1888:1 1894:4           | 2008:4,6,13,15         | 1885:20                |
| 1993:15                 | 1908:14                 | 1922:8                  | 2008:25                | 1890:11,19             |
| <b>parts</b> 1818:17    | <b>payoff</b> 1861:9    | 1929:15                 | <b>perceived</b>       | 1993:16                |
| 1865:6 2012:2           | 1866:8,10               | 1941:2,22               | 1948:14                | <b>personality</b>     |
| <b>party</b> 1822:20    | <b>payout</b> 1916:13   | 1942:7                  | <b>percent</b> 1806:10 | 1954:6                 |
| 1843:22,23,24           | <b>PC</b> 2020:4        | 1943:16                 | 1833:8 1854:6          | <b>personally</b>      |
| 1846:6                  | <b>Pearce-Bates</b>     | 1954:10,11              | 1870:6,23              | 1839:21                |
| 1847:16                 | 1803:23                 | 1955:21,22              | 1915:18                | 1850:19                |
| 1848:1                  | 1840:19                 | 1976:1                  | 1930:24                | <b>perspective</b>     |
| 1849:25                 | <b>Pecker</b> 1808:13   | 1979:18,19              | 1933:16,20,23          | 1817:6                 |
| 1877:8                  | 1808:16                 | 1989:7                  | 1933:23                | 1899:25                |
| 1938:18                 | 1809:15                 | 1992:24                 | 1982:25                | 1948:21                |
| 2000:11                 | 1810:6                  | 2015:11                 | <b>perceptions</b>     | 1951:3                 |
| 2004:9                  | 1819:25                 | 2023:3                  | 1904:8,9               | 1964:22                |
| <b>pass</b> 1816:25     | 1820:1,2,11,15          | 2032:12                 | <b>percolated</b>      | 1966:3,21              |
| <b>passcode</b>         | 1821:5,7,10             | <b>People's</b> 1825:20 | 1868:19                | <b>persuade</b>        |
| 1991:18                 | 1823:1 1824:4           | 1836:16                 | <b>Perfect</b> 1886:1  | 1971:12                |
| <b>passing</b> 1833:20  | 1825:19                 | 1842:14                 | <b>perfectly</b>       | <b>pertain</b> 1861:7  |
| <b>password</b>         | 1826:3,11               | 1852:1                  | 1941:17                | <b>Peterson</b> 1844:4 |
| 1984:23                 | 1937:13,14              | 1853:20                 | <b>perform</b> 1982:7  | 1848:22                |
| <b>path</b> 2006:21     | 1997:22                 | 1858:12                 | 1982:12                | 1900:11                |
| <b>patient</b> 1912:4   | <b>Pecker's</b>         | 1860:15,18              | <b>performed</b>       | <b>petulant</b>        |
| 1912:11                 | 1807:19                 | 1862:2                  | 1984:11                | 1828:25                |
| <b>Patty</b> 2000:15    | 1819:4                  | 1863:17                 | <b>period</b> 1855:25  | <b>phase</b> 2013:25   |
| <b>Patty's</b> 2000:16  | 1820:10,25              | 1867:12                 | 1858:5,6               | 2016:15                |
| <b>Pause</b> 1843:11    | 1825:22                 | 1875:19                 | 1860:3 1861:2          | <b>Philadelphia</b>    |
| 1851:2 2009:4           | <b>Peggy</b> 1844:4     | 1878:14                 | 1869:25                | 1820:6                 |
| <b>pay</b> 1811:5       | 1848:22                 | 1884:3                  | 1877:13,15             | <b>Phoenix</b> 1931:25 |
| 1866:18                 | 1900:11                 | 1920:25                 | 1881:7                 | 1932:1                 |
| 1873:9                  | <b>pen</b> 1810:14      | 1932:5 1935:6           | 1885:21                | 1934:24                |
| 1887:14                 | <b>penalties</b> 1873:6 | 1964:19                 | 1886:25                | 1936:2                 |

|                       |                         |                          |                       |                          |
|-----------------------|-------------------------|--------------------------|-----------------------|--------------------------|
| <b>phone</b> 1856:9   | <b>photo</b> 1828:1,20  | 1954:5                   | 1843:10,13,15         | <b>podcast</b> 1815:25   |
| 1858:9                | 2002:17                 | 1976:13                  | 1847:3,15             | 1829:21                  |
| 1868:22               | <b>photograph</b>       | 1996:13                  | 1858:21               | 1830:23                  |
| 1874:9 1947:9         | 2000:22,25              | <b>places</b> 1807:3     | 1859:10               | <b>Podcasts</b> 1819:1   |
| 1964:7                | 2001:12                 | <b>plain</b> 1819:19     | 1860:17               | <b>podium</b> 2022:6     |
| 1972:10               | <b>phrase</b> 1833:21   | <b>plaintiff</b> 1843:16 | 1862:24               | 2033:2                   |
| 1974:6 1982:3         | 1867:1                  | 1899:22                  | 1863:17               | <b>point</b> 1818:18     |
| 1982:5                | 1959:12                 | <b>Plaintiff's</b>       | 1864:2                | 1820:10                  |
| 1984:15               | <b>physical</b> 1901:1  | 1839:25                  | 1866:24               | 1823:6 1826:4            |
| 1985:5,19,21          | 2021:9,10               | <b>plan</b> 1807:15      | 1867:24               | 1830:18,19,20            |
| 1986:1,3,12,13        | 2022:20                 | 2031:4                   | 1870:8                | 1835:1 1837:9            |
| 1987:5 1988:6         | 2027:15,24              | <b>plane</b> 1882:18     | 1871:23               | 1837:11                  |
| 1988:11,13,17         | <b>physically</b>       | <b>planning</b>          | 1872:7                | 1840:13                  |
| 1988:18,20            | 2018:18                 | 1870:14                  | 1877:16               | 1865:25                  |
| 1989:15,23            | <b>pick</b> 2014:20     | <b>platform</b>          | 1878:19               | 1874:7 1882:5            |
| 1990:3,10,11          | 2015:6                  | 1806:16                  | 1880:12               | 1893:11                  |
| 1990:14               | <b>picked</b> 1806:10   | 1808:14                  | 1882:3                | 1898:8,15                |
| 1993:17               | 1829:14                 | <b>play</b> 1805:5,9     | 1887:25               | 1903:1,17                |
| 1995:2,5,12,23        | 1898:16                 | 1917:1,22                | 1906:24               | 1912:24                  |
| 1997:11,14,20         | 2026:9                  | 1954:21                  | 1918:4 1921:5         | 1919:9                   |
| 1999:17               | <b>picture</b> 1828:2   | 1955:11                  | 1924:5,21             | 1920:10                  |
| 2002:16               | 1829:6                  | 1960:19                  | 1927:7 1932:4         | 1932:24                  |
| 2003:5                | 2001:22                 | 1962:3                   | 1932:6                | 1933:7                   |
| 2011:22               | 2002:7 2022:5           | 1963:21                  | 1939:22               | 1936:21                  |
| 2015:4,5,7            | 2022:10                 | 1977:22                  | 1940:1 1955:7         | 1939:12                  |
| 2018:18,21,21         | <b>pictures</b> 1983:10 | 1978:2,9,17              | 1960:18               | 1942:24                  |
| 2019:12               | 1985:18                 | 2008:15,21               | 1961:10               | 1953:21                  |
| 2020:7,10             | 1986:6,7                | <b>Playboy</b> 1893:16   | 1962:9                | 1959:14                  |
| 2021:17,19            | 2011:25                 | <b>played</b> 1955:8     | 1963:21,22            | 1964:15                  |
| 2022:12,13,22         | 2018:25                 | 1960:22                  | 1966:9,14             | 2008:6                   |
| 2023:4,11             | 2019:1 2022:5           | 1962:5                   | 1967:11               | 2027:19                  |
| 2025:22               | 2029:9                  | 1963:24                  | 1969:8                | 2029:25                  |
| 2026:4 2027:2         | <b>piece</b> 2020:8,22  | 1971:23                  | 1970:17               | 2033:3                   |
| 2027:6,15             | 2021:17                 | 1975:4                   | 1972:1                | <b>points</b> 1837:6     |
| 2029:10,16            | <b>pieces</b> 2025:25   | 1978:11,18               | 1974:24               | 2024:22                  |
| <b>phones</b> 1982:16 | <b>PIN</b> 1984:18,20   | 2026:16,17               | 1975:3,25             | <b>poking</b> 1831:16    |
| 1982:24,25            | 1984:22                 | <b>playing</b> 1954:25   | 1976:5                | <b>pole</b> 1870:15      |
| 1983:1                | <b>pissed</b> 1872:19   | 1974:25                  | 1977:23               | 1937:14                  |
| 1984:12               | 1872:23                 | 2008:18,23               | 1978:6,9,13,16        | <b>police</b> 1927:12    |
| 1985:1,1              | <b>placate</b> 1883:3   | <b>plays</b> 1977:24     | 2031:6,9              | 1927:15,21               |
| 1987:20,24            | <b>place</b> 1803:13    | 1978:5                   | 2032:5,10             | 1931:25                  |
| 1988:1,13             | 1815:9,10               | <b>Pleas</b> 1939:20     | <b>plenty</b> 1813:21 | <b>policies</b> 1812:14  |
| 1991:3,11,13          | 1816:10,20              | <b>please</b> 1804:3     | <b>plug</b> 1991:17   | <b>policy</b> 1832:12    |
| 1993:23               | 1829:2                  | 1827:18                  | <b>plugged</b> 2023:1 | 1832:13                  |
| 1996:5 2015:7         | 1837:21                 | 1828:12,18,19            | <b>plus</b> 1812:4    | <b>political</b> 1812:10 |
| 2022:21               | 1850:15                 | 1828:23                  | 1959:8                | 1812:14                  |
| 2023:13,20            | 1857:2                  | 1829:3 1835:8            | <b>PM</b> 1884:18     | 1815:15,16               |
| 2025:18               | 1876:20                 | 1835:21                  | 1885:6                | 1830:10                  |
| 2028:15               | 1916:11                 | 1837:1 1839:8            | 1996:21               | 1832:17,18               |

|                         |                         |                        |                          |                         |
|-------------------------|-------------------------|------------------------|--------------------------|-------------------------|
| 1833:22                 | <b>posted</b> 1881:7    | 1875:15                | 1830:25                  | <b>primarily</b>        |
| 1942:10                 | 1911:25                 | <b>prepared</b>        | 1831:2,2,14,16           | 1982:16                 |
| 1943:17                 | 1912:3 1920:6           | 1816:24                | 1831:22                  | 1993:16                 |
| <b>politics</b> 1812:16 | 2000:10                 | 1875:17                | 1832:19                  | <b>Principal</b>        |
| <b>polls</b> 1854:22    | <b>posting</b> 1913:8   | 2027:19                | 1834:7,11,18             | 1803:23                 |
| 1930:5                  | <b>posts</b> 1813:13    | <b>preparing</b>       | 1834:19                  | 1840:18                 |
| <b>Pomerantz</b>        | 1941:21                 | 1876:25                | 1856:1                   | <b>principle</b>        |
| 1903:15,18              | 1942:17                 | <b>presence</b>        | 1889:14,18,23            | 2013:13                 |
| 1904:5,15               | 2032:4                  | 1864:12                | 1890:6 1901:4            | 2018:2,4                |
| <b>Pomerantz's</b>      | <b>potential</b>        | <b>present</b> 1815:11 | 1901:8 1930:3            | <b>prior</b> 1839:23    |
| 1904:6,24               | 1815:11                 | 1835:22                | 1941:7                   | 1859:13,19              |
| <b>portion</b> 1836:19  | 1935:24                 | 1859:12                | 1943:18                  | 1875:16                 |
| 1971:24                 | 1936:7 1959:7           | 1876:7                 | 1958:9 1979:4            | 1893:12                 |
| 1975:1                  | <b>potentially</b>      | 1888:24                | 2009:18                  | 1907:5,22               |
| <b>portions</b> 1975:6  | 1901:8,12               | 1889:1,3               | <b>presidential</b>      | 1919:24                 |
| 1975:9                  | <b>POTUS</b> 2003:11    | 1944:6                 | 1855:8                   | 1921:12                 |
| 1992:18                 | <b>powered</b> 1991:4   | 1969:15,17,19          | <b>press</b> 1807:12     | 1963:16                 |
| 1993:23                 | 1991:4                  | 2013:5 2021:4          | 1815:11                  | 1981:18                 |
| <b>position</b> 1898:6  | <b>powerful</b>         | <b>presentation</b>    | 1821:24                  | 2030:8                  |
| 1898:7,7                | 1929:15                 | 2010:4                 | 1822:20,21,25            | <b>priorities</b>       |
| 1901:4                  | <b>PP</b> 1843:16       | <b>presents</b>        | 1823:14,22               | 2012:24                 |
| 1919:11                 | 1844:3 1850:7           | 2017:20                | 1824:3,15,17             | 2015:14                 |
| 1942:6,17               | <b>practice</b> 1896:25 | <b>preserve</b> 1982:6 | 1824:18                  | <b>priority</b> 2010:18 |
| <b>positively</b>       | 1909:13                 | <b>presidency</b>      | 1833:17,18,18            | 2010:20                 |
| 1833:4                  | 1936:14                 | 1816:7                 | 1858:23                  | 2015:6,11               |
| <b>possess</b> 1848:2   | 1965:22                 | 1825:13                | 1864:24                  | <b>privately</b> 1857:4 |
| <b>possessed</b>        | 1967:22                 | 1827:16                | <b>presume</b>           | 1860:15,17              |
| 1922:5                  | 1988:12                 | 1834:19                | 1926:21                  | <b>privilege</b> 1851:3 |
| <b>possession</b>       | <b>practiced</b>        | <b>president</b>       | <b>pretty</b> 1809:12    | 1851:6,20               |
| 1847:19                 | 1925:20                 | 1804:10                | 1909:18                  | 1853:15                 |
| 1987:20                 | 1946:24                 | 1813:10                | 1976:19                  | 1902:13,16,23           |
| <b>possible</b> 1910:23 | <b>practices</b>        | 1815:7,8,19,21         | <b>prevent</b> 1805:20   | 1917:20,21              |
| 2010:15                 | 1908:23                 | 1816:4,5               | 2012:8                   | 1918:9,12,25            |
| 2023:9                  | <b>practicing</b>       | 1817:12,12,15          | <b>previous</b>          | 1919:3,4,5,17           |
| <b>possibly</b> 1823:17 | 1951:19                 | 1817:18                | 1806:15                  | 1951:2                  |
| 1904:4                  | 2017:13                 | 1818:2,9,12,13         | 1812:23                  | 1962:23                 |
| <b>post</b> 1895:10,13  | <b>preceded</b>         | 1818:15,16             | 1814:8 1924:2            | 1963:1                  |
| 1895:16                 | 1868:16                 | 1820:2,13,22           | 2006:12                  | 1978:22                 |
| 1898:15                 | <b>precluded</b>        | 1821:1,6               | <b>previously</b>        | <b>privileged</b>       |
| 1912:10                 | 1904:9                  | 1822:5,11,17           | 1835:16                  | 1863:14                 |
| 1919:24                 | <b>predicate</b>        | 1823:8 1824:1          | 1868:12,13               | 1883:4                  |
| 1920:2,13               | 1926:1                  | 1824:5 1825:3          | 1880:24                  | 1919:12                 |
| 1921:24                 | <b>prefer</b> 1814:8    | 1825:21,25             | 1888:19                  | 1951:4                  |
| 1941:8                  | <b>prefers</b> 1805:4   | 1826:13,17             | 1969:11                  | <b>probably</b> 1952:1  |
| 1942:18                 | <b>prep</b> 1872:20,21  | 1827:12,22             | <b>previously-</b>       | 1956:3                  |
| 1944:15                 | 1872:24                 | 1828:1,4,21            | 2007:6                   | 2010:18                 |
| 1945:10                 | <b>preparation</b>      | 1829:7,12,19           | <b>previously-des...</b> | <b>probe</b> 1904:23    |
| 1946:12,22              | 1816:24                 | 1829:22,23             | 1857:7                   | <b>procedure</b>        |
| 1947:11                 | <b>prepare</b> 1863:25  | 1830:4,11,12           | 1860:20                  | 1983:3,6                |

|   |  |   |   |   |
|---|--|---|---|---|
| <b>procedures</b><br>2011:8<br>2013:17<br><b>proceed</b> 1862:24<br>1984:6,18<br>1991:18<br><b>proceeding</b><br>1805:20<br>1807:3,25<br>1809:19<br>1811:14,18<br>1812:12,13,16<br>1812:18<br>1814:9<br>1833:15<br><b>proceedings</b><br>1814:24<br>1815:1 1816:3<br>1821:19<br>1833:21<br>1834:13<br>1841:1<br>1903:24<br>1905:8,18<br>1918:5,16<br>1924:1 2002:1<br><b>process</b> 1807:3<br>1811:21<br>1980:19<br>1982:5<br>1984:15<br>1985:19<br>1991:7<br>2013:21<br>2015:24<br>2016:20<br>2017:4<br>2021:16<br>2024:23<br>2025:2 2028:7<br>2029:2,23<br><b>process-wise</b><br>2023:8<br><b>processes</b><br>2013:16<br>2029:3,21<br><b>produce</b><br>1980:21<br>1982:13 | 1983:11<br><b>produced</b><br>1838:19,24<br><b>professional</b><br>1864:11<br>1890:16<br>1891:7 1895:2<br><b>professionally</b><br>1950:16<br><b>profits</b> 1873:7<br><b>program</b><br>2025:25<br>2031:23<br><b>programs</b><br>1819:4<br>1984:25<br><b>prohibit</b><br>1934:14<br><b>prohibiting</b><br>1910:4<br><b>pronouncing</b><br>1945:7<br><b>properly</b><br>1835:11,20,23<br>1888:24<br>1889:1 1944:6<br>1969:15,19<br><b>property</b><br>1843:19<br>1849:22<br>1906:10<br><b>proposed</b> 1932:9<br><b>prosecuted</b><br>1832:3<br><b>Prosecution</b><br>1941:3<br><b>prosecutor</b><br>1905:11,13,16<br><b>prosecutor's</b><br>1904:8<br><b>prosecutors</b><br>1901:25<br>1902:24<br>1941:3,15<br>1943:14,15<br>2026:7<br><b>prospective</b><br>1810:17<br>1833:14 | <b>protect</b> 1814:23<br>1883:10,23<br>1942:12<br><b>protected</b><br>1811:18<br>1819:22<br>1834:15,21<br>2015:20<br>2016:8<br><b>protecting</b><br>2015:24<br><b>protection</b><br>1831:21<br><b>prove</b> 1812:21<br><b>provide</b> 1925:9<br><b>provided</b><br>1804:20,21,23<br>1816:12<br>1819:14<br>1843:22<br>1931:23<br>1933:6<br>1937:25<br>1984:22<br>2028:16<br><b>provides</b><br>1848:11<br><b>providing</b><br>1892:3<br>1899:15<br>1900:1<br><b>Provision</b><br>1844:18,19<br>1845:11,15,20<br><b>provisions</b><br>1965:2,11<br><b>proximity</b><br>1853:9<br>1926:18,19<br><b>pseudonym</b><br>1844:4 1846:5<br><b>psychology</b><br>1981:1<br><b>public</b> 1817:13<br>1851:13<br>1861:9 1864:9<br>1868:19<br>1893:1<br>1947:23 | 1951:7,9<br>1961:3<br><b>publically</b><br>1930:2 1951:1<br>1951:3<br><b>publication</b><br>1851:22<br>1947:17<br><b>publicists</b><br>1864:24<br><b>publicize</b> 1930:6<br><b>publicized</b><br>1851:24<br><b>publicly</b> 1862:2<br>1894:9<br>2012:14<br><b>publish</b> 1858:23<br>1859:5<br>1892:11<br>1922:17<br>1925:14<br>1930:11,15<br>1978:1,6,13<br><b>published</b><br>1851:21,23<br>1852:13,14,22<br>1853:14<br>1860:9,11<br>1874:9<br>1914:18<br>1922:24<br>1987:2<br><b>pull</b> 1841:6<br>1986:12<br>1990:16<br>1994:21,23,24<br>1997:1,19,21<br>1998:1,9,18<br>1999:12,21<br>2000:19<br>2001:14<br>2002:21<br>2004:22<br>2008:14,19<br>2020:10<br>2026:7<br><b>pulled</b> 1999:24<br>2000:23<br>2022:14 | 2023:1,24<br>2024:1,2,4<br>2025:22<br>2026:6<br>2027:22<br><b>pulling</b> 2019:18<br>2021:13<br><b>pulls</b> 2021:4,17<br><b>purchase</b><br>1922:21,21<br><b>pure</b> 1811:11<br>2014:20<br><b>purely</b> 1806:12<br><b>purported</b><br>1919:21<br><b>purpose</b> 1814:22<br>1826:18<br>1834:5<br>1845:23<br>1868:3 1937:8<br><b>purposes</b><br>1985:23<br><b>pursuant</b><br>1838:24<br>1851:8,9<br>1983:8<br><b>pursuits</b><br>1883:10<br><b>pushing</b> 1869:1<br><b>pusy</b> 1963:17<br><b>put</b> 1826:15<br>1827:17<br>1829:1<br>1830:22<br>1833:18<br>1834:8,9<br>1876:23<br>1927:19<br>1945:10<br>1954:18<br>1960:17<br>1970:15<br>1985:12<br>1989:20<br>1995:13<br>2008:17<br>2013:7 2023:1<br>2026:22<br><b>puts</b> 1811:4 |
|---|--|---|---|---|

|                         |                        |                         |                        |                         |
|-------------------------|------------------------|-------------------------|------------------------|-------------------------|
| 1985:6                  | <b>questions</b>       | 1924:14                 | <b>realizing</b>       | 1915:23,24              |
| <hr/> <b>Q</b> <hr/>    | 1807:14,16             | 1926:5                  | 1957:15                | 1916:7                  |
| <b>qualities</b> 1816:6 | 1808:6                 | <b>rapid</b> 1880:15    | <b>really</b> 1842:8   | 1919:21,24              |
| <b>quality</b> 1832:1   | 1814:12                | <b>rational</b> 1845:13 | 1845:23                | 1920:15,16,19           |
| <b>quantify</b>         | 1831:24                | <b>re-posting</b>       | 1866:7 1893:1          | 1920:20                 |
| 2017:24                 | 1832:11,13             | 1806:23                 | 1942:12                | 1922:24                 |
| <b>quarter</b> 2031:3   | 1834:12                | <b>re-sign</b> 1842:9   | 1954:6 1960:6          | 1924:18                 |
| 2032:25                 | 1888:5                 | <b>re-tweets</b>        | 1971:5                 | 1927:3,15               |
| <b>Quebec</b> 1989:18   | 1892:19                | 1818:25                 | 2018:17,25             | 1933:19,21              |
| <b>question</b>         | 1903:14                | <b>reached</b> 1895:1   | 2025:6                 | 1935:4 1939:1           |
| 1807:17,18,24           | 1917:3                 | 1920:10                 | 2029:13,18             | 1939:11,11              |
| 1808:9                  | 1953:18                | 1921:23                 | <b>reason</b> 1815:3   | 1945:12,13              |
| 1809:18                 | 1961:8                 | <b>reaching</b> 1817:7  | 1818:20                | 1950:4 1952:6           |
| 1820:8,13               | 1964:14                | 1899:18                 | 1819:13,23             | 1952:7,9,10,12          |
| 1821:2 1822:6           | 1970:3 1976:2          | 1935:20,23              | 1823:2,3               | 1953:6,20,24            |
| 1824:10                 | 1976:24                | <b>react</b> 1814:17    | 1824:7,25              | 1954:9                  |
| 1825:22                 | 1979:13                | <b>reacting</b>         | 1838:1                 | 1957:13                 |
| 1826:2,7                | 2026:13,14             | 1822:13                 | 1872:15                | 1958:11,15              |
| 1832:15                 | 2028:24                | <b>read</b> 1805:5      | 1891:25                | 1960:5,11,12            |
| 1838:23                 | <b>quick</b> 1840:5    | 1807:16                 | 1897:23                | 1960:13                 |
| 1840:5                  | <b>quickly</b> 1827:18 | 1827:6 1832:7           | 1904:17                | 1961:14,22              |
| 1844:15                 | 1827:24                | 1837:1 1843:9           | 1946:12                | 1963:11,14,18           |
| 1848:18                 | 1828:22                | 1843:12                 | 1947:10                | 1964:4,12               |
| 1853:17                 | 1844:22                | 1844:11,13              | 1954:2                 | 1988:17,22              |
| 1855:12                 | 1852:1                 | 1847:15                 | <b>reasonable</b>      | 1991:4                  |
| 1857:20                 | 1999:12                | 1859:10                 | 1813:3 1817:5          | 1998:12                 |
| 1865:22                 | 2010:15                | 1862:7,19               | 1824:2                 | 2004:18                 |
| 1883:18                 | 2011:3                 | 1864:2                  | <b>reasonably</b>      | <b>recalled</b> 1904:15 |
| 1887:12                 | <b>quote</b> 1811:7    | 1871:20,23              | 1845:18                | <b>recalling</b> 1913:6 |
| 1902:15,22              | 1847:23,23             | 1872:6 1874:3           | <b>reasons</b> 1821:22 | <b>receipt</b> 1837:13  |
| 1904:11,17              | 1875:8                 | 1877:1 1884:9           | 1834:10                | 1857:9                  |
| 1909:20,21              | 1920:14                | 1884:10                 | <b>recall</b> 1852:19  | 2031:15                 |
| 1910:19                 | 1960:15                | 1885:18                 | 1853:19                | <b>receive</b> 1840:2   |
| 1912:9,18               | 1975:22                | 1971:23                 | 1863:16                | 1841:23                 |
| 1914:12                 | <b>quoting</b> 1830:10 | 1985:10                 | 1886:13,25             | 1849:10                 |
| 1916:5                  | 1856:12                | 2032:1                  | 1891:14                | 1981:8                  |
| 1917:15                 | <hr/> <b>R</b> <hr/>   | <b>readable</b> 1985:7  | 1892:22                | 2028:18                 |
| 1918:3,12,21            | <b>R</b> 1803:9,11     | <b>reading</b> 1806:5   | 1900:24                | <b>received</b> 1839:4  |
| 1919:2,15,16            | <b>rabbits</b> 1858:2  | 1824:4                  | 1902:2,22              | 1841:22                 |
| 1927:11                 | <b>radio</b> 2014:24   | 1844:14                 | 1903:10,11,15          | 1850:23                 |
| 1947:15                 | 2015:3 2016:8          | 1864:16,17,25           | 1903:17                | 1858:22,22,24           |
| 1951:18                 | <b>Rain</b> 1883:12    | 1865:5 2032:2           | 1907:23                | 1859:3                  |
| 1958:25                 | <b>raise</b> 1940:20   | 2032:3,4                | 1908:3,6,7,11          | 1864:13                 |
| 1959:4                  | <b>raises</b> 2026:13  | <b>ready</b> 1854:23    | 1912:19,20,22          | 1866:3 1890:2           |
| 1961:10                 | <b>raising</b> 1941:13 | 1859:5 1969:5           | 1913:11,12,14          | 1890:3 1974:1           |
| 1976:15,20              | <b>Ralph</b> 1989:19   | <b>real</b> 1846:21     | 1914:13,14,16          | 1974:23                 |
| 2018:6                  | <b>ran</b> 1870:15     | 1848:11                 | 1914:19,20,22          | 1977:17                 |
| 2030:17                 | 1919:21                | 1893:10,12              | 1915:14,15,16          | 1988:1                  |
|                         |                        | 2012:15                 | 1915:17,19,20          | 1989:23                 |

|                         |                        |                         |                         |                         |
|-------------------------|------------------------|-------------------------|-------------------------|-------------------------|
| 1991:3,13               | 1904:12                | 1818:15                 | 1921:19                 | 1927:12                 |
| 1994:10                 | 1953:23                | 1856:21                 | 1924:22                 | 1928:2,4,17             |
| 2030:6                  | 1962:2                 | 1859:21                 | 1954:23                 | 1948:7,15               |
| <b>receiver</b> 1955:1  | 1992:20                | 1878:7 1880:6           | 1990:21                 | <b>relation</b> 1845:12 |
| <b>receives</b> 1983:4  | 2008:24                | 1956:10                 | <b>refuses</b> 1872:1   | 1876:15                 |
| <b>receiving</b> 1861:5 | <b>recorded</b>        | 1958:18                 | 1918:13                 | <b>relationship</b>     |
| 1874:9                  | 1953:19                | 1975:18,21              | <b>regard</b> 1868:23   | 1826:12,13              |
| 2000:12                 | 1954:1 1970:3          | 1976:16                 | 1900:1                  | 1845:14                 |
| <b>recess</b> 1835:6    | 1973:10,18,19          | <b>referenced</b>       | <b>regarding</b>        | 1854:7                  |
| 1888:7,14               | 1974:6                 | 1852:8                  | 1819:4,25               | 1864:15                 |
| 1940:11                 | <b>recording</b>       | 1875:14                 | 1820:10                 | 1877:5,24,25            |
| 1968:20                 | 1820:5                 | 1901:8                  | 1859:1                  | 1878:4,6                |
| 1969:1                  | 1926:11                | 1927:21                 | 1883:20,22              | 1890:17,19              |
| <b>reciprocal</b>       | 1955:6,8,14            | 1945:2                  | 1913:9                  | 1897:1,5                |
| 1897:4,13               | 1960:22                | <b>references</b>       | 1919:22                 | 1898:8                  |
| <b>recognize</b>        | 1962:5                 | 1833:14                 | 1921:12,23              | 1929:24                 |
| 1836:20                 | 1973:15,16             | <b>referencing</b>      | <b>registered</b>       | 1930:2 1933:8           |
| 1842:17                 | 1974:9 1976:9          | 1833:16                 | 1833:19                 | 1936:13                 |
| 1852:5                  | 2004:19                | <b>referral</b> 1897:4  | <b>regular</b> 1989:20  | 1949:9,25               |
| 1858:19                 | 2005:2,3,5,8           | 1931:17                 | <b>regularly</b>        | 1950:25                 |
| 1860:21                 | 2006:6,11,14           | <b>referred</b> 1854:25 | 1815:25                 | <b>release</b> 1839:6   |
| 1863:20                 | 2006:15,23             | 1915:15                 | <b>regurgitation</b>    | 1842:21                 |
| 2007:11                 | 2007:18,21,24          | 1925:2 1950:9           | 1859:12                 | 1875:2                  |
| <b>recognizing</b>      | 2009:1                 | <b>referring</b> 1817:1 | <b>rehab</b> 1911:18    | <b>released</b> 1813:13 |
| 1815:7                  | 2026:17                | 1869:5 1887:2           | 1913:10                 | 1874:20                 |
| 1819:20                 | 2027:16,21,23          | 1913:6,8                | <b>reimbursed</b>       | 1875:18                 |
| <b>recollection</b>     | 2028:1                 | 1956:24                 | 1887:23                 | <b>reliability</b>      |
| 1853:13,23              | <b>recordings</b>      | 1957:1                  | <b>reinvigorate</b>     | 2013:4                  |
| 1854:2                  | 1976:25                | <b>refers</b> 1846:2,8  | 1873:14                 | <b>reliable</b> 2013:11 |
| 1857:13                 | 1977:2                 | <b>reflect</b> 1837:9   | <b>rejuvenate</b>       | 2017:10                 |
| 1861:15,18              | 1986:10                | <b>reflecting</b>       | 1893:6,19,20            | <b>relieved</b> 1840:19 |
| 1876:8                  | 2006:12                | 1816:7 1823:6           | <b>relate</b> 1812:11   | 1879:13                 |
| 1921:10                 | <b>records</b> 1803:6  | 1898:25                 | 1812:14                 | 1968:23                 |
| 1924:13,22              | 1890:1,3               | <b>refresh</b> 1853:23  | 1996:24                 | <b>relieves</b> 1923:3  |
| 1927:11                 | 1983:11                | 1854:2                  | <b>related</b> 1806:15  | 2001:24                 |
| 1933:9 1939:7           | <b>recover</b> 2019:9  | 1857:13                 | 1809:18                 | <b>rely</b> 1809:5      |
| 1954:24                 | <b>RECROSS</b>         | 1921:10                 | 1811:13                 | <b>remain</b> 1843:4    |
| 1955:20,25              | 1976:6                 | 1924:13                 | 1845:18                 | 1969:18                 |
| 1957:24                 | <b>redacted</b> 1993:6 | 1927:11                 | 1913:9                  | <b>remember</b>         |
| 1958:3,22               | 1993:13                | 1939:7                  | 1936:15                 | 1824:12                 |
| 1960:2,15,23            | <b>redactions</b>      | 1955:20,24              | 2031:7 2032:9           | 1836:14                 |
| 1962:10                 | 1993:3,9,10,11         | 1957:23                 | <b>relates</b> 1829:17  | 1850:25                 |
| 1963:25                 | 1993:14                | 1958:2,22               | 1831:16                 | 1851:15                 |
| 1988:24                 | <b>redirect</b> 1968:8 | 1960:23                 | <b>relating</b> 1842:22 | 1853:10                 |
| 1990:22                 | 1969:23                | 1962:10                 | 1911:8 1912:3           | 1857:2 1861:5           |
| <b>reconcile</b>        | <b>refer</b> 1816:18   | 1963:25                 | 1922:25                 | 1900:7 1903:7           |
| 1886:21,22              | 1818:7 1990:7          | 1988:23                 | 1924:25                 | 1908:10,11,13           |
| <b>record</b> 1813:9    | <b>reference</b>       | 1989:14                 | 1925:17                 | 1908:21                 |
| 1828:1                  | 1817:24                | <b>refreshes</b>        | 1926:25                 | 1916:14,16,17           |

|                       |                        |                         |                        |                         |
|-----------------------|------------------------|-------------------------|------------------------|-------------------------|
| 1916:18,19            | 1926:25                | 1930:23                 | 1840:11                | 1815:16                 |
| 1917:7,17,24          | 1927:2,12,15           | 1931:5                  | 1842:12                | 1824:24                 |
| 1922:12,14            | 1937:12                | 1945:25                 | <b>resolve</b> 1954:11 | 1829:18                 |
| 1930:10               | 1994:22                | 1946:9                  | 1955:22                | <b>responsibilities</b> |
| 1931:21               | 1995:13                | 1959:22                 | <b>resolved</b>        | 1982:8                  |
| 1936:18               | 1997:4 2000:4          | <b>representations</b>  | 1951:24                | <b>rest</b> 1966:6      |
| 1937:22               | 2003:2,21,22           | 1909:22                 | <b>respect</b> 1806:1  | <b>restart</b> 1955:4,7 |
| 1938:25               | 2027:19                | 1910:1                  | 1825:1 1834:4          | <b>restate</b> 1866:24  |
| 1952:20,21            | 2031:18                | <b>representatives</b>  | 1890:9 1907:9          | <b>restrict</b> 1814:23 |
| 1964:7,14             | <b>reported</b> 1831:7 | 1919:8                  | 1942:9                 | <b>restricting</b>      |
| 1970:5                | 1877:12                | 1920:11,17,21           | 1994:18                | 1805:14                 |
| 1972:10               | 1911:19                | 1921:23                 | <b>respond</b> 1805:17 | <b>result</b> 1849:22   |
| 1973:8                | 1951:1,4               | 1922:7,17               | 1817:18                | 2027:8                  |
| 1990:10,13            | <b>reporter</b>        | 1926:6                  | 1818:1,5,9,12          | <b>results</b> 1854:20  |
| 1998:15               | 1803:23                | <b>represented</b>      | 1818:17                | <b>resumes</b> 1888:19  |
| 2004:16               | 1840:18,20             | 1810:25                 | 1827:12                | 1969:11                 |
| 2026:19               | 1859:15,25             | 1811:3                  | 1834:12,22             | <b>retained</b>         |
| <b>remembered</b>     | 1879:12,13,14          | 1885:17                 | 1839:15,19             | 1896:14,16,17           |
| 1936:21               | 1891:12                | 1911:14                 | 1855:9 1863:5          | 1950:20                 |
| <b>remind</b> 1813:4  | 1923:2,3               | 1914:10,25              | 1870:2,23              | <b>Retainer</b> 1899:7  |
| 1835:14               | 1968:23                | 1915:2                  | 1871:9                 | 1932:19                 |
| 1846:4                | 2001:23,24             | 1951:12                 | 1872:17                | <b>Retention</b>        |
| <b>reminding</b>      | <b>reporters</b>       | <b>representing</b>     | 1875:12                | 1933:10                 |
| 1854:5                | 1807:14                | 1914:14                 | 1881:4,9,12            | <b>rethink</b> 1859:13  |
| <b>remorse</b> 1953:4 | 1808:8 1831:1          | 1916:20                 | 1882:13                | <b>retired</b> 1931:25  |
| 1954:10               | <b>reporting</b>       | <b>reprisal</b> 1814:25 | 1885:12,23             | <b>retrieved</b>        |
| 1955:21               | 1880:4 1951:4          | 1823:5                  | <b>responded</b>       | 1838:20                 |
| 1959:11               | 1951:9                 | <b>Republican</b>       | 1808:9 1859:8          | <b>return</b> 1873:8    |
| <b>remote</b> 1903:12 | <b>reports</b> 1830:2  | 1822:19                 | 1859:10                | 2031:16                 |
| <b>remotely</b>       | 1877:5                 | <b>republished</b>      | 1862:20                | <b>returned</b> 1837:7  |
| 2012:16               | 1885:19                | 1898:20                 | 1872:18                | 1840:1                  |
| <b>remove</b> 1819:21 | 1951:7                 | <b>repurposed</b>       | <b>responding</b>      | 1897:21                 |
| <b>rendering</b>      | 1980:21                | 1898:20                 | 1808:8                 | <b>revealing</b>        |
| 2008:2                | 1982:13                | <b>request</b> 1858:24  | 1811:25                | 1863:14                 |
| <b>repaid</b> 1857:1  | 1994:14                | 1869:3 1871:5           | 1815:20                | <b>reverse</b> 1819:24  |
| <b>repeat</b> 1856:12 | 1995:10                | 1938:9 1942:4           | 1826:2,6               | <b>review</b> 1973:6    |
| <b>repeated</b>       | 2022:15                | 2031:14                 | <b>responds</b> 1882:3 | 1974:2 1992:9           |
| 1815:23               | 2027:22                | <b>requested</b>        | <b>response</b>        | 1993:19                 |
| 1829:18,22            | <b>repost</b> 1828:3   | 1845:24                 | 1816:23                | 2022:24                 |
| 1830:2                | <b>Reposting</b>       | 1874:24                 | 1819:18                | 2024:23                 |
| <b>repeatedly</b>     | 1828:20                | 1876:24                 | 1820:8 1821:1          | <b>reviewed</b>         |
| 1815:5                | <b>represent</b>       | <b>required</b>         | 1827:6                 | 1992:12                 |
| 1822:11               | 1889:14                | 1915:18                 | 1829:16                | 1993:2                  |
| 1831:14               | 1897:17                | 2030:24                 | 1831:23                | <b>reviews</b> 2011:22  |
| <b>repeating</b>      | 2009:18                | <b>requires</b> 2011:4  | 1832:11                | <b>revisiting</b>       |
| 1880:24               | <b>representation</b>  | <b>research</b> 2032:8  | 1841:21                | 1943:9                  |
| <b>rephrase</b>       | 1811:2 1892:7          | <b>reside</b> 2020:20   | 1859:24                | <b>rhetoric</b> 1805:19 |
| 1961:10               | 1916:3                 | <b>residence</b> 1980:3 | 1927:4 1938:9          | <b>Rhona</b> 1999:2     |
| <b>report</b> 1807:2  | 1918:18,23             | <b>Resolution</b>       | <b>responses</b>       | <b>right</b> 1806:19    |

|                |                |                       |                        |                        |
|----------------|----------------|-----------------------|------------------------|------------------------|
| 1810:13        | 1912:1,5,23    | 1977:7 1979:1         | <b>Rodriguez</b>       | <b>ruled</b> 1943:4    |
| 1811:16        | 1913:24        | 2002:10               | 1851:7                 | <b>rules</b> 1809:23   |
| 1813:6         | 1914:10,23     | 2006:24               | 1876:10                | 1934:14                |
| 1822:20        | 1915:1,11      | 2009:1,16             | 1895:20                | <b>ruling</b> 1942:2   |
| 1824:19        | 1916:4 1917:8  | 2010:1,10,12          | 1896:1,10              | 1943:5,22              |
| 1825:4,5       | 1919:25        | 2010:15,21            | 1897:3,5,15            | <b>rulings</b> 1942:16 |
| 1826:17        | 1920:6,11,14   | 2011:5,16,25          | 1898:8                 | <b>rumors</b> 1843:21  |
| 1831:19        | 1921:8,16,24   | 2012:6,12,22          | 1944:17,24             | 1859:13                |
| 1832:10        | 1922:3,5,22    | 2013:5,14,23          | 1945:2 1946:2          | 1864:13                |
| 1833:5         | 1924:25        | 2014:3,5,8,11         | 1946:7,17              | 1866:3                 |
| 1849:25        | 1926:9,14,20   | 2014:14,17,22         | 1947:11                | <b>run</b> 1815:22     |
| 1850:18        | 1928:2,8,18,25 | 2014:25               | 1959:18,23             | 1906:21                |
| 1867:11        | 1929:3,9,15,24 | 2015:4,7,9,12         | 1963:12                | <b>running</b> 1815:8  |
| 1876:22        | 1930:3,8,20,24 | 2015:25               | <b>Rodriguez's</b>     | 1816:5                 |
| 1877:25        | 1931:2         | 2016:8,16,21          | 1946:13                | 1822:11                |
| 1879:2,5       | 1932:10,18     | 2016:23               | 1960:3                 | 1825:2 1863:2          |
| 1881:3         | 1933:24        | 2017:2,4,7,11         | 1963:14                | 1870:14                |
| 1884:17        | 1934:15,23     | 2017:14,21,24         | <b>role</b> 1981:25    | <b>rushed</b> 1833:8   |
| 1887:10        | 1935:3,24      | 2018:6,10,13          | <b>romantic</b> 1864:5 | <b>rushing</b> 1806:8  |
| 1889:21        | 1936:11,14,25  | 2018:18,22            | 1865:9,14,17           | 1940:5                 |
| 1890:1,7,10,15 | 1937:9,12      | 2019:9,12,20          | 1865:19                |                        |
| 1890:17,19,23  | 1938:1,6,13,20 | 2019:21               | <b>room</b> 1806:19    | <b>S</b>               |
| 1891:5,8,10,12 | 1939:13        | 2020:2,8,16,23        | 1822:21                | <b>S</b> 1803:11       |
| 1891:18        | 1944:17,20     | 2021:2,19,22          | 1831:1                 | 1835:15                |
| 1892:1,4,12,15 | 1945:3,7,14,20 | 2022:3,5,6,12         | 1876:16                | 1979:22,22             |
| 1892:19        | 1945:22        | 2022:16,21            | 1889:21                | <b>S-E-S-S-I-O-N</b>   |
| 1893:1,4,6,11  | 1946:2,4,24    | 2023:14,19            | 1979:10                | 1940:14                |
| 1893:17,21,24  | 1947:19,21     | 2024:9,11,13          | 1984:17                | <b>S-O-T-U</b>         |
| 1894:10,16,23  | 1948:15,18,22  | 2024:20,24            | 1991:14,15,15          | 1872:10                |
| 1895:18        | 1948:24        | 2025:2,8,11,15        | 1991:15                | <b>saddened</b>        |
| 1896:10,18     | 1949:1,4,7,13  | 2025:19               | 2016:3,4               | 1856:4                 |
| 1897:1,11,15   | 1949:19        | 2026:1,7,14,18        | 2018:9                 | <b>safety</b> 1901:1   |
| 1897:18,25     | 1950:7,12,16   | 2026:23               | 2029:22                | <b>Saturday</b> 1856:2 |
| 1898:19,20,22  | 1951:17        | 2027:1,6,12           | <b>rooms</b> 2030:4    | <b>save</b> 1826:22    |
| 1899:5,7,16,23 | 1952:5,15,18   | 2028:2,8,11,12        | <b>Roosevelt</b>       | <b>saved</b> 1856:16   |
| 1900:9,12,14   | 1952:22,24     | 2029:4,14,15          | 1876:5,19,23           | <b>Saving</b> 1996:24  |
| 1900:16,20     | 1956:14        | 2029:16,19,23         | 1881:2                 | <b>saw</b> 1812:7      |
| 1901:5,9,11,13 | 1957:7         | 2030:4,6,21           | <b>Rosen</b> 1999:6    | 1827:1                 |
| 1901:25        | 1958:20        | <b>rights</b> 1891:16 | <b>Rotstein</b> 1999:8 | 1937:20                |
| 1902:6,9,14,20 | 1959:14,19     | 2011:1                | <b>Roughly</b>         | <b>saying</b> 1805:13  |
| 1903:2,9       | 1961:4,9       | <b>Rip</b> 2029:16    | 1892:24                | 1806:22,22,25          |
| 1906:1,17      | 1962:14,19,21  | <b>rise</b> 1835:18   | <b>routine</b> 1983:14 | 1818:1,2,4,5           |
| 1907:9,13      | 1963:8 1965:8  | 1888:10,21            | <b>row</b> 1921:5      | 1818:11                |
| 1908:1,17      | 1965:11,14,17  | 2032:16               | <b>rows</b> 1935:9     | 1820:9 1821:2          |
| 1909:2,4,6,10  | 1965:20,23     | <b>risk</b> 1954:19   | <b>RPR</b> 1803:23,24  | 1821:17,18             |
| 1909:13,18,19  | 1966:1,4,11,17 | 2013:10               | <b>RSA</b> 1803:23     | 1822:2                 |
| 1909:23        | 1967:17,25     | 2017:21,23,24         | <b>Rueda</b> 1928:13   | 1823:16,25             |
| 1910:4,8,20,24 | 1968:12        | 2024:3 2030:8         | 1928:24                | 1826:7                 |
| 1911:15,20,22  | 1976:18,25     | <b>rival</b> 1817:12  | 1929:14,15             | 1827:13                |

|                         |                        |                         |                         |                       |
|-------------------------|------------------------|-------------------------|-------------------------|-----------------------|
| 1866:20                 | <b>screaming</b>       | 1835:23                 | 1942:23                 | 1885:16               |
| 1868:5                  | 1963:17                | 1888:24                 | 1954:23                 | 1886:9                |
| 1873:11,12,13           | <b>screen</b> 1827:17  | 1889:1 1940:1           | 1956:10                 | 2000:11               |
| 1882:21                 | 1880:15                | 1944:6                  | 1957:4,17               | <b>sends</b> 1871:14  |
| 1885:9 1904:7           | 1963:21                | 1968:15                 | 1975:14                 | 1897:7                |
| 1904:15                 | 1977:19                | 1969:15,19              | 1977:19                 | <b>Senior</b> 1840:19 |
| 1908:10,11              | 1989:12                | 2032:19                 | 1985:16                 | 1879:12,13            |
| 1922:12                 | 1990:20                | <b>second</b> 1806:2    | 1987:1 1993:3           | 1923:2,3              |
| 1926:12                 | 2000:21                | 1807:6                  | 1995:9                  | 2001:23,24            |
| 1943:4                  | 2007:6                 | 1825:19                 | 1997:13                 | <b>sense</b> 1824:2   |
| 1945:12                 | 2018:20                | 1827:8                  | 2000:3                  | 1854:23               |
| 1954:9                  | 2019:1                 | 1847:14                 | 2003:13                 | 1940:6                |
| 1957:13                 | 2026:22                | 1865:20                 | 2005:15                 | <b>sensitive</b>      |
| 1958:11,15              | <b>screens</b> 1833:19 | 1866:3 1884:2           | 2018:20                 | 1847:25               |
| 1960:5,7,11,13          | 1884:6,16              | 1884:17                 | 2019:12                 | 1907:20               |
| 1961:14,22              | 1921:2 1975:5          | 1885:11                 | 2022:9                  | 1918:7                |
| 1963:14,18              | 1977:21                | 1887:6 1972:5           | 2027:15                 | <b>sent</b> 1829:1    |
| 1964:4,7,12             | 1978:4,8,15            | 1987:18                 | 2032:15                 | 1837:15,16            |
| 1971:7                  | 1989:12                | 2029:19                 | <b>seeing</b> 1999:19   | 1854:10               |
| 1972:10,18              | 1990:20                | <b>second-third</b>     | <b>seeking</b> 1814:10  | 1859:22               |
| 1978:19                 | 1994:25                | 1960:1                  | 1942:12                 | 1862:17               |
| 2000:12                 | 1997:3,23              | <b>seconds</b> 1975:1   | 1943:11                 | 1867:8 1869:6         |
| 2009:16                 | 1998:4                 | 1975:2                  | <b>seen</b> 1806:9      | 1869:8,10,20          |
| <b>says</b> 1808:4      | 1999:14,23             | 2006:18                 | 1868:13                 | 1869:20,21            |
| 1818:10                 | 2001:16                | 2007:15,18,20           | 1997:11                 | 1880:15               |
| 1822:10                 | 2008:17                | 2007:24                 | 2011:25                 | 1882:1 1885:6         |
| 1826:4                  | <b>scroll</b> 1874:12  | 2008:3,16,22            | 2012:14                 | 1898:13               |
| 1828:23                 | 1884:14                | <b>secure</b> 2011:22   | <b>segments</b>         | 1934:23               |
| 1830:14                 | <b>Scrolling</b>       | 2017:10                 | 1970:16                 | 1938:23               |
| 1877:23                 | 1881:20                | 2025:7                  | 2025:21,23              | 1949:19,20,21         |
| 1882:17                 | 1885:5                 | <b>secured</b> 2014:24  | <b>seize</b> 2014:10    | 1949:22               |
| 1884:22                 | <b>scrolls</b> 1884:16 | <b>security</b> 1931:23 | <b>seized</b> 2028:17   | 1967:2                |
| 1918:11                 | <b>scrutiny</b> 1823:7 | 2010:9                  | 2028:19                 | <b>sentences</b>      |
| 1957:4                  | 1824:21                | <b>see</b> 1821:8,9,17  | <b>Sekulow</b> 1999:4   | 1865:7                |
| 1958:12                 | <b>search</b> 1933:2   | 1822:25                 | <b>select</b> 2025:25   | 1915:24               |
| 1964:5 1972:4           | 1983:9,15,17           | 1823:18,20              | <b>selectively</b>      | <b>separates</b>      |
| 1972:8                  | 1983:19,20,21          | 1829:20                 | 1808:9                  | 1991:15               |
| 1996:18                 | 1984:4 2014:3          | 1831:13                 | <b>self-explanatory</b> | <b>September</b>      |
| 2024:6                  | 2014:10                | 1838:22                 | 1995:18                 | 2006:16               |
| <b>scenario</b>         | 2029:19                | 1852:4 1872:3           | <b>self-serving</b>     | 2026:17               |
| 2014:21                 | 2031:24                | 1874:14                 | 1954:8                  | <b>serial</b> 1988:20 |
| <b>scene</b> 2014:7     | 2032:10                | 1885:6 1888:9           | <b>send</b> 1828:15     | 1989:14               |
| <b>schedule</b>         | <b>searched</b>        | 1905:9                  | 1863:15                 | 1990:13,24            |
| 1868:23                 | 2023:13                | 1924:21                 | 1870:25                 | <b>series</b> 1841:8  |
| <b>scheduled</b>        | <b>searches</b> 2023:4 | 1932:12                 | 1872:4                  | 1867:14               |
| 1867:21                 | 2023:10                | 1933:17                 | 1885:11                 | 1868:14               |
| 1868:1,6                | <b>seated</b> 1804:11  | 1934:20                 | 1886:1,7,12             | 1874:3                |
| <b>Schiller</b> 1998:23 | 1806:17                | 1935:18                 | 1897:11                 | 1880:14               |
| <b>SCIF</b> 2012:2,4    | 1835:11,20,21          | 1936:15                 | <b>sending</b> 1861:5   | <b>serious</b> 1960:6 |

|                         |                         |                       |                        |                         |
|-------------------------|-------------------------|-----------------------|------------------------|-------------------------|
| 1965:14                 | 1979:1                  | 2018:20               | 1847:5,9,19,22         | 2009:23                 |
| 1971:5                  | <b>settlements</b>      | <b>show</b> 1804:18   | 1848:1,8               | 2020:2,3                |
| <b>served</b> 1845:23   | 1915:9,10               | 1806:3 1807:8         | 1891:7 1900:4          | <b>Similarly</b>        |
| 1896:12                 | <b>settler's</b> 1953:4 | 1808:22               | 1907:9                 | 1971:23                 |
| <b>service</b> 1838:20  | 1954:10                 | 1810:9                | 1927:19                | 1974:2                  |
| 1846:14                 | 1955:21                 | 1812:25               | 1979:3                 | <b>simplest</b> 1866:15 |
| <b>services</b> 1899:15 | 1959:11                 | 1813:1 1820:6         | <b>sidebar</b> 1903:25 | <b>simply</b> 1983:24   |
| 1900:1                  | <b>setup</b> 1825:12    | 1838:6,22             | 1918:6                 | 1986:24                 |
| <b>session</b> 1969:4   | <b>seven</b> 1827:23    | 1844:22               | <b>sides</b> 2017:6    | 1987:3                  |
| <b>set</b> 1810:14      | 1828:5,11,17            | 1852:1 1857:4         | <b>sidestepped</b>     | 2022:25                 |
| 1813:9                  | 1830:10                 | 1857:5                | 1820:13                | <b>single</b> 1874:4    |
| 1825:11                 | <b>sex</b> 1913:18,23   | 1860:14               | <b>sign</b> 1848:17    | 1884:9                  |
| 1926:11                 | 1919:22                 | 1867:11               | 1849:7 1850:4          | <b>sir</b> 1835:12      |
| 1954:16                 | 1921:24                 | 1868:2                | 1850:8                 | 1917:14                 |
| 1983:7                  | <b>sexual</b> 1863:12   | 1873:17               | 1863:15                | 1940:2 1944:3           |
| 2025:21                 | 1864:5 1865:9           | 1875:3,19             | 1875:15                | 1968:16                 |
| <b>sets</b> 2025:7      | 1865:14,18,19           | 1876:23               | 1915:21,25             | 1976:20                 |
| <b>setting</b> 2010:17  | 1865:24                 | 1880:20               | <b>signal</b> 1881:15  | 2011:24                 |
| 2010:17                 | 1877:5,23,24            | 1881:18               | 2004:17                | 2012:1                  |
| 2013:5                  | 1950:24                 | 1882:5,5              | <b>signals</b> 2012:3  | <b>sit</b> 1853:10      |
| <b>settle</b> 1928:24   | <b>share</b> 1886:9     | <b>showed</b> 1881:10 | 2015:4,5               | 1906:19,25              |
| 1957:16                 | <b>Sheen</b> 1914:23    | 1936:20               | 2016:8                 | 1952:10                 |
| 1964:8                  | 1915:1,3,4,7            | 1970:16               | <b>signature</b>       | 1957:10                 |
| 1972:11                 | 1916:3,20,22            | 1971:23               | 1840:1 1847:7          | 1976:21                 |
| <b>settlement</b>       | 1917:24                 | <b>showing</b>        | 1849:10,11             | <b>site</b> 2032:4      |
| 1839:22,24              | 1918:22                 | 1836:16               | 1850:7                 | <b>sitting</b> 1806:19  |
| 1842:10,21              | 1919:8                  | 1842:14               | 1880:11                | 1813:5                  |
| 1843:3,3                | <b>Shera</b> 1950:18    | 1858:12               | 1881:10                | 1926:16                 |
| 1844:9                  | 1950:19                 | 1871:11               | 1966:11,13             | <b>situation</b>        |
| 1845:22                 | <b>shielding</b>        | <b>shown</b> 1858:14  | 1967:9,12,16           | 1806:13                 |
| 1848:7,9,11             | 1814:24                 | 1884:6 1921:2         | <b>signed</b> 1848:16  | 1856:7 1873:3           |
| 1849:19                 | <b>shit</b> 1875:8      | 1970:22,23            | 1848:22,24,25          | 1873:4                  |
| 1851:9 1860:6           | 1960:8 1971:8           | 1975:5                | 1849:2,4,8             | 1926:19                 |
| 1860:8                  | <b>shits</b> 1828:24    | 1977:21               | 1850:10                | 1942:13                 |
| 1861:10,11              | <b>shopping</b> 1830:3  | 1978:4,8,15           | 1880:25                | 1950:9                  |
| 1866:11                 | 1856:2                  | 1989:11               | 1881:2 1882:8          | 2029:18                 |
| 1873:5                  | 1857:10                 | 1990:19               | 1933:2,8               | <b>situations</b>       |
| 1899:18,23              | <b>Short</b> 1835:6     | 1994:25               | 1966:16,21             | 1826:24                 |
| 1916:16,19,24           | <b>shorthand</b>        | 1997:3,23             | 1968:5                 | 1909:22                 |
| 1916:24                 | 1959:11                 | 1998:4                | 1978:25                | 2026:13                 |
| 1918:21                 | <b>shortly</b> 1818:23  | 1999:14,23            | <b>significant</b>     | <b>six</b> 1820:7       |
| 1929:1,9,18             | 1858:25                 | 2000:21               | 1823:13                | 1827:23                 |
| 1948:3,7,21             | 1872:18                 | 2001:16               | 1827:11                | 1828:5,11               |
| 1949:13                 | 1882:13                 | <b>shows</b> 1830:4   | <b>signs</b> 1839:22   | 1952:13                 |
| 1951:14,16              | 1938:5,10               | <b>Shrugs</b> 1906:14 | 1983:20                | <b>slash</b> 1885:18    |
| 1952:7,12,14            | <b>shot</b> 1872:19,24  | <b>sic</b> 1921:11    | <b>Silly</b> 1848:18   | <b>small</b> 1858:1     |
| 1959:6,9                | 1873:13                 | <b>side</b> 1835:2    | <b>similar</b> 1829:15 | 1872:6                  |
| 1964:24                 | 1920:14                 | 1842:10               | 1834:17                | <b>smart</b> 1869:25    |
| 1975:24                 | <b>shots</b> 1808:17    | 1846:18               | 1965:19                | 1984:12                 |

|                      |                         |                         |                        |                        |
|----------------------|-------------------------|-------------------------|------------------------|------------------------|
| 1985:1 1986:1        | 2002:8 2003:7           | 1833:13                 | 1929:23                | 1880:25                |
| 1986:13              | 2015:23                 | 1876:24                 | 1939:17                | 1882:4,8               |
| <b>SMZ</b> 1804:2,19 | 2019:19                 | 1984:15                 | 1940:21                | 1885:11                |
| <b>social</b> 1822:4 | <b>sorts</b> 1822:4     | 1985:25                 | 1955:12                | 1886:6,15,22           |
| 1942:19              | <b>SOTU</b> 1872:9      | 2027:25                 | 1971:3                 | 1887:2,3,8,19          |
| <b>software</b>      | <b>sound</b> 1903:9     | <b>spelling</b> 1979:25 | 1977:18                | 1897:21                |
| 1981:16,17           | 2015:2                  | <b>spend</b> 1827:9     | 2009:21                | <b>statements</b>      |
| 1982:11              | <b>sounded</b>          | 2025:10                 | 2013:22                | 1805:15                |
| 1985:11,22           | 1900:22                 | <b>split</b> 1934:1     | <b>started</b> 1824:16 | 1808:16                |
| 1986:2               | 1901:1 1904:6           | <b>spoke</b> 1807:20    | 1831:8                 | 1811:24                |
| 2006:15              | 2009:19                 | 1825:24                 | 1898:18                | 1812:2,7,18            |
| <b>somebody</b>      | 2011:21                 | 1833:5                  | 1901:24                | 1814:6,23              |
| 1931:20              | <b>soundest</b>         | 1871:25                 | 1903:1                 | 1818:19                |
| 2017:6,7             | 2016:12,14              | <b>spoken</b> 1889:23   | 1929:24                | 1820:1 1824:4          |
| 2027:4               | <b>sounds</b> 1960:12   | <b>stack</b> 1940:25    | 1939:12                | 1824:6,14              |
| 2029:25              | <b>source</b> 1852:24   | 1941:24                 | 2009:19                | 1826:10                |
| <b>Somewhat</b>      | 1852:25                 | <b>staff</b> 1901:8     | <b>starting</b> 1804:3 | 1827:5 1834:6          |
| 1897:16              | 1885:19                 | 2022:23                 | 1862:3,10              | 1834:17                |
| 1908:18              | 1886:18                 | <b>stage</b> 1856:11    | 1871:15,19             | 1871:3                 |
| <b>sophisticated</b> | 1887:4                  | 2018:9                  | 1878:15,18             | 1903:19                |
| 2019:3,5             | 1890:13                 | <b>stages</b> 1868:18   | <b>starts</b> 1878:21  | 1947:23                |
| <b>sorry</b> 1813:16 | 1891:20                 | 1870:14                 | 1996:13                | 1978:20                |
| 1837:12              | 1995:20                 | <b>stake</b> 1888:2     | <b>state</b> 1803:1,2  | <b>states</b> 1822:18  |
| 1856:20              | 2000:12                 | 2011:1                  | 1804:1                 | 1827:16                |
| 1875:13              | 2006:20,21              | <b>stamp</b> 1838:22    | 1872:13                | 1865:7,10              |
| 1884:4 1889:4        | <b>sources</b> 1991:16  | <b>stand</b> 1809:20    | 1904:18                | 1901:13                |
| 1894:25              | <b>space</b> 1967:17    | 1810:7                  | 1906:17                | 2011:4,5               |
| 1992:25              | 2020:16,18              | 1824:22                 | 1907:1                 | <b>stating</b> 1864:7  |
| 2001:6,8             | <b>speak</b> 1824:16    | 1826:3 1829:6           | 1910:11                | 1868:6                 |
| 2007:9               | 1825:3,13               | 1835:8 1836:7           | 1925:23                | 1874:20                |
| 2026:16              | 1852:14                 | 1872:14                 | 1962:2                 | <b>station</b> 1808:25 |
| <b>sort</b> 1837:24  | 1855:14                 | 1888:20                 | 1979:25                | <b>status</b> 1897:25  |
| 1849:22              | 1872:1                  | 1969:12                 | <b>stated</b> 1815:5   | <b>statute</b> 1906:20 |
| 1854:19,21           | 1949:16                 | <b>standard</b> 1983:3  | 1845:2 1853:2          | 1907:2                 |
| 1856:6               | 1961:11                 | 1988:12                 | <b>statement</b>       | <b>staying</b> 1907:9  |
| 1860:12              | <b>speaking</b> 1805:7  | 1996:20                 | 1807:10,17             | <b>steadfastly</b>     |
| 1868:17,18           | 1805:7 1821:9           | 2003:15                 | 1808:2,20,21           | 1872:1                 |
| 1869:11              | 1953:25                 | 2006:17                 | 1809:2 1810:4          | <b>steer</b> 1943:2,24 |
| 1870:13              | 1957:5                  | <b>standards</b>        | 1810:8,11,13           | <b>Steinglass</b>      |
| 1881:15              | 1958:14                 | 1981:3                  | 1825:6,20,21           | 1803:14                |
| 1896:1               | 1963:11                 | <b>stands</b> 1846:4    | 1832:7,8               | 1804:4,5               |
| 1901:20              | <b>speaks</b> 1810:15   | 1988:11                 | 1863:23,25             | 1819:10                |
| 1905:7               | <b>specific</b> 1906:24 | 1996:11                 | 1864:21                | 1835:3,24              |
| 1913:23              | 1910:7 1942:3           | <b>stars</b> 1876:21    | 1865:21                | 1836:1,3               |
| 1931:17              | 1952:12                 | <b>start</b> 1805:13    | 1872:25                | 1841:5 1843:6          |
| 1937:9 1942:2        | 1960:14                 | 1806:5                  | 1873:1                 | 1844:7                 |
| 1954:4               | 2019:11                 | 1815:19                 | 1874:25                | 1846:11                |
| 1988:12              | 2029:18                 | 1838:15                 | 1875:14,17,23          | 1847:2 1850:1          |
| 1995:23              | <b>specifically</b>     | 1872:21                 | 1877:1,20              | 1857:5,16              |

|                        |                         |                     |                          |                        |
|------------------------|-------------------------|---------------------|--------------------------|------------------------|
| 1858:14                | 1804:12                 | 1874:25             | 1938:3,20                | 1932:24                |
| 1860:17                | <b>steps</b> 1913:17,17 | 1876:12,23          | 1963:15                  | 2014:13                |
| 1861:20                | 1915:7                  | 1878:4,8            | 1964:8                   | <b>subsequent</b>      |
| 1862:1 1870:3          | 2013:21                 | 1880:3,7,19         | 1972:11                  | 1904:19                |
| 1870:7                 | <b>Steve</b> 2012:12    | 1881:22             | <b>straight</b> 1813:9   | 1905:14                |
| 1871:16                | <b>Stevens</b> 1930:8   | 1882:8,16,16        | 1917:3                   | 1933:19                |
| 1873:25                | 1930:21                 | 1882:18             | <b>straightforward</b>   | <b>subsequently</b>    |
| 1874:12                | <b>stick</b> 1807:23    | 1883:1,5,6,20       | 1954:7                   | 1895:17                |
| 1875:21                | <b>stills</b> 1920:6    | 1883:22             | <b>strange</b> 1909:12   | <b>substance</b>       |
| 1884:7,14              | <b>sting</b> 1926:5,8   | 1886:24             | <b>strangely</b> 1856:6  | 1836:8                 |
| 1887:25                | <b>stink</b> 1829:5     | 1887:14             | <b>strangely-dec...</b>  | 1895:16                |
| 1888:5 1889:4          | <b>stipulate</b> 1889:2 | 1895:17,20          | 1856:8                   | 1956:17                |
| 1903:20                | 1944:5                  | 1896:17             | <b>Street</b> 1803:8     | 1957:1                 |
| 1904:2 1905:9          | <b>stood</b> 1810:16    | 1902:9 1907:8       | 1851:23                  | 1972:22                |
| 1906:22                | 1824:15                 | 1944:19,24          | 1852:7                   | <b>substantially</b>   |
| 1908:20                | <b>stop</b> 1827:3      | 1946:10             | 1858:25                  | 1807:1                 |
| 1912:15                | 1884:17                 | 1948:2              | 1859:4,14,24             | <b>succession</b>      |
| 1916:1 1917:4          | 1939:15                 | 1949:12             | 1862:17,25               | 1880:15                |
| 1926:3                 | 1955:15                 | 1953:4,14           | <b>stress</b> 1948:13    | <b>sue</b> 1853:3      |
| 1927:17,23             | 1962:9 1972:4           | 1956:2,4            | <b>strict</b> 1864:25,25 | 1883:1                 |
| 1928:6                 | 2008:15                 | 1957:11             | <b>strike</b> 1855:6     | <b>sued</b> 1891:15    |
| 1941:23                | 2030:22                 | 1960:6 1963:2       | 1950:23                  | <b>sufficient</b>      |
| 1944:7 1956:6          | <b>storage</b> 1992:2   | 1963:15             | <b>strong</b> 1863:6,8   | 1957:25                |
| 1959:1 1968:9          | <b>store</b> 1856:5,8   | 1964:6,16           | 1869:3                   | <b>suggest</b> 1905:12 |
| 1968:11                | 1857:10,21,22           | 1965:4 1970:7       | 1890:16                  | <b>suggesting</b>      |
| 1969:5,6,20,21         | 1857:23,24,24           | 1971:6,16           | <b>structure</b>         | 1892:3                 |
| 1969:24                | 1887:22                 | 1972:9,15,18        | 2020:13                  | <b>suggestion</b>      |
| 1970:21                | <b>stores</b> 1932:1,3  | 1972:25             | <b>structured</b>        | 1816:8                 |
| 1973:23                | <b>stories</b> 1864:18  | 1975:24             | 1954:5                   | <b>swing</b> 1970:10   |
| 1974:14,16,24          | 1896:5                  | 1978:20             | <b>stuff</b> 1908:8      | <b>suite</b> 1876:5,24 |
| 1975:25                | 1924:14                 | 1979:1              | 2020:20                  | <b>sum</b> 1929:11     |
| 1976:2,24              | <b>stormy</b> 1817:17   | <b>Stormy's</b>     | <b>subject</b> 1823:11   | 1972:22                |
| 1977:14                | 1817:20,24,24           | 1868:19             | 1823:21                  | <b>summarizing</b>     |
| 1978:23                | 1818:2,2,5              | 1883:3              | 1831:18                  | 1904:14                |
| 1979:8,15              | 1842:9,23               | <b>story</b> 1852:8 | 1838:10                  | <b>summer</b> 1924:14  |
| 2033:5                 | 1844:4 1848:5           | 1856:6 1863:2       | 1860:8                   | 1950:1,3               |
| <b>step</b> 1888:9     | 1848:23                 | 1868:19             | 1978:21                  | <b>sums</b> 1915:4     |
| 1901:19                | 1850:4,25               | 1869:24             | 2013:10                  | <b>supervising</b>     |
| 1940:3                 | 1855:18                 | 1870:12             | <b>submit</b> 1812:22    | 1982:1,9               |
| 1968:17                | 1859:1,6                | 1883:20,22,23       | 1813:24                  | <b>supervision</b>     |
| 1979:16                | 1861:8,10,11            | 1893:1 1894:7       | <b>submitted</b>         | 1982:10                |
| 2013:23                | 1863:1,15,23            | 1895:23             | 1804:24                  | <b>supplying</b>       |
| 2032:20                | 1864:19                 | 1896:1,13           | 1819:14                  | 2031:16                |
| <b>Stephanie</b>       | 1865:24                 | 1898:18             | <b>submitting</b>        | <b>suppose</b> 1906:8  |
| 1848:22                | 1866:22                 | 1899:4              | 1932:9                   | 1907:11,16             |
| 1849:24                | 1868:1                  | 1925:10             | <b>subparagraphs</b>     | <b>supposed</b> 1942:8 |
| 1850:9                 | 1869:13                 | 1930:11,15          | 1933:12                  | <b>SUPREME</b>         |
| 1885:17,18             | 1871:7,25               | 1935:17,24          | <b>subpoena</b>          | 1803:1,10              |
| <b>Stephen</b> 1803:21 | 1873:3,13,16            | 1936:7 1937:9       | 1838:24                  | <b>sure</b> 1805:3     |

|                         |                         |                        |                         |                       |
|-------------------------|-------------------------|------------------------|-------------------------|-----------------------|
| 1821:5 1823:3           | <b>sworn</b> 1835:16    | 2007:4                 | 1811:15                 | 1877:21               |
| 1827:20                 | 1856:1                  | 2018:24                | 1817:8                  | 1878:2                |
| 1842:8                  | 1888:19                 | <b>taken</b> 1835:6    | 1820:17,19              | 1926:10               |
| 1853:12                 | 1969:11                 | 1888:14                | 1821:24                 | <b>technology</b>     |
| 1872:22                 | 1979:22                 | 1895:23                | 1822:7 1823:1           | 1980:17               |
| 1879:6 1891:1           | <b>system</b> 1987:6    | 1896:15                | 1824:10                 | 1982:11               |
| 1903:23                 | 2021:12,13              | 1946:13,22             | 1830:5,11               | <b>Telegram</b>       |
| 1906:16                 | 2022:22                 | 1947:11                | 1831:4,5,24             | 2004:17               |
| 1910:25                 | 2024:15                 | 1969:1                 | 1832:1,2                | <b>telephone</b>      |
| 1914:4                  |                         | 1976:13                | 1833:20                 | 2032:6                |
| 1944:23                 | <b>T</b>                | 2001:12                | 1836:11                 | <b>television</b>     |
| 1950:21                 | <b>T</b> 1835:15        | <b>takes</b> 1815:9,10 | 1891:4 1894:6           | 1830:3 1868:2         |
| 1957:10                 | 1968:23                 | <b>talk</b> 1805:6     | 1912:8                  | 1882:4                |
| 1984:5                  | <b>table</b> 1804:12    | 1806:2                 | 1927:13                 | <b>tell</b> 1806:13   |
| 1993:22                 | 2030:15                 | 1808:14,20             | 1930:20                 | 1808:18               |
| 2010:6,25               | <b>tabloids</b> 1877:12 | 1810:2 1812:4          | 1931:13                 | 1830:15               |
| 2012:3                  | <b>tactic</b> 1864:22   | 1816:1,2               | 1941:12                 | 1843:10               |
| 2024:14                 | <b>take</b> 1814:11,25  | 1819:25                | 1942:7,8                | 1854:1,2              |
| 2029:24                 | 1829:6 1835:4           | 1825:16,17             | 1943:17                 | 1855:21               |
| <b>surprise</b> 1822:17 | 1857:16                 | 1827:3                 | 1950:7 1954:3           | 1859:10               |
| 1854:21                 | 1863:17                 | 1834:11                | 1956:2,4                | 1867:23               |
| 1891:19,25              | 1888:7                  | 1873:12,14             | 1957:11                 | 1871:21               |
| <b>surprised</b>        | 1898:24                 | 1882:17                | 1959:6 1963:2           | 1874:5 1875:5         |
| 1964:5 1972:4           | 1901:19                 | 1894:1                 | 1971:20                 | 1882:3 1883:8         |
| 1972:8                  | 1904:25                 | 1900:25                | 1972:25                 | 1884:10               |
| <b>surprises</b>        | 1921:21                 | 1901:19                | 1995:10                 | 1893:1 1894:7         |
| 1822:24                 | 1924:4,9,11,21          | 1902:20                | 2015:3,4                | 1894:21               |
| 1891:22                 | 1927:7 1932:4           | 1944:14                | <b>talks</b> 1808:4     | 1935:20               |
| <b>surprising</b>       | 1933:11                 | 1949:9 1953:3          | 1811:25                 | 1951:22               |
| 1822:20                 | 1935:5,11               | 1994:11                | 1953:23                 | 1975:16               |
| <b>surreptitiously</b>  | 1937:11                 | 1996:3                 | <b>Tampa</b> 1927:12    | 1980:24               |
| 1973:16,17              | 1938:12                 | 2013:20                | 1927:15,21              | 1981:4,13             |
| <b>Susan</b> 1803:15    | 1939:2                  | 2023:18,23             | <b>tape</b> 1913:18,23  | 1984:14               |
| 1803:20,23              | 1941:19                 | 2030:12                | 1914:9,18               | 1986:23               |
| 1804:5,12               | 1943:8,9                | 2031:6                 | 1919:22                 | 1989:17               |
| 1840:18                 | 1950:22                 | <b>talked</b> 1809:24  | 1922:8 1975:6           | 1990:21               |
| <b>suspected</b>        | 1964:18                 | 1810:11,17             | 1975:9                  | 1995:4,7,15           |
| 1822:24                 | 1965:16                 | 1817:13,13             | <b>tapes</b> 1921:24    | 2001:11               |
| <b>suspension</b>       | 1967:6                  | 1892:6 1900:4          | 1922:5,17,22            | 2002:6,6              |
| 1914:21                 | 1968:12                 | 1900:19                | 1922:22,25              | 2003:7,12,13          |
| <b>sustained</b>        | 1972:1                  | 1929:20                | 1924:14,25              | 2021:1                |
| 1903:21                 | 1980:20                 | 1935:2                 | 1925:11,15              | <b>telling</b> 1817:9 |
| 1905:17,20              | 1982:5                  | 1959:23                | <b>targeting</b> 1926:5 | 1824:20               |
| 1906:23                 | 1983:10                 | 1961:8 1979:6          | <b>targets</b> 2012:15  | 1837:23               |
| 1916:2 1917:5           | 1984:17                 | 1991:23                | <b>team</b> 2023:5      | 1838:3                |
| 1926:4                  | 1985:12                 | 2022:19                | 2026:11,12              | 1930:10,13            |
| 1927:18                 | 1989:13                 | <b>talking</b> 1807:2  | <b>technically</b>      | 1972:24               |
| 1928:7                  | 1990:21                 | 1809:19                | 1865:1,2,4,12           | <b>tells</b> 1963:15  |
| 1978:24                 | 1991:2,14               | 1810:5                 | 1866:6                  | <b>ten</b> 1804:17    |

|                          |                          |                        |                        |                        |
|--------------------------|--------------------------|------------------------|------------------------|------------------------|
| 1813:13                  | 1948:13                  | 1879:8 1880:8          | 1980:7                 | 1985:14,22,23          |
| 1820:22,23               | 1973:5                   | 1882:1 1884:3          | 1989:10                | 2002:14                |
| 1823:1,22                | 1976:17                  | 1884:18,22,25          | 1991:1                 | 2010:8 2011:3          |
| 1831:5,6                 | 1979:23                  | 1885:6 1935:7          | 2001:19                | 2022:2                 |
| 1833:23,23               | 2025:17                  | 1936:20                | 2009:5,8,11            | 2026:10                |
| 1888:9                   | <b>testifies</b> 1821:5  | 1937:20                | 2024:9                 | <b>think</b> 1805:4,10 |
| 1980:15,23               | 1888:20                  | 1952:17,22             | 2032:13                | 1806:11                |
| 1981:15                  | <b>testify</b> 1823:4    | 1972:23                | 2033:5,8               | 1807:12,14             |
| 1998:17                  | <b>testifying</b> 1808:1 | 1978:16                | <b>Thanks</b> 1862:23  | 1809:10                |
| <b>tentatively</b>       | 1808:4,12                | 1985:17                | 1870:24                | 1813:20                |
| 1867:21,25               | 1809:16,17,25            | 1986:2                 | 1958:1                 | 1815:14                |
| 1868:1                   | 1820:3,4                 | 1994:17                | 1970:24                | 1817:3 1822:7          |
| <b>tenure</b> 1960:3     | 1992:8                   | 1996:1 2032:6          | 2000:18                | 1822:8                 |
| <b>Tequila</b> 1913:15   | <b>testimony</b>         | <b>texted</b> 1938:5   | <b>TheDirty.com</b>    | 1826:24                |
| 1914:9,17                | 1807:19                  | <b>texting</b> 1873:21 | 1859:23                | 1835:7 1854:6          |
| <b>term</b> 1803:1       | 1809:21                  | 1874:7 1875:5          | <b>theme</b> 1810:6    | 1855:3 1856:2          |
| 1866:21                  | 1819:4                   | <b>texts</b> 1841:8,13 | <b>Theresa</b> 1803:25 | 1857:22                |
| 2029:8                   | 1820:10,18,25            | 1841:15                | 1923:2                 | 1860:9                 |
| <b>terms</b> 1809:10     | 1822:8                   | 1858:9 1861:5          | <b>TheStormyDa...</b>  | 1862:16,19             |
| 1811:2                   | 1825:23                  | 1862:11,15             | 1877:17,18             | 1864:22                |
| 1899:21                  | 1826:8                   | 1868:14                | <b>Thien</b> 1914:17   | 1865:3,4,13,16         |
| 1900:25                  | 1831:25                  | 1871:14                | <b>thing</b> 1806:9    | 1866:15,21             |
| 1908:23                  | 1836:9                   | 1874:4,14              | 1809:14                | 1868:16                |
| 1933:7                   | 1899:21                  | 1880:14                | 1810:1                 | 1869:5,25              |
| 1938:16                  | 1902:16                  | 1995:1                 | 1844:12                | 1870:3,17              |
| 1948:5,6                 | 1907:5                   | <b>thank</b> 1813:18   | 1870:1                 | 1872:5 1873:3          |
| 1949:1 1952:1            | 1908:12                  | 1814:13,14,16          | 1873:12                | 1876:14,25             |
| 1966:3                   | 1911:12                  | 1819:10                | 1920:18                | 1877:21                |
| 1991:23                  | 1912:7,25                | 1834:25                | 1993:17                | 1878:3                 |
| 2020:19                  | 1916:15                  | 1836:4 1837:3          | 2010:22                | 1885:17                |
| <b>terribly</b> 1826:23  | 1934:4 1936:7            | 1837:14                | 2022:12                | 1886:3                 |
| 1827:2                   | 1936:8 1946:6            | 1839:11                | <b>things</b> 1808:5   | 1890:22                |
| <b>Terry</b> 1910:12     | 1946:17                  | 1857:16                | 1809:7,12              | 1891:6,13              |
| <b>testified</b> 1820:15 | 1952:11                  | 1860:17                | 1812:1                 | 1892:7 1893:3          |
| 1826:11                  | 1971:12                  | 1862:1,4,22            | 1823:16                | 1893:23                |
| 1835:17                  | 2028:16                  | 1863:4 1872:7          | 1825:16                | 1894:17,21,25          |
| 1840:6                   | 2031:22,25               | 1875:13                | 1831:11                | 1895:1,7               |
| 1862:17                  | <b>text</b> 1842:2       | 1887:11                | 1834:3 1858:3          | 1896:4 1897:6          |
| 1880:18                  | 1853:25                  | 1888:6 1889:7          | 1870:14                | 1897:12                |
| 1882:9 1890:9            | 1854:10,13               | 1918:15                | 1883:14                | 1899:18                |
| 1892:14,25               | 1855:4,9                 | 1927:20                | 1891:7 1892:6          | 1900:9,22              |
| 1908:19                  | 1862:7                   | 1940:2,9,24            | 1938:22                | 1903:12                |
| 1930:22                  | 1867:14                  | 1954:20                | 1942:2 1945:3          | 1904:4 1906:3          |
| 1931:1                   | 1868:12,22               | 1957:19                | 1956:22                | 1906:4                 |
| 1936:16                  | 1869:17,20               | 1968:16                | 1957:14                | 1908:17                |
| 1941:9                   | 1870:4,11,25             | 1969:7,21,22           | 1960:10,24             | 1913:25                |
| 1943:12                  | 1872:4,14                | 1974:20                | 1971:9,20              | 1918:8 1921:5          |
| 1944:16                  | 1873:23                  | 1976:3                 | 1972:16,19             | 1921:7                 |
| 1947:23                  | 1874:19                  | 1979:15                | 1973:2                 | 1929:23                |

|                         |                        |                |                      |                         |
|-------------------------|------------------------|----------------|----------------------|-------------------------|
| 1930:22                 | <b>threatened</b>      | 1851:12        | 1995:19              | 1996:5                  |
| 1931:23,25              | 1853:3                 | 1852:13        | 1996:3,4,11,12       | <b>timing</b> 1813:23   |
| 1932:8                  | 1914:17                | 1853:14        | 1996:12,13,18        | 1852:23                 |
| 1935:25                 | 1929:17                | 1854:1,1,5,7,7 | 1996:19,19,20        | 1853:1,7                |
| 1936:20                 | 1960:9 1971:8          | 1854:10        | 1996:22,24           | <b>title</b> 1987:1     |
| 1937:20                 | 1971:17                | 1855:25        | 2000:10              | 2005:5,6                |
| 1941:17,17              | <b>threatening</b>     | 1857:3,10      | 2002:10,10,11        | 2006:9,11               |
| 1942:3,12               | 1826:4,10              | 1858:5 1860:4  | 2003:9,12,13         | <b>TMZ</b> 1911:20      |
| 1943:1,5,24             | <b>threats</b> 1883:11 | 1861:8         | 2003:15,15           | 1911:25                 |
| 1945:15                 | 1911:2,4,8,10          | 1865:23        | 2005:20              | 1912:3,10,20            |
| 1946:5,15,19            | <b>three</b> 1837:6    | 1873:2         | 2006:10,18           | 1913:9,13               |
| 1951:1                  | 1893:3 1902:5          | 1875:11        | 2008:25              | <b>today</b> 1804:17    |
| 1953:22                 | 1902:23                | 1878:18        | 2015:16              | 1809:17                 |
| 1954:2,11,17            | 1989:19                | 1882:1         | 2017:14              | 1816:24                 |
| 1955:1,22               | 1997:21                | 1884:19        | 2018:6 2021:5        | 1817:1,8                |
| 1958:24                 | 1998:9                 | 1885:22        | 2024:22,25           | 1818:20                 |
| 1959:5 1962:7           | 2022:19                | 1887:5,7,8,19  | 2025:1,10            | 1820:4                  |
| 1963:5                  | <b>throw</b> 2016:7    | 1889:20        | 2027:16,18,23        | 1834:14                 |
| 1966:16                 | <b>thumb</b> 1819:8    | 1893:19        | 2028:15              | 1839:5                  |
| 1998:17                 | 1819:11                | 1895:7,13,20   | 2030:19              | 1885:19                 |
| 2009:22                 | 1973:7                 | 1898:15        | <b>timeframe</b>     | 1890:9 1892:7           |
| 2012:14                 | 1982:17                | 1903:4 1909:2  | 1908:16              | 1900:4,19               |
| 2013:22                 | 1992:4,6,10,12         | 1909:15        | 1959:19              | 1906:19,25              |
| 2016:2                  | 1992:16,20             | 1910:17        | 1961:3               | 1908:12                 |
| <b>thinks</b> 1809:23   | 1993:6                 | 1911:20        | 1963:10              | 1952:10                 |
| <b>third</b> 1808:20,21 | <b>Thursday</b>        | 1912:21        | <b>times</b> 1805:24 | 1976:18                 |
| 1843:23,24              | 1837:12                | 1913:23        | 1814:8               | 1982:21                 |
| 1894:6                  | <b>ticked</b> 1882:16  | 1914:20        | 1830:16              | 1992:8                  |
| <b>third-parties</b>    | <b>TikTok</b> 1829:21  | 1915:21        | 1855:17              | 2025:17                 |
| 1909:23                 | 1831:8,12,14           | 1922:1 1930:1  | 1856:17              | <b>Todd</b> 1803:19     |
| <b>third-party</b>      | <b>TikToks</b> 1812:3  | 1930:19        | 1877:4 1883:7        | 1804:10                 |
| 1919:7                  | <b>Tila</b> 1913:15    | 1934:23        | 1883:11              | <b>told</b> 1841:16,17  |
| <b>thought</b> 1807:18  | 1914:9                 | 1937:18        | 1891:6               | 1844:3 1856:9           |
| 1825:22                 | <b>time</b> 1807:19    | 1939:15        | 1900:24              | 1880:25                 |
| 1869:12,13              | 1808:21                | 1944:20        | 1901:7               | 1886:17                 |
| 1901:2 1907:4           | 1809:20                | 1946:16,24     | 1902:17,18           | 1887:7,9                |
| 1908:7                  | 1811:17,17,19          | 1948:1         | 1944:22              | 1895:23                 |
| 1957:15                 | 1814:14                | 1949:25        | 1945:2               | 1929:14                 |
| <b>thousand</b>         | 1815:19                | 1955:11        | 1954:11              | 1939:7                  |
| 1997:18                 | 1822:3                 | 1956:20,21,23  | 1955:22              | 1954:18                 |
| <b>thousands</b>        | 1825:24                | 1959:21,24     | 1964:25              | <b>tomorrow</b>         |
| 1983:1                  | 1826:22                | 1963:10        | 1975:17              | 1882:4,18               |
| 1997:17,18              | 1834:20                | 1964:1 1970:7  | 1996:15              | 2031:1,2                |
| <b>thread</b> 1882:24   | 1836:24                | 1970:11        | 2002:15              | 2032:15,24              |
| <b>threat</b> 1820:21   | 1838:17                | 1972:20        | <b>timestamp</b>     | <b>tonight</b> 1863:3,3 |
| 1820:21                 | 1839:6,17              | 1976:13        | 2005:13,18,20        | 1867:21                 |
| 1906:11                 | 1840:10                | 1979:19        | 2006:16              | 1872:3                  |
| <b>threaten</b> 1883:5  | 1843:17                | 1982:19        | <b>timestamps</b>    | <b>tools</b> 1984:25    |
| 1907:21                 | 1850:22                | 1994:3         | 1861:17              | 1985:4                  |

|                         |                         |                     |                         |                       |
|-------------------------|-------------------------|---------------------|-------------------------|-----------------------|
| <b>top</b> 1828:9,12,17 | 2032:3                  | 1892:13             | 1863:12                 | 1886:14               |
| 1830:22,24              | <b>transfer</b> 1837:11 | 1893:7,9            | 1864:5,9,11,13          | <b>try</b> 1811:20,22 |
| 1862:10                 | 1849:18,23              | 1894:8,24           | 1864:15                 | 1897:19,23            |
| 1878:18                 | 1965:12,17              | 1895:9,12,25        | 1865:9,17,25            | <b>trying</b> 1830:6  |
| 1935:18                 | <b>transferred</b>      | 1896:6              | 1866:4,23               | 1868:18               |
| 1937:14                 | 1849:25                 | 1898:11             | 1867:2 1877:6           | 1873:1                |
| 1975:13                 | <b>transit</b> 2015:24  | 1899:25             | 1878:5                  | 1882:23               |
| 2010:18,20              | <b>travelled</b>        | 1901:14,18          | 1886:18                 | 1883:2,3              |
| 2012:24                 | 1936:24                 | 1903:6              | 1887:4                  | 1905:11               |
| 2015:6 2029:9           | <b>treatment</b>        | 1906:18             | 1889:14,18,23           | 1930:11,15            |
| <b>topic</b> 1855:18    | 1911:18                 | 1909:7,24           | 1890:1,7,10,12          | 1947:11               |
| <b>tortious</b> 1915:8  | 1913:10                 | 1910:2,5,13         | 1930:3                  | 1965:25               |
| <b>total</b> 1804:24    | <b>trial</b> 1803:7     | 1911:21             | 1935:17                 | 1971:11               |
| <b>totem</b> 1937:14    | 1806:8,8                | 1925:22             | 1941:8                  | 2011:7                |
| <b>touch</b> 1947:12    | 1811:9,10,16            | 1928:9 1932:2       | 1943:18                 | 2017:24               |
| 2011:7                  | 1817:13,14              | 1948:12,25          | 1958:9                  | 2023:7                |
| <b>tough</b> 1817:16    | 1818:16,16,17           | 1951:15,21,23       | 1961:20                 | <b>Tuesday</b>        |
| <b>track</b> 1830:16    | 1821:21                 | 1951:25             | 1962:12                 | 1808:25               |
| 2005:13                 | 1822:15,16,18           | 1959:13,17          | 1975:19,21,22           | 1814:10,18,21         |
| <b>tracked</b> 2016:21  | 1827:15                 | 1962:15             | 1979:4                  | 1815:13               |
| <b>trail</b> 1815:12    | 1829:12                 | 1967:5 1977:3       | 1987:11                 | 1816:23               |
| <b>trainees</b> 1981:12 | 1831:25                 | 1977:5              | 1998:10,13,16           | 1819:19               |
| <b>trainers</b> 1981:12 | 1832:14,15,18           | 2017:16             | 1998:25                 | 1822:14               |
| <b>training</b> 1981:8  | 1832:20                 | <b>Trump</b> 1803:5 | 2009:18                 | 1836:7,11             |
| 1981:9 2030:6           | 1867:22                 | 1804:2,11,15        | <b>Trump's</b> 1816:4   | 1889:20               |
| <b>transaction</b>      | 1868:21                 | 1813:10             | 1817:12                 | 1892:7 1893:3         |
| 1885:18,22              | 1888:3,25               | 1815:7,19,21        | 1829:22                 | 1895:1                |
| 1887:5,7,8,20           | 1902:17                 | 1817:15,18          | 1830:11                 | 1908:16               |
| 1914:20                 | 1969:16                 | 1818:16             | 1832:19                 | 1932:8                |
| <b>transcript</b>       | 2013:5                  | 1820:2,13,22        | 1901:4,8                | 1936:16               |
| 1813:7 1923:4           | 2031:17                 | 1821:1,6,9,17       | 1941:2                  | 1979:11               |
| 1957:17,25              | 2032:3                  | 1822:6,25           | <b>trust</b> 1837:22    | <b>Turley</b> 1941:5  |
| 1958:2                  | <b>tried</b> 1811:22    | 1823:9 1824:1       | 1838:1 1839:5           | <b>turn</b> 1822:14   |
| 1960:20                 | 1832:21                 | 1824:5              | 1864:15                 | 1828:5,22             |
| 1962:4,7                | 1897:17                 | 1825:21,25          | 1936:5                  | 1844:7                |
| 1963:20                 | 1928:24                 | 1826:14,17          | 2024:15                 | 1957:14,15            |
| 1970:16                 | 1957:16                 | 1827:12,22          | <b>trusted</b> 1898:10  | <b>turned</b> 2022:25 |
| 1971:25                 | <b>trouble</b> 1809:7   | 1828:1,4,21         | <b>truth</b> 1808:18    | <b>turning</b> 1842:2 |
| 1974:6,9                | <b>true</b> 1826:6      | 1829:7,12,19        | 1830:15                 | 1846:17               |
| 1977:10,11,11           | 1830:3 1831:7           | 1830:4 1831:2       | 1838:3 1941:8           | 1847:11               |
| 1977:12                 | 1834:16                 | 1831:14,16,22       | 1942:19                 | 1848:14               |
| 1978:2                  | 1848:13                 | 1834:7,11,18        | 1963:5,6                | 1849:13               |
| 2001:25                 | 1854:8                  | 1842:25             | <b>truthful</b> 1820:14 | 1870:21               |
| 2007:14,15,20           | 1864:18                 | 1846:9,15           | 1885:16                 | 1884:4                |
| 2007:23                 | 1865:1,2,5              | 1848:6 1853:6       | 1886:16                 | <b>TV</b> 1808:25     |
| 2008:2,17,19            | 1866:6                  | 1854:22             | 1917:12,14              | 1890:7                |
| 2026:21                 | 1877:21,23              | 1855:8,13           | <b>truthfulness</b>     | <b>tweets</b> 1818:25 |
| <b>transcripts</b>      | 1878:2                  | 1856:1 1859:2       | 1864:21                 | <b>twice</b> 1957:16  |
| 1819:3 1977:6           | 1889:22                 | 1859:6              | 1877:19                 | 1996:16               |

|                       |                         |                      |                        |                         |
|-----------------------|-------------------------|----------------------|------------------------|-------------------------|
| <b>Twitter</b> 1881:8 | 2025:15                 | 1865:21,22,23        | 1901:3                 | <b>uses</b> 1824:19     |
| <b>two</b> 1808:1     | 2029:13                 | 1866:20,25           | <b>unenforceable</b>   | 1983:6                  |
| 1809:19               | <b>typical</b> 1916:13  | 1870:10              | 1845:9,10              | <b>usually</b> 1984:22  |
| 1810:19               | <b>typically</b> 1983:8 | 1871:4               | <b>unfair</b> 1806:12  | <b>UTC</b> 1854:1,5,7   |
| 1815:22               |                         | 1874:22              | 1833:21                | 1854:10                 |
| 1816:19               | <b>U</b>                | 1880:2,6,22          | <b>unfettered</b>      | 1878:22,24              |
| 1824:23               | <b>U</b> 1979:22,22     | 1882:6               | 1815:7                 | 1882:2,10,11            |
| 1825:2 1826:3         | <b>uh</b> 1886:3        | 1883:16,18           | <b>Union</b> 1872:13   | 1884:19                 |
| 1826:9 1827:5         | 1971:11,11              | 1885:2               | <b>unique</b> 2024:5   | 1996:8,10,16            |
| 1827:23               | <b>Uh-huh</b> 2018:16   | 1887:10              | <b>unison</b> 1860:12  | 1996:16,18,22           |
| 1829:25               | 2019:17                 | 1898:12              | <b>Unit</b> 1980:17    | 1996:23                 |
| 1831:4                | 2030:5                  | 1905:9               | 1983:4                 | 2003:13                 |
| 1841:12               | <b>ultimate</b> 1843:3  | 1909:20              | <b>United</b> 1822:18  |                         |
| 1855:18               | 1886:18                 | 1919:9               | 1827:16                | <b>V</b>                |
| 1865:6,7              | 1887:4                  | 1925:25              | 1901:13                | <b>V</b> 1835:15        |
| 1886:21               | <b>ultimately</b>       | 1942:9               | 2011:4,4               | <b>Vaguely</b>          |
| 1907:24               | 1886:12                 | 1947:15              | <b>Universal</b>       | 1937:23                 |
| 1926:25               | 1928:8                  | 1951:2,18            | 1996:11                | 1961:23                 |
| 1931:24               | 1951:13                 | 1975:17,20           | <b>unredacted</b>      | <b>valid</b> 1821:14    |
| 1933:22               | 2013:4 2014:3           | 1976:15              | 1993:6                 | 1915:9                  |
| 1936:15               | 2018:25                 | 1987:19              | <b>unsigned</b> 1967:4 | 1948:22                 |
| 1954:18               | 2022:15                 | 2023:7               | 1968:2                 | 1966:3                  |
| 1959:10               | <b>um</b> 1880:24       | <b>understanding</b> | <b>unusual</b> 1845:6  | <b>validation</b>       |
| 1981:15,18            | 1883:12,13              | 1837:17              | 1997:8,9               | 1886:4                  |
| 1987:13,17,20         | 1886:4                  | 1841:17              | <b>upheld</b> 1909:10  | <b>valuable</b>         |
| 1991:6                | 1887:12,25              | 1855:3,5             | <b>UPS</b> 1932:1,2    | 1947:18                 |
| 1996:15               | 1986:2                  | 1866:1               | <b>upset</b> 1852:20   | <b>value</b> 1866:16    |
| 1998:1                | <b>Ummm</b> 1855:22     | 1868:24              | 1852:22,23             | 1893:20                 |
| 2000:11               | <b>unallocated</b>      | 1869:15              | 1853:1,2,5             | 2024:10,17              |
| 2006:12,18            | 2020:16,18              | 1872:10              | 1882:7                 | <b>vault</b> 2011:25    |
| 2014:18               | <b>Unbelievable</b>     | 1883:15,21           | 1901:17                | 2014:22                 |
| 2017:6                | 1842:6                  | 1893:8               | <b>use</b> 1850:8      | 2015:7,18               |
| 2025:15,18            | <b>undercover</b>       | 1894:11              | 1858:9 1867:1          | 2018:9                  |
| 2028:7,10             | 1922:10                 | 1931:16              | 1867:3,4               | <b>Vegas</b> 1960:9     |
| <b>type</b> 1852:25   | <b>underlying</b>       | 1932:2 1945:1        | 1896:14                | 1971:9,17               |
| 1920:18               | 1845:18                 | 1948:5               | 1904:23                | <b>ventures</b>         |
| 1964:24               | 1848:9                  | 1972:20              | 1953:13                | 1829:13                 |
| 1980:21               | 1849:22                 | 1973:2               | 1957:4 1958:6          | <b>verifies</b> 2024:25 |
| 1981:10,19,24         | 1851:24                 | 1976:12,19           | 1984:25                | <b>version</b> 1843:4   |
| 1982:12               | 1860:7                  | 1978:19              | 1985:11                | 1849:10                 |
| 2004:11               | <b>undermine</b>        | <b>understood</b>    | 1988:6 2004:5          | 1933:2                  |
| <b>typed</b> 1876:2   | 1887:3                  | 1863:8               | 2010:15                | <b>vet</b> 1937:9       |
| <b>types</b> 1832:13  | <b>understand</b>       | 1867:23,25           | 2020:18                | <b>vetted</b> 2004:10   |
| 1900:18               | 1811:23                 | 1868:5               | 2025:25                | <b>viability</b>        |
| 1908:23               | 1821:12                 | 1873:11              | 2031:23                | 1829:19                 |
| 1919:11               | 1834:24                 | 1880:18              | <b>user</b> 1986:15,16 | <b>vice-versa</b>       |
| 1980:19               | 1847:24                 | 1882:7               | 2019:9 2021:1          | 1897:11                 |
| 1984:25               | 1853:5,8                | 1887:18              | 2029:22                | <b>victories</b> 1947:4 |
| 1986:2 2022:2         | 1863:7                  | 1892:10              | <b>users</b> 2004:5    | <b>video</b> 1805:5,9   |

|                         |                      |                       |                      |                        |
|-------------------------|----------------------|-----------------------|----------------------|------------------------|
| 1819:3                  | 1832:14,14           | 1996:3 2000:2         | 2027:17,25           | 1942:23                |
| <b>videos</b> 1985:17   |                      | 2015:2                | <b>watch</b> 1822:9  | 1960:17                |
| <b>view</b> 1827:10     | <b>W</b>             | 2023:19               | 1881:17              | 1967:11                |
| 1882:4,20               | <b>walk</b> 1825:4,5 | 2025:10               | 2001:10              | 1984:18                |
| 1905:12                 | 1871:13              | 2026:1 2028:6         | <b>watching</b>      | 1991:17                |
| 2031:21,24              | 1876:20              | 2030:24               | 1831:11              | 1992:17                |
| 2032:1                  | 2000:2,6             | 2031:4                | 1880:3,19            | <b>we're</b> 1882:23   |
| <b>viewed</b> 1897:24   | 2002:8 2003:8        | <b>wanted</b> 1843:12 | 1881:18              | 1883:2 1905:2          |
| <b>violate</b> 1815:16  | 2006:8,8             | 1852:24               | <b>waves</b> 2014:25 | 1905:4,14              |
| 1832:23                 | <b>Wall</b> 1851:23  | 1859:1 1863:8         | 2015:3               | 1917:1                 |
| 1834:13                 | 1852:7               | 1873:14,14            | <b>way</b> 1807:11   | 1941:19                |
| 1910:4                  | 1858:24              | 1875:1                | 1817:19              | 1943:11                |
| <b>violated</b> 1805:24 | 1859:4,14,24         | 1883:21               | 1825:12              | 1954:21                |
| 1814:1 1824:1           | 1862:17,25           | 1886:4 1893:1         | 1831:5,10            | 1955:16                |
| <b>violates</b> 1943:19 | <b>want</b> 1805:13  | 1895:23               | 1833:17              | 1957:20                |
| <b>violating</b> 1814:7 | 1816:13              | 1897:21               | 1834:12              | 1960:8,8               |
| 1828:24                 | 1817:19              | 1940:20               | 1845:8               | 1962:2 1971:7          |
| 1834:7                  | 1823:8               | 1947:11               | 1851:19              | 1971:7                 |
| 1853:15                 | 1825:19              | 1948:18               | 1855:5,7             | 1975:14                |
| 1941:20                 | 1827:17,18           | 1959:9 1964:6         | 1862:6 1869:3        | 1985:21                |
| <b>violation</b> 1805:2 | 1832:24              | 1972:9                | 1869:3               | 1996:13,15             |
| 1805:11                 | 1838:6 1841:6        | <b>wants</b> 1825:14  | 1873:20              | 1998:18                |
| 1806:1,2                | 1843:6 1844:7        | 1883:23               | 1881:12              | 2015:3                 |
| 1807:6                  | 1846:11,14           | 1943:18               | 1898:12              | <b>we've</b> 1841:12   |
| 1812:25                 | 1851:19              | <b>warehouse</b>      | 1904:20              | 1941:23                |
| 1813:12                 | 1852:1               | 1857:24               | 1954:17              | <b>weaker</b> 1806:24  |
| 1817:5                  | 1853:20              | 1901:15               | 1957:14              | <b>weather</b> 1817:17 |
| 1819:25                 | 1860:14              | <b>warning</b>        | 1962:23              | 1817:20,24             |
| 1820:16                 | 1866:2 1867:8        | 1820:14               | 1967:1 1968:4        | <b>web</b> 1895:13     |
| 1821:3                  | 1867:11,16           | 1826:5                | 1971:13,16           | <b>website</b> 1920:2  |
| 1829:17                 | 1869:17              | <b>warrant</b> 1983:9 | 1982:12              | 1942:20                |
| <b>violations</b>       | 1875:3               | 1983:17,19,20         | 1985:20              | <b>wedge</b> 1960:6    |
| 1804:22                 | 1878:13              | 1983:22               | 1996:12              | 1971:5,5               |
| 1805:1                  | 1879:4               | 1984:5                | 1997:10              | <b>week</b> 1891:6     |
| 1806:15                 | 1884:13              | 2014:10               | 2016:12,14           | <b>weekend</b>         |
| 1814:5,11               | 1892:11              | <b>Washington</b>     | 2019:3,6,20          | 1817:11,12             |
| <b>visit</b> 2031:21    | 1894:1               | 1856:14,16            | 2020:3,4,7           | 1818:19                |
| <b>voice</b> 1955:18    | 1904:11              | <b>wasn't</b> 1811:1  | 2021:7,8             | 1855:24                |
| 1961:1 1975:7           | 1907:13              | 1811:25               | 2024:2,19,22         | 1872:20,24             |
| 1975:10                 | 1918:18              | 1819:13               | <b>ways</b> 1811:2   | <b>weeks</b> 1812:1,8  |
| 1977:2,4                | 1921:22              | 1820:14,15            | 1936:13              | 1877:4                 |
| 2005:12                 | 1922:10              | 1824:17               | 2014:5               | 1963:16                |
| 2006:12                 | 1929:20              | 1831:24               | 2018:12,13           | <b>weigh</b> 1816:18   |
| <b>volition</b> 1874:21 | 1940:6 1942:6        | 1833:16               | 2019:14              | <b>weighed</b>         |
| <b>volume</b> 1954:18   | 1949:9               | 1866:10,10            | 2021:10              | 1942:22                |
| <b>voluminous</b>       | 1957:23              | 1881:18               | 2029:3               | <b>weighing</b>        |
| 1834:18                 | 1963:6               | 1894:3 1895:4         | <b>we'll</b> 1902:20 | 1996:12                |
| <b>voted</b> 1830:13    | 1975:12              | 1901:4 1933:8         | 1934:19              | <b>weight</b> 2013:7   |
| <b>voters</b> 1815:11   | 1994:11              | 1954:6 2027:8         | 1939:17              | <b>Weiss</b> 1803:21   |

|                         |                         |                       |                        |                        |
|-------------------------|-------------------------|-----------------------|------------------------|------------------------|
| 1804:12                 | 1870:11,16              | 1821:17,18            | 1980:13,22             | <b>X</b>               |
| <b>Weisselberg</b>      | <b>withdrawn</b>        | 1822:2,5              | 1981:15                | <b>X</b> 1803:2,7      |
| 1998:7                  | 1866:25                 | 1823:3 1826:5         | 2023:3                 | 1827:22                |
| <b>Welcome</b>          | 1876:1,15               | 1828:20               | <b>working</b> 1896:9  |                        |
| 1835:13,25              | 1878:7                  | 1941:9,15             | 1899:3                 | <b>Y</b>               |
| <b>well-versed</b>      | 1985:24                 | 1942:7                | 1913:20                | <b>yeah</b> 1853:16    |
| 1909:18                 | <b>witness</b> 1807:25  | 1943:12,13            | 2012:9,9               | 1866:25                |
| <b>wellbeing</b>        | 1807:25                 | <b>witnesses'</b>     | 2022:18                | 1893:14                |
| 1901:1                  | 1808:4,11               | 1904:8                | 2024:20                | 1953:22                |
| <b>went</b> 1811:7      | 1809:25                 | <b>woman</b> 1911:14  | <b>works</b> 1954:17   | 2010:2 2015:5          |
| 1814:2                  | 1810:1,7,17             | 1944:16               | <b>worth</b> 1862:21   | 2021:15                |
| 1824:14,17,17           | 1817:14                 | <b>won</b> 1855:12    | 1964:11                | 2026:24                |
| 1903:4                  | 1818:8,16               | 1947:1                | 1972:14                | 2028:18                |
| 1934:23                 | 1823:7 1835:7           | <b>Wonderland</b>     | <b>wouldn't</b>        | <b>year</b> 1816:19    |
| 1936:2                  | 1835:9,10,16            | 1857:25               | 1864:16                | 1828:10                |
| <b>weren't</b> 1854:6   | 1888:13,16,17           | 1901:15               | 1964:4 1972:3          | 1915:14                |
| <b>Westchester</b>      | 1888:18,20              | <b>word</b> 1822:5    | 1972:8                 | 1919:22                |
| 1980:4                  | 1897:25                 | 1823:7 1865:3         | <b>wrap</b> 1833:25    | 1987:6                 |
| <b>whatsoever</b>       | 1904:7 1918:2           | 1865:3 1867:3         | <b>write</b> 1859:14   | 1996:16                |
| 1809:4                  | 1919:14                 | 1867:4                | 1863:6,8               | <b>years</b> 1810:25   |
| <b>whereabouts</b>      | 1924:4 1927:6           | 1897:23               | 1869:3 1886:6          | 1815:22                |
| 1853:14                 | 1939:6 1940:4           | 1898:4 1900:9         | <b>writing</b> 1839:7  | 1816:7,19              |
| <b>whining</b> 1828:24  | 1940:17                 | 1906:3,4,9            | 1896:21                | 1826:14                |
| <b>whisper</b> 1822:3   | 1943:23                 | 1953:7,9,13           | <b>written</b> 1846:22 | 1864:6                 |
| <b>White</b> 2001:13    | 1944:1                  | 1957:9 1958:6         | 1847:8,9               | 1865:10                |
| <b>widely</b> 1900:18   | 1954:15                 | <b>worded</b> 1869:11 | 1907:25                | 1877:6 1903:4          |
| <b>willful</b> 1809:22  | 1955:5,9,10,13          | <b>words</b> 1904:16  | 1946:13                | 1916:12,16             |
| 1811:14                 | 1959:2                  | 1976:11               | 1956:25                | 1952:13                |
| 1813:2,12               | 1960:21                 | 2008:3                | <b>wrong</b> 1809:11   | 1959:6,10              |
| 1817:4                  | 1962:6                  | <b>work</b> 1839:20   | 1869:9                 | 1980:15,23             |
| 1820:16                 | 1963:23                 | 1875:8,10             | 1894:21                | 1981:2,9,15,16         |
| 1821:3                  | 1968:18                 | 1891:2                | 1896:23                | 1981:18                |
| <b>willfully</b> 1814:1 | 1969:8,9,10,12          | 1908:23               | 1933:7                 | <b>yelling</b> 1963:17 |
| 1824:1                  | 1970:23,24              | 1929:17               | 1942:25                | <b>Yellow</b> 1989:19  |
| <b>willfulness</b>      | 1979:17,18,21           | 1949:12,20            | 1949:6                 | <b>Yep</b> 2016:19     |
| 1824:7                  | 1980:2,4                | 1950:14               | 1950:23                | <b>yesterday</b>       |
| <b>willingness</b>      | 1989:2                  | 1951:16               | 1962:7                 | 1844:3                 |
| 1811:20                 | 1990:18                 | 1959:18               | <b>wrote</b> 1822:13   | 1886:17                |
| <b>window</b> 1880:16   | 1992:4,7                | 1980:10,11,16         | 1823:22                | <b>York</b> 1803:1,1,2 |
| <b>windows</b> 2012:5   | 2032:21                 | 1981:14,19,24         | 1849:8                 | 1803:8,8,13,14         |
| 2019:20                 | <b>witness'</b> 1904:18 | 1982:7                | 1865:23                | 1803:14                |
| 2020:4                  | 1989:11                 | 1987:10               | 1874:23                | 1804:2                 |
| <b>wire</b> 1838:11     | 1990:19                 | 1996:4,5              | 1937:20                | 1822:22                |
| 1839:4                  | <b>witnesses</b>        | 2009:22,23            | 1938:9 1945:9          | 1825:15                |
| 1841:23                 | 1805:21                 | 2011:12               | 1946:15                | 1882:18,20             |
| 1850:23                 | 1809:19                 | <b>worked</b> 1898:12 | 1987:2                 | 1898:16                |
| <b>wired</b> 1841:16    | 1810:1                  | 1898:24               | <b>WSJ</b> 1862:25     | 1941:3                 |
| 1841:18                 | 1811:15                 | 1945:16               | <b>WTF</b> 1881:13     | 1980:11                |
| <b>wise</b> 1869:19,24  | 1821:3,8,9,10           | 1946:6                |                        | 1996:14                |

|                        |                        |                        |                        |                        |
|------------------------|------------------------|------------------------|------------------------|------------------------|
| 2012:24                | 1933:23                | <b>15</b> 1813:8,17    | 1920:2                 | 2003:10                |
| <hr/> <b>Z</b> <hr/>   | 1974:25                | 1846:11                | 1944:15,24             | 2005:7,9               |
| <b>zero</b> 1964:11    | <b>10,000</b> 1850:21  | 1933:24                | 1945:10                | <b>2018</b> 1858:18,25 |
| 1972:14                | 1912:20                | 1934:21                | 1946:9,18              | 1859:18                |
| 1989:18                | 1913:12                | 1967:10                | 1981:22                | 1861:3                 |
| 1996:14                | <b>10:30</b> 1884:18   | 1990:17                | <b>2012</b> 1910:11    | 1862:12                |
| <b>zeroes</b> 2021:22  | <b>10:56:42</b>        | <b>15-second</b>       | 1919:18                | 1863:24                |
| 2022:1,8,14            | 2006:17                | 1832:8                 | 1920:10                | 1864:3                 |
| 2024:16                | <b>100</b> 1803:8      | <b>150,000</b> 1933:23 | 1921:22                | 1867:14,20             |
| <b>Zervos</b> 1950:1,3 | 1870:6,23              | 1934:5                 | <b>2015</b> 1908:16,24 | 1869:22                |
| <b>zip</b> 2023:25     | 1929:12,13             | <b>1500</b> 1916:10    | 1909:13                | 1871:24                |
| 2024:1,10              | <b>10013</b> 1803:8,14 | <b>16</b> 1973:11,21   | 1922:25                | 1873:24                |
| <b>zone</b> 1996:19    | <b>108</b> 1852:1      | <b>168</b> 1836:16     | 1924:14                | 1874:15                |
| 2003:12,13             | <b>10th</b> 1840:9     | <b>16th</b> 1828:19    | 1929:14                | 1875:7,24              |
| <b>zones</b> 1996:5,13 | 1859:18                | 2005:6,9               | <b>2016</b> 1836:13,23 | 1877:10                |
| 1996:14                | 1862:12                | <b>17</b> 1846:17      | 1838:13                | 1878:11,20             |
| <b>zoom</b> 1847:2     | 1863:24                | <b>176-A</b> 1841:6    | 1839:5 1840:8          | 1882:2                 |
| 1865:20                | 1864:3                 | <b>176A</b> 1853:21    | 1841:14,24             | 1884:18                |
| 1871:16                | 1878:11                | 1862:6 1935:6          | 1847:10                | 1887:13                |
| 1874:1                 | <b>11</b> 1881:20,25   | 1939:3                 | 1849:1,3,8             | 1901:24                |
| 1903:12                | 1974:25                | <b>17th</b> 1867:20    | 1851:11                | 1902:6,24              |
| 1921:5 1932:6          | 1975:1,13              | 1869:22                | 1852:12                | 1921:11                |
| 1935:9 1939:4          | <b>11-111</b> 1935:9   | <b>18</b> 1847:12      | 1853:9,11              | 1947:24                |
| 1966:13                | <b>11:55</b> 1885:6    | 1892:23                | 1854:3 1877:9          | 1948:14                |
| 1978:16                | <b>110</b> 1829:9      | 1962:4                 | 1886:25                | 1950:1                 |
| <hr/> <b>0</b> <hr/>   | <b>1115</b> 1939:4     | <b>19</b> 1849:13      | 1890:14                | 1952:11,22,24          |
| <b>0114</b> 1988:19    | <b>112</b> 1881:20,25  | 1867:17                | 1891:4,23              | 1953:1,12              |
| <b>016</b> 1967:13     | <b>113</b> 1881:20,25  | <b>1ST</b> 1803:6      | 1893:8,20              | 1954:9 1956:5          |
| <b>017</b> 1967:7,13   | <b>11th</b> 1840:8,9   | <hr/> <b>2</b> <hr/>   | 1895:18                | 1956:13,23             |
| 1967:16                | <b>12</b> 1841:7       | <b>2</b> 1803:9 1862:5 | 1899:12,14             | 1958:4,16              |
| <b>020</b> 1966:9      | 1884:4 1998:6          | 1867:16                | 1900:5,20              | 1960:1,24              |
| <b>021</b> 1965:16     | <b>12:21</b> 1878:21   | 1916:4,6,13            | 1909:18                | 1961:3                 |
| <b>0226</b> 1995:6     | 1878:22                | 1924:5                 | 1910:6,19              | 1963:11                |
| <b>09</b> 1981:21      | <b>122</b> 1884:4,5    | <b>2:15</b> 1939:17    | 1911:3,8,11            | 1970:4,7               |
| <hr/> <b>1</b> <hr/>   | <b>123</b> 1884:4      | <b>20</b> 1936:22      | 1929:24                | 2028:20,25             |
| <b>1</b> 1842:20       | <b>126</b> 1818:24     | 1981:2                 | 1931:18                | <b>2021</b> 1903:9     |
| 1845:3,4,13,20         | <b>12th</b> 1830:10    | <b>2006</b> 1877:9     | 1934:21                | <b>2023</b> 1892:21    |
| 1862:3,5               | <b>13</b> 1842:2       | <b>2010</b> 1911:14    | 1935:8,13              | 1898:9 1908:4          |
| 1958:13                | 1884:18                | 1913:17                | 1936:10,22             | 2028:8                 |
| 1959:8                 | 1916:16                | 1914:1                 | 1938:22                | 2030:10                |
| <b>1,000</b> 1814:5    | 1975:1,2               | <b>2011</b> 1859:13,20 | 1939:8                 | <b>2024</b> 1803:9     |
| <b>1.6</b> 1952:7      | <b>130,000</b> 1843:4  | 1859:23                | 2006:16                | 2033:10                |
| <b>1/25/2018</b>       | 1856:23                | 1869:6,8               | 2026:18                | <b>21-minutes</b>      |
| 1872:3                 | 1857:1 1873:8          | 1877:9 1895:8          | <b>2017</b> 1877:9     | 1832:9                 |
| <b>1:30</b> 1882:2     | 1885:20                | 1895:20                | 1908:17,24             | <b>214573</b> 1921:4   |
| <b>10</b> 1813:8,17    | 1886:4 1900:2          | 1896:9                 | 1909:13                | <b>22</b> 1815:22      |
| 1844:7                 | 1961:16                | 1898:12                | 1950:20,22             | <b>22nd</b> 1810:10    |
|                        | <b>133</b> 1884:5      | 1915:13                | 1973:11,21             | 1829:8                 |
|                        | <b>14th</b> 1828:13    |                        | 2002:12                | <b>23rd</b> 1809:1     |

|                       |                        |                        |                        |
|-----------------------|------------------------|------------------------|------------------------|
| 1813:5,8,17           | 1999:13                | <b>4</b> 1996:16,19,23 | 1988:4                 |
| 1820:6 1827:8         | <b>265</b> 1973:13     | 2032:25                | <b>6th</b> 1853:12     |
| 2028:8                | 1974:7 1975:1          | 2033:1                 | 2006:16                |
| <b>24</b> 1804:2,19   | 1992:25                | <b>4.2</b> 1933:12,14  | 2026:17                |
| 1996:13               | 2004:18                | <b>4:30</b> 2003:10    |                        |
| <b>24/7</b> 1821:25   | <b>266</b> 1992:5,10   | <b>45</b> 1930:23      | <hr/> <b>7</b> <hr/>   |
| <b>246</b> 1992:5,10  | 1992:21                | 1933:20,23             | <b>7</b> 1871:11       |
| 1993:25               | 1994:1,5               | <b>46</b> 2007:15,18   | 1935:8,13              |
| 1994:4                | 2004:23                | 2007:20,24             | 1954:9 1956:5          |
| 2006:22               | 2005:1                 | 2008:3,16,22           | 1958:15                |
| 2007:1,16             | <b>267</b> 1974:4,21   | <b>49th</b> 1807:12    | 1987:18                |
| 2008:4,15             | 1974:25                | <b>4th</b> 1829:11     | 1990:1                 |
| <b>247</b> 1994:4     | <b>26th</b> 1872:5,7   | 1852:12                | <b>7:02</b> 1839:18    |
| 2005:25               | <b>27</b> 1838:13      | 1960:24                | <b>7:09</b> 1996:21    |
| 2008:25               | 1839:5                 | 1964:3 1970:4          | <b>7:09:12</b> 1996:18 |
| <b>248</b> 1992:17    | <b>276</b> 1842:15     | 1970:7                 | <b>71543-2023</b>      |
| 1993:20,25            | <b>277</b> 1863:17     | 1972:21                | 1803:3                 |
| 2007:5,10             | <b>278</b> 1875:19     |                        | <b>71911</b> 1804:2,19 |
| 2008:7,13             | <b>279</b> 1932:5      | <hr/> <b>5</b> <hr/>   | <b>73</b> 1871:12      |
| <b>249</b> 1994:4,12  | <b>27th</b> 1841:14,24 | <b>5</b> 1866:18,18    | <b>74</b> 1873:19      |
| <b>24th</b> 1871:24   | 1850:23                | 1878:22,24             | <b>75</b> 1873:19      |
| <b>25</b> 1929:14     | <b>285</b> 1838:6      | 1996:17,23             | <b>75,000</b> 1914:18  |
| <b>251</b> 1994:12    | <b>286</b> 1858:13     | <b>5.1.2</b> 1844:8    |                        |
| <b>252</b> 2001:15    | <b>28th</b> 1847:10    | <b>5:39</b> 2002:13    | <hr/> <b>8</b> <hr/>   |
| <b>253</b> 2000:20,22 | 1849:1,8               | <b>5:49:59</b> 1874:15 | <b>8</b> 1873:18       |
| <b>254</b> 1994:4     | <b>29th</b> 1831:15    | <b>50</b> 1812:4       | <b>8:23</b> 1836:25    |
| 2002:22               |                        | <b>50,000</b> 1929:7   | <b>80</b> 1982:25      |
| <b>255</b> 1860:19    | <hr/> <b>3</b> <hr/>   | <b>500</b> 1804:24     | <b>86</b> 1875:4       |
| 1862:3                | <b>3</b> 1843:6 1939:3 | 1812:5                 | <b>87</b> 1875:4       |
| 1867:12               | 2006:11                | 1816:14                | <b>88</b> 1878:16      |
| 1878:14               | <b>3,392</b> 1982:21   | <b>51</b> 2006:18      | <b>8th</b> 1828:10     |
| 1884:3                | <b>3.1D</b> 1843:7     | <b>511-A</b> 1989:9    | 2002:12                |
| 1920:25               | <b>3:00</b> 1854:11    | <b>511-B</b> 1990:17   | 2003:10                |
| 1992:21,25            | <b>30th</b> 1814:18    | <b>53</b> 1921:5       |                        |
| 1994:12               | 1873:23                | <b>536</b> 1841:7      | <hr/> <b>9</b> <hr/>   |
| <b>256</b> 1994:5     | 1874:6,15              | <b>537</b> 1841:7      | <b>9</b> 1844:9 1875:3 |
| 1999:22               | 1875:7,24              | <b>56</b> 1939:4       | 1878:15                |
| <b>257</b> 1994:12    | <b>31</b> 1882:2       | <b>59</b> 1803:1       | <b>9:30</b> 2033:10    |
| <b>259</b> 1994:24    | 1927:10                | 1969:3                 | <b>90</b> 1832:22      |
| <b>25th</b> 1806:4    | <b>31st</b> 1849:3     |                        | 1982:25                |
| 1807:9,11             | 1878:20                | <hr/> <b>6</b> <hr/>   | <b>90-day</b> 1914:21  |
| 1810:10               | <b>33</b> 1975:2       | <b>6:47</b> 1838:18    | <b>95</b> 1806:10      |
| <b>26</b> 1836:23     | <b>35</b> 1933:15,22   | <b>60</b> 1915:18      | 1833:8                 |
| 1964:19               | <b>37</b> 1830:9,9     | <b>61</b> 1818:24      | <b>964</b> 1813:8,16   |
| <b>260</b> 1994:13    | <b>385</b> 1999:18     | <b>63</b> 1829:24      | <b>97</b> 1878:16      |
| <b>261</b> 2003:18    | <b>39</b> 1827:21      | <b>64</b> 1828:22      | <b>9th</b> 1854:4      |
| <b>262</b> 1994:13    | <b>39,745</b> 1997:7   | 1871:12,19             | 1857:19                |
| <b>263</b> 1997:1     | <b>3rd</b> 2033:10     | <b>67</b> 1829:3       | 1887:21                |
| <b>264</b> 1994:5     |                        | <b>6866</b> 1990:12    | 1900:19                |
|                       | <hr/> <b>4</b> <hr/>   | <b>6s</b> 1987:17      |                        |