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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA,	:	CASE NO. 1:20-CR-0077
	:	
Plaintiff,	:	JURY TRIAL, DAY 5
vs.	:	
	:	2nd of February, 2023
LARRY HOUSEHOLDER, et al.	:	9:15 a.m.
	:	
Defendant.	:	

- - -

**TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE**

- - -

APPEARANCES:

For the Plaintiff:

Emily N. Glatfelter, Esq.
Matthew Charles Singer, Esq.
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For the Defendant, Larry Householder:

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For the Defendant, Matthew Borges:

Karl Herbert Schneider, Esq.
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21 East State Street, Suite 1700
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Also present:

Larry Householder
Matthew Borges
Blane Wetzell, FBI Special Agent
Kelly Terry, paralegal
PJ Jensen, trial tech

Law Clerk:

Cristina V. Frankian, Esq.
Abby Chin, Esq.

Courtroom Deputy:

Rebecca Santoro

Stenographer:

Lisa Conley Yungblut, RDR, RMR, CRR, CRC
United States District Court
100 East Fifth Street
Cincinnati, Ohio 45202

1 **(In-chambers conference at 9:15 a.m.)**

2 THE COURT: We're here in chambers outside the
3 presence of the courtroom on the record, and I've asked a
4 lawyer for each party to appear. Who appears on behalf of
5 the government?

6 MS. GAFFNEY-PAINTER: Good morning, Your Honor.
7 Megan Gaffney-Painter on behalf of the United States.

8 THE COURT: Good morning. On behalf of Mr.
9 Householder?

10 MR. MAREIN: Mark B. Marein.

11 THE COURT: On behalf of Mr. Borges?

12 MR. SCHNEIDER: Karl Schneider, the only lawyer
13 available.

14 THE COURT: I understand that. My law clerks are
15 present as well. I think you've been advised that the jury
16 commissioner was advised, I believe this morning, that Juror
17 No. 2 has indicated that his wife lost her job and he would
18 like to be excused from service on the jury. I would
19 propose we bring him down here and I chat with him in your
20 presence. If you want to inquire, I would ask that you do
21 so gently. But before we get him down here, anybody want to
22 be heard on the issue? I think it presents a problem, and
23 I'm not sure what the right resolution is, if there's any
24 choice in the matter.

25 Does the government want to say anything before we get

1 the juror here?

2 MS. GLATFELTER: Your Honor, the government agrees
3 with your approach.

4 THE COURT: Mr. Marein?

5 MR. MAREIN: Yes, yes, we also agree.

6 MR. SCHNEIDER: Likewise.

7 THE COURT: We'll arrange for the juror to come
8 down.

9 MR. MAREIN: Is it possible I could quickly
10 review -- since I turned my questionnaires back in, I just
11 want to review the background of this juror.

12 MS. FRANKIAN: Yes.

13 THE COURT: Yes. The law clerk has provided you
14 with the questionnaires for Juror No. 2 for purposes of the
15 record.

16 And while we're on the record, Mr. Schneider, that's a
17 good-looking tie.

18 MR. SCHNEIDER: Thank you very much. I've worn it
19 twice this week.

20 THE COURT: I made sure to match up with you.

21 MR. SCHNEIDER: There you go. Would you stipulate?

22 MS. GAFFNEY-PAINTER: I predict there will be a
23 transcript order coming in from Mr. Borges' counsel this
24 evening.

25 THE COURT: While we're on the record, you have

1 advised us that your co-counsel, Mr. Long, is ill today, not
2 COVID, and asked for permission to be relieved from coming
3 today, and I granted that. Correct?

4 MR. SCHNEIDER: Thank you, appreciate that. He was
5 up all night.

6 THE COURT: Very well. Well, we don't we pause and
7 go off the record until the juror arrives. And I would
8 again remind us, let's not overly cross-examine this guy.

9 (Off the record.)

10 THE COURT: Stay seated, please. Come on in. I'm
11 Judge Black, if you don't recognize me not at my desk,
12 without my dress. I'm going to put you next to me and the
13 court reporter is writing it all down. And present with me
14 is my law clerk, government's lawyer, Mr. Householder's
15 lawyer, and Mr. Borges' lawyer.

16 I've been advised that you have indicated perhaps that
17 your wife has lost her job?

18 JUROR NO. 2: Yes.

19 THE COURT: And you are requesting to be released
20 from the jury?

21 JUROR NO. 2: Yes, sir.

22 THE COURT: Tell me what's going on.

23 JUROR NO. 2: Okay. She works -- she's in the
24 medical field. She's been there ten years. So recently on
25 the floor that she works, they've been having bed bug

1 problems, so --

2 MR. MAREIN: I'm sorry, did you say "bed bugs"?

3 JUROR NO. 2: Yes, sir.

4 MR. MAREIN: Okay. Got it.

5 JUROR NO. 2: You know what that is, right?

6 MR. MAREIN: Yes.

7 MR. SCHNEIDER: My first Airbnb.

8 THE COURT: We're on the record.

9 JUROR NO. 2: Okay. But, anyway, she had been
10 getting bit, so they trying to tell her that it wasn't a bed
11 bug bite when you can tell. I know what a bed bug bite
12 looks like anyway, but, anyway, they kept saying that's not
13 bed bugs. So she took a picture of the bed bug bite and
14 sent it to the -- I guess to the human resources lady. So
15 she's still in denial there's not bed bugs or whatever. So
16 what's today -- Thursday? Tuesday --

17 THE COURT: What day is today?

18 MS. FRANKIAN: Thursday, the 2nd.

19 JUROR NO. 2: So Tuesday when she went to work, she
20 had -- like I say, she works in a nursing home, and she's on
21 the dementia floor, so the people was sitting on the couch.
22 So she was like, come on, let's go to bed, and she said she
23 picked the lady up, and they was everywhere, you know, just
24 like all on the lady's behind and all on her. So she went
25 and got her phone and she recorded like the lower -- she

1 didn't have no face, no nothing, you know what I mean, so
2 she recorded the bed bugs being just -- and the lady, you
3 can hear her saying "they all over me, they all over me."
4 So she sent the video to the nurse on duty. The nurse, in
5 turn, sent it to the -- I guess the HR lady or whatever. So
6 they called her and she had her suspended until further
7 notice. So yesterday they terminated her because of,
8 quote/unquote HIPAA violation, but I don't see how it's a
9 HIPAA violation when you don't show the person's face or
10 none of that like that. But since she's not working, that's
11 why I need to get back to work, to keep the household
12 running, that's why, you know.

13 THE COURT: And your employer is not paying you?

14 JUROR NO. 2: For the days that I'm here.

15 THE COURT: Your employer is paying you?

16 JUROR NO. 2: Yes, sir.

17 THE COURT: So why do you have to get back to work
18 during --

19 JUROR NO. 2: Because --

20 THE COURT: Excuse me. You're already getting
21 paid. Why do you have to go back to work?

22 JUROR NO. 2: Because I make more on the hour than
23 I do being here for the days that I'm serving.

24 THE COURT: Tell me how much you get paid by your
25 employer for a day's worth of jury work and how much you

1 could earn if you weren't on the jury from your employer.

2 JUROR NO. 2: I make \$26 an hour. I work 12 hours
3 a day. So compared, you know, compared to the little
4 40 hours I get times my overtime and everything, it really
5 doesn't balance out to me, you know.

6 THE COURT: All right. I'm not good at math. You
7 get paid for being on the jury by your employer how much,
8 40 hours?

9 JUROR NO. 2: 40 hours, but I was --

10 THE COURT: Times what pay rate?

11 JUROR NO. 2: That's what I'm saying. I don't
12 understand. I don't know if I get my full pay for per hour
13 or -- because I've been asking them. HR lady at my job, she
14 keeps telling me she got to reach out to find out herself.
15 So I don't know.

16 THE COURT: I need a full jury for this trial, and
17 I know it's an inconvenience and a burden. You and your
18 wife live together at your residence?

19 JUROR NO. 2: Yes, sir.

20 THE COURT: Are there other members?

21 JUROR NO. 2: It's just me and her and the dog.

22 THE COURT: What's the plan for your wife to find
23 additional work, new work?

24 JUROR NO. 2: She's looking right now, you know.

25 THE COURT: Well, first of all, my heart goes out

1 to you. I've told these lawyers to be gentle. Do you have
2 any questions for Juror No. 2? We'll start with the
3 government.

4 MS. GAFFNEY-PAINTER: Sir, do you feel like the
5 difficult personal circumstances that you and your wife are
6 undergoing right now would distract you from what's
7 happening during the day at this trial?

8 JUROR NO. 2: Yeah.

9 THE COURT: The record should reflect that the
10 juror is tearing up and paused to answer. And your answer
11 to the government's question was yes; is that right?

12 JUROR NO. 2: Yes, sir.

13 THE COURT: On behalf of the Mr. Householder, do
14 you wish to inquire gently, Counsel?

15 MR. MAREIN: Just one question. So if I understand
16 matters correctly, you are getting paid, but you're not
17 certain whether it would be the normal pay versus some
18 lesser amount?

19 JUROR NO. 2: Yes, sir.

20 MR. MAREIN: And that has you concerned
21 particularly in light of the fact that your wife is no
22 longer receiving a paycheck?

23 JUROR NO. 2: (Nodding head.)

24 MR. MAREIN: But she is -- as you indicated, she's
25 looking as we speak?

1 JUROR NO. 2: (Nodding head.)

2 THE COURT: You're nodding your head yes?

3 JUROR NO. 2: Yes, sir.

4 MR. MAREIN: And there's no children at the home?

5 JUROR NO. 2: No, sir.

6 MR. MAREIN: Thank you.

7 THE COURT: On behalf of Mr. Borges?

8 MR. SCHNEIDER: And you have a call in to your HR
9 person to determine whether or not they're paying you more
10 than 40 hours --

11 JUROR NO. 2: Right.

12 MR. SCHNEIDER: -- and at what rate, and you just
13 don't know that yet, right?

14 JUROR NO. 2: Right.

15 MR. SCHNEIDER: When did you make those calls,
16 earlier this week?

17 JUROR NO. 2: Yeah. Like I've been -- my HR lady
18 has me bring my days that I'm serving here to her, so I
19 guess --

20 MR. SCHNEIDER: To verify?

21 JUROR NO. 2: Yes, sir, to make sure I'm on jury
22 duty. So I've been talking to her and she hasn't got back
23 to me yet.

24 MR. SCHNEIDER: How often do you get paid?

25 JUROR NO. 2: Every week.

1 MR. SCHNEIDER: Okay. And have you gotten paid
2 since the start of this trial?

3 JUROR NO. 2: My last check that I worked before
4 jury duty, yes, sir.

5 MR. SCHNEIDER: Because you're paid in arrears?

6 JUROR NO. 2: Right.

7 MR. SCHNEIDER: Nothing further.

8 THE COURT: When is the pay day for you?

9 JUROR NO. 2: For my job, Friday.

10 THE COURT: Okay. It's presents a difficult
11 question, and I started by saying my heart goes out to you.
12 I need an opportunity to chat with the lawyers. So I'm
13 going to ask if we can escort you to a safe spot and we'll
14 bring you back, and I want you to hang in there, all right?

15 JUROR NO. 2: Yes, sir.

16 (Juror No. 2 left the room.)

17 THE COURT: Well, we'll go around the table, and in
18 order not to poison the well, I'll go last. What's the
19 government's sense?

20 MS. GLATFELTER: That was heartbreaking. He's
21 clearly very upset, and reasonably so given that his wife,
22 who has worked there for ten years, has lost her job. He
23 was honest and indicated through tears that he would not be
24 able to provide enough attention to this trial. And so the
25 government would support dismissing the juror, if that's the

1 course that the Court decided was the prudent one here.

2 THE COURT: And on behalf of Mr. Householder?

3 MR. MAREIN: Respectfully, Judge, can I remove my
4 mask?

5 THE COURT: At your own risk.

6 MS. FRANKIAN: I'm sorry, Judge, Abby just told me
7 they're in the hallway. So may I just tell them to move
8 away from the door, if that's where they are?

9 THE COURT: Yeah. We'll pause. We're off the
10 record. Let's just be quiet and clear the hall.

11 (Off the record.)

12 THE COURT: These soundproof doors don't work, so
13 don't scream.

14 MR. MAREIN: It is not my intention to be
15 insensitive, but my feeling is that this is a little bit too
16 early in the scheme of things to make a determination that
17 this would present such a financial hardship that it would
18 cause him to be less inclined to be attentive. I heard what
19 he said, but not notwithstanding the fact that he manifested
20 some emotion, I don't think that that should in and of
21 itself without a hardship having been presented be the basis
22 for excusing him for cause.

23 THE COURT: And on behalf of Mr. Borges?

24 MR. SCHNEIDER: I would concur with everything
25 Mr. Marein just said and wouldn't necessarily add any more.

1 THE COURT: Very well. I'd like to pause, go off
2 the record, and confer with my law clerk outside your
3 presence briefly. You may stay right where you are. We'll
4 vacate. Behave yourself in here.

5 (Off the record.)

6 THE COURT: Back on the record. I've had a chance
7 to confer with my law clerk, and her sense is my sense. I
8 think it's too early to make a decision. I think he needs
9 to serve today. I don't think he would get to work today
10 anyway. In the meantime, either he or the Court need to
11 call HR and get a definitive answer as to where we are. It
12 may well be that he's getting paid 40 hours when he's not
13 there. If able to be there, he would be able to work longer
14 hours, and then we'll come back on the issue of financial
15 hardship.

16 Does anybody wish to be heard before I get the juror to
17 come tell him that, from the government?

18 MS. GAFFNEY-PAINTER: No, thank you, Your Honor.

19 THE COURT: From Mr. Householder?

20 MR. MAREIN: Nothing.

21 THE COURT: Mr. Borges?

22 MR. SCHNEIDER: Nothing.

23 THE COURT: Can we get the juror?

24 (Juror No. 2 returned to the room.)

25 THE COURT: I've asked everybody to stay seated.

1 Come join me again. This is difficult and I don't have
2 enough information yet. I need you to serve today. I don't
3 think you could get to work today. And what we really need
4 is to get an answer from HR as to what they're paying you.
5 Tomorrow is pay day and we should learn, but I want to learn
6 today what's going on. I think the options are you call
7 them and tell them the judge needs an answer right away or I
8 have the court call them and tell them we need to know
9 what's going on. Go ahead.

10 JUROR NO. 2: I haven't been asleep since
11 yesterday, you know, when I got home. My nerves is all over
12 the place. Since I came in yesterday, I have not slept.
13 And I told Ms. Webster, Jennifer, that I haven't been to
14 sleep, so she told me to come in and talk to you.

15 THE COURT: Right.

16 JUROR NO. 2: You know, I'm running on fumes. I
17 don't want to fall asleep in that courtroom, you know, so --

18 THE COURT: My heart still goes out to you. I am
19 where I am, and I want you to let me know if you nod off and
20 I'll try to keep you on point. I'm going to talk to the
21 lawyers one more time with you not being in the room. Bear
22 with me on this.

23 JUROR NO. 2: Yes, sir.

24 THE COURT: Ms. Chin, will you escort him out of
25 the room?

1 (Juror No. 2 left the room.)

2 THE COURT: Anybody wish to be heard further on the
3 new issue of fatigue and no sleep, government?

4 MS. GAFFNEY-PAINTER: No, Your Honor. The
5 government's position remains the same.

6 MR. MAREIN: I would. Again, not trying to sound
7 insensitive, but it appears to me this guy wants off this
8 jury and he wants off bad, and I'm not -- unfortunately, I'm
9 not buying that he is running on fumes.

10 THE COURT: On behalf of Mr. Borges?

11 MR. SCHNEIDER: Probably nothing further at this
12 point.

13 THE COURT: Yes?

14 MS. GAFFNEY-PAINTER: If I may be heard, Your
15 Honor, the government disagrees with this summary that he is
16 not running on fumes. There has been nothing to suggest
17 that his credibility is any way at issue, and when he
18 represents that he has not slept, I have no reason not to
19 believe that he's being honest with us.

20 THE COURT: Does your position change that we make
21 him serve today and find out his financial circumstances?

22 MS. GAFFNEY-PAINTER: I believe that that's a
23 prudent course; however, the government's position remains
24 that there is a sufficient factual basis to dismiss him for
25 cause based on his representation that he would be unable to

1 pay close attention to the evidence, given his complex
2 personal situation, and that he has represented he has not
3 slept since he appeared in court yesterday.

4 THE COURT: Mr. Marein?

5 MR. MAREIN: Judge, I understand the prosecutor's
6 response, but I would also respectfully suggest that his
7 reactions both earlier as he began crying that his wife was
8 terminated and the recitation that he's running on fumes
9 seems to be a lot of drama in my opinion, and it's only my
10 opinion. And while I recognize that I'm -- I have nothing
11 on which to base an attack on his credibility, I would
12 suggest that in the overall scheme of things from a
13 reasonableness standpoint, it appears to be that his
14 emotional response is unreasonable, and that's my position.

15 THE COURT: Did you wish to be heard further?

16 MR. SCHNEIDER: I really do concur with Mr. Marein
17 on those points he just made. Look, I mean, the jury
18 service in the Federal District requires in many cases a lot
19 of travel, and people are going to be fatigued, people are
20 going to be running on fumes. And I think what the Court
21 indicated it was inclined to do before we met with this
22 juror the second time I think is the prudent course at this
23 point.

24 THE COURT: Do you want to confer with me?

25 MS. FRANKIAN: Yes, please.

1 THE COURT: All right. We're going to pause, go
2 off the record, talk to my law clerk outside your presence.
3 Stay where you are. I'll be right back.

4 (Off the record.)

5 THE COURT: Back on the record. I've conferred
6 with my law clerk. What about if we propose to go half a
7 day today, so he's not here for a long time, we send him to
8 work this afternoon and ask that he determine what's going
9 on financially and require him to reappear tomorrow morning
10 and see where we are. Is there an objection to that
11 approach from the government?

12 MS. GAFFNEY-PAINTER: Absolutely not, Your Honor.

13 THE COURT: From Mr. Householder?

14 MR. MAREIN: That makes a lot of sense.

15 MR. SCHNEIDER: It makes sense, and since I'm down
16 a man, that helps as well.

17 THE COURT: Is Ms. Glatfelter -- do you need to
18 confer with her?

19 MS. GAFFNEY-PAINTER: No. I have her proxy, Your
20 Honor.

21 THE COURT: I think that's how we should proceed.
22 All right. Let's get the juror and I'll tell him in your
23 presence. Stay here. We're off the record as we wait for
24 the juror.

25 (Off the record.)

1 THE COURT: Welcome back. I'm trying to figure out
2 what to do in a very difficult situation, and my decision is
3 that today we will proceed, but we'll only go half a day.
4 You hang in there for the hours of the morning, and then
5 when we're released, I'd like you to go to your workplace or
6 communicate with them by phone, find out what the deal is on
7 your pay, and get some sleep. Can you live with that?

8 JUROR NO. 2: So what time are you talking about
9 half a day?

10 THE COURT: I don't know. Lunchtime probably.

11 JUROR NO. 2: Okay.

12 THE COURT: I didn't hear you.

13 JUROR NO. 2: Okay.

14 THE COURT: You're a good man. If you would escort
15 him to rejoin his jurors.

16 MS. CHIN: Yes, sir.

17 THE COURT: You may head out and rejoin the jurors.

18 JUROR NO. 2: Do you want me to bring like
19 documentation of -- when I go to my job, what do you want me
20 to get from her?

21 THE COURT: I want you to find out what you're
22 getting paid so we know if this is a financial hardship, and
23 that's really largely it.

24 JUROR NO. 2: Okay.

25 THE COURT: And they should know because tomorrow

1 is pay day, and if I need to call them or you want me to
2 call them, tell them that now.

3 JUROR NO. 2: No. I can go by there on my way
4 home.

5 THE COURT: Perfect. See you in a few minutes.

6 JUROR NO. 2: Thank you, sir.

7 THE COURT: Yes.

8 (Juror No. 2 left the room.)

9 THE COURT: Juror has left the room, the door is
10 closing. I think we're ready to proceed. But for how long
11 can we crank today, can we be responsive to that question
12 and give you a final chance to say anything further, from
13 the government?

14 MS. GAFFNEY-PAINTER: We will be efficient for our
15 half day, and we have no objection to proceeding in this
16 way.

17 THE COURT: What do you consider a half day? It's
18 9:45. We're going to get the jury in here by 10 or earlier.

19 MS. GAFFNEY-PAINTER: Propose 1:00, but open to
20 suggestions from defense and from the Court.

21 MR. SCHNEIDER: You'd send him home and not get
22 lunch, right, for them? Yeah, I think that's --

23 THE COURT: I'll send them home. Whether I feed
24 them, I'll probably feed them for their half day.

25 MR. SCHNEIDER: But 1 would work.

1 MR. MAREIN: Concur.

2 Judge, may I put one other thing on the record?

3 Respectively, I heard I think your law clerk indicate that
4 Mr. Householder was out there talking, was it to the press;
5 was he actually doing that?

6 MS. FRANKIAN: I didn't -- he was speaking to
7 someone. I don't recognize who it is, but I just -- that's
8 why I wanted to close the door. I didn't know who he was
9 speaking to, and I just didn't want --

10 MR. MAREIN: Judge, then I heard you indicate that
11 he was talking to the press.

12 THE COURT: That was my impression. Perhaps, I was
13 misapprehended. You can chat with him.

14 MR. SCHNEIDER: I'm not asking for this, but does
15 the Court want to address Mr. Long's absence or just let it
16 go? We don't necessarily want to --

17 THE COURT: Who?

18 MR. SCHNEIDER: Mr. Long's absence, my co-counsel's
19 absence.

20 THE COURT: You tell me. Do you want me to?

21 MR. SCHNEIDER: I don't think it's necessary.

22 THE COURT: Anybody object to we just proceed and
23 Mr. Schneider is by himself?

24 MR. MAREIN: I don't need you to inquire, Judge.

25 THE COURT: Okay. Is there anything before we

1 adjourn and call for the jury?

2 MS. GAFFNEY-PAINTER: No, thank you, Your Honor.

3 THE COURT: Very well.

4 MS. GAFFNEY-PAINTER: May we be excused?

5 THE COURT: Yes, you're excused.

6 **(In-chambers conference concluded at 9:49 a.m.)**

7 **PROCEEDINGS**

8 (Proceedings held in open court at 9:53 a.m.)

9 THE DEPUTY: All rise. This United States District
10 Court for the Southern District of Ohio is now in session,
11 The Honorable Timothy S. Black, District Judge, presiding.

12 THE COURT: Thank you. Please be seated. We're
13 back in the open courtroom on the record. I understand that
14 there's an exhibit I need to address outside the presence of
15 the jury before we call for them. Who wishes to be heard?

16 MS. GLATFELTER: Mr. Singer will speak for the
17 government.

18 THE COURT: Very well.

19 MR. SINGER: Yes. Your Honor, it's my
20 understanding that the defendants are objecting to
21 Government's Exhibit 516 C. I believe that would be part of
22 this morning's testimony, so it's appropriate now from the
23 government's perspective for the defendants to put their
24 objection on the record and potentially argue that issue
25 prior to the witness taking the stand. I'm sorry, 517 C,

1 the exhibit is 517 C, Your Honor.

2 THE COURT: I'd like to see 517. I'm going to need
3 to know some context. I've been handed 517, which is an
4 e-mail and attached photograph.

5 The defense wish to be heard on behalf of Mr.
6 Householder?

7 MR. GLICKMAN: Yes, Judge. We raised this
8 objection. The exhibit is a Tweet that originated from Mike
9 Dawson. I don't believe, I don't believe Mr. Dawson is
10 going to be a witness in this case. More importantly, the
11 illustration in the Tweet is a picture of the Ohio
12 Statehouse with "FirstEnergy Stadium" superimposed on it.
13 To say that that's prejudicial to our case is somewhat of an
14 understatement. And to point out, just last week in the --
15 on Cleveland.com as in their joking cartoon, they did an
16 illustration about this case that was just that, a picture
17 of the Ohio Statehouse, "FirstEnergy Stadium" written on it,
18 with an illustration of Mr. Householder as a football
19 player.

20 THE COURT: So who's Mr. Dawson?

21 MR. GLICKMAN: I don't know.

22 THE COURT: It's your understanding he created the
23 image?

24 MR. GLICKMAN: Yeah. If you look at the exhibit,
25 Judge, on the screen on the text images from the Tweet --

1 THE COURT: Yes.

2 MR. GLICKMAN: -- the sender is somebody named
3 Dawson.

4 THE COURT: Very well. Did counsel for Mr. Borges
5 wish to be heard further?

6 MR. SCHNEIDER: I'm not sure, Your Honor, it
7 necessarily affects us, but I think that Mr. Glickman makes
8 a good point. Mike Dawson is a lobbyist, government affairs
9 individual, located in Columbus, been around for a long
10 time, if that adds any clarification to who Mike Dawson is,
11 assuming that Mike Dawson was involved in this particular
12 exhibit. But nothing further to add.

13 MR. GLICKMAN: To be clear, Judge, Mr. Dawson
14 didn't create the Tweet. He simply re-Tweeted it. I don't
15 know who authored it.

16 THE COURT: Okay. I'm asking. Last word from the
17 government?

18 MR. SINGER: Yes, Your Honor. I can provide some
19 clarity. So Mike Dawson is a paid consultant for
20 FirstEnergy Corp. He was sending it to: Justin Biltz, who
21 is a FirstEnergy Corp. Director of State Regulatory Affairs;
22 Ty Pine, who evidence shows is a FirstEnergy Corp. lobbyist;
23 Mike Dowling, FirstEnergy Corp., VP of External Affairs; and
24 Matt Evans, President of Boich Companies. Boich Companies
25 has a financial relationship with FirstEnergy. The evidence

1 so far is that they were a coal broker that did business
2 with FirstEnergy. This is Mike Dawson forwarding this
3 image. It appears it's a Tweet that someone else created
4 with "FirstEnergy" superimposed over the State House to the
5 very individuals who the evidence shows are involved in this
6 bribery scheme.

7 And it shows that entities that are representing the
8 bribe payor under these circumstances who are coordinating
9 the millions of dollars on behalf of this nuclear
10 legislation, on the day the legislation is passed, are
11 forwarding this message. That shows consciousness of guilt
12 of the bribe payor. It shows a recognition that FirstEnergy
13 had control over the State House, and that they are sending
14 this message on the same day that the bailout legislation
15 that they have been pursuing actually happened. And it
16 addresses the defendant's suggestion that it appears that
17 there is a separation of interests between FirstEnergy
18 Solutions and FirstEnergy Corp. These are individuals
19 representing FirstEnergy Corp. who are -- appear to be
20 recognizing the accomplishment of the subsidy on the day it
21 was passed through by forwarding this message.

22 And, Your Honor, that is probative, it is relevant, and
23 it's prejudicial to their case, but it's not unfairly
24 prejudicial in any sort of way. It's not inflaming the
25 passion of the jurors in a way that the case law suggests

1 under 403 makes it unfair. It's certainly not any more
2 prejudicial than the \$60 million that flowed through these
3 entities in order to pass this legislation. Nor is it more
4 prejudicial than recordings that they're going to hear about
5 how FirstEnergy got a billion-dollar subsidy. What do they
6 care about putting millions of dollars into this effort?

7 It's far less prejudicial than the evidence the
8 jury will hear. In fact, this picture is attached in 517 B
9 in an exchange between Chuck Jones and Mike Dowling. So
10 they're going to see this image anyway. It's merely the
11 fact that the individuals here who are sharing it, that's
12 what makes it probative.

13 THE COURT: I don't see how we can determine what
14 they thought of it without hearing from those individuals.
15 May well be premature.

16 Ms. Frankian, if you would approach.

17 (Pause.)

18 THE COURT: I'm still where I am, I don't see how
19 we can consider what they thought of it without hearing from
20 those individuals. I'm not going to let it come in at this
21 stage. I don't know its probative value until I have more
22 context. So I direct the government not to use it this
23 morning with this witness.

24 Are we ready to call the jury from the government's
25 perspective?

1 MS. GLATFELTER: One moment, Your Honor.

2 THE COURT: Very well.

3 MS. GLATFELTER: Your Honor, if I may clarify the
4 Court's ruling. As Mr. Singer noted, the defendant's
5 objection was to 516 C, which the Court was looking at.
6 This image is also in 516 B, which was not objected to, and
7 it was has been admissible -- admitted into evidence. I
8 want to clarify whether I can show 516 B to the witness,
9 which has been admitted?

10 MR. GLICKMAN: Judge, if you recall, we went
11 through all of the exhibits early. It was after the exhibit
12 we just talked about was admitted that I raised the
13 objection because I had a chance to look at it. I didn't
14 realize that image was anywhere else. I certainly object to
15 that image being shown to this witness under any exhibit.
16 Any exhibit that has relevant material in it could certainly
17 have the image redacted until the Court determines whether
18 or not any of the persons who may have -- who may be part of
19 that are going to testify.

20 THE COURT: Mr. Borges' counsel?

21 MR. SCHNEIDER: Nothing further, Your Honor.

22 THE COURT: I don't want the image shown today.

23 MS. GLATFELTER: Okay, Your Honor. Thank you for
24 the clarification, I appreciate it.

25 THE COURT: Very well. Are we ready for the jury

1 from the government's perspective?

2 MS. GLATFELTER: Yes, Your Honor.

3 THE COURT: Mr. Marein, I just saw you stand.
4 What's up?

5 MR. MAREIN: Thank you, Judge. There is something
6 that I've been wanting to bring to the attention of the
7 Court, and the government's counsel just reminded me.
8 During the course of the prosecutor's questioning yesterday,
9 she was using the term "bribery" and "scheme" and I
10 understand that that's the allegation. And government's
11 counsel this morning used the term "bribery." The fact of
12 the matter is, I would respectfully present to government's
13 counsel that that flies in the face, these are accusations,
14 they are not -- the term "bribery" presupposes the truth of
15 the allegations, and I'm pretty positive there's a
16 presumption of innocence here. And I would remind and ask
17 the Court to remind government's counsel to act accordingly.

18 THE COURT: Mr. Householder's counsel ready for the
19 jury?

20 MR. GLICKMAN: Yes, yes, Judge.

21 THE COURT: Mr. Borges' counsel ready for the jury?

22 MR. SCHNEIDER: We are.

23 THE COURT: You'll have an opportunity for
24 cross-examination, Householder's counsel. As to the issue
25 Mr. Marein just raised, I don't feel the need to address the

1 government.

2 Could we call for the jury, please?

3 (Pause.)

4 THE COURT: For purposes of the record, we all know
5 this, we're going to adjourn for the day by 1:00. I
6 anticipate going until about 11:20, taking a 20-minute
7 break, coming back at 11:40, and then going until about
8 12:50 and end for the day. Jurors can pick up their lunch
9 on the way out or stay here and enjoy it. The government
10 acknowledges those time parameters?

11 MS. GLATFELTER: Yes, Your Honor. Thank you.

12 THE COURT: And Householder's counsel does too?

13 MR. GLICKMAN: Understood, Judge.

14 MR. SCHNEIDER: That's fine.

15 THE COURT: Very well.

16 (Pause.)

17 MS. GLATFELTER: Your Honor, are we permitted to
18 use the exhibit if we redact the image, the images? I'm
19 talking about 517 B.

20 THE COURT: 517 what?

21 MS. GLATFELTER: 517 B, it's a text exchange
22 between Charles Jones and Mike Dowling, and that image is at
23 the middle portion of the message. I'd like to show the
24 witness the earlier parts of that message without the image,
25 but I just -- I don't want to run afoul of the Court's

1 order.

2 THE COURT: I don't want them to see the image at
3 this time.

4 MS. GLATFELTER: Okay. So I can redact the image
5 and show them the redacted portion? Okay.

6 THE COURT: Counsel for --

7 MR. GLICKMAN: Can I just look at the exhibit,
8 please?

9 MS. GLATFELTER: I have it right here, if you would
10 like it.

11 MR. GLICKMAN: That would be great and be great if
12 I had my glasses.

13 THE COURT: Counsel, I need to proceed. The issue
14 is just the image and having context to it. The rest of the
15 exhibit was not objected to.

16 MR. GLICKMAN: The image is on the exhibit twice,
17 Judge.

18 THE COURT: It should be --

19 MR. GLICKMAN: As long as the image is redacted.
20 In one instance, it's very small.

21 THE COURT: It needs to be redacted. The image is
22 not to be shown without my having context to it. We
23 understand how we're proceeding, from the government's
24 perspective?

25 MS. GLATFELTER: Yes, we do. Thank you, Your

1 Honor.

2 THE COURT: Anybody else need to be heard? The
3 jury is at the door. Householder?

4 MR. GLICKMAN: No, thank you, Judge.

5 THE COURT: Borges?

6 MR. SCHNEIDER: No.

7 THE COURT: Let's bring the jury in.

8 THE DEPUTY: All rise for the jury.

9 (Jury entered the courtroom at 10:07 a.m.)

10 THE COURT: Jurors can be seated as they join us.
11 You may all be seated. Thank you. To the 15 Members of the
12 Jury who have rejoined us, good morning, and please accept
13 my apologies for the delay. If you want to be mad at
14 somebody, be mad at me, nobody else caused the delay.

15 We're ready to continue to hear testimony from the
16 witness who's been on the stand. Ms. Glatfelter, can we
17 call for that witness? And you may proceed when you're
18 ready.

19 MS. GLATFELTER: Thank you, Your Honor. We're
20 calling to the stand Agent Wetzel.

21 THE COURT: I'm sorry, I interrupted you. If the
22 agent would be willing to approach and retake the stand.

23 THE WITNESS: Yes, sir.

24 (Witness took the stand.)

25 THE COURT: Good morning.

1 THE WITNESS: Good morning.

2 THE COURT: You're still under oath, you
3 understand, right?

4 THE WITNESS: Yes, sir.

5 THE COURT: If you want to take your mask off, you
6 can. You don't have to.

7 Ms. Glatfelter, you may proceed.

8 MS. GLATFELTER: Thank you, Your Honor.

9 **DIRECT EXAMINATION (Continued.)**

10 **BY MS. GLATFELTER:**

11 **Q** Agent Wetzel, when we ended yesterday, we were talking
12 about January 7, 2019, and the Speaker vote; do you remember
13 that?

14 **A** Yes, I do.

15 **Q** Okay. And I want to back up a little bit in time and
16 ask you: Did you identify communications about the Speaker
17 vote between Mr. Householder and FirstEnergy executives
18 before that vote?

19 **A** Yes, I did.

20 **Q** I'd like to walk through those with you.

21 MS. GLATFELTER: Your Honor, permission to publish
22 323 A, which has been admitted?

23 THE COURT: Very well. You can publish it to the
24 jury.

25 Members of the Jury, she's required to ask me every

1 time can she publish it to the jury. When I say yes, if
2 I'm -- don't read anything into it. She's required to ask
3 me.

4 Please proceed. It may be shown to the jury.

5 MS. GLATFELTER: Thank you, Your Honor.

6 **Q** Agent Wetzel, do you recognize 323 A?

7 **A** Yes, I do.

8 **Q** Okay. And can you tell us where it came from?

9 **A** So this is a text message conversation like the ones
10 we've been looking at. This one is from Mr. Chuck Jones'
11 phone, his iPhone in particular, and it was provided to us
12 by FirstEnergy.

13 **Q** Okay. And at the date at the top, do you -- can you
14 place that in time terms of the 2018 election?

15 **A** Yes. This is November 5th of 2018. It's just before
16 the election.

17 MS. GLATFELTER: All right. Ms. Terry, if we can
18 enlarge the bottom portion of the message.

19 **Q** All right. Agent Wetzel, I'll go ahead and read the
20 green messages and if you'll read the blue messages.

21 **A** Yes, ma'am.

22 **Q** Owner: 24 hours left. How's it looking?

23 **A** Larry Householder to Chuck Jones: I'm encouraged by
24 the House races. Unless this blue wave shows up in some
25 races, I think we look great.

1 Q Owner: How's the top of the ticket looking?

2 A Did you like Ali or Frazier? It's a toss-up.

3 Q Owner: Got it. I will be pulling and praying for you
4 tomorrow. It will be a late night, I'm sure.

5 A Larry Householder to Chuck Jones: If their polling is
6 correct, the statewide are a mixed bag. DeWine has a small
7 edge, Yost is up, Sprague is up, Faber and LaRose are down.

8 Q Agent Wetzel, did you recover other communications
9 during this time frame?

10 A Yes, ma'am, I did.

11 MS. GLATFELTER: Your Honor, permission to publish
12 323 C, which has been admitted?

13 THE COURT: Yes.

14 MS. GLATFELTER: Thank you.

15 Q Agent Wetzel, do you recognize 323 C?

16 A Yes. This is an e-mail that was recovered from
17 FirstEnergy.

18 Q Okay. And who is the e-mail from?

19 A It is from Larry Householder to Michael Dowling, and
20 the date of the e-mail is the 5th of November 2018, the same
21 day we were just looking at the text message.

22 Q Okay. And can you read the content for us?

23 A Yes. Hello, Mike, you are invited to the following
24 event: Team Householder post-election celebration, event to
25 be held at the following time, date and location. Thursday,

1 November 8, 2018, from 5:00 p.m. to 9:00 p.m. EST,
2 Victory's, 3543 South High Street, Columbus, Ohio 43215.

3 And then below that: Friends of Larry Householder
4 invite you to a post-election appreciation celebration at
5 Victory's with the same address and time. All are welcome.
6 No contribution necessary.

7 MS. GLATFELTER: Okay. And, Ms. Terry, is there a
8 page 2?

9 **Q** Okay. And additional -- were there additional
10 communications that you identified, Agent Wetzel?

11 **A** Yes, ma'am.

12 MS. GLATFELTER: If we may publish 323 B for the
13 jury, which has been admitted?

14 THE COURT: Yes.

15 **Q** All right. Agent Wetzel, can you identify 323 B?

16 **A** Yes. This is a text message conversation between
17 Chuck Jones and Mike Dowling recovered from Chuck Jones'
18 iPhone.

19 **Q** And the date of the message?

20 **A** The 7th of November, 2018.

21 MS. GLATFELTER: All right. Ms. Terry, if you can
22 zoom out. Thank you.

23 **Q** Okay. Agent Wetzel, and if you can read the blue
24 boxes and I'll read the green.

25 **A** From Michael Dowling to Chuck Jones: I wanted to get

1 you on the phone with Ty. He was W slash LH team last night
2 and they thought they had the numbers. I wonder if LH is
3 using the belt and suspenders approach. Has the votes but
4 sure would be nice to get Smith out of the way just in case
5 and helps union identify team anyway.

6 And then Michael Dowling to Chuck Jones: From Ty just
7 now. From Jeff 30 seconds ago. We're at 31 hard votes with
8 4-5 still in play.

9 **Q** Charles Jones, the owner: Larry didn't ask me to
10 intervene, I suggested it. Told him I would never meddle
11 without him knowing. Not only did he say you're right, that
12 will be a divided caucus, it's brilliant. My idea was get
13 Ryan into the administration. Larry's Tweet was the
14 Pettersson move.

15 **A** Michael Dowling to Chuck Jones: I think we should let
16 it play out a bit.

17 Michael Dowling to Chuck Jones, I'm dialed into E C,
18 but I'm not hearing anything.

19 **Q** Charles Jones, owner: I'll see what I can do.

20 **A** Michael Dowling to Chuck Jones: Pat Pettey can help
21 us with NRC, trust me. You know Pat, he helps secure place
22 for your family when your brother was in DC. Would like to
23 get him some work, such a great guy.

24 Michael Dowling to Chuck Jones: Thanks, nicely done.

25 **Q** Green box is empty.

1 **A** Michael Dowling to Chuck Jones: A seam came through
2 on this one. COS didn't want to do it by this Friday.

3 Michael Dowling to Chuck Jones: I have one quick item
4 for round table.

5 **Q** Charles Jones: Okay.

6 **A** Michael Dowling to Chuck Jones: Pilot training
7 savings.

8 **Q** Can you talk in 10?

9 **A** Yes.

10 **Q** From Charles Jones, owner: I'll call you.

11 Charles Jones, owner: Let's try to do a three-way with
12 Paduchik sometime this afternoon too.

13 **A** Michael Dowling to Chuck Jones: Can you talk to Danny
14 and me now?

15 **Q** Charles Jones, owner: Yes.

16 Charles Jones, owner: Actually, make it 1:00 p.m.

17 **A** Michael Dowling to Chuck Jones: Okay.

18 Michael Dowling to Chuck Jones: Ready for a call with
19 Bob P. He talked to Dan B.

20 **Q** Charles Jones, owner: Call me first.

21 **A** Michael Dowling to Chuck Jones: I inadvertently just
22 called you.

23 MS. GLATFELTER: Ms. Terry, if we can return to the
24 first page for a moment.

25 **Q** And, Agent Wetzel, did you recover additional messages

1 around this time frame?

2 **A** Yes, ma'am, I did.

3 MS. GLATFELTER: Permission to publish 412 A, which
4 has been admitted?

5 THE COURT: Yes.

6 **Q** Agent Wetzel, can you identify this document for us?

7 **A** Yes. This is a text message conversation between
8 Chuck Jones and Larry Householder from November 7th, 2018.
9 It was recovered from Mr. Jones' iPhone.

10 **Q** And you said it was what date?

11 **A** The 7th of November 2018.

12 MS. GLATFELTER: Okay. And if we can zoom out, Ms.
13 Terry, and go to the bottom of the page.

14 **Q** I'll read the green. Good results state wide. How
15 did your candidates do? I know Trakas lost and Roemer won?

16 **A** Larry Householder to Chuck Jones, Trakas lost, Rasor
17 lost by 400, all three Franklin Co. lost, Dever won. Picked
18 up a new one in Youngstown area, so we were a net minus 4.

19 **Q** Owner. Minus 4 from your slate or minus 4 to have
20 Speaker votes?

21 **A** Larry Householder to Chuck Jones, minus 4 from slate.
22 I literally need one more vote for Speaker. Larry
23 Householder to Chuck Jones, I'm going to work on it today.

24 **Q** From the owner: You counting Pat torn or not? I'll
25 make sure that one happens.

1 **A** Larry Householder to Chuck Jones: I'm counting him,
2 but he's a slippery one.

3 **Q** From the owner: I'm on it. Can you talk in a couple
4 of minutes?

5 **A** Larry Householder to Chuck Jones: Yes.

6 Larry Householder to Chuck Jones: If you would just
7 ask Bob P to set up a meeting W me and engage in getting
8 this Speaker's race worked out so the way -- worked out so
9 the way we want it, that would be perfect. Need him to
10 focus. Larry Householder to Chuck Jones: Need his skills
11 and relationships.

12 **Q** From owner: On it.

13 **A** Larry Householder to Chuck Jones: I think it might be
14 better if he helps strategize this so we have reasonable
15 expectations of what we are asking from Mike D E W.

16 **Q** Owner: Got it.

17 Agent Wetzel, do you see the reference at the top of
18 page 3 to a Bob P?

19 **A** Yes, ma'am, I do.

20 **Q** Okay. Did you recover other text messages or other
21 communications involving a Bob P that helped you identify
22 who Bob P was they're referring to?

23 **A** Yes. It's Bob Paduchik.

24 **Q** Okay. And briefly, who is Bob Paduchik?

25 **A** Until recently, he was the head of the Ohio Republican

1 Party, but he's a Republican political operative from the
2 State of Ohio.

3 **Q** And did you recover further communications before the
4 Speaker vote in December of 2018?

5 **A** Yes, ma'am, I did.

6 MS. GLATFELTER: Your Honor, if we may publish 412
7 B, which is in evidence?

8 THE COURT: Yes.

9 **Q** Agent Wetzel, can you identify government's 412 B?

10 **A** Yes. This is another text message conversation
11 recovered from Mr. Jones' iPhone between Larry Householder
12 and Chuck Jones. And this one occurred December 18, 2018.

13 **Q** Okay. And if you place that date in terms of the
14 general election?

15 **A** Sure. It's a little over a month later. The general
16 election happened in early November. This is mid December.

17 **Q** Okay. And the Speaker, the vote for the Speaker of
18 the House will happen when?

19 **A** We looked at the session journal where that occurred
20 yesterday. That's in January of the next year, so the
21 following month.

22 **Q** Okay. Thanks.

23 MS. GLATFELTER: Now, Ms. Terry, if we can zoom out
24 and look at the message. Thank you.

25 **Q** Okay. We'll proceed, I'll read the green and if

1 you'll read the blue boxes?

2 **A** Yes, ma'am.

3 **Q** The owner: How are things going? Heard about unions
4 and black caucus support, are they going to get you over the
5 top?

6 **A** Larry Householder to Chuck Jones: Ds are caucusing
7 tonight. If Fred Strayhorn, the minority leader, can be
8 convinced not to run, it's over and we win.

9 **Q** That's great. Hopefully, he makes the right decision.

10 **A** Larry Householder to Chuck Jones: I have heard that
11 Fred told his members he is not running and is releasing the
12 caucus to vote for whoever they choose. That's exactly what
13 we wanted.

14 **Q** Owner: Wow, that's great. Keeping my fingers
15 crossed.

16 **A** Larry Householder to Chuck Jones: Lot more work to
17 do, but we are in a very good place.

18 **Q** Okay. Agent Wetzel, does that bring us to January,
19 back to January where we ended yesterday the Speaker's vote?

20 **A** Yes, ma'am, it does.

21 **Q** I wanted to ask you a few questions about that. So we
22 were looking at the session journal for the Speaker's vote;
23 do you recall that yesterday?

24 **A** I do.

25 MS. GLATFELTER: And, Your Honor, if we may publish

1 again what has been admitted as Exhibit 411?

2 THE COURT: Yes.

3 MS. GLATFELTER: And, Ms. Terry, if we could go to
4 page 4 of that exhibit.

5 Q Agent Wetzel, I believe there's a paper copy of the
6 vote count that you were talking about yesterday on your --
7 on the podium or, I'm sorry, on the witness stand; do you
8 see that?

9 A Yes, I do.

10 Q Okay. And what exhibit was that that was admitted?

11 A There are two that were placed here, ma'am. Are you
12 referring to the Speaker's vote?

13 Q Yes.

14 A That was 415.

15 Q Okay. And do you see the votes at the bottom of
16 Government's 411, which is on the screen, at the bottom
17 there, do you see the votes for Speaker or for Ryan Smith?

18 A Yes, ma'am, I do.

19 Q Okay. And can you read off the top row?

20 A Arndt, Blessing, Brinkman, Carfagna.

21 Q Okay. And if we can double check your chart there in
22 terms of those names.

23 A I don't see any of those names on the list here.

24 Q Do you see --

25 A Oh, no, I take that back. I apologize. I see Tom

1 Brinkman here listed in the 27th District.

2 **Q** Okay. And do you see that on government's -- did you
3 say that was 415?

4 **A** Correct.

5 **Q** Okay. And who does it have him voting for on the
6 session journal?

7 **A** Representative Smith.

8 **Q** Okay. So is that a typo on the chart that we were
9 talking about yesterday?

10 **A** Yes, ma'am, it is.

11 **Q** Okay.

12 MS. GLATFELTER: Your Honor, we have prepared a
13 supplementary exhibit to correct that typo. And with the
14 Court's permission, I would like to enter that into evidence
15 and display it for the jury?

16 THE COURT: Any objection?

17 MR. GLICKMAN: No, Judge.

18 MR. SCHNEIDER: No.

19 THE COURT: You may so proceed. So are you moving
20 into evidence?

21 MS. GLATFELTER: Yes. And permission to publish
22 the new 415? We've provided updated copies to the Court and
23 defense counsel.

24 THE COURT: Yes.

25 **Q** Okay. And do we see the corrected version of the

1 Speaker's vote on the screen here?

2 **A** Yes, ma'am.

3 **Q** Okay. And so just to clarify that the change was
4 what?

5 **A** Mr. Brinkman voted for Representative Smith.

6 MS. GLATFELTER: Okay. And then I think there was
7 one other exhibit, Your Honor, that we were going to
8 supplement because defense counsel had pointed out a typo in
9 the names and so we also wanted to present that. And the
10 number of that exhibit was -- 405, Ms. Terry? With the
11 Court's permission, I would ask to admit the new exhibit and
12 publish it for the jury?

13 THE COURT: Any objections?

14 MR. GLICKMAN: No, Judge.

15 THE COURT: Any objection from Mr. Borges?

16 MR. SCHNEIDER: No objection.

17 THE COURT: Very well. It's admitted. You may
18 show it to the jury.

19 **Q** Okay. Agent Wetzels, do you see the correction on this
20 chart?

21 **A** Yes, ma'am, I do.

22 **Q** Okay. And can you circle where that is for the jury?

23 **A** Yes. (Witness writing.)

24 **Q** Okay. And Mr. DeVitis won that district, not Jessica
25 Miranda twice, right?

1 **A** Yes. Correct. She was listed in error as winning the
2 28th and 36th district and now it correctly reflects that
3 Mr. DeVitis won the 36th district.

4 **Q** Okay. Thank you.

5 Now, did you identify any other contact from
6 FirstEnergy in January of 2019 after Mr. Householder became
7 the Speaker?

8 **A** Yes, I did.

9 MS. GLATFELTER: Your Honor, permission to publish
10 what's been admitted as 421 A?

11 THE COURT: Yes.

12 **Q** Okay. And, Agent Wetzel, can you identify 421 A for
13 us?

14 **A** Yes. This is an e-mail from Ty Pine to
15 jefflongstreth@gmail.com, that's that same Jeff Longstreth
16 e-mail address that we've been examining and that is I
17 believe where we recovered this from. This is sent on
18 January 25th, 2019.

19 **Q** Okay. And can you remind us who Ty Pine is?

20 **A** He is a lobbyist working for the FirstEnergy
21 Corporation.

22 **Q** All right. And what does Ty Pine write to Jeff
23 Longstreth?

24 **A** The subject is Resume, and there is an attachment,
25 Patrick Tully resume dot PDF. And the top e-mail says:

1 Call me.

2 **Q** Okay. And the bottom portion of the e-mail?

3 **A** So the original e-mail here is from Pat Tully to Ty
4 Pine on that same day, and it says: Ty, here you go and
5 thanks again for reaching out. Have a great weekend. And
6 then that message is forwarded to Mr. Longstreth at the top.

7 **Q** And do you know that because of the FW in the subject
8 line?

9 **A** Yes. Also, when e-mails are forwarded, if someone
10 continues on, the lower messages are the messages that are
11 being forwarded.

12 **Q** Okay. And do you see Mr. Pine's FirstEnergy e-mail
13 address on this document?

14 **A** Yes. In the original e-mail, it's listed as
15 TPine@FirstEnergyCorp.com.

16 **Q** Can you circle that for us so we can see that on the
17 screen, Agent Wetzel?

18 **A** (Witness writing.)

19 **Q** Thank you.

20 Is there an attachment to the e-mail?

21 **A** Yes, there is.

22 MS. GLATFELTER: Ms. Terry, if we may go to the
23 second page of this exhibit -- oh, there wasn't one, my bad.
24 We'll go to the next exhibit which I believe has it. 421 B
25 was marked as a separate exhibit. Your Honor, I'm sorry,

1 that's been admitted. I thought it was attached to the
2 e-mail.

3 THE COURT: So you may publish it. My turn to
4 talk. Yes.

5 MS. GLATFELTER: My apologies.

6 Q Is this the attachment that the e-mail?

7 A Yes, ma'am. This was attached.

8 Q And did you review it prior to today?

9 A Yes.

10 Q Okay. And based on your investigation, did you
11 encounter a Patrick Tully?

12 A Yes. It is his listed resume on that e-mail. He
13 worked for the Ohio House Republican caucus and specifically
14 worked on energy policy.

15 Q So Mr. Pine was forwarding Patrick Tully's resume to
16 Jeff Longstreth?

17 A That's correct.

18 Q And do you know if -- where Patrick Tully ended up
19 working in 2019?

20 A Yes. He ended up working in the policy office for the
21 Republican majority on energy policy specifically, so he was
22 kind of the energy policy staffer.

23 Q Okay. And was there a specific piece of legislation
24 that he worked on during 2019?

25 A Ohio House Bill 6.

1 MS. GLATFELTER: Your Honor, may we please publish
2 421 C and D, again, an e-mail and attachment which has been
3 admitted into evidence?

4 THE COURT: Yes.

5 **Q** Agent Wetzel, can you identify Government's
6 Exhibit 421 C for us?

7 **A** Yes. This is an e-mail from Jeff Longstreth to
8 Matthew McCullough@gmail.com and Jonathon McGee. Subject:
9 Patrick Tully resume dot PDF, sent January 25th, 2019. And
10 then it has attached the Patrick Tully resume dot PDF.

11 **Q** All right. And do you know who Matthew McCullough and
12 Jonathon McGee are?

13 **A** Yes. Matthew McCullough was deputy chief of staff for
14 that same caucus. Essentially, he was the manager of all of
15 the substantive policy staffers. As I mentioned, Mr. Tully
16 worked at the energy one, but there are other policy experts
17 in other topical areas that would work under Mr. McCullough.
18 And then Jonathon McGee was the chief of staff.

19 **Q** Okay. And to be clear, these are people that work in
20 the Ohio House of Representatives and the staff?

21 **A** Yes, they're the staff for Mr. Householder.

22 **Q** Okay. And so this message is from Mr. Longstreth, and
23 is there an attachment to this?

24 **A** Yes. Patrick Tully resume dot PDF.

25 MS. GLATFELTER: If we may go to 421 D, Your Honor,

1 this was the attachment to the e-mail.

2 THE COURT: Very well. Yes.

3 Q And how does this relate to the e-mail that we just
4 saw from Ty Pine?

5 A It's the same document.

6 Q So Mr. Longstreth is essentially forwarding it to the
7 staff members?

8 A Yes. He receives it from Mr. Pine and then forwards
9 it on to the staff members.

10 Q Okay. Now, Agent Wetzel, based on your investigation,
11 do you know whether the General Assembly adopts rules each
12 session?

13 A It does.

14 Q And are those rules voted on in the House during the
15 session?

16 A Yes, they are.

17 MS. GLATFELTER: Your Honor, permission to publish
18 422, which has been admitted into evidence?

19 THE COURT: Yes.

20 Q Okay. And, Agent Wetzel, can you identify this
21 document for us?

22 A Yes. This is the session journal we looked at an
23 earlier one. This one is for Wednesday, February 6th, 2019.

24 MS. GLATFELTER: And, Ms. Terry, if we can publish
25 page 9 of this exhibit.

1 **Q** And, Agent Wetzel, if you look at page 9, under the
2 bolded phrase there, do you see that?

3 **A** Yes, I do. That is an HRO, which is a House
4 Resolution No. 11, and then it lists that it's
5 representative calendar to adopt rules of the House of
6 Representatives for the 133rd General Assembly, which as we
7 discussed. It the one that's beginning in January of 2019.

8 **Q** Okay. And so is this the adoption of rules that you
9 were referencing a moment ago?

10 **A** Yes, ma'am, it is.

11 **Q** And this happens when?

12 **A** This happens on February 6th, 2019.

13 **Q** All right. And so the pages that follow are
14 listing -- are they a listing of the rules?

15 **A** Yes, that's correct.

16 **Q** Okay. And do these rules contain modifications or
17 show how rules were changed from the previous session?

18 **A** They do, indeed.

19 **Q** Now, do these rules outline the different powers of
20 people in the General Assembly in the House of
21 Representatives?

22 **A** They do.

23 MS. GLATFELTER: Ms. Terry, if we could publish
24 page 16.

25 **Q** And, Agent Wetzel, is this an example of the edits or

1 the modifications that you were referring to?

2 **A** Yes, that's correct. Things that are edited for
3 removal have a strike-through, and then there are also other
4 items that are added. Those are underlined.

5 **Q** Okay. And do you see an addition of any sub
6 committees on this page?

7 **A** Yes. So listed under the energy and natural resources
8 committee, there is a numeral 1 and there is an Energy
9 Generation Subcommittee listed.

10 **Q** All right. And can you circle that new Energy
11 Generation Subcommittee?

12 **A** (Witness writing.)

13 **Q** And so to be clear, this is an addition from the
14 previous set of rules?

15 **A** That's correct.

16 **Q** Now, is this set of rules after they're adopted
17 available on the House of Representatives' website for the
18 public to view?

19 **A** Yes. The session journal is available and also
20 they're posted on the website.

21 **Q** And is that a cleaned-up version so we can read the
22 rules without all the strike-throughs and additions?

23 **A** That's right.

24 MS. GLATFELTER: Your Honor, permission to publish
25 that version, who is 401 that's been admitted?

1 THE COURT: Yes.

2 Q Okay. Agent Wetzel, do you recognize Exhibit 401?

3 A Yes. This is a picture of the legislature dot Ohio
4 dot gov website. This particular page is a part of the
5 publication of the rules of the Ohio House of
6 Representatives.

7 Q Okay. And on this page, do you see Rule 2 at the
8 bottom?

9 A Yes, I do. It's listed as Speaker presiding officer
10 to call House to order.

11 Q Okay. And do you see Rule 1 in terms of the time of
12 sessions?

13 A Yes, I do.

14 Q Okay. And can you read that paragraph for us?

15 A Yes. Time of sessions schedule. A, for the months of
16 January through June in each year and separately for the
17 months of July through December in each year, the Speaker at
18 the beginning of each six-month period shall establish a
19 schedule of dates and times according to which the House
20 shall hold sessions, and at which roll call votes are taken.
21 The Speaker may revise or supplement the schedule as
22 necessary. The schedule and any revision or supplement
23 there to shall be published and a copy provided to each
24 member.

25 Q Okay. So does that set forth who sets the schedule

1 for the House of Representatives?

2 **A** It does, indeed.

3 **Q** And who is that individual?

4 **A** The Speaker of the House.

5 **Q** And according to this rule, do you see language there,
6 can you underline the language that would allow the Speaker
7 to revise or supplement the schedule?

8 **A** (Witness writing.)

9 **Q** Agent Wetzel, does Rule 2 -- what's the title of that?

10 **A** Speaker or presiding officer to call House to order.

11 **Q** Okay. And is the Speaker the presiding officer of the
12 House?

13 **A** Yes, unless delegated to another officer by the
14 Speaker.

15 MS. GLATFELTER: Now, Ms. Terry, if we can go to
16 page 4.

17 **Q** Agent Wetzel, do you see Rule 13?

18 **A** Yes, I do.

19 **Q** What's the title of Rule 13?

20 **A** Appointment of Committees and Boards.

21 **Q** Okay. And can you read that for us?

22 **A** The Speaker shall name all committees and sub
23 committees and shall appoint all members and chairs there
24 to. The Speaker shall appoint members to a standing
25 committee so that its membership is 40 percent minority

1 members. The chair and the vice chair of the finance
2 committee shall not be included in making this calculation.
3 The minority leader in a manner to be determined by the
4 minority caucus may recommend for the Speaker's
5 consideration minority party members for each committee.

6 **Q** Thank you, Agent Wetzel.

7 MS. GLATFELTER: And, Ms. Terry, if we can publish
8 page 16. I don't see this on this page. Can you go one
9 previous page for me? All right.

10 **Q** And, Agent Wetzel, does the page -- does page 15
11 explain how the committee -- the committees work?

12 **A** Yes. So in the middle of the page it says committee
13 records and reports and then there are a series of rules
14 describing committee responsibilities and rules.

15 MS. GLATFELTER: And, Ms. Terry, if we can scroll
16 to the next page and the following page so we can follow.
17 All right. And the next page.

18 **Q** Okay. Now, when these new rules were added, did you
19 find a press release that Mr. Householder had issued at the
20 same time?

21 **A** Yes, I did.

22 **Q** And did that press release talk about the new rules,
23 including the new subcommittee?

24 **A** Yes, it did.

25 MS. GLATFELTER: Your Honor, permission to publish

1 423, which has been admitted into evidence?

2 THE COURT: Yes.

3 MS. GLATFELTER: Okay. And, Ms. Terry, if we can
4 enlarge the middle portion of that so we can read it.

5 **Q** Okay. Agent Wetzel, what is this document?

6 **A** So this is again a capture of the Ohio Legislature's
7 web page. This particularly was on Mr. Householder's web
8 page.

9 **Q** And do you see down there the creation of a new
10 subcommittee on energy generation?

11 **A** Yes, I do.

12 **Q** All right. And can you circle that announcement for
13 us?

14 **A** (Witness writing.)

15 **Q** Agent Wetzel, we've talked over the last few days
16 about different search warrants you've done, and one of
17 those involved Mr. Householder's phones?

18 **A** Yes, it did.

19 **Q** Did you recover a voicemail from one of those phones
20 that was close in time to the announcement of these
21 committees?

22 **A** Yes, I did. It was just before, I believe.

23 MS. GLATFELTER: Your Honor, permission to publish,
24 which would be playing the recording, of the voicemail from
25 Mr. Householder's phone, Exhibit 425, and that's been

1 admitted?

2 THE COURT: It's been admitted, you may publish it
3 by playing it.

4 (Recording playing.)

5 Q Agent Wetzel, do you know a representative by the name
6 of Nino?

7 A Yes, Representative Nino Vitale.

8 Q And was he one of the individuals of the Team
9 Householder candidates in 2018 during the general election?

10 A Yes, ma'am, he was.

11 Q Okay. And later did he become associated with one of
12 the energy committees?

13 A Yes. He was the chair.

14 MS. GLATFELTER: Your Honor, permission to publish
15 Exhibit 424, which has been admitted?

16 THE COURT: Yes.

17 Q Agent Wetzel, do you recognize Exhibit 424?

18 A Yes. This is another capture from the Ohio House web
19 page, and it's Speaker Householder announcing standing
20 committee assignments.

21 Q Okay. And how does this relate to the adoption, how
22 does this date relate to the adoption of rule -- of the
23 rules that we just saw? Are you able to see that?

24 A Could you perhaps zoom in on the date? I can't quite
25 make it out on the screen. It says February 8th, 2019.

1 It's just after.

2 MS. GLATFELTER: Okay. And if we can go back out,
3 Ms. Terry.

4 **Q** See at the top in the yellow the number of pages to
5 this exhibit?

6 **A** There are 22 pages.

7 **Q** Okay. So does this contain a listing of all of the
8 committees and the staffing of those committees?

9 **A** Yes. When we were looking at the session journal we
10 saw there were some new committees that were made. All of
11 them have a certain number of representatives that are
12 assigned. The size varies I think to some degree, but this
13 is a listing of who is on those committees.

14 MS. GLATFELTER: Okay. And, Ms. Terry, if we can
15 go to page 7 first.

16 **Q** Okay. Agent Wetzel, do you see at the bottom of your
17 screen the name of a committee?

18 **A** Yes. It is the Energy and Natural Resources
19 Committee.

20 **Q** Okay. And does it list some of the members of that
21 committee?

22 **A** It does.

23 MS. GLATFELTER: All right. And if we go to the
24 next page, Ms. Terry.

25 **Q** Okay. And do you see other people listed on that?

1 **A** Yes, I do.

2 **Q** Okay. And then below that, what subcommittee do you
3 see?

4 **A** The Energy Generation Subcommittee.

5 **Q** Is that the subcommittee that we were talking about
6 before?

7 **A** It was.

8 **Q** And who are the members of the subcommittee?

9 **A** Stein, O'Brien, Baldrige, Holmes, Jordan.

10 **Q** And do you recognize any of those names from the
11 listing of Team Householder members that you had told us
12 about yesterday?

13 **A** Yeah, some of them are from Team Householder.

14 **Q** Okay. And if we look at the -- how does the Energy
15 Generation Subcommittee relate to the Energy and Natural
16 Resources Committee?

17 **A** It is a subcommittee, so it is a committee that is
18 formed out of the greater committee and might explore
19 particular issue before it heads to the whole committee.

20 **Q** Okay. And so legislation might start in the
21 subcommittee and then goes to the larger committee?

22 **A** Indeed.

23 **Q** All right. And the members of the larger committee
24 are who?

25 **A** I can see here some of them and there were some on the

1 previous page.

2 **Q** We'll go back a page, yeah.

3 **A** On this page, Cross, Hillyer, Jordan, Stein, Wiggam,
4 O'Brien, Weinstein.

5 **Q** Okay. And on the previous page?

6 **A** The chair representative, Nino Vitale, who we were
7 just speaking about, Denson, Kick, Holmes, Baldrige, and
8 Leland.

9 **Q** And do you recognize any of those names in terms of
10 the Team Householder candidates that we were looking at
11 yesterday for 2018?

12 **A** Yeah, some of them are Team Householder candidates.

13 **Q** Now, before we talk about House Bill 6 and look at
14 House Bill 6, during your investigation prior to the time
15 that Larry Householder became the Speaker, did you identify
16 early drafts of the legislation?

17 **A** Yes, I did.

18 MS. GLATFELTER: Your Honor, permission to publish
19 406, which has been admitted into evidence?

20 THE COURT: Yes.

21 **Q** Agent Wetzl, do you recognize Government's
22 Exhibit 406?

23 **A** Yes. This is an e-mail that was sent by David
24 Griffing. It was recovered from FirstEnergy.

25 **Q** Okay. And we'll go back to who was on the e-mail in a

1 moment, but what's the date of this e-mail?

2 **A** The 12th of December, 2018.

3 **Q** All right. And what's the title?

4 **A** The subject is: Ohio Legislative Strategy Meeting.

5 **Q** All right. And the content of the message?

6 **A** So there's an attachment which is a legislative
7 proposal Ohio 12.11.18. The contents of the message: All,
8 attached is the first draft of the potential legislation in
9 Ohio based on the discussions we had and the subsequent term
10 sheet we developed. Please review this in preparation of
11 our meeting this Friday morning at 9:00 a.m. Please feel
12 free to submit comments or edits to Chip and John prior to
13 the meeting, if you desire. Thanks, Dave.

14 **Q** And you said that there's an attachment to this
15 e-mail?

16 **A** That's correct.

17 MS. GLATFELTER: And, Ms. Terry, can we go to the
18 first page of the attachment.

19 **Q** All right. And can you read the -- can you read under
20 Section 1, do you see a title there?

21 **A** Yes.

22 **Q** What is it?

23 **A** After Section 1, it says that there are certain
24 sections of the Revised Code that will be enacted, and then
25 below there is Section 4928.663, Clean Air Credit Program.

1 Q All right. And what does Section A or Subsection A
2 say?

3 A There is hereby created a Clean Air Credit Program.

4 Q And can you circle the Clean Air Credit Program title
5 for us so we can see where you're referring to on the
6 document?

7 A (Witness writing.)

8 Q Okay. Now, let's go back --

9 MS. GLATFELTER: Well, before we do that, Ms.
10 Terry, can you scroll through the rest of this exhibit so we
11 can just see the pages?

12 Q Agent Wetzel, are these different pages of the
13 proposed -- or of possible legislation?

14 A Yes, that's correct.

15 Q All right. And if we can go back to the first page,
16 let's talk about who is on this e-mail. Do you see
17 Mr. Cespedes' e-mail address that you've identified through
18 this investigation?

19 A Yes. It's listed as Juan@oxly-group.com.

20 Q Can you circle that for us?

21 A (Witness writing.)

22 Q All right. And do you see Mr. Ty Pine's e-mail
23 address as one of the recipients of this e-mail?

24 A Yes, I do.

25 Q And can you circle that for us?

1 **A** (Witness writing.)

2 **Q** Okay. And yesterday we discussed a meeting in October
3 of 2018, do you remember that, involving a \$400,000 check?

4 **A** Yes, I do.

5 **Q** Okay. And do you see any of the attendees of that
6 meeting on this e-mail?

7 **A** Yes. In addition to Mr. Cespedes, Mr. Robert Klaffly
8 was also present and his e-mail is reflected there.

9 **Q** Can you circle that for us?

10 **A** (Witness writing.) It continues onto the next line.

11 **Q** Okay. And do you remember a \$100,000 check that
12 was -- or discussion about that that was in late
13 October 2018?

14 **A** Yes, I do recall that.

15 **Q** Okay. Do you recall Mr. Cespedes talking about
16 thanking someone?

17 **A** Yes.

18 **Q** Do you see the person he was talking about thanking on
19 this e-mail?

20 **A** Yes, I do.

21 **Q** And can you circle that for us, please?

22 **A** (Witness writing.)

23 **Q** Okay. So fair to say you recognize a few of the names
24 on this e-mail --

25 **A** Yes.

1 Q -- from your investigation?

2 Okay. Now, you said there were a couple of messages
3 that you identified related to early drafts of possible
4 legislation.

5 MS. GLATFELTER: Your Honor, if we could publish
6 407, which has been admitted into evidence?

7 THE COURT: Yes.

8 Q And, Agent Wetzel, can you identify 407 for us?

9 A Yes. This is a text message conversation between
10 Matthew Borges and Melissa Hoeffel. This was extracted from
11 Mr. Borges' iPhone.

12 Q Okay. And if we can look at the message -- first of
13 all, do you know who Melissa Hoeffel is?

14 A Yes. She works at the Roetzel & Andress law firm.
15 She's an associate of Mr. Borges.

16 Q Is that the same firm where Mr. Borges worked in 2019?

17 A That's correct.

18 Q And 2018?

19 A Indeed.

20 Q All right. If you'll read the blue, I can read the
21 green.

22 A From Melissa Hoeffel: Do you know anything new
23 regarding the FES nuclear plants? Is there a plan for next
24 year?

25 Q Matthew Borges, owner: Yes, they have two versions of

1 a bill slash language and they would be fine with either
2 one. I'll ask for them. Team was in our office on Monday
3 and met with DeWine transition that afternoon. I'll follow
4 up with them for any feedback they got on whether DeWine was
5 going to push for a comprehensive energy package early on.
6 Either way, they need to be ready to get something done
7 before the refueling in June, so time is tight. I want us
8 to be on the lobbying team while we're still doing the
9 grassroots work they hired us for.

10 **A** Melissa Hoeffel: Good info. Who'll be the
11 legislative champions?

12 **Q** Matt Borges: Householder supportive big time. As far
13 as who could carry sponsor it, right now it's the people in
14 the immediate areas, but they're trying to expand that.
15 We've been keeping a, quote, scorecard, quote, of where
16 everyone is slash how likely they are to support, but it's
17 still so early that it's mostly, quote, unknowns, quote.

18 **A** Melissa Hoeffel: We should lobby for them. Who does?

19 **Q** Math Borges, owner: Kaiser and Klaffly, Lori Herf,
20 and Juan Cespedes.

21 **A** Melissa Hoeffel: Oh, yeah. And all of the others are
22 on the FE side.

23 **Q** Yes. Matt Borges, owner: Yes, I'm sure they'll bring
24 in some Democrats and we should be well-positioned to work
25 with them on this.

1 **A** Melissa Hoeffel: Do you work with the bond holders
2 that Brian Bingle represents too?

3 **Q** Matt Borges, owner: It's all basically one group now.

4 **A** Melissa Hoeffel: I got these two guys who are bond
5 holders and they are fine, sort of annoying and totally
6 clueless.

7 Melissa Hoeffel: I have a call with them at 11:30, so
8 if you learn anything else or get a couple -- a couple of
9 the legislation, can you let me know?

10 **Q** Matt Borges, owner: Yes.

11 Matt Borges, owner: Language and term sheets aren't
12 ready yet.

13 Matt Borges: Other than, they said they would share --
14 they said they would share with us as soon as they have
15 them. Good first meeting with hall. Unclear how this is
16 going to move forward.

17 **A** Melissa Hoeffel: Anything public about DeWine energy
18 policy?

19 Melissa Hoeffel: Is Michael Hall who FES met with?

20 **Q** Matt Borges, owner: Yes on Hall. No, not yet on
21 policy. Lots of pressure from FE, AEP, renewable standards,
22 setbacks, so they thought -- so thought is to move a
23 comprehensive package and let everyone get a little bit of
24 what they want. Oil and gas groups mobilizing to oppose
25 nuke bailout. Aren't interested in any deals on carbon, et

1 cetera -- or etc. Just want to drive nuclear out of the
2 market?

3 MS. GLATFELTER: All right. Your Honor, and may I
4 pause for one moment to look at my exhibit list? I think I
5 have an exhibit wrong here.

6 THE COURT: Yes.

7 MS. GLATFELTER: Okay. And, Ms. Terry -- Your
8 Honor, if we could publish 203 A, which is in evidence?

9 THE COURT: Yes.

10 **Q** Okay. Agent Wetzels, do you recall what government's
11 203 A is?

12 MS. GLATFELTER: If we can enlarge the first half
13 of the document.

14 **A** Yes. This is a calendar extracted and it was
15 extracted from one of Mr. Householder's phones.

16 MS. GLATFELTER: And, Ms. Terry, if we can view
17 page 11 and enlarge the December 6th, 2017, entry.

18 **Q** Okay. And do you see there a meeting?

19 **A** Yes. It's listed as being December 6th, 2017, subject
20 SLH colon Matt Borges. And that's on that
21 bluesuedeloafers@gmail.com calendar that we've been
22 reviewing for Mr. Householder.

23 **Q** Okay. Let's turn to House Bill 6. Do you recall
24 about when House Bill 6 was introduced?

25 **A** Yes. It was in April.

1 MS. GLATFELTER: All right. And, Your Honor, if we
2 could publish what's been introduced as the timeline, which
3 I believe is Exhibit 6, Ms. Terry.

4 THE COURT: It's admitted into evidence?

5 MS. GLATFELTER: Yes, Your Honor.

6 THE COURT: Yes, you may publish it.

7 **Q** Okay. Agent Wetzel, does that refresh your memory as
8 to the date?

9 **A** Yes. It's April the 12th, House Bill was introduced
10 to the Ohio House.

11 **Q** And are you able to verify that date through an
12 official publication?

13 **A** Yes. There's a -- the session journals again that
14 we've been looking at lists when bills are introduced.

15 MS. GLATFELTER: All right. Your Honor, if we can
16 publish 456, which is the session journal that's been
17 admitted into evidence?

18 THE COURT: Yes.

19 **Q** Agent Wetzel, do you recognize 456?

20 **A** I do. It's the session journal from Friday,
21 April 12th, 2019.

22 MS. GLATFELTER: All right. And if we go to page 2
23 of this, Ms. Terry.

24 **Q** Do you see anything on page 2 that pertains to House
25 Bill 6, Agent Wetzel?

1 **A** Yes. Under the section Introduction of Bills is
2 listed HB N-0 dot 6, Representative Callender comma Wilkin.

3 **Q** And can you put a box around that area of the session
4 journal?

5 **A** (Witness writing.)

6 **Q** Now, Representatives Callender and Wilkin, do you
7 recall those names?

8 **A** Yes. They're Team Householder members.

9 **Q** From 2018?

10 **A** Correct.

11 **Q** Okay. And do you -- let's read this first paragraph.
12 You can skip the numbers, but I'd like you to read the first
13 paragraph for us.

14 **A** To amend sections, followed by numbers, of the Revised
15 Code to create the Ohio Clean Air Program to facilitate and
16 encourage electricity production, and to use from clean air
17 resources to facilitate investment to reduce the emissions
18 from other generating technologies that can be readily
19 dispatched to satisfy demand in realtime, and to proactively
20 engage the buying power of consumers in this state for the
21 purpose of improving air quality in the state. Said bill
22 was considered the first time.

23 **Q** Okay. And so this House Bill would create what type
24 of program?

25 **A** The Ohio Clean Air Program.

1 Q And is that similar to the creation in name only of
2 the legislation that we saw, the drafts of the legislation
3 we just looked at?

4 A Yes, it is.

5 Q Now, during your investigation, did you obtain the
6 publicly available versions of House Bill 6?

7 A I did.

8 MS. GLATFELTER: Your Honor, if we may publish 458
9 A, which has been admitted into evidence?

10 THE COURT: Yes.

11 Q Agent Wetzel, do you recognize 458 A?

12 A Yes. This is how prospective bills are presented.
13 You can see in the top right, there is HB No. 6, so in this
14 case, it's House Bill 6. Also at the very top it's listed
15 as introduced. As various iterations of the bill occur,
16 that will change to basically say this is the version that
17 was introduced, this is what was amended or passed or so on
18 and so you can tell where the bill is in the process from
19 that title. And then to the left, 133rd General Assembly,
20 which is that General Assembly from 2019 to 2020 is listed
21 below. And then it lists in bold below that the
22 representatives when who we just discussed sponsored the
23 bill.

24 Q Okay. So let's just go through the different parts of
25 this first page. Do you see House Bill 6, which became --

1 which will refer to as the name of the legislation?

2 **A** Yes, I do.

3 **Q** And where is that?

4 **A** That's in the top right.

5 **Q** Can you circle that for us, please?

6 **A** (Witness writing.)

7 **Q** Okay. And the sponsors of the bill, are they listed
8 on this first page?

9 **A** Yes, ma'am, they are.

10 **Q** Go ahead and circle that.

11 **A** (Witness writing.)

12 **Q** And do you see that same first paragraph that you read
13 before from the session journal about the creation of the
14 Ohio Clean Air Program, do you see that language on here?

15 **A** Yes. It's under a bill.

16 **Q** And if you can put a box around that language like you
17 did before.

18 **A** (Witness writing.)

19 **Q** Now, you said you obtained various versions of the
20 bill as it went through the process?

21 **A** Yes, that's correct. As a bill moves through the
22 process, there are multiple iterations that are posted on
23 the legislature's website.

24 MS. GLATFELTER: Your Honor, may we publish
25 Exhibit 458 B?

1 THE COURT: Yes.

2 MS. GLATFELTER: Okay. Actually, if we can go back
3 once to the previous version, 458 A.

4 **Q** All right. And do you see the number of pages at the
5 top?

6 **A** 27.

7 **Q** Okay. And now if we go to 458 B, all right, and did
8 the size of this legislation increase over time?

9 **A** Yes. It's 118 pages for this version.

10 **Q** All right. And what version is this of the bill?

11 **A** This is -- as I mentioned at the top, this is the
12 version that's as reported by the House Energy and Natural
13 Resources and I believe it says "Committee," although it's
14 covered by the sticker.

15 **Q** Okay. And do you see the same name?

16 **A** Yes, except now it says: Sub HB No. 6.

17 **Q** Okay. And do you see the same sponsors listed?

18 **A** Yes, I do.

19 **Q** Okay. And what about that language about the creation
20 of a clean air program?

21 **A** It has been changed. So as a bill receives
22 substitutions or amendments, different sections of the Ohio
23 Revised Code, which relate to the numbers, the summary may
24 be changed as the actual substantive language is changed.

25 **Q** Okay. And do you see that language at the bottom, the

1 Ohio Clean Air Program?

2 **A** Yes. That's still there, it's just a little farther
3 down.

4 **Q** Okay. Can you highlight that for us or circle it?

5 **A** (Witness writing.)

6 **Q** All right. The next -- did you obtain another version
7 of this bill?

8 **A** Yes, I did.

9 **Q** And what was -- actually, Your Honor, may I publish
10 458 C, which has been admitted?

11 THE COURT: Yes.

12 **Q** All right. Is this one of the versions that you
13 obtained?

14 **A** Yes. This is the version that was as reported by the
15 House Rules and Reference Committee.

16 **Q** Okay. Same bill number?

17 **A** Yes, that's correct.

18 **Q** Same sponsors?

19 **A** Yes, ma'am.

20 **Q** Okay. And how many pages now?

21 **A** 126.

22 MS. GLATFELTER: All right. The next version, Your
23 Honor, may we publish 458 D, which has been admitted?

24 THE COURT: Yes.

25 **Q** Agent Wetzel, do you recognize this version?

1 **A** Yes. This is the version as passed by the House.

2 **Q** Okay. And same sponsors?

3 **A** Yes. The sponsors are the same although there's an
4 addition of co sponsors now.

5 **Q** Okay. And who are the cosponsors?

6 **A** Representatives Cross, DeVitis, Ghanbari, Hillyer,
7 Jones, Reineke, Seitz, Stein, and Vitale.

8 **Q** Vitale is the person we heard the voicemail from
9 earlier?

10 **A** Yes, ma'am, the same.

11 **Q** Okay. And still the same name of the bill?

12 **A** Correct.

13 **Q** Now, if we --

14 MS. GLATFELTER: Your Honor, if we may publish our
15 timeline again, which is Exhibit 6?

16 THE COURT: Yes.

17 **Q** Okay. If we look at our timeline, Agent Wetzl, in
18 2019, the bill was introduced when?

19 **A** April 12th.

20 **Q** And that version that we just had up on the screen,
21 that was the past version. When did that pass the House?

22 **A** May 29th.

23 **Q** Okay. Approximately, how many weeks or days is that?

24 **A** It's roughly six weeks.

25 **Q** Okay. And did that -- did House Bill 6 then go to the

1 other House of the legislature or the other side of the
2 legislature after it passed the House?

3 **A** Yes. It went to the Ohio Senate.

4 **Q** Okay. And if we look at, Your Honor, may we publish
5 458 E, which has been admitted?

6 THE COURT: Yes.

7 **Q** Agent Wetzel, do you recognize this?

8 **A** I do. This is the version that's as reported by the
9 Senate Energy and Public Utilities, and then again it says
10 "Committee," but that's covered by the sticker.

11 **Q** Okay. And after it went through the Senate committee,
12 was it passed by the Senate?

13 **A** It was.

14 MS. GLATFELTER: Your Honor may we publish 458 F,
15 which has been admitted?

16 THE COURT: Yes, yes.

17 **Q** And can we tell which version this is?

18 **A** Yes. At the top it notes it's the as passed by the
19 Senate version.

20 **Q** This is another version of the bill that you obtained
21 from the House of Representatives?

22 **A** Yes. It's available on the legislature's website.

23 **Q** Okay. Same -- does it have the same sponsors?

24 **A** It does.

25 **Q** And essentially the same name?

1 **A** Yes. Now it's the Amended Sub HB 6.

2 **Q** And finally, after it passed the Senate, was it passed
3 by both the House and Senate and signed into law?

4 **A** Yes, it was ultimately signed into law.

5 MS. GLATFELTER: Your Honor, may we publish 458 G,
6 which has been admitted?

7 THE COURT: Yes.

8 **Q** And would -- do we see on Government's Exhibit 458
9 G -- oh, sorry, that is the wrong version. All right.
10 We'll come back to that.

11 MS. GLATFELTER: I think we have all of the
12 exhibits together in one which was why it was 900 pages.
13 We'll sort that out.

14 **Q** But was the final version of the bill passed?

15 **A** It was.

16 **Q** And if we go back to our timeline, Exhibit 6, and when
17 did it pass both the House and the Senate?

18 **A** The final vote occurred on July 23rd.

19 **Q** And do you have that depicted on your timeline?

20 **A** I do.

21 **Q** Can you show that to us?

22 **A** (Witness writing.)

23 **Q** All right. And how long was that from the time that
24 it was introduced?

25 **A** Approximately, two months.

1 Q Now, as part of your investigation, did you also --

2 A Excuse me, I'm sorry, three months.

3 Q Okay. As part of your investigation, did you also
4 obtain bill analysis and fiscal notes from the legislature?

5 A Yes. So as a bill is passing through the legislature,
6 the legislative service commission prepares information
7 about the bill, sort of reference guides for people to
8 understand what's occurring in the bill.

9 Q All right. And did you review those as exhibits
10 before testifying today?

11 A Yes, I did.

12 MS. GLATFELTER: Your Honor, I'd ask to admit --
13 I'm sorry. I would ask to publish 459 A, which has been
14 admitted?

15 THE COURT: Yes.

16 Q All right. And is this an example of the type of
17 analysis or bill analysis that you were referring to a
18 moment ago?

19 A Yes, it is.

20 Q Okay. Who drafts the bill analysis?

21 A So as I mentioned, it's the Ohio Legislative Service
22 Commission, which you see at the top, or LSC for short, and
23 then they will do an analysis on a version. So the first
24 version we looked at is the as-introduced, and so you'll see
25 listed here it lists version under HB 6, so this is an

1 analysis of the as-introduced version.

2 **Q** And how do you know that it pertains to the bill that
3 we've been talking about?

4 **A** So on the left towards the top, it says HB 6, 133rd
5 General Assembly.

6 **Q** Okay. And does it list the primary sponsors on the
7 bill?

8 **A** It does, just below the version listed under Primary
9 Sponsors, Reps Callender and Wilkin.

10 **Q** Can you circle that part so we know which part of the
11 document you're referring to?

12 **A** (Witness writing.)

13 **Q** Now, I want to talk briefly about the path that House
14 Bill took to passage in the House, okay?

15 **A** Okay.

16 **Q** So, first of all, do you know what committee it was
17 assigned to after it was introduced?

18 **A** Yes. So it went to that subcommittee that we
19 previously discussed, the Energy Generation Subcommittee in
20 the House.

21 **Q** And who makes the assignment to the subcommittee?

22 **A** The Speaker of the House.

23 **Q** And is that through the Rules and Reference Committee?

24 **A** Yes, that's correct.

25 MS. GLATFELTER: Your Honor, may we publish

1 Exhibit 424, which has been admitted into evidence?

2 THE COURT: Yes.

3 Q Okay. This is again the list of committees that we
4 looked at about a half hour ago.

5 A Yes, ma'am.

6 MS. GLATFELTER: If we go to page 18, Ms. Terry.

7 Q Okay. Agent Wetzal, do you see reference to the Rules
8 and Reference Committee at the bottom of the page?

9 A Yes. It's about the bottom third.

10 Q Okay. And who chairs that committee?

11 A Representative Householder.

12 Q And can you circle where you see that on the page?

13 A (Witness writing.)

14 Q And is that why you said before that Speaker
15 Householder assigned it to the subcommittee on energy
16 generation?

17 A Yes.

18 MS. GLATFELTER: Your Honor, permission to publish
19 what has been admitted as 492?

20 THE COURT: Yes.

21 Q Okay. Agent Wetzal, do you recognize what Exhibit 492
22 is?

23 A Yes. This is the session journal for the Ohio House
24 of Representatives from May 29th, 2019.

25 Q Okay. And if we go to page 1 -- I mean, sorry,

1 page 2, will it tell us what happened on Wednesday,
2 May 29th?

3 **A** Yes. So under reports of standing and select
4 committees and bills for second consideration, the standing
5 committee on rules and reference to which were referred sub
6 HB No. 6. And then it lists Representative Callender,
7 Wilkin, having had the same consideration, reports it back
8 as a substitute bill and recommends its passage.

9 MS. GLATFELTER: Okay. If we go to the next page,
10 Ms. Terry.

11 **Q** Okay. Are these different motions and resolutions
12 related to the bill?

13 **A** Yes.

14 MS. GLATFELTER: And if we go to the next page.

15 **Q** All right. And does this tell you the outcome of the
16 vote on the bill?

17 THE WITNESS: Would you mind going back to the
18 previous page for me?

19 MS. GLATFELTER: Looks like this might be a
20 different bill. Hold on.

21 THE WITNESS: Resolution 150.

22 MS. GLATFELTER: Ms. Terry, if we can scroll
23 through to the page on House Bill 6. Keep going. There we
24 go. And then back to page 5. Thank you.

25 **Q** So this is the same day, it is up for a third

1 consideration?

2 **A** Yes, that's correct. This is still the same session
3 journal so we're still talking about Wednesday, May 29,
4 2019.

5 MS. GLATFELTER: And if we continue through the
6 exhibit, Ms. Terry. Okay. Keep going.

7 **Q** Do we see consideration of the bill again?

8 **A** Yes. So the first mention there was that the bill was
9 brought up and placed on the board, but at the end of that
10 section, it noted that there was an informal pass that was
11 taken, which is the bill is basically taken down. And then
12 we see below that the bill was brought back up for
13 consideration.

14 MS. GLATFELTER: All right. And if we go to the
15 next page, Ms. Terry.

16 **Q** And do we see some amendments on this page to the
17 bill?

18 **A** Yes.

19 MS. GLATFELTER: All right. The next page, and the
20 following page. Okay. Keep going.

21 **Q** All right. And, Agent Wetzel, have you reviewed this
22 as well?

23 **A** Yes, I have.

24 **Q** Okay. And what do we see on this page?

25 **A** It reads, the question being shall the motion to amend

1 be agreed to and then there is a motion to do so and then a
2 vote is taken to amend the bill.

3 MS. GLATFELTER: Okay. And the next page, please.

4 **Q** Okay. More amendments?

5 **A** Indeed.

6 MS. GLATFELTER: Okay. Next page, Ms. Terry. And
7 the next page, please.

8 **Q** These are still all of the amendments to the bill on
9 the floor?

10 **A** Correct. And just like with the rules, the text
11 that's being added is underlined and then strike-throughs
12 would be language that would be being removed.

13 MS. GLATFELTER: Okay. And if we can go to
14 page 15, Ms. Terry.

15 **Q** Okay. At the bottom of the page, do we see a vote on
16 the bill?

17 **A** Yes. The question occurring shall the bill pass, is
18 what it reads, and then the yays and nays were taken and
19 resulted yeas 53, nays 43 as follows, and then there's a
20 listing of those who voted in the affirmative.

21 **Q** Okay. We'll come back to votes in terms of the final
22 vote. The final vote is the one that occurs in July,
23 July 23rd, right?

24 **A** Correct.

25 **Q** Okay. So we'll come back to how people voted when we

1 talk about the final vote. But what I want to ask you about
2 is what happened after House Bill 6 passed, were there any
3 celebrations or parties?

4 **A** Yes. Some of the yes members gathered for a private
5 dinner event. I believe it was at Mitchell's in Columbus.

6 MS. GLATFELTER: Your Honor, permission to publish
7 493 A, which has been admitted?

8 THE COURT: Yes.

9 **Q** Agent Wetzel, do you recognize 493 A?

10 **A** Yes. This is a text conversation between Jeff
11 Longstreth and Ty Pine that was recovered from Jeff
12 Longstreth.

13 MS. GLATFELTER: Okay. And if we could go to the
14 message, Ms. Terry.

15 **Q** All right. Now, the date of this message?

16 **A** This is the 29th of May, 2019, the day we were
17 discussing with the Senate journal.

18 **Q** Okay. The day that HB 6 passed the House?

19 **A** Correct.

20 **Q** I'll read the green and then you can read the blue
21 boxes.

22 **A** Yes, ma'am.

23 **Q** Jeff Longstreth: I have 10 to 12 reps plus the
24 Speaker in the back room at Mitchell's having dinner.

25 Jeff Longstreth: All yes votes.

1 **A** Ty Pine: Headed there now.

2 Ty Pine: I received the below text from Nino. Is
3 there a real problem here or is this Nino? The yes votes
4 need help and cover on this as well. The media and many
5 others are dragging people through the mud.

6 And then there's another message. It has what appears
7 to be a Facebook and file link and then a blank message
8 below.

9 **Q** Okay. Mr. Longstreth or Jeff Longstreth says: That's
10 just Nino being Nino.

11 All right. And is there a gap in time in these
12 messages occur later in time?

13 **A** Yes, these occur later.

14 **Q** All right. Did you recover other messages related to
15 the date of the Speaker vote?

16 **A** Yes, I did.

17 **Q** I'm sorry, not the Speaker vote, the House vote on
18 House Bill 6?

19 **A** Correct.

20 MS. GLATFELTER: Your Honor, permission to publish
21 493 B, which has been admitted?

22 THE COURT: Yes.

23 **Q** Agent Wetzel, do you recognize Government's
24 Exhibit 493 B?

25 **A** Yes, I do. It's a text message conversation between

1 Juan Cespedes and Jeff Longstreth extracted from Jeff
2 Longstreth.

3 **Q** Okay. From his iCloud?

4 **A** Correct.

5 **Q** All right.

6 **A** Actually, yes, I believe that's correct.

7 **Q** And at the top does it say extraction report Apple
8 iCloud?

9 **A** Yes, it does.

10 **Q** Can you take a moment to explain to the jury how that
11 works, how we're able to obtain messages like this from
12 someone's iCloud?

13 **A** Certainly. So when you're setting up an Apple iCloud,
14 you may choose to back up certain parts of your phone to the
15 Apple iCloud. Some of the things you may choose to back up
16 are your messages, and if you do so, they're in the
17 possession of Apple and so if we receive them from a search
18 warrant, we can process them and then view them like we
19 could messages on a phone.

20 **Q** And is that why the formatting is similar?

21 **A** Yes. It's the same program that we use for the
22 phones.

23 **Q** Okay. And you said this was between Jeff Longstreth
24 and Juan Cespedes?

25 **A** Correct.

1 MS. GLATFELTER: All right. Ms. Terry, if we can
2 look at the messages on this page.

3 Q All right. I'll review -- or I'll read the green and
4 you can read the blue.

5 Jeff Longstreth: Going to Mitchell's at 7 with some
6 yes votes.

7 A Juan Cespedes: Awesome. I'll meet up.

8 Q Jeff Longstreth: We have a private room.

9 A Juan Cespedes: Okay. Cool.

10 Juan Cespedes, will Callender be there, he wants to
11 meet for a drink later.

12 Q Jeff Longstreth: Invite him.

13 Jeff Longstreth: It's just sort of word of mouth.

14 Jeff Longstreth: We're in the back room.

15 A Juan Cespedes: Thanks, on way.

16 Q Jeff Longstreth: 10 to 12 yes votes, plus SLH is
17 there too.

18 MS. GLATFELTER: Ms. Terry, we can stop.

19 Q I think the rest of the messages pertain to other
20 dates; is that right, Agent Wetzel?

21 A That's my recollection.

22 THE COURT: Would this be a good point to take our
23 mid-morning break?

24 MS. GLATFELTER: Of course, Your Honor.

25 THE COURT: Very well. We're going to take a break

1 for 20 minutes. During the break, no discussion of the case
2 among yourselves or with anyone else, no independent
3 research. Need to keep an open mind. Out of respect for
4 you, we'll rise as you leave and look for you in 20 minutes.

5 THE DEPUTY: All rise for the jury.

6 (Jury exited the courtroom at 11:21 a.m.)

7 THE COURT: Jury has left the room, the door is
8 closing. You can be seated, if you want. As always, we'll
9 wait for notice that the jury has cleared the room before
10 anyone exits the courtroom.

11 Ma'am, ma'am, we're waiting until we're advised that
12 the jurors have cleared the courtroom.

13 THE DEPUTY: All clear.

14 THE COURT: All clear. Break for 20 minutes.
15 Witness not to discuss his testimony.

16 THE WITNESS: Yes, sir.

17 THE DEPUTY: All rise. This court is in recess for
18 20 minutes.

19 (Recess taken from 11:22 a.m. to 11:41 p.m.)

20 THE DEPUTY: All rise. Court is in session
21 pursuant to the recess.

22 THE COURT: Thank you. Please be seated.
23 Government's team is here. Mr. Householder's group is here
24 as is Mr. Borges and his lawyer. Are we ready for the jury
25 from the government's perspective?

1 MS. GLATFELTER: Yes, Your Honor.

2 THE COURT: And from Mr. Householder?

3 MR. GLICKMAN: Yes, Judge.

4 THE COURT: Mr. Borges?

5 MR. SCHNEIDER: Yes, Judge.

6 THE COURT: Very well. Let's call for the jury.

7 (Pause.)

8 THE COURT: Looking to break by 1.

9 MR. GLICKMAN: Yes, Judge.

10 THE DEPUTY: All rise for the jury.

11 (Jury entered the courtroom at 11:46 a.m.)

12 THE COURT: Jurors can be seated as they join us.

13 You may all be seated. Thank you. They're back, all 15

14 jurors. The Court and community and everybody appreciate

15 your hard work. We will continue with the taking of

16 testimony. Ms. Glatfelter, you may proceed.

17 MS. GLATFELTER: Thank you, Your Honor.

18 THE COURT: Very well.

19 **Q** All right. Agent Wetzel, before the break, we were
20 talking about the passage of House Bill 6 from the House?

21 **A** That's correct.

22 **Q** Okay. And after House Bill 6 passed the House, where
23 did it go again?

24 **A** Once a bill passes the House, it then needs to be
25 considered by the state's Senate.

1 **Q** And then if it were to pass the state Senate, then
2 what happens?

3 **A** It depends. If it passes unchanged, then it would go
4 to the governor for signature. If it is changed in the
5 Senate, then, it would have to return to the House for what
6 they would call a concurrence vote essentially seeking
7 agreement on the changes.

8 **Q** And in this particular case, was House Bill changed in
9 the Senate?

10 **A** It was.

11 **Q** Okay. So it had to go back to the House for a final
12 vote?

13 **A** Indeed.

14 **Q** Now, one of the rules that we looked at earlier this
15 morning had to do with the Speaker being able to schedule
16 additional sessions; is that right?

17 **A** Yes, that's correct.

18 **Q** And based on your investigation, does scheduling a
19 vote in late July create any logical challenges for the
20 representatives?

21 **A** It can, yes.

22 **Q** Okay. Such as?

23 **A** Well, generally, there's a schedule that's laid out,
24 and as I mentioned earlier when I was reading the calendar
25 as published on a six-month basis, and so folks make plans

1 based on the calendar, and so if you -- someone might
2 schedule a vacation or a trip or a conference or something
3 around the original calendar, and then if you make a change
4 at the last minute, that could cause scheduling issues for
5 folks.

6 **Q** And based on your receipt of various records in this
7 case, did you learn about a plan to provide transportation
8 to those out of town to ensure yes votes were back to the
9 House for that final vote?

10 **A** Yes, I did.

11 MS. GLATFELTER: All right. Your Honor, may we
12 publish what's been admitted as 518 -- or actually, let me
13 check on that, make sure I don't need to show it to the
14 witness first. I do. Your Honor, may I please show the
15 witness what has been marked as 518?

16 THE COURT: Yes. We'll show the witness and the
17 lawyers.

18 **Q** Okay. Agent Wetzel, do you recall receiving this
19 document?

20 **A** Yes, I do.

21 **Q** Okay. And did you receive it in response to a
22 subpoena?

23 **A** Yes, that's correct. So a subpoena was issued to the
24 Ohio House of Representatives for records related to House
25 Bill 6. This is one of the records that were provided

1 pursuant to that subpoena.

2 **Q** Okay. Does it contain the statement of Mr.
3 Householder?

4 **A** It does. It is an image of a text message.

5 MS. GLATFELTER: Your Honor, I'd ask for
6 permission -- for the admission of 518 and to publish?

7 THE COURT: Any objection?

8 MR. GLICKMAN: I'm having a hard time seeing it on
9 my screen.

10 MR. SCHNEIDER: No objection here.

11 MR. GLICKMAN: No objection.

12 THE COURT: It's admitted. We can show it to the
13 jury.

14 MS. GLATFELTER: Thank you.

15 **Q** Let's talk about the message at the top first and then
16 we can turn -- we can orient it so it's easier to read,
17 okay, Agent Wetzel? Can you tell us how you received this
18 particular document?

19 **A** So this document was received based upon a subpoena to
20 the Ohio House of Representatives for records related to
21 Ohio House Bill 6.

22 **Q** Okay. And this is something you received in response
23 to that?

24 **A** Yes, it is.

25 **Q** Okay. And do you know who Michael Sheehy is?

1 **A** Yes. He was a representative during the time that
2 Ohio House Bill 6 passed.

3 MS. GLATFELTER: Okay. And, Ms. Terry, if we could
4 reorient the text message so we could see it.

5 **Q** And do you see a name at the top -- well, let me start
6 with this, do you see a photo in the middle of your screen?

7 **A** Yes. This is a photograph that was provided.

8 **Q** Okay. And what type of photograph?

9 **A** This is a photograph of the screen of a cell phone.

10 **Q** Okay. And at the top of the screen shot, does it
11 contain a name?

12 **A** Yes. There are the initials LH and then Larry
13 Householder and underneath that mobile.

14 **Q** Okay. And how does the date on this message or this
15 screen shot pertain to the House Bill 6 final vote in July?

16 **A** It is just before.

17 **Q** Okay. And can you read the message to the jury?

18 **A** The state plane has been arranged to come and get you,
19 Tom Brinkman, and Bob Cupp on Tuesday morning at Midway and
20 return you to Chicago that afternoon. Jay Edwards will be
21 calling you.

22 And there's a second message that reads: It will be
23 Jonathon McGee calling as he handled the arrangements.

24 **Q** Okay. And do you know the different names that are
25 mentioned here, Tom Brinkman?

1 **A** Yes.

2 **Q** Okay. And who is that?

3 **A** So the three that are listed are at the beginning are
4 representatives.

5 **Q** All right. And then Jonathon McGee?

6 **A** He was the Chief of Staff we discussed earlier today
7 on the e-mail that we saw.

8 **Q** This was a message that Mr. Householder sent to Mr.
9 Sheehy?

10 **A** Correct.

11 **Q** Now, did you -- during your investigation did you
12 receive other records related to the possibility of a state
13 plane going and picking up yes votes?

14 **A** Yes, I did.

15 MS. GLATFELTER: Your Honor, permission to publish
16 517 A, which has been admitted?

17 THE COURT: Yes.

18 **Q** Agent Wetzel, do you recognize 517 A?

19 **A** Yes. This is an e-mail that was provided to us
20 pursuant to a subpoena to FirstEnergy.

21 **Q** Okay. And who is the e-mail from?

22 **A** It is sent from Michael Dowling.

23 **Q** Okay. And who is it to?

24 **A** It is sent to Mitchell Dowling and Steven Burnazian.

25 **Q** All right. And what's the subject line?

1 **A** Forward external: State airplane sent to Chicago to
2 pick up Ohio House members for HB 6 vote dash news dash the
3 Columbus Dispatch dash Columbus, Ohio.

4 **Q** And what is -- I'm sorry -- the date of this message?

5 **A** The 23rd of July, 2019.

6 **Q** And how does that date correspond to the final House
7 Bill 6 vote?

8 **A** I believe it's the same day.

9 **Q** And what does the message say?

10 **A** It says -- so there's a lower message that's forwarded
11 that's from Michael Dawson to Mike Dowling and Mike Evans
12 and that message is forwarded on. And approved the use of
13 state-owned airplane question mark, um-hmm. Mike Dawson's
14 wife, boom.

15 **Q** Mike Dawson, that's a reference to who?

16 **A** Mike Dawson worked and did some things for FirstEnergy
17 on the government affairs side.

18 **Q** Okay. And the reference to Mike Dawson's wife?

19 **A** It's Laurel Dawson, who worked in the governor's
20 office at that time.

21 **Q** Okay. Now, you said that House Bill 6 was signed into
22 law in July?

23 **A** Correct.

24 **Q** July 23rd?

25 **A** Yes, ma'am.

1 Q And when did the governor sign the bill?

2 A The same day that it passed.

3 Q And the timeline between the introduction on April
4 12th and the passage in July?

5 A Well, about three months.

6 Q Now, Your Honor, permission to publish 516, which has
7 been admitted?

8 THE COURT: Yes.

9 Q Okay. Mr. Wetzel or Agent Wetzel, do you recognize
10 Government's Exhibit 516?

11 A Yes. This is the Ohio House session journal from
12 July 23rd, 2019.

13 Q Okay. And if we scroll through the pages, does it
14 show how different representatives voted on House Bill 6 for
15 that final vote?

16 A Yes, it does.

17 MS. GLATFELTER: And, Ms. Terry, if you would go
18 ahead and scroll through the document for us. Okay. Right
19 there. And the last page, please. Okay. We can go back up
20 to the fourth page. I just wanted to make sure that we were
21 looking at the right vote there.

22 Q All right. Agent Wetzel, do you recognize this page
23 of the document?

24 A Yes. This is the concurrence vote I mentioned. Given
25 that House Bill 6 was altered in the Senate, it required the

1 House to concur is the term that is used, basically agree to
2 the changes.

3 **Q** And, Agent Wetzel, did you spend some time looking at
4 this and comparing it to the 2018 Team Householder chart
5 that you created and also the Speaker vote and general
6 election charts?

7 **A** Yes, I did.

8 **Q** And did you use those to create two graphics for the
9 jury?

10 **A** Yes, I did.

11 MS. GLATFELTER: Okay. Your Honor, permission to
12 show just the witness Exhibit 519?

13 THE COURT: Show it to the witness and the lawyers.

14 **Q** Okay. And Exhibit 519, can you explain that, Agent
15 Wetzel?

16 **A** Yes. This is a series of four columns. On the left
17 is the House District we've been talking about. Each of the
18 members has a House District. And then next to it is a Team
19 Householder member in that district. And then to the next
20 column is who they voted for for Speaker. And then in the
21 right is what their final vote was for Ohio House Bill 6.

22 **Q** Okay. And did you use the various session journals
23 that we have talked about to compile this exhibit?

24 **A** Yes, I did.

25 MS. GLATFELTER: Your Honor, move to admit and

1 publish 519.

2 THE COURT: Any objection?

3 MR. GLICKMAN: No objection.

4 MR. SCHNEIDER: No objection.

5 THE COURT: It's admitted. You may show it to the
6 jury.

7 **Q** Okay. Agent Wetzel, can you describe the different
8 columns to the jury that we're seeing?

9 **A** Yes. So the far left column is the House Districts
10 that we've been talking about by number, they're just in
11 ascending order. And then we have the member's name that
12 corresponds to the district in the second column followed by
13 who they voted for for Speaker. And then the final House
14 Bill 6 vote, whether they voted yes or no for the
15 legislation.

16 **Q** And the final HB vote column, does that correspond to
17 the July 23rd vote that we've been talking about?

18 **A** Yes, it does.

19 **Q** And if we go through the different House Districts
20 that were Team Householder members, how many of them voted
21 for Speaker Householder for Speaker?

22 **A** I Count 22.

23 **Q** Okay. And for the House Bill 6 vote?

24 **A** Oh, I'm sorry, I thought you were asking about the
25 House Bill 6 vote. I counted 22 for the final vote. It

1 would be one more for the Speaker vote.

2 **Q** Okay. And did you also create a different graphic for
3 us to look at regarding the final, the final vote here?

4 **A** Yes, I did.

5 MS. GLATFELTER: Your Honor, permission to show the
6 witness what's been marked as 520?

7 THE COURT: Yes. Show it to the witness and the
8 lawyers.

9 **Q** Agent Wetzel, can you describe this document for us
10 and how you created it?

11 **A** It hasn't yet come up on my screen.

12 **Q** Oh, is it there?

13 **A** No, ma'am. Oh, there it goes.

14 THE COURT: We should see it. It's not yet
15 admitted. It's in front of him.

16 MS. GLATFELTER: Yes. I just wanted to make sure
17 that the agent could see it. He couldn't see it yet.

18 **Q** But now you can, correct?

19 **A** Yes, ma'am, I can.

20 **Q** Can you explain what 520 is and how it was made?

21 **A** Yes. This is a bar chart. It corresponds to members
22 with their House District listed and then you can see a
23 progression that's color recognized listing Team Householder
24 members followed by if they won their primary, then if they
25 won their general, if they voted for Householder for Speaker

1 and if they voted for House Bill 6.

2 **Q** And the difference between 520 and 519 is that this
3 contains the information about the primary and whether they
4 were a member of Team Householder to begin with?

5 **A** That's correct. This is a more full progression
6 through time.

7 MS. GLATFELTER: Your Honor, move to admit and
8 publish Exhibit 520?

9 THE COURT: Any objection?

10 MR. SCHNEIDER: No objection.

11 MR. GLICKMAN: None, Judge.

12 THE COURT: Very well. It's admitted, you can show
13 it to the jury.

14 **Q** All right. Agent Wetzel, can you describe to the jury
15 how to view this document?

16 **A** Certainly. So I would view it from the bottom up. We
17 have listed along the bottom are the name of an individual
18 along with the House District that they are in, and then as
19 you progress up, the folks that have the first dark blue
20 line, they're color recognized, are Team Householder
21 members. They receive a green bar above that if they won
22 their primary. If they then went on to win their general
23 election, they receive a white bar above that. And then if
24 they receive another blue bar above that, they voted for
25 Householder as Speaker. And then there is also a vote for

1 House Bill 6, which is the bright green color at the top.

2 **Q** Okay. And if we look across the graph and we see a
3 green amongst the blue in the Speaker vote column, what does
4 that mean?

5 **A** That just means that they did not complete the blue
6 step that's sort of missing, which is the Householder for
7 Speaker vote.

8 **Q** Okay. And if we look, for example, at Tom Brinkman in
9 House District 27?

10 **A** That's correct, yes. He is missing the Householder
11 for Speaker vote color.

12 **Q** Okay. Because he voted for Ryan?

13 **A** Correct.

14 **Q** All right. And so at the top, you can see the people
15 I guess who were elected who voted for Householder and also
16 House Bill 6?

17 **A** Yes. Those are the Team Householder members that
18 prevailed both in the primary and in the general and then
19 went on to vote for Larry Householder as Speaker and then
20 for House Bill 6.

21 **Q** Now, following the House Bill 6 vote and the passage
22 of House Bill 6 and signature by the governor, did you
23 identify any communications with either FirstEnergy or Mr.
24 Householder celebrating the vote?

25 **A** Yes, I did.

1 MS. GLATFELTER: All right. If we may turn to
2 what's been admitted as 517 B.

3 THE COURT: And publish it?

4 MS. GLATFELTER: Yes, Your Honor. I'm sorry.

5 THE COURT: Yes.

6 **Q** Okay. Agent Wetzel, do you recognize Government's
7 Exhibit 517 B?

8 **A** Yes, I do. This is a text message conversation
9 between Michael Dowling and Chuck Jones. It was recovered
10 by FirstEnergy from Mr. Dowling's iPad.

11 **Q** How does the date of this message relate to the final
12 vote?

13 **A** This is the day that we've been discussing, the 23rd
14 of July 2019.

15 MS. GLATFELTER: And if we can return to the
16 message, Ms. Terry.

17 **Q** All right. I will read the green boxes and you can
18 read the blue boxes, okay, Agent Wetzel?

19 **A** Yes, ma'am.

20 **Q** Michael Dowling, owner: I from Sammy, the House of
21 Delegates is going into session in a few minutes. They are
22 taking up the bill that remove the B and O tax on Pleasants
23 Power Station.

24 Let me pause there. Is Pleasants Power Station, do you
25 know, Agent Wetzel, whether that's in Ohio?

1 **A** It is not.

2 **Q** Okay. Does that pertain to something outside of Ohio?

3 **A** It does.

4 **Q** All right. If you can continue.

5 **A** Charles Jones to Michael Dowling: Any idea what this
6 is worth to Pleasants? Any idea on time of Columbus vote?

7 **Q** Michael Dowling, owner: It's 8 M -- or dollar sign 8
8 M per year to the good for Pleasants.

9 **A** There's a blank message from Chuck Jones to Mike
10 Dowling.

11 **Q** Mike Dowling: For what it's worth, Sammy says John
12 Judge is with him and does a nice job with legislators.
13 I'll tell you that because John Kiani doesn't think John
14 Judge is effective with legislators. I think he's wrong.
15 I'll tell Kiani the same now.

16 Michael Dowling, owner: Justin Biltz and I are at the
17 NARUC and have a planned meeting with BPU President Joe
18 Fiordaliso -- sorry if I'm butchering that name -- in
19 20 minutes. We are on the phone with Jim Fockel now. A lot
20 of customers still out. Hard-hitting storm.

21 **A** Charles Jones to Mike Dowling: I'm hearing the Judge
22 Kiani -- I should say Judge slash Kiani marriage isn't going
23 that well. Predators need to ship Kiani back to Houston and
24 let Judge be CEO. Matt Kimble from Avenue not high on Judge
25 either, but I'm afraid he's forming opinions based on what

1 Kiani is saying too.

2 **Q** Let me stop you there for a moment. John Judge and
3 John Kiani, are those individuals that you identified way
4 back at the beginning of your testimony?

5 **A** Yes. There was a graphic that we showed that had them
6 on there.

7 **Q** Okay. And can you remind us who John Judge and John
8 Kiani are?

9 **A** Yes. John Judge is the CEO of FirstEnergy Solutions,
10 and John Kiani is the chairman of the board.

11 **Q** Okay. Continue. I'm sorry about that.

12 **A** Charles Jones to Mike Dowling: Pass on your thoughts
13 on Judge help in WV and Ohio to Bens when you get the
14 chance.

15 **Q** Okay. Mike Dowling: Boom, congrats. This doesn't
16 happen without CEO leadership.

17 **A** Charles Jones to Mike Dowling: We made a big, and
18 it's with a lot of Is, bet and it paid off. Actually two
19 big bets. Congrats to you and the entire team. See if Mike
20 has any Pappy and we'll all head to Columbus tonight.

21 **Q** Mike Dowling: Huge bet and we played it all right on
22 the budget and HB 6, so we can go back for more, exclamation
23 mark.

24 Mike Dowling: No party tonight. We are going to plan
25 one with the Speaker later.

1 Mike Dowling: You should call the Speaker today.

2 MS. GLATFELTER: We can end there, Ms. Terry.

3 Your Honor, if we may publish 517 D, which has been
4 admitted?

5 THE COURT: Yes.

6 **Q** Agent Wetzel, do you recognize Exhibit 517 D?

7 **A** Yes. This is a text message conversation between
8 Charles Jones and Larry Householder recovered from Charles
9 Jones' iPhone.

10 **Q** Okay. And the date of this message?

11 **A** This is the same day, the 23rd of July 2019, the day
12 that House Bill passed.

13 **Q** If we could continue to the message, I'll read the
14 green and you can read the blue messages.

15 Owner: Thank you for your leadership. Bob and Betty
16 are better off under your watch than they've been for a long
17 time. Let me know when you have time for a quick chat.

18 **A** Larry Householder to Chuck Jones: Absolutely.

19 **Q** Based on your investigation, do you know who "Bob and
20 Betty" are references to?

21 **A** Yes. This is a saying, Bob and Betty Buckeye, who
22 Mr. Jones uses a few times to describe general people in
23 Ohio.

24 **Q** Okay. And you said you obtained bank -- I'm sorry,
25 phone records related to Mr. Householder and Mr. Jones'

1 phone?

2 **A** Yes, I did.

3 MS. GLATFELTER: Okay. If we can publish, Your
4 Honor, what's been admitted as 733?

5 THE COURT: Yes.

6 MS. GLATFELTER: Okay. And if we can go to 726 of
7 2019. It's probably the last page or the second-to-last
8 page.

9 **Q** Agent Wetzel, do you see any phone contacts between
10 Larry Householder and Charles Jones after the passage of
11 House Bill 6?

12 **A** Yes, I do.

13 **Q** Okay. And can you go ahead and circle those that are
14 in July?

15 **A** (Witness writing.)

16 **Q** Agent Wetzel, were any of those of significant
17 duration?

18 **A** Yes. Several days after the text message we just saw,
19 three to be exact, Larry Householder contacts Charles Jones
20 and they talk for 21 minutes and 31 seconds.

21 **Q** Agent Wetzel, a few moments ago, we looked at that
22 text message between Mike Dowling and Chuck Jones that said:
23 Boom, we made two big bets; do you recall that one?

24 **A** I do.

25 **Q** During your investigation, did you find any similar

1 celebratory messages from other clean energy groups?

2 **A** Yes, I did.

3 **Q** From other types of industries?

4 **A** Yes, indeed.

5 **Q** Okay. Now, while HB 6 was pending in either the House
6 or Senate, did Mr. Householder have continuing
7 communications with FirstEnergy?

8 **A** He did.

9 MS. GLATFELTER: And I'd like to go through some of
10 those now. If we may publish what's been admitted as 431 A?

11 THE COURT: Yes.

12 **Q** Okay. Agent Wetzel, do you recognize 431 A?

13 **A** I do.

14 **Q** And what is it?

15 **A** This is a text conversation between Charles Jones and
16 Larry Householder. This one is on January 29th of 2019. It
17 was recovered from Mr. Jones' iPhone.

18 **Q** Okay. And how does that relate to the date that Mr.
19 Householder became Speaker?

20 **A** It's a few weeks after.

21 **Q** And the message?

22 **A** Larry Householder to Chuck Jones: Call please.

23 **Q** Okay. And, Your Honor, if we may publish 431 B?

24 THE COURT: Yes.

25 MS. GLATFELTER: Which has been admitted.

1 Q Do you recognize 431 B?

2 A Yes, this is another text message conversation between
3 Chuck Jones and Larry Householder. This one happens on
4 February 3rd, so a few days after the one we just looked at.
5 It was recovered from Mr. Jones' iPhone.

6 Q And the message?

7 A Larry Householder to Chuck Jones, certain you are
8 already aware, but Asim Haque is resigning from public
9 utilities commission tomorrow so there will be another
10 vacancy. Won't be public until TM.

11 Q Owner: That's good news, exclamation mark.

12 MS. GLATFELTER: Your Honor, if we may publish
13 what's been admitted as 431 C?

14 THE COURT: Yes.

15 Q Agent Wetzel, do you recognize 431 C?

16 A Yes. This is another text communication or group of
17 texts, excuse me, between Larry Householder and Chuck Jones.
18 This one happened on the 12th of February, so about a week
19 after the last one we just looked at. This one was
20 recovered from Mr. Jones' iPhone.

21 MS. GLATFELTER: Ms. Terry, if we may look at the
22 message.

23 Q Okay. Agent Wetzel, I'll go ahead and read the green
24 and you can read the blue. Owner: Hey, I see we have some
25 times tomorrow. Any chance for some just you and me

1 discussion?

2 **A** Larry Householder to Chuck Jones: Sure.

3 **Q** Owner: Okay. I think we have 30. Let's throw the
4 rest out after 20. Or are you available if we can get there
5 early? Scheduled for 2:15-2:45.

6 **A** Larry Householder to Chuck Jones: I'm open from noon
7 to 2:45.

8 **Q** Owner: Okay. We'll try to get there early. I'll
9 text you in the a.m. Thanks, C.

10 **A** Larry Householder to Chuck Jones, letter C, letter U,
11 TM.

12 MS. GLATFELTER: Your Honor, may we publish 431 D,
13 which has been admitted?

14 THE COURT: Yes.

15 **Q** Agent Wetzel, do you recognize 431 D?

16 **A** Yes. This is a calendar entry recovered from
17 FirstEnergy. The title of the event is: 2:15 Speaker Larry
18 Householder.

19 **Q** And the date?

20 **A** It's the 13th of February 2019.

21 **Q** Does this -- is this calendar invite close in time to
22 the text message that we just reviewed?

23 **A** Yes, it is.

24 MS. GLATFELTER: All right. Your Honor, may we
25 publish 431 E, which has been admitted?

1 THE COURT: Yes.

2 Q Agent Wetzel, do you recognize 431 E?

3 A Yes. This is another calendar item recovered from
4 FirstEnergy.

5 Q For the same date?

6 A Yes, it is.

7 Q But different people?

8 A Correct.

9 Q And who's on this calendar invite?

10 A The organizer of this event is Joel Bailey, and the
11 event is titled "Speaker Larry Householder."

12 MS. GLATFELTER: Okay. And, Your Honor, may we
13 publish 431 F, which has been admitted?

14 THE COURT: Yes.

15 Q Agent Wetzel, do you recognize 431 F?

16 A I do. This is an e-mail that FirstEnergy provided
17 pursuant to the subpoena.

18 Q Okay. And who's the e-mail from?

19 A It is from Ms. Anna Lippincott.

20 Q And remind us what her position is.

21 A She works for Jeff Longstreth and JPL & Associates.

22 Q Okay. And who is the e-mail to?

23 A So it lists the two as undisclosed recipients, but in
24 the blind carbon copy is Mike Dowling.

25 Q And that's how you received a copy of the e-mail?

1 **A** Correct. That's how it was provided.

2 **Q** And what is the subject?

3 **A** Speaker Householder State of the State Reception.

4 **Q** The date?

5 **A** The 28th of February, 2019.

6 **Q** All right. And can you read the message, please?

7 **A** Good afternoon and I hope all is well. Speaker
8 Householder asked me to invite you to his intimate state of
9 the state reception this Tuesday, March 5th. The details
10 are as follows: Speaker Householder's state of the state
11 reception, Tuesday, March 5, 2019, 10:00 a.m. dash
12 12:00 p.m., the Ohio Statehouse Speaker ceremonial office.
13 And then bracket, map attached dash at the Rotunda. Take
14 the stairs on the House side. There is a small hallway on
15 the right-hand side which will lead you to the ceremonial
16 office, end bracket. Please let me know if you have any
17 questions or concerns, and we hope to see you next week,
18 exclamation point. Best regards, Anna, followed by her
19 signature block.

20 **Q** And on her signature block, does she list an
21 association with Mr. Householder?

22 **A** She does. On the third line she lists the Friends of
23 Larry Householder.

24 **Q** Is that his campaign account?

25 **A** That is the official campaign account that we

1 discussed that is registered with the State of Ohio.

2 MS. GLATFELTER: All right. Your Honor, if we may
3 publish 431 G, which has been admitted?

4 THE COURT: Yes.

5 Q Agent Wetzel, do you recognize 431 G?

6 A Yes, I do.

7 Q Okay. And what is it?

8 A This is an e-mail that was provided by FirstEnergy.
9 It's from John Kiani to Dave Griffing, Joel Bailey and Juan
10 Cespedes.

11 MS. GLATFELTER: All right. And, Ms. Terry, if we
12 can go to page 2 for a moment. Okay.

13 Q And are there several or are there two e-mails on this
14 document?

15 A Yes. The lower document or the lower e-mail, excuse
16 me, was forwarded with some commentary added by Mr. Kiani.

17 Q Okay. And the lower e-mail, do you recognize the
18 name?

19 A Yes. That was sent by Dave Griffing.

20 Q And what's his e-mail address?

21 A GriffingDL@FirstEnergyCorp.com.

22 Q What's his position at FirstEnergy Corp.?

23 A He works in external affairs. I believe at this time
24 he's the head of external affairs for FirstEnergy Solutions.

25 Q But he has a FirstEnergy Corp. e-mail address?

1 **A** Yes, he does.

2 **Q** Okay. And what does David Griffing write?

3 **A** Guys, John asked for a briefing to prepare for our
4 meeting with DeWine, Larry Householder, Barron, and Randazzo
5 on Tuesday. John K, I am not sure if you are in town on
6 Monday or not. Juan and Joel, I have invited you guys as
7 optional. It would be great to have you, but I understand
8 if you have a conflict. Thanks, Dave.

9 **Q** Okay. And is there a response from Mr. Kiani to Dave?

10 **A** Yes. Hi, Dave, I am in town and will arrive at the
11 office by 4:45 p.m. Can we do the MTG at 5:00 p.m., please?
12 Best, JK, followed by his signature block.

13 **Q** And is this the John Kiani that you were referring to
14 as chairman of the board for FES?

15 **A** Yes.

16 MS. GLATFELTER: Your Honor, may we publish 431 H,
17 which has been admitted?

18 THE COURT: Yes.

19 **Q** Agent Wetzl, do you recognize 431 H?

20 **A** I do. This is a calendar entry that FirstEnergy
21 provided us.

22 **Q** All right. Who's the organizer of this event?

23 **A** The organizer is Charles E. Jones.

24 **Q** Okay. And the date of the event?

25 **A** This is April 2nd, 2019, and the event title is: Hold

1 Larry Householder.

2 **Q** Now, how does this relate to the introduction -- how
3 does this date relate to the introduction of House Bill 6?

4 **A** It's just before.

5 **Q** All right. Days?

6 **A** Approximately, a week.

7 **Q** Thank you.

8 MS. GLATFELTER: If we can publish Exhibit 431 I,
9 Your Honor, which has been admitted?

10 THE COURT: Yes.

11 **Q** Agent Wetzel, do you recognize 431 I?

12 **A** I do. This is a text message conversation between
13 Charles Jones and Larry Householder. It was recovered from
14 Mr. Jones' iPhone.

15 **Q** And what's the date of this message?

16 **A** This is April the 2nd, 2019.

17 **Q** Is that the same date as the calendar entry we just
18 saw?

19 **A** Yes, it is.

20 MS. GLATFELTER: All right. And if we can return
21 to the message, Ms. Terry.

22 **Q** If you can go ahead and read the message.

23 **A** Yes. This is from the 4513 owner: May not get a
24 chance to say it in the meeting, but a strategy on your part
25 could be to assign the AEP generation issues to your

1 generation subcommittee and the economic development and
2 alternative rates issue to public utilities, effectively
3 creating two paths forward with separate debate and
4 timelines.

5 And there's a second message: And nuclear stays
6 separate.

7 **Q** And, again, this is about a week to ten days before
8 the introduction of House Bill 6?

9 **A** Yes. I think it's exactly ten days.

10 MS. GLATFELTER: Your Honor, may we please publish
11 431 J, which has been admitted into evidence?

12 THE COURT: Yes.

13 **Q** Agent Wetzel, what is 431 J?

14 **A** This is another text message conversation between
15 Charles Jones and Larry Householder. This was recovered
16 from Mr. Jones' iPhone.

17 **Q** And what's the date of -- what are the date of these
18 messages?

19 **A** This is May 4th, 2019.

20 **Q** And can you relate that to the introduction of House
21 Bill 6?

22 **A** It's after by a few weeks.

23 MS. GLATFELTER: Okay. And if we can return to the
24 message, Ms. Terry.

25 **Q** I tell you what, if you read the blue boxes, I will

1 read the green.

2 **A** Understood. From Larry Householder to Chuck Jones:
3 As I begin to enter the, quote, "all out war," quote, part
4 of the HB 6 debate, it's important that I know the
5 following, does DB or Perry directly or indirectly receive
6 government subsidies, tax credits or other incentives,
7 question mark?

8 There's a second message, Larry Householder to Chuck
9 Jones: I am shaping argument and want to make certain it
10 doesn't blow up in my face.

11 **Q** The owner: I will double check with the FES finance
12 team, but I'm pretty certain that the answer is no on all
13 fronts. Tried to get DOE to do something but couldn't get
14 any movement out of the White House.

15 **A** Larry Householder to Chuck Jones: I recall that, but
16 I'm trying to make a point that all other zero emissions
17 receive huge incentives while they talk about a bailout dash
18 everyone else has been bailed in.

19 **Q** Owner: Wind slash solar get ITC, PTC, and benefit
20 from REC under the renewable mandates in Ohio. I'll verify
21 a hundred percent, but I think you are spot on with your
22 point.

23 **A** Larry Householder to Chuck Jones: The second API
24 calls out one of my members by name, the mood of the game
25 will change dramatically.

1 **Q** Owner: I thought they already did that.

2 Owner: The answer is no. In USA, the DOE is
3 responsible for spent fuel storage, that's the only thing
4 that we can think of. Set up that way so all spent fuel
5 would be in one location. Parentheses, Yucca mountain
6 parentheses, and under government GOVT security.

7 Owner: But there has been a, dollar sign, 1M WHR
8 surcharge since the beginning of the industry to prefund the
9 DOE obligation.

10 MS. GLATFELTER: Your Honor, permission to publish
11 431 K, which has been admitted into evidence?

12 THE COURT: Yes.

13 **Q** Agent Wetzel, do you recognize 431 K?

14 **A** Yes. This is another text message conversation
15 between Larry Householder and Chuck Jones. It was recovered
16 from Mr. Jones' iPhone.

17 **Q** Okay. And what's the date of this?

18 **A** May 25th, 2019.

19 **Q** And how does that date relate to passage of HB 6 in
20 the House?

21 **A** It's a few days before.

22 **Q** Okay. Passage was what date?

23 **A** The 29th.

24 MS. GLATFELTER: All right. Thank you. If we can
25 return to the message.

1 Q And if you can read the message.

2 A Yes. Larry Householder to Chuck Jones, he sends an
3 attachment. And then the owner replies: Whoever they are,
4 they're pretty smart. Have a great Memorial Day. Thanks
5 for your leadership.

6 Q And the timing of this is when?

7 A Four days before the bill passage.

8 Q Okay.

9 MS. GLATFELTER: Ms. Terry, is there a second page
10 for that message.

11 A This is the attachment that was sent.

12 Q Okay. And can you read the attachment, the message in
13 the attachment?

14 A Yes. Tara 59 writes: Stop at Householder OH and
15 FirstEnergy, and then she is citing a Plunderbund message
16 that says Generation Now, the dark money group that spent
17 \$1 million on helping Householder get elected as House
18 Speaker as of Thursday had bought or -- dot, dot, dot.

19 Q Okay. And if you go back to the message, and upon
20 reading that, Mr. Jones' response is what?

21 A Whoever they are, they're pretty smart. Have a great
22 Memorial Day, thanks for your leadership.

23 MS. GLATFELTER: All right. Your Honor, may we
24 publish 431 L, which has been admitted?

25 THE COURT: Yes.

1 **Q** Okay. And who is -- do you recognize 431 L, Agent
2 Wetzel?

3 **A** Yes. This is another text message conversation
4 between Chuck Jones and Larry Householder. This one
5 occurred on May 29th, 2019.

6 **Q** How does that relate to the passage of House Bill 6 in
7 the House?

8 **A** It's the day that it passed.

9 **Q** Okay. And what's the message from Mr. Jones?

10 **A** Mr. Jones' messages reads, leadership matters, Ryan
11 Smith is a dick and embarrassing himself. Thank you.

12 **Q** All right. Is that the only message?

13 **A** I believe so.

14 MS. GLATFELTER: And, Your Honor, permission to
15 publish 431 M, which has been admitted?

16 THE COURT: Yes.

17 **Q** And do you recognize 431 M, Agent Wetzel?

18 **A** Yes. This is another text message conversation
19 between Larry Householder and Chuck Jones. This was
20 recovered from Mr. Jones' iPhone.

21 **Q** Okay. And the date of this message?

22 **A** It is May 31, 2019.

23 **Q** Okay. And how does that relate to the passage of
24 House Bill 6 in the House?

25 **A** Two days after.

1 MS. GLATFELTER: Okay. Thank you. If we can
2 return to the message.

3 **Q** And if you can go ahead and read the blue boxes?

4 **A** Larry Householder to Chuck Jones, there is a JPEG
5 image that's sent.

6 And then below, Larry Householder to Chuck Jones: FES
7 should sue. I believe there are protections for companies
8 in bankruptcy from competitors using media to attempt to
9 gain an advantage.

10 **Q** Chuck Jones: I will pass on, but you should know that
11 this is factually inaccurate. Davis-Besse will close if
12 nothing is done for certain. PJM has not even conducted
13 passage options beyond 2021, so how anyone could suggest in
14 profitability analysis through 2028 is valid is ridiculous.
15 Organizations like API can get away with unscrupulous
16 activity. Companies like ours and FES need to be
17 fact-based.

18 **A** Larry Householder to Chuck Jones: I knew it was an
19 accurate dash that's why they should sue the bastards.

20 **Q** Chuck Jones: FES is going to look at all of the legal
21 options. You going to be in recess in July. Any interest
22 in Home Run Derby, MLB All Star Game or both July 8th
23 through 9?

24 **A** Larry Householder to Chuck Jones: Absolutely.

25 MS. GLATFELTER: May we publish 431 N, which has

1 been admitted?

2 THE COURT: Yes.

3 **Q** Do you recognize 431 N, Agent Wetzel?

4 **A** Yes. This is another text message conversation
5 between Chuck Jones and Larry Householder. It was recovered
6 from Mr. Jones' iPhone.

7 **Q** Okay. And the date of this message?

8 **A** This is June 19th, 2019.

9 **Q** Okay. And what's happening to House Bill 6 at this
10 time?

11 **A** So it had pass the House, and so at this time it is in
12 the Senate for consideration, the Ohio Senate I should say.

13 **Q** Thank you, Agent Wetzel.

14 All right. As we look at the message, I'll go ahead
15 with the green boxes and you can read the blue boxes.

16 Owner: He did a nice job. Need the Senate to grow some
17 you-know-what. Jeff called about All Star tickets and I'll
18 get him covered. How many should I hold for you?

19 **A** Larry Householder to Chuck Jones: I'm not going to be
20 able to attend. Too much catch-up work left to do.

21 **Q** Owner: Sorry to hear. You're working too hard.

22 **A** Larry Householder to Chuck Jones: Loving every
23 minute.

24 **Q** All right. I think we can skip down to the blue
25 message.

1 **A** Larry Householder to Chuck Jones: The Senate has
2 procrastinated so bad, we have the operating budget, HB 6
3 and workers' comp. budget all in conference next week. Good
4 need is I'm taking July off for the most part.

5 Larry Householder to Chuck Jones: First couple of
6 weeks I'll be straightening out some business issues and the
7 rest is play time.

8 **Q** Owner: You've earned some time off. We've got a bad
9 decision out of the Supreme Court today. Nothing is easy.

10 **A** Larry Householder to Chuck Jones: I heard.

11 MS. GLATFELTER: Okay. And, Your Honor, if we may
12 publish 431 O, which has been admitted?

13 THE COURT: Yes.

14 **Q** Agent Wetzel, do you recognize 431 O?

15 **A** Yes. This is another text message conversation
16 between Larry Householder and Chuck Jones. This was
17 recovered from Mr. Jones' iPhone.

18 **Q** Okay. In terms of timing, what is the date of these
19 messages?

20 **A** It's June 23rd, 2019.

21 **Q** Okay. Is House Bill 6 still in the Senate at this
22 time?

23 **A** Yes, it is.

24 **Q** Thank you. And if we can return to the message, you
25 can go ahead and read the blue boxes.

1 **A** Larry Householder to Chuck Jones: This would be a
2 very good time for governor to show support for HB 6. I
3 know the LG is a little punchy about it because he helped
4 pass threes mandates, but DEW should use the situation to
5 LEAD.

6 **Q** Is "lead" in all caps?

7 **A** It is.

8 **Q** Okay. Owner: I will work on it.

9 **A** Larry Householder to Chuck Jones: He's made
10 supportive public statements but have been fairly reserved.

11 Larry Householder to Chuck Jones: Of course, the
12 administration could be talking about the importance to
13 national security.

14 **Q** Okay. And if we may publish 431 P, which has been
15 admitted, Your Honor?

16 THE COURT: Yes.

17 **Q** Do you recognize 431 P, Agent Wetzel?

18 **A** Yes I do. It is a text message conversation between
19 Chuck Jones and Larry Householder. This one was also
20 recovered from Mr. Jones' iPhone.

21 **Q** And the timing of this?

22 **A** This is the 27th of June 2019.

23 **Q** Okay. A few days after the previous message?

24 **A** Yes, ma'am, it is.

25 MS. GLATFELTER: Ms. Terry, if we can return to the

1 message.

2 **Q** I'll read the green boxes. Owner: What time will you
3 be at St. Ed's tonight -- or ST Ed's tonight?

4 **A** Larry Householder to Chuck Jones: I'm unable to go.
5 House slash Senate negotiations are occurring. I sent a
6 resolution for Mikey and my condolences with Ed Patton.

7 **Q** Owner: Okay. I'll give them your thoughts also.
8 Negotiate hard. Ten years into decoupling back end,
9 exclamation.

10 **A** Ten years, question mark.

11 Larry Householder to Chuck Jones: John Judge told me
12 dollar sign 148 M for six YRS was what was necessary.

13 **Q** Owner: I was told you knew about it. They fucked up.
14 You'll be fighting the same issue in five years because they
15 will not be able to take it public without more years.

16 **A** Larry Householder to Chuck Jones: UGH, comma, that
17 adds, dollar sign, 600 M.

18 **Q** Owner: Husted called me two nights ago and was
19 supposed to get it into the Senate version.

20 **A** Larry Householder to Chuck Jones: He's not a
21 legislator.

22 **Q** Owner: I know, but he said Senate leaders would
23 listen. He didn't deliver. No increase in bills, just
24 longer period. You don't have to deal with this twice as
25 Speaker.

1 Even if ten years, it's less than half of what NY all
2 and NJ did. Try to thread the needle too closely and you
3 may give money to creditors and still lose the plants in six
4 years.

5 **A** Larry Householder to Chuck Jones: NY and NJ expanded
6 their mandates. Also much higher, dollar sign, dollar sign.

7 **Q** Owner: If you can't do it, I understand, but
8 unfortunately, I know that business -- that business better
9 than them. This ZEN bill we had two years ago was as low as
10 what would work, dollar sign, 140 hyphen 150 M, ten years,
11 and both capacity and energy crisis have fallen since then.

12 **A** Larry Householder to Chuck Jones: I understand, dash,
13 well, first, we need Senate to come up with a legitimate
14 bill. They are not there yet and aren't talking with the
15 House sponsors.

16 MS. GLATFELTER: And, Ms. Terry, if we can return
17 to the first page. There are a couple of names I want to
18 ask Agent Wetzl about and some items.

19 **Q** Do you understand or do you know what the reference to
20 ten years is that they're discussing based on your
21 investigation?

22 **A** Yes. That's the duration of the subsidy in House Bill
23 6.

24 **Q** And did the duration of the subsidy fluctuate as it
25 made its way through the legislature?

1 **A** Yes, it did.

2 **Q** And then the reference to decoupling, have you heard
3 the term "decoupling" before?

4 **A** Yes, I have.

5 **Q** And what does decoupling refer to based on your
6 investigation?

7 **A** Yeah. This is a mechanism that was ultimately
8 implemented by -- or in House Bill 6, I should say. This
9 essentially disconnected revenue for the FirstEnergy
10 Corporation from the amount of usage. And so it created a
11 guaranteed amount of income for the company year over year
12 independent of the amount of electricity used by the
13 customers.

14 MS. GLATFELTER: Now, if we go to page 2, Ms.
15 Terry.

16 **Q** You see the name --

17 MS. GLATFELTER: If we can expand the top half of
18 the message down to the second green box. Thank you.

19 **Q** Do you see the reference to John Judge at the top?

20 **A** Yes, I do.

21 **Q** Okay. And how does he relate to FES, if at all?

22 **A** He is the CEO.

23 **Q** And do you see a reference to a name Husted at the
24 bottom?

25 **A** I do.

1 **Q** Who is that a reference to?

2 **A** That's Jon Husted, who's the lieutenant governor of
3 Ohio.

4 MS. GLATFELTER: Okay. And, Your Honor, if we may
5 publish 431 Q, which has been admitted?

6 THE COURT: Yes.

7 **Q** All right. Agent Wetzel, do you recognize 431 Q?

8 **A** Yes. This is a text message conversation between
9 Michael Dowling and Charles Jones. It was recovered from
10 Mr. Jones' iPhone.

11 **Q** And the date of this message exchange?

12 **A** This is June 27th, 2019.

13 **Q** Close in time to the other messages we've been
14 reviewing?

15 **A** Yes, ma'am.

16 MS. GLATFELTER: Ms. Terry, if we can see the
17 message.

18 **Q** And let's go ahead and read these as we have before.

19 **A** Michael Dowling to Chuck Jones: As to a potential
20 conference between the House and Senate, dash, it's most
21 always three from the House and three from the Senate.
22 Majority party gets two and minority party gets one.
23 Usually, but not always, members come from the committee
24 that considered the bill.

25 **Q** Owner: Saundra Williams as D from the Senate,

1 question mark.

2 **A** Michael Dowling to Chuck Jones: Probably. She's the
3 top-ranking minority on the committee.

4 Michael Dowling to Chuck Jones: PLS let me know if
5 you have 5 mins.

6 **Q** Attaching a screen shot of some type -- actually
7 several.

8 MS. GLATFELTER: If we can go to the next page.

9 **Q** Owner: Even if ten years, it's less than half of what
10 NY all and NJ did. Try to thread the needle too closely and
11 you may give money to creditors and still lose the plants in
12 six years.

13 Below that, last message back to him, two screen shots.

14 Okay. And are the screen shots that were referenced in
15 these messages attached here.

16 **A** Yes. These are the screen shots that were sent in
17 that text message thread.

18 **Q** Okay. And do you recognize the content of these
19 screen shots?

20 **A** Yes. This is the conversation that we just looked at
21 between Mr. Jones and Mr. Householder.

22 MS. GLATFELTER: Okay. And if we go back to the
23 beginning of this text message exchange, Ms. Terry, on
24 page 1. I'm sorry, go to page 2. All right.

25 **Q** And so what's happening with these screen shots that

1 are being attached from the prior conversation with Mr.
2 Householder?

3 **A** So Mr. Jones -- excuse me -- is taking a photograph of
4 the conversation and then sending that photograph to
5 Mr. Dowling.

6 **Q** So he's informing Mr. Dowling of the conversation he
7 just had with Mr. Householder?

8 **A** That's correct.

9 MS. GLATFELTER: Okay. Your Honor, if we can
10 publish 431 R, which has been admitted?

11 THE COURT: Yes.

12 **Q** Do you recognize 431 R?

13 **A** Yes. This is a text message conversation between
14 Chuck Jones and Larry Householder. It comes from Mr. Jones'
15 iPhone.

16 **Q** Okay. What's the date of this message or these
17 messages?

18 **A** This is the 15th of July 2019.

19 **Q** Okay. And what, if anything -- what of any
20 significance if any happens in July?

21 **A** This is about a week before the final passage.

22 MS. GLATFELTER: All right. Ms. Terry, if we can
23 return to the messages.

24 **Q** All right. I'll read the green messages, Agent
25 Wetzels, and you can read the blue.

1 Owner: We are trying to get Gov to make a call to
2 Obhof. Didn't want to put you on the spot in a meeting.
3 Don't want to deal with this again with two years left in my
4 second term. Would consider it a personal favor if you
5 extend to at least eight years, close quote. Just an FYI.
6 We'll see.

7 **A** Larry Householder to Chuck Jones: K.

8 **Q** All right. Do you recognize the name Obhof in this
9 message?

10 **A** Yes. At this time he served as the Ohio Senate
11 President, so he's the leader of that body, the way the
12 Speaker of the House is the leader of the House of
13 Representatives.

14 **Q** And is "gov" an abbreviation for, for what?

15 **A** Governor.

16 **Q** And so the message is what?

17 **A** The message says we are trying to get governor to make
18 a call to Obhof, who's the Senate President, and then
19 there's a quotation of the message.

20 **Q** Okay. Thank you, Agent Wetzel.

21 Now, did you also recover another set of messages
22 related to contact with Mr. Householder from Mr. Cespedes'
23 phone?

24 **A** Yes, I did.

25 MS. GLATFELTER: Your Honor, permission to publish

1 432 A, which has been admitted into evidence?

2 THE COURT: Yes.

3 Q Okay. And just to reorient ourselves here, do you
4 recognize the type of document that 432 A is?

5 A Yes. This is an Apple phone extraction. So this is
6 something that we used a program to take the text messages
7 off of the device. In this case the device that's listed as
8 owner is Mr. Cespedes, so it came off of his phone.

9 Q Okay. And this particular text message exchange is
10 between Mr. Cespedes and whom?

11 A Pat Tully, who we discussed before.

12 Q In what context did we discuss him before?

13 A He was the staff person who was doing energy policy at
14 that time for the House Republican caucus.

15 Q Okay. And the message that we saw earlier pertaining
16 to him was about what?

17 A So the earlier message we looked at was Ty Pine
18 sending his resume to Jeff Longstreth, who then passed that
19 along to the deputy chief of staff and the chief of staff
20 for Mr. Householder.

21 MS. GLATFELTER: Okay. And if we can return to the
22 message, Ms. Terry.

23 Q And if you go ahead and read the blue boxes, I'll read
24 the green.

25 A From Pat Tully, Juan, this is Pat. And it was great

1 to meet you. Let me know what time works this week.

2 Thanks.

3 And then later, following day: Juan, I am going to
4 try to make it to the Perry portion of the tour on Friday.
5 Do you have any more details on time and place? I'll be
6 driving from Columbus.

7 **Q** Juan Cespedes: Perry starts at 10:00 a.m. You'll be
8 out by noon.

9 Agent Wetzel, do you recognize what Perry refers to,
10 based on your investigation?

11 **A** Yes. Perry is one of the two nuclear plants that were
12 subsidized by House Bill 6. It was the Davis-Besse and
13 Perry nuclear plant.

14 **Q** Okay. So at this time, do you know, is Mr. Tully
15 working for the House of Representatives?

16 **A** At this time, I believe he is.

17 **Q** Okay. And that's after Mr. Pine had sent his resume
18 to Jeff Longstreth?

19 **A** That's correct.

20 MS. GLATFELTER: Your Honor, if we may publish 432
21 B, which has been admitted?

22 THE COURT: Yes.

23 **Q** Agent Wetzel, do you recognize 432 B?

24 **A** Yes, I do. This is a text message conversation
25 between Juan Cespedes and Lori Herf. This conversation was

1 recovered from Mr. Cespedes' iPhone.

2 **Q** Do you know who Lori Herf is?

3 **A** Yes. I believe she was identified in the text message
4 conversation we looked at earlier. She was lobbying on
5 behalf of FirstEnergy Solutions.

6 MS. GLATFELTER: Okay. If we can return to the
7 message, Ms. Terry.

8 **Q** Okay. If you read the blue boxes, I'll read the
9 green.

10 **A** Lori Herf: Were you on the call for the discussion of
11 school funding, question mark.

12 And then just after that: Sorry I was late, but I got
13 the invite 12 minutes into the call.

14 **Q** Juan Cespedes: I was on the phone entire time?

15 **A** Lori Herf: Okay. Good. Then, do you want to reach
16 out to the Speaker's office about the impact of the loss of
17 tax to the local school district on statewide school
18 funding, question mark.

19 **Q** Juan Cespedes: Yes.

20 Juan Cespedes: I speak to them almost every day at
21 this point.

22 And, Agent Wetzel, what is the date of that message
23 where he says I speak to them every day at this point?

24 **A** This is February 25th, 2019.

25 **Q** And how does that relate to the introduction of House

1 Bill 6?

2 **A** It's a little less than two months before.

3 **Q** Okay. And what about to when Mr. Householder became
4 Speaker?

5 **A** It's a little more than a month after.

6 **Q** Okay. Continue.

7 **A** Lori Herf: I figured. Just wanted to make sure we
8 close the loop.

9 **Q** Juan Cespedes: Thanks.

10 MS. GLATFELTER: Your Honor, if we may publish 432
11 C, which has been admitted?

12 THE COURT: Yes.

13 **Q** Agent Wetzel, do you recognize 432 C?

14 **A** Yes, I do. This is a text conversation between Juan
15 Cespedes and Matthew Borges. It was recovered from
16 Mr. Cespedes' iPhone.

17 **Q** All right. And I guess we'll see the date in a moment
18 here. And the date of this -- these messages?

19 **A** This is April 1st, 2019.

20 **Q** Okay. About two weeks before the introduction of
21 House Bill 6?

22 **A** Indeed.

23 **Q** All right. If you can go ahead and read the blue
24 messages.

25 **A** Matthew Borges: When are you back?

1 Q Juan Cespedes: I'm in Akron today.

2 A Matthew Borges: Nice.

3 Q Juan Cespedes: You need to talk, question mark?

4 A Matthew Borges: No. I just heard you were off on one
5 of your junkets.

6 Q Juan Cespedes: Who said that?

7 A Matthew Borges: Monus.

8 Q Juan Cespedes: I was only gone for 48 hours.

9 A Matthew Borges: He thought everyone was off to
10 Kartanegara last weekend.

11 Q Mr. Cespedes: No. I was in Medland Friday night but
12 got back last -- last night.

13 Juan Cespedes: I can't even take a legit trip right
14 now because of this FES project, LOL.

15 A Matthew Borges: Sweet. Let me know when you have
16 time to catch up generally. We still expecting a bill this
17 week, question mark?

18 Q Juan Cespedes: I did not tell FES I was out this
19 weekend, so please don't mention it. I'm very conscious of
20 not getting the impression I'm out of pocket. Are you --
21 let's see. Are you letter U in OFC this week, question
22 mark?

23 A Matthew Borges: Don't worry, I won't.

24 Q Juan Cespedes: I hope we get a bill. I'm waiting for
25 Tully to get me the language. The transportation bill is

1 screwing us right now.

2 Juan Cespedes: I spoke to him this a.m. period. He is
3 going to give it to me as soon as Speaker approves it.

4 MS. GLATFELTER: Your Honor, if we may publish 432
5 D, which has been admitted?

6 THE COURT: Yes.

7 **Q** Agent Wetzel, do you recognize 432 D?

8 **A** Yes, I do.

9 **Q** Okay. And there are a couple of participants on this
10 text message exchange, it appears. Can you identify those?

11 **A** Yes. Juan Cespedes, Dave Griffing, John Kiani, John
12 Judge, Matthew Borges, and a number ending in 4030.

13 MS. GLATFELTER: All right. If we can return to
14 the message. Thank you, Ms. Terry.

15 **Q** I'll go ahead and read the green and you can read the
16 blue boxes. Mr. -- or Juan Cespedes: The Speaker has
17 backed off any plans to introduce a nuke only bill today.
18 He is now much more comfortable with the two-week process
19 that has been put in place and is already engaged in
20 discussions with Obhof, ABT. Next steps?

21 **A** Dave Griffing: Thanks, Juan. I have the draft from
22 Calfee ready for internal review.

23 **Q** Okay. And, Agent Wetzel, can you orient us to the
24 time period of this message?

25 **A** Yes. This is June 2019. This is when the bill is in

1 the Senate for consideration. When I say "the bill," I mean
2 House Bill 6.

3 **Q** So it's already passed the House at this point?

4 **A** That's correct.

5 **Q** But according to this message, Mr. Householder is
6 still involved in the process?

7 **A** Yes.

8 MS. GLATFELTER: Okay. We can continue. I think
9 that's the end of the message, Ms. Terry.

10 Your Honor, if we may publish 432 E, which has been
11 admitted?

12 THE COURT: Yes.

13 **Q** Agent Wetzel, do you recognize 432 E?

14 **A** Yes, I do.

15 **Q** And who are the parties to this document?

16 **A** This is a text message conversation from Juan
17 Cespedes' iPhone that is between Juan Cespedes and John
18 Kiani.

19 **Q** And if we pause here for a moment, what is the
20 relationship based on your investigation, did you determine
21 between Mr. Cespedes and Mr. Kiani?

22 **A** So Mr. Kiani is, as I mentioned, the executive
23 chairman. He's the head of the board at FES. And Juan
24 Cespedes is doing the government affairs, lobbying relations
25 work for FES at that time.

1 **Q** And based on your review of records involving
2 communications and phone records, how frequently were
3 Mr. Cespedes and Mr. Kiani in contact?

4 **A** They were in contact very frequently.

5 **Q** Sometimes daily?

6 **A** Yes.

7 MS. GLATFELTER: Okay. If we can go ahead and look
8 at the message, Ms. Terry.

9 **Q** Juan Cespedes: Did you land yet?

10 **A** John Kiani: Nope. The eagle lands in one hour.

11 John Kiani: You need anything or want me to call when
12 I land? HT make a booty call and you don't know what to do,
13 question mark?

14 **Q** If HT showed up on my front door, I would call the
15 cops.

16 **A** And then John Kiani sends a blank message.

17 **Q** Juan Cespedes: Just an FYI, Chuck Jones called the
18 Speaker today and amongst other things reinforced the ten
19 years. It was helpful because I've been pounding them with
20 it and it's good for them to also hear it from someone else.

21 **A** John Kiani: Great.

22 **Q** Juan Cespedes: I just got off the phone with the
23 Speaker's proxy. He says that the Speaker is going to try
24 to engage the governor to motivate the Senate on the budget
25 slash HB 6 to speed up the process. Senate and House

1 bill -- Senate and House still bickering on budget language.

2 **A** John Kiani: Great. Thanks.

3 John Kiani: TY. We have to tread V carefully here.

4 And then below that, John Kiani: Wrong text.

5 **Q** Juan Cespedes: LOL.

6 **A** John Kiani: That was for Griff and Steven.

7 **Q** Juan Cespedes: I was like WTF, question mark,
8 exclamation.

9 **A** John Kiani: We talking about the language.

10 MS. GLATFELTER: Your Honor, may we publish 432 F,
11 which has been admitted?

12 THE COURT: Yes.

13 **Q** Agent Wetzel, do you recognize 432 F?

14 **A** Yes. This is a text message conversation between Juan
15 Cespedes and Michael Dowling.

16 MS. GLATFELTER: Okay. And, Ms. Terry, can we see
17 the rest of the message?

18 **Q** And what time period is this?

19 **A** This is July 17, 2019.

20 **Q** Okay. And can you relate that to the final vote for
21 House Bill 6?

22 **A** Yes. It's about a week before, six days.

23 **Q** Juan Cespedes: You around for a quick call?

24 **A** Michael Dowling: Yes.

25 **Q** Ring me.

1 **A** Michael Dowling: I'll call you back.

2 **Q** Juan Cespedes: Just going to need some help with
3 Kiani tonight from you and Chuck. Thanks. They are coming
4 back August 1st from what I'm being told. Let me know if
5 someone gets to Kiani tonight. He is despondent.

6 **A** Ty and I spoke with him at length. Ty talked to
7 Speaker and Speaker is going to call John.

8 **Q** I put in motion also. Thanks.

9 **A** Michael Dowling: Did the Speaker and John speak last
10 night?

11 **Q** Juan Cespedes: No. That will happen later this
12 morning.

13 Juan Cespedes: The conversation has taken place. He
14 said -- he said is making follow-up calls now to his fellow
15 investors.

16 **A** Michael Dowling: Did the Speaker all but promise to
17 get the bill approved dash and when?

18 **Q** Juan Cespedes: He assured him it will get done and he
19 said 8/1 was the worst case scenario. Jay Edwards is
20 checking to see if there are dates people can come back
21 earlier.

22 Mr. Cespedes -- or Juan Cespedes: Speaker asked to
23 give him until Friday to get a better sense of timing.

24 **A** Michael Dowling: Great.

25 **Q** Juan Cespedes: Thanks for all UR help on containing

1 the situation. I'm in a better place today but last night
2 was rough.

3 MS. GLATFELTER: Your Honor, permission to publish
4 432 G --

5 THE COURT: Yes.

6 MS. GLATFELTER: -- which has been admitted?

7 **Q** Agent Wetzel, do you recognize 432 G?

8 **A** Yes. This is a text message conversation between Juan
9 Cespedes, Dave Griffing, and Jason Mauk.

10 **Q** And the last individual, Jason Mauk, do you recognize
11 that name?

12 **A** Yes, ma'am, I do.

13 **Q** And who is Jason Mauk?

14 **A** This is someone based on the investigation that we
15 learned that FES brought on to assist specifically with
16 advocating for House Bill 6 while it was in the Senate.

17 **Q** So a lobbyist of sorts?

18 **A** Yes.

19 MS. GLATFELTER: Okay. Ms. Terry, if we can see
20 the rest of the message.

21 **Q** Mr. Cespedes: Speaker and Kiani spoke this morning.
22 The conversation went well. Speaker was very reassuring and
23 said 8/1 is worst case scenario. We will have a better
24 sense of true date by Friday.

25 **A** Dave Griffing: Picking him up now.

1 Dave Griffing: Will have him in my car, so watch your
2 texts.

3 MS. GLATFELTER: All right. Your Honor, permission
4 to publish Exhibit 716 B, which is in evidence?

5 THE COURT: Yes.

6 **Q** Agent Wetzel, did you obtain Mr. Householder's phone
7 records from around this time period that the message was
8 from?

9 **A** Yes.

10 **Q** So July 2019?

11 **A** Yes.

12 MS. GLATFELTER: And if we turn to -- that can't be
13 right. If we turn to July 18th, which should be towards the
14 end here, Ms. Terry. I say that can't be right because I
15 have page 75 written down but the exhibit is only 24 pages.

16 All right. Your Honor, I know we were going to break
17 at 1:00 and I see this would be a very good time so I could
18 find the right page.

19 THE COURT: Now?

20 MS. GLATFELTER: Yes.

21 THE COURT: Very well. Members of the Jury, we're
22 going to break now, and I'm going to send you home for the
23 day. There are matters I need to address. It's my fault.
24 So if you're mad that you didn't get to stay for the balance
25 of the afternoon, blame it on me. And just be aware, just

1 because this is Groundhog Day does not mean that this is
2 going to happen on a regular basis.

3 During your time at home and away from the courthouse,
4 same rules. Take a break. Don't discuss the case even
5 among yourselves or with anyone else. Must not conduct any
6 independent research about the trial or read, list to or
7 watch any news reports of the trial. You may not check out
8 or use Google, Facebook, Twitter, et cetera, to find
9 information about any aspect of the case. And, finally,
10 remember that it's especially important for you to continue
11 to keep an open mind until you have heard all of the
12 evidence. I hope you have a good afternoon and I hope you
13 have a good evening. We'll anticipate you'll be at your
14 spot at 9:15 tomorrow so that we can try to get you in the
15 courtroom at 9:30 tomorrow.

16 With that, you are free to go for the day. You can go
17 upstairs, have lunch or take it with you, but we'll see you
18 tomorrow morning. Out of respect for you, we'll rise as you
19 leave.

20 THE DEPUTY: All rise for the jury.

21 (Jury exited the courtroom at 1:01 p.m.)

22 THE COURT: Jury has left the room. You can be
23 seated, if you wish. As always, we're going to stay in the
24 courtroom until the jury clears the floor and then we'll
25 break until tomorrow morning.

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I N D E X

EXAMINATIONS

GOVERNMENT'S WITNESSES

PAGE

BLANE WETZEL

Direct Exam (Cont.) by Ms. Glatfelter

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GOVERNMENT'S EXHIBITS

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