

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

----- x
IN THE MATTER OF THE INDEPENDENT
INVESTIGATION UNDER EXECUTIVE
LAW 63 (8)
----- x

VIRTUAL ZOOM INVESTIGATION
June 10, 2021
9:00 a.m.

VIDEO RECORDED INTERVIEW of LINDA LACEWELL, taken by
First Deputy Attorney General of the New York Attorney
General's Office in the above-entitled action, remotely
held via Zoom before Sara K. Killian, a Registered
Professional Reporter, Certified Court Reporter and Notary
Public of the State of New York.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

CLEARY GOTTLIEB STEEN & HAMILTON, LLP
Attorneys for the New York State Attorney
General's Office
One Liberty Plaza
One Liberty Place
New York, New York 10006

BY: ABENA MAINOO, ESQ.
JENNIFER KENNEDY PARK, ESQ.
JOON R. KIM, ESQ.
YE EUN CHUN, ESQ.

ALSO PRESENT:

MARCO SOZIO, Veritext Videographer
ADAM H. SCHUMAN, ESQ., Perkins Coie, LLP
RACHEL MECHANIC, ESQ., Perkins Coie, LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE VIDEOGRAPHER: Good morning. We are going on the record at 9:01 a.m. on June 10th, 2021.

Please note that the microphones are sensitive and may pick up whispering, private conversations and cellular interference. Please turn off all cell phones or place them away from the microphones as they can interfere with the audio. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is media unit one of the recorded interview of witness June 10th, 2021, taken by Special Deputy for New York Attorney General's office in the matter of the Independent Investigation under New York State Executive Law Section 63(8).

The deposition is being held remote virtual Zoom located at New York, New York, 10036.

My name is Marco Sozio from the firm Veritext New York and I'm the videographer. The court reporter is Sara Killian from the firm Veritext New York. I am not authorized

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to administer an oath.

Will the court reporter please swear
in the witness?

L I N D A L A C E W E L L, after having first
been duly sworn by a Notary Public of the State of
New York, was examined and testified as follows:

THE VIDEOGRAPHER: Thank you.

You may proceed.

MS. MAINOO: Good morning. I'm Abena
Mainoo from the law firm of Cleary Gottlieb
Steen & Hamilton, but acting as a Special
Deputy to the First Deputy Attorney General
for the New York State Attorney General's
Office.

I'll let my colleagues who are here
introduce themselves.

MR. KIM: Good morning. Joon Kim,
also with Cleary Gottlieb Steen & Hamilton
and appearing in my capacity as a Special
Deputy for the Attorney General's office.
Good morning.

MS. CHEN: Charlotte Chen, also from
Cleary Gottlieb.

1 L. Lacewell

2 EXAMINATION BY

3 MS. MAINOO:

4 Q. Good morning again, Ms. Lacewell.
5 Thank you for meeting with us today.

6 Before I start asking questions, I'm
7 going to give you some background information and
8 go over some ground rules.

9 The New York Attorney General has
10 appointed the law firms Cleary Gottlieb Steen &
11 Hamilton and Vladeck Raskin & Clarke to conduct an
12 independent investigation under New York Executive
13 Law Section 63(8) into allegations of sexual
14 harassment brought against Governor Andrew Cuomo,
15 as well as surrounding circumstances. You're here
16 today pursuant to a subpoena issued in connection
17 with this investigation.

18 I'll note at the outset that today's
19 proceeding is being video recorded. You are under
20 oath. That means you must testify fully and
21 truthfully. Just as if you were in a court of law
22 sitting before a judge and a jury, your testimony
23 is subject to a penalty of perjury.

24 Do you understand?

25 A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. If you would like to make a brief sworn statement, we ask that you do so at the conclusion of our examination today.

Do you understand?

A. Yes.

Q. Although this is a civil investigation, the New York Attorney General's Office also has criminal enforcement powers. You have the right to refuse to answer a question if answering the question would incriminate you. But any failure to answer could be used against you in a court of law in a civil proceeding.

Asserting your Fifth Amendment privilege does have evidentiary significance. If you choose to assert your Fifth Amendment privilege, that fact could be presented to a judge or a jury in a civil proceeding who would be free to draw a conclusion from your assertion of that privilege.

Do you understand?

A. Yes.

Q. You are appearing today with your attorneys present. You may consult with them if you have any questions about attorney-client

1 L. Lacewell

2 privilege.

3 Do you understand?

4 A. Yes.

5 Q. As you can see, we have a court
6 reporter present with us virtually and she needs
7 to take down my questions and your answers to
8 create a transcript. So that the reporter can
9 create a clean record, we'll need you to provide a
10 verbal response to each question.

11 If you do not know the answer to a
12 question, please say you do not know. Please let
13 me finish my question before you begin to answer
14 and I'll try to do the same, so we don't talk over
15 each other.

16 You will not be permitted to review a
17 transcript of this testimony. If at any time
18 today you want to clarify an answer you have
19 given, please let me know. If you do not
20 understand a question I ask, please let me know
21 and I will try to ask the question in a different
22 way.

23 I'll be asking about names and dates
24 and other specific information. Even if you don't
25 remember a specific name or date, I ask that you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

gave me your best approximate answer while
indicating that your answer may not be exact.

If you need a break at any point,
please let me know, but if there's a question
pending, please answer the question first and then
we can take a break.

To begin, please let me know who is
in the room with you.

MR. SCHUMAN: This is Adam Schuman
from the law firm Perkins Coie with my
colleagues Rachel Mechanic and Jacob Tabor,
representing the witness, Superintendent
Lacewell.

MS. MAINOO: Please confirm that
you're not using any technology to create a
recording of the proceeding on your end,
including screen capturing tools.

MR. SCHUMAN: Confirmed.

MS. MAINOO: Please confirm that
you're not allowing anyone else to listen in,
including through any devices.

MR. SCHUMAN: Confirmed.

Q. Ms. Lacewell?

A. I have no further information than my

1 L. Lacewell

2 counsel in that record.

3 Q. Can you confirm that you're not
4 allowing anyone else to listen in?

5 A. I certainly am not.

6 Q. And can you confirm that you are not
7 using any technology to create a recording of the
8 proceeding?

9 A. Correct.

10 Q. Please confirm that you are not and
11 will not communicate in realtime or during breaks
12 with anyone else about the substance of your
13 testimony.

14 A. Of course.

15 MS. MAINOO: And counsel?

16 MR. SCHUMAN: Confirmed.

17 Q. Executive Law 63(8), the provision
18 under which this investigation is being conducted,
19 prohibits you, Ms. Lacewell, and your counsel from
20 revealing anything about what we ask or what you
21 say here in your testimony to anyone.

22 If anyone asks you to disclose any
23 such information, please let us know, including
24 any reason they give for seeking such information,
25 and we'll discuss with you whether any disclosure

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

will be permitted.

Please note that you are protected from retaliation from participating in today's testimony. We ask that you let us know if you are concerned about any potential retaliation from anyone, including the Executive Chamber.

Ms. Lacewell, are you taking any medication or drugs that might make it difficult for you to understand my questions?

A. No.

Q. Have you had any alcohol today?

A. No.

Q. Is there any reason why you would not be able to answer my questions fully and truthfully?

A. No.

Q. Please state your name, date of birth and current home and business address for the record.

A. Linda Lacewell, [REDACTED]. My home address is [REDACTED] [REDACTED]. My business address is One State Street, New York, New York. I don't recall the zip code.

1 L. Lacewell

2 Q. Ms. Lacewell, you've given testimony
3 before, correct?

4 A. Yes.

5 Q. When?

6 A. I testified in the Percoco trial. I
7 don't recall any other testimony.

8 Q. Did you do anything to prepare for
9 your testimony today?

10 A. Of course.

11 Q. What did you do?

12 A. I conferred with my counsel.

13 Q. Did you meet with your counsel in
14 person?

15 A. No. I met with my counsel, not in
16 person.

17 Q. How many times did you meet with your
18 counsel?

19 A. Let me think for a second.

20 A few times to the best of my
21 recollection.

22 Q. More than five times?

23 A. I don't think so. Well, listen, in
24 preparation for my testimony or across the course
25 of time before you asked for my testimony? I just

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

want to be clear. Those are two different things.

In preparation for my testimony, I don't think it was more than a few times, maybe less.

Q. Which counsel did you meet with in preparation for your testimony?

A. The counsel who are identified at the top of this session, Adam Schuman and his team.

Q. When did you meet with them in preparation for your testimony?

A. Yesterday and a week prior.

Q. How long did you meet with them for?

A. Couple of hours each occasion.

Q. Did you speak to anyone else in preparation for your testimony?

A. No.

MS. MAINOO: All right.

We'll go to tab one and we'll mark it as an exhibit.

(Whereupon, Exhibit 1 was marked for identification.)

Q. Ms. Lacewell, is this exhibit the testimony subpoena you received from our office?

A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Did you read the subpoena?

A. Yes.

Q. Do you understand that your testimony today is being taken pursuant to this subpoena?

A. Yes.

MS. MAINOO: Okay.

We'll go to tabs two, three and four.

We'll mark them as exhibits.

(Whereupon, Exhibit 2 was marked for identification.)

(Whereupon, Exhibit 3 was marked for identification.)

(Whereupon, Exhibit 4 was marked for identification.)

Q. Ms. Lacewell, is this exhibit one of the testimony subpoenas you've received from our office?

A. I believe so.

Q. Okay.

Let's go to the next one.

Is this the second subpoena you received from our office?

A. I believe so. I don't have any reason to believe otherwise.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Okay.

Let's go to the last one.

Ms. Lacewell, is this the third subpoena you received from our office?

A. Yes.

Q. Did you read the subpoenas?

A. Yes.

Q. What did you do to collect documents in response to them?

MR. SCHUMAN: Just privilege objection insofar as the question could call for communications with Ms. Lacewell's counsel.

But otherwise, you could answer.

A. I looked for any hard copy documents I might possess and I made my electronic devices available to counsel.

Q. Ms. Lacewell, let's turn to your educational history starting with college.

Please walk us through it.

A. I went to New College of the University of South Florida in Sarasota, Florida, graduating in 1984. I had a year off between college and law school and I graduated from the

1 L. Lacewell

2 University of Miami School of Law in 1988.

3 Q. Please walk us through your
4 employment history identifying each time period
5 and the position in which you held.

6 A. After law school, I had a clerkship
7 with a US district judge in Miami, but it didn't
8 start until March, so I worked in New York at
9 Skadden Arps and during that sort of gap period, I
10 clerked for a year and then I went to a small
11 firm, Kostalantiz, Ritholtz, Tieghe & Fink, for a
12 period of years. That firm closed and I went with
13 some of the lawyers there to Morvello Abramowitz
14 and then I went to the US Attorney's Office for
15 the Eastern District of New York in Brooklyn,
16 Criminal Division, as Assistant US Attorney.

17 I spent two years on detail on the
18 Enron task force at the US Department of Justice,
19 then I joined the New York State Attorney
20 General's Office under Attorney General Andrew
21 Cuomo April 1st of his first year, stayed there
22 for the duration, went with the team when he
23 became Governor to the Executive Chamber on the
24 first day, January 1st, and remained there -- I'm
25 a little off on my dates.

1 L. Lacewell

2 You obviously I'm sure have some
3 version of my bio, but in I think in 2016, I took
4 a year and change to California, where I worked
5 for a nonprofit foundation associated with men's
6 health and I then came back to the Governor's
7 office in November of 2017, I believe, and as
8 Chief of Staff and Counselor to the Governor and
9 then in February of 2019, I joined the New York
10 State Department of Financial Services as the
11 Acting Superintendent, was confirmed by the State
12 Senate in June of that year and have remained
13 Superintendent.

14 Q. Ms. Lacewell, when you worked in the
15 Executive Chamber, did you receive training on
16 sexual harassment?

17 A. Yes.

18 Q. How frequently did you receive these
19 trainings?

20 A. I don't recall throughout the various
21 years. I think it was typically annually to the
22 best of my memory.

23 Q. What is your understanding of the
24 process that has been in effect since December 1,
25 2018 for reporting sexual harassment complaints by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Executive Chamber employees?

A. So I think by then, if I'm not mistaken, the process had been changed. Over time, it was changed a couple of times. But I think by then certainly an individual who had a complaint of sexual harassment could report it to a supervisor or could report it really to any person in the Executive Chamber and could report it directly to GOER, the Governor's Office of Employee Relations, could go to the Division of Human Rights, could go to the EEOC, but the internal process laid out by the Chamber, I believe, was that the individual could report it. I don't know if you're asking me beyond that.

MS. MAINOO: Let's go to tab 48 and we'll mark it as an exhibit.

(Whereupon, Exhibit 5 was marked for identification.)

Q. Ms. Lacewell, do you recognize this document?

A. I do.

Q. What is it?

A. Would you mind just scrolling to the top so I could see the very top? Thanks very

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

much.

All right. So Lauren Grasso was the head of, obviously, administration for the Executive Chamber, which is the Governor's office, and she is notifying employees of the Chamber how investigations involving any type of discrimination would be investigated.

Q. This would cover sexual harassment, correct?

A. Yes.

Q. Ms. Grasso's memo explains that a complaint form can be submitted directly to GOER, which you had referred to earlier, correct?

A. Yes.

Q. And the memo also says a complaint can be made with a supervisor, manager, executive staff, counsel's office or Human Resources, right? That's the second paragraph under "Filing an internal complaint."

A. Yes.

Q. The memo explains that if a complaint is made with any of those individuals -- a supervisor, manager, executive staff, counsel's office or Human Resources -- that individual is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

required to send the complaint to GOER so that it will be investigated, right?

A. Yes.

Q. What is your understanding of the process that has been in effect since December 1, 2018 for investigating sexual harassment claims by Executive Chamber employees?

MR. SCHUMAN: Objection.

THE WITNESS: One second, though. The video is flashing in and out. I'm not sure why that's happening. See how it's blank right now?

MR. SCHUMAN: Yes.

THE WITNESS: Just a technical issue. You're back -- no, it's still flashing.

MS. MAINOO: Should we go off the record?

THE VIDEOGRAPHER: Standby, please.

We are now off the record at 9:21 a.m.

(Recess taken)

THE VIDEOGRAPHER: We are now on the record at 9:23 a.m.

THE WITNESS: Would you mind

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

repeating the question? I apologize.

MS. MAINOO: Sure.

Q. Ms. Lacewell, what is your understanding of the process for how sexual harassment claims by Executive Chamber employees should be investigated, which has been in effect since December 1, 2018?

MR. SCHUMAN: Objection if that were to call for any sort of legal advice in Ms. Lacewell's role as a lawyer counseling Chamber, but as an employee of Chamber, to her knowledge, she can answer.

A. Other than what is described in the memo that we just went over, I'm not sure I have any further information. I didn't typically handle any such complaints if they existed at the time.

Q. Did you ever handle any sexual harassment claims when you were in the Chamber?

A. No. I don't recall any coming to my attention, but any would have been handled by counsel's office when I was there.

Q. The exhibit explains that effective December 1, 2019 -- and I don't know if it's on

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

the screen so you can see it --

A. It's not up there right now.

Great.

Q. So the exhibit at the top in the first paragraph says "Effective December 1, 2018, all complaints of protected class employment discrimination will be investigated by the Governor's Office of Employee Relations, Anti-discrimination Investigations Division."

Right?

A. Yes.

Q. Is that consistent with your understanding?

A. Yes.

Q. When you were in the Executive Chamber, did you have any understanding that employees were not supposed to be retaliated against for complaining about harassment or discrimination?

A. Yes.

THE WITNESS: I just want to note this technical problem again. This is continuing to flash and I'll sort of bear with it because I'm not sure we could fix it.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

It's a little distracting, though.

Go ahead.

Q. When you were in the Executive Chamber, did you have an understanding that even former employees were protected if they made claims of sexual harassment?

A. Were protected from what?

Q. From retaliation if they made claims of sexual harassment.

A. In general terms, yes, although they obviously would no longer be employees. So I'm just noting my general understanding of retaliation at the time would be in connection with their employment. But I'm not an expert in this area and I deferred in the Chamber to those who were experts. That was my practice.

MS. MAINOO: We'll go to tab five and we'll mark it as an exhibit.

(Whereupon, Exhibit 6 was marked for identification.)

THE WITNESS: Okay.

Q. Ms. Lacewell, just now you said that you would have deferred to the experts in relation to sexual harassment issues.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Who were the experts in that area in the Executive Chamber?

A. I typically deferred to counsel, Alphonse David, who, prior to becoming counsel, was Labor and Employment Deputy Secretary and previously worked in human rights matters that included matters of employment discrimination and I fully understood that he was the expert and I wasn't the expert and if I had any questions in that regard, I would go to him.

Q. Anyone else in addition to Mr. David?

A. Not that I can think of at this time.

Q. What about after Mr. David left the Chamber?

A. Well, that was a gap, but I think by then I moved over to DFS.

Q. What is the significance of the fact that by then you moved over to DFS?

A. Well, I would be less likely to be in a position to need to confer with someone in the Chamber about such matters since I was then at DFS.

Q. Would you need for any reason to confer about sexual harassment complaints by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Chamber employees since you were at DFS?

A. I don't know. This is hypothetical.

Q. Do you recognize this exhibit?

A. Yes.

Q. What is it?

A. I think it's sort of known as the handbook for employees in state government. I mean, the title sort of describes it. I recognize it.

Q. We'll scroll down so you could see the date.

So this is the State of New York Executive Department Equal Employment Opportunity in New York State Rights and Responsibilities, a handbook for employees of New York State agencies dated December 2018, right?

A. Yes.

Q. Okay. So let's go to page 16 of this handbook.

Ms. Lacewell, please read the last paragraph of page 16 beginning "Sexual harassment includes ..." through the second paragraph of page 17, which begins "Sexual harassment also occurs ..." to yourself.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I'm sorry. Through which part on 17?
Past the bullet or just to that bullet?

Q. Through the second paragraph, through
the end of the second paragraph and that's the
paragraph beginning "Sexual harassment also occurs
..."

A. Got it. Okay.

Q. Were you made aware of this
definition of sexual harassment when you worked in
the Chamber?

A. Yes.

Q. Do you have any reason to believe
this definition is incorrect?

A. I don't think so.

Q. Scrolling down on page 17 to the
fifth paragraph, that's a paragraph beginning "As
with all discrimination and harassment ..." and
the last sentence of that paragraph reads
"Furthermore, any supervisory or managerial
employee who observes or otherwise becomes aware
of conduct of a sexually harassing nature must
report such conduct so that it can be
investigated."

Were you made aware of this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

obligation when you worked in the Chamber?

A. Yes.

Q. Okay. So now we'll turn to page 40.

Please read the last paragraph on page 40 to yourself and that's the one under the heading "Adverse Employment Action."

A. Okay.

Q. Were you made aware of this definition of retaliation when you worked in the Executive Chamber?

A. Yes.

Q. Do you have any reason to believe this definition is incorrect?

A. No.

Q. So we'll go to page 41.

The first paragraph says "Actionable retaliation by an employer can occur after the individual is no longer employed by that employer. This can include giving an unwarranted negative reference for a former employee."

Were you made aware of this when you worked in the Executive Chamber?

A. Yes.

Q. Do you have any reason to believe it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

is incorrect?

A. No.

Q. All right. We can take this exhibit down.

Ms. Lacewell, before December 2020, were you aware of any allegations of potential sexual harassment against Andrew Cuomo?

MR. SCHUMAN: Objection if it's touching on any legal counseling communications Ms. Lacewell might have had, but otherwise, you can answer.

A. I'm just thinking if I could just say no as opposed to privilege, but I'm just trying to get my chronology straight. I mean certainly nothing that would not be in a privileged setting.

Q. When is the first time you became aware of any allegations of potential sexual harassment against Andrew Cuomo?

MR. SCHUMAN: Aside from privileged communications, you can answer.

A. Any communications I had were privileged. I think you already probably know at some point Judy Mogul spoke to me about Charlotte Bennett, so whenever that was, I believe that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

would be the first occasion. I just don't remember if that's before or after December 2020.

Q. Do you remember whether Ms. Mogul spoke with you about Ms. Bennett in the year 2020?

A. I'm really bad with dates. I apologize.

MR. SCHUMAN: Sorry to interrupt.

If we could go off the record, we'd like to replace the monitor, which will take two minutes.

THE VIDEOGRAPHER: Okay.

Standby, please.

THE WITNESS: Do you want me to refresh my recollection during the break or you would rather I not do that? It's literally just a matter of the chronology.

MS. MAINOO: Please refresh your recollection.

THE WITNESS: Thank you very much.

THE VIDEOGRAPHER: Standby to go off the record.

We are now off the record at 9:35 a.m.

(Recess taken)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

THE VIDEOGRAPHER: We are now on the record at 9:43 a.m.

Q. Ms. Lacewell, were you able to refresh your recollection about when Ms. Mogul spoke with you about Charlotte Bennett?

A. Yes. It was during 2020.

Q. When in 2020?

A. Early July or the end of June, but probably early July.

Q. Did Ms. Mogul speak you with about Charlotte Bennett on any other occasion?

A. Yes.

Q. When?

A. After the first conversation, we spoke on at least several other occasions, if not many occasions, on the same topic.

Q. Also in 2020?

A. Yes.

Q. When?

A. So I don't have the exact dates, but we certainly -- after that first conversation, we probably spoke a few times, you know, over the next couple of weeks and then I think my best memory is some time went by and we might have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

spoken once again and some time went by and we might have spoken once again, but it may have been more than that.

Q. What did you use to refresh your recollection just now?

THE WITNESS: Just a second.

Can I answer that?

MR. SCHUMAN: Ms. Lacewell consulted with counsel about work product.

Q. What is the date of the work product?

A. It didn't have a date on it, so I'm not sure.

MS. MAINOO: Is that work product included in the privilege log that counsel has provided to us?

MR. SCHUMAN: No.

MS. MAINOO: Will you provide a privilege log with that work product?

MR. SCHUMAN: If you'd like, but basically my -- I don't think you're entitled to a log of my work product in preparing my witness.

MS. MAINOO: So you're referring to your own work product?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: Yes.

MS. MAINOO: Okay.

Q. Other than Ms. Mogul, did you speak with anyone else about Charlotte Bennett in 2020?

A. Yes.

Q. Who?

A. Jill DesRosiers. Melissa DeRosa. Just thinking if there's anybody.

Q. Governor Cuomo?

A. No, I did not speak to the Governor in that regard. Alphonso David. Just thinking. I don't recall -- I don't recall speaking to Steve Cohen. So those are the ones I recall.

Q. You mentioned just now you don't recall speaking with Steve Cohen.

Is there a reason you asked that question, whether you had spoken with Mr. Cohen about Charlotte Bennett in 2020?

A. Well, just because, you know, Steve used to be counsel when he was within government. I don't mean counsel to the Governor. I mean he played a lawyer role and continued after he left to play a role as a lawyer for the Governor and it wouldn't have been unusual to have spoken with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Steve about this type of matter, but I don't think we did speak. I was just trying to wrack my brain.

Q. Did you ever speak with the Governor about potential sexual harassment allegations involving Charlotte Bennett?

A. So let me say two things: One, any conversations I had with the Governor about any potential sexual harassment was privileged. Two, notwithstanding that, I don't think we ever spoke about Charlotte.

Actually, let me take that back. I shouldn't have volunteered that. Any conversations I had with the Governor in that regard were privileged and --

Q. My question was whether you had any conversations with the Governor about Charlotte Bennett's allegations.

Yes or no?

THE WITNESS: Can I answer that from a privilege point of view?

MR. SCHUMAN: Yes.

A. Yes.

Q. When?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Certainly after the tweet by Lindsey Boylan in December 2020, so not contemporaneously with my conversations with Judy Mogul.

Q. Did you speak with the Governor about Charlotte Bennett's allegations before the New York -- let's start again.

Did you speak with the Governor about Charlotte Bennett's allegations before they became public?

A. No. Hold on a second. I shouldn't be so quick. Let me think for a minute. Before they became public? Are you able to tell me when they became public?

Q. The New York Times published an article in February 2021, February 7th, 2021.

A. I don't recall, but I think probably yes.

Q. So just to confirm what the answer is, you think you spoke with the Governor about Charlotte Bennett's allegations before Charlotte Bennett's allegations became public?

A. Yes.

Q. How many times?

A. Not more than three to the best of my

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

memory.

Q. Who else was involved in those discussions?

A. Judy Mogul, possibly Melissa DeRosa.

Q. How did you communicate with the Governor on those occasions?

A. Certainly once in person at the mansion and possibly once or twice by telephone if it was that many times.

Q. Around when was the in-person meeting at the mansion with the Governor during which you discussed Charlotte Bennett's allegations?

A. I can probably get you that date. I just don't recall right now.

MS. MAINOO: Okay.

We will want that date.

Q. What about the phone calls? When did they take place?

MR. SCHUMAN: You mean if they took place?

THE WITNESS: Right.

A. I'm just not good with dates, but it's a pretty compressed period of time.

Q. How did you come to be involved in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

discussions with the Governor about Charlotte
Bennett's allegations?

MR. SCHUMAN: Objection insofar as it
calls for any privileged communication,
unless you want to try to rephrase the
question.

Q. Who asked you to participate in those
discussions?

MR. SCHUMAN: If you can indicate
without conveying the content of any
privileged communication, you can,
otherwise --

A. I'm just thinking. Who asked me? I
don't think Judy Mogul actually asked me per se.
So if anybody asked me, it would be her, but
that's about the best I can say.

Q. Did you of your own accord join in
these discussions with the Governor about
Charlotte Bennett's allegations?

A. Of my own accord, no.

Q. So is it fair to say someone invited
you to participate in those discussions with the
Governor?

A. Invited sounds so concrete.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. How would you put it?

A. I would say -- I would say -- I would say without getting into any privilege issues obviously -- there was to be a conversation between the Governor and lawyers in this regard and I would say I was included in that.

Q. You trailed off at the end.

A. I was included in that.

Q. You were included in the lawyers who participated in the conversation?

A. Yes.

Q. Who were the other lawyers who were included in the conversation?

A. Judy Mogul.

Q. Anyone else?

A. I don't remember.

Q. Who did you understand to be the client?

You've asserted privileged regarding those discussions with the Governor.

Who did you understand to be the client?

A. Well, I believe privilege issues are not being determined by me. Those are being

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

determined by the Chamber, right?

Q. So you're asserting privilege on behalf of the Chamber, but when you were participating in those discussions, did you understand that you were providing or being asked for legal advice?

A. I understood that I was operating as an attorney and that the conversation was in connection with being an attorney providing legal advice. Correct.

Q. And who did you understand to be the client to whom you were providing legal advice or being asked to provide legal advice?

A. The Executive Chamber and the Governor as Governor.

Q. In other words, the Governor in his official capacity?

A. Yes.

Q. And did you make this distinction at the time between the Governor as Governor in his official capacity and Andrew Cuomo in his personal capacity?

MR. SCHUMAN: Objection.

MS. MAINOO: You can answer,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Ms. Lacewell.

Mr. Schuman, I will just say this is not a deposition where you object to my questions, but we can discuss that during a break.

MR. SCHUMAN: Well, your instruction was we could deal with privilege issues. I'm only objecting as to a privilege issue. Those are the only objections I'm making.

MS. MAINOO: I understand that. I disagree this objection was about a privilege issue.

Q. Ms. Lacewell, do you need me to repeat my question?

A. Yes, please.

Q. When you were conferring with the Governor, when you had discussions with the Governor about Charlotte Bennett's allegations, at the time, did you make a distinction in your mind about whether you were speaking with the Governor in his official capacity as Governor or in his personal capacity as Andrew Cuomo?

A. Well, isn't that implicit in the answer I just gave to you where I said I was

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

speaking to him in his official capacity and also the Executive Chamber, so obviously the answer is yes, I did make that distinction.

Q. What was the basis for making that distinction?

A. That I'm not going to get into because that is privileged. My assessment of the legal issues emanating from the situation is evidently pretty clearly privileged or at least I'd like to mark that for another day, if that's what you choose to pursue.

Q. We can table that for another day. Did you receive any payment for these consultations with the Governor about Charlotte Bennett's allegation?

A. Well, I'm a New York State employee.

Q. Did you receive any compensation specifically for providing legal advice regarding Charlotte Bennett's allegations?

A. I don't understand your question. I am paid by the State. I have multiple roles in connection with my New York State employment. I sometimes render legal advice and that is what I was doing at the time. I'm a compensated employee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

of New York State.

Q. How was your provision of legal advice to the Executive Chamber or the Governor part of your -- let's start again.

How was your provision of legal advice to the Executive Chamber or the Governor regarding Charlotte Bennett allegations part of your responsibilities as the Superintendent of DFS?

A. That's not what I said.

Q. I'm asking that question.

A. You're assuming that it was part of my responsibilities at DFS when you say "How was that part of your responsibilities as DFS?" I didn't say that, so how do I answer how it was part of my responsibilities at DFS?

Q. I'll ask a different question.

Was your provision of legal advice to the Executive Chamber or the Governor regarding Charlotte Bennett's allegations part of your responsibilities as the Superintendent of DFS?

A. No.

Q. Was your provision of legal advice to the Executive Chamber or the Governor regarding

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Charlotte Bennett's allegations part of your responsibilities as a New York State employee?

A. Yes.

Q. How so?

A. I worked for the Governor for many years. I'm one of the longest-standing employees of New York State government who has worked directly for the Governor. I have long-standing experience and knowledge about the course of events from the beginning of time at the Governor's office. It was my role when I worked directly in the Executive Chamber to advise on a whole range of legal and risk-related issues and that continued after I moved over from the Executive Chamber to DFS and was well known and understood by all and folks that I spoke with in the Executive Chamber in such matters expected and anticipated and relied upon the fact that our conversations were privileged.

So to the point that I disclosed in my JCOPE filing, that as part of my New York State employ, I was engaged in the practice of law, even though being Superintendent is typically not a legal position because you're the head of the

1 L. Lacewell

2 agency. So it was part of my responsibilities as
3 a New York State employee as disclosed to JCOPE
4 and as known by that that I rendered legal advice
5 outside of the four corners of being the DFS
6 Superintendent.

7 Q. Just now, Ms. Lacewell, were you
8 reading from a document?

9 A. No.

10 Q. Just now you referenced some
11 disclosures in your JCOPE filings and I think the
12 way you described it is you were engaged in the
13 practice of law.

14 Did your JCOPE disclose that you
15 provided legal advice to Governor Cuomo?

16 A. The filing, which I believe you have,
17 says that I practiced law in connection with my
18 New York State employment.

19 Q. To go back to my question, is the
20 answer no?

21 A. I've given you the language in there.
22 If you want to argue about what that means, I
23 don't think we're here for that. I told you what
24 the document says. We've given you the document.

25 Q. Let me ask the question again.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Did your JCOPE disclosures say that you were providing legal advice to Governor Cuomo?

A. My JCOPE disclosures said that I rendered legal advice in connection with my New York State employment, by which I meant the Executive Chamber and the Governor's office, and JCOPE well understood that that meant the Executive Chamber and the Governor.

Q. We can discuss separately what JCOPE may or may not have understood.

Did the filings say you provided legal advice to the Chamber?

A. The document said I provided legal advice in connection with my New York State employment, by which I meant the Executive Chamber and the Governor, as was understood by JCOPE. That's my answer.

Q. Is there any reason your JCOPE disclosures did not say you provided legal advice to the Governor?

A. That would expose attorney-client privilege to conversations which I can't disclose at this time.

Q. Is there any reason your JCOPE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

disclosures did not say you provided legal advice to the Chamber?

A. Same answer.

Q. Who else did you -- let's start again.

Who else have you provided legal advice to since you became the Superintendent of DFS?

A. I don't recall anything at this time.

Q. You said that JCOPE understood that when your disclosure said you were engaged in the practice of law that you were actually providing legal advice to the Governor and Executive Chamber.

How did, in your understanding, JCOPE have that knowledge?

A. I'm just trying to think if I could answer you without getting into privileged conversations. Okay?

Key personnel at JCOPE understood -- that's [REDACTED], who was the Executive Director and counsel for a period of time, [REDACTED], who had been counsel to the Governor -- and I don't know of any others -- they understood that on an

1 L. Lacewell

2 ongoing basis, I rendered legal advice to the
3 Governor's office, for example, in connection with
4 the use of state aircraft, which is a very
5 complicated and important legal issue. From time
6 to time, I would actually call JCOPE, even once I
7 was at DFS, to confer with them about what the
8 Governor could and couldn't do. Sometimes I call
9 by myself, sometimes the call was with someone
10 from the Chamber.

11 [REDACTED], if not others, were
12 personally aware of my ongoing role as counsel to
13 the Executive Chamber and to the Governor on a
14 whole range of matters. Beyond that -- beyond
15 that, there are attorney-client privileged
16 conversations about the way -- about the wording
17 that I should use on the form and the reasons why
18 I needed to put the information on the form.

19 And to the best of my recollection,
20 it was JCOPE who noticed and alerted that I should
21 put it on the form because they knew I was doing
22 it. I didn't even really understand initially
23 that that would be disclosable because I thought
24 of disclosing any legal services as being
25 something outside of state government, but I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

believe that JCOPE is the one who noticed that I had not put it on the form and they knew that I was giving legal advice to the Governor's office, even though I was now at DFS, which is why the language says in connection with my New York State employment and doesn't say in connection with DFS.

Q. What is the whole host of other matters on which you provided legal advice to the Chamber and the Governor?

A. When? I've worked with the man for 15 years.

Q. I appreciate that. Since you became the Superintendent of DFS.

A. I've already mentioned use of state aircraft, use of the mansion, use of state resources in connection with his book, a whole range of matters in connection with COVID-19 because I was embedded there for a period of time and I worked directly with Beth Garvey on a whole range of legal matters arising from COVID so that she could have another set of legal eyes on it. Innumerable topics in connection with COVID since I was embedded in the Chamber and worked on it

1 L. Lacewell

2 directly, including how to set up COVID safety
3 measures in state government. Any issue that was
4 complex and sensitive and that had anything to do
5 with the use of state resources. Anything that
6 could be potentially a source of complaint to
7 JCOPE or matters that I was understood to have a
8 perspective on and a history on and a recollection
9 on and -- look, it was less frequent once I was at
10 DFS, but it also happened from time to time when I
11 was in California. That's just my role. You may
12 not understand it, but it's the role, which is why
13 it's on the form.

14 Q. When you say "It's just my role,"
15 what do you mean by that?

16 A. It's just the practical facts that --
17 from the beginning, my role has been to help
18 people to anticipate trouble spots. Many of the
19 employees there are not actually attorneys. I'm a
20 former prosecutor. I was in the State AG's
21 office. I investigated other Governors. I
22 investigated the use of the New York State Police.
23 I investigated the improper use of state resources
24 for political purposes. It was what I was
25 understood to know. I investigated the New York

1 L. Lacewell

2 State Controller when I was in the AG's office.

3 He pled guilty and went to prison.

4 I have a perspective into the road
5 ahead, what the trouble spots may be and
6 generally, people wanted to avoid trouble. They
7 wanted to move forward on an agenda without
8 violating the rules and they sought my counsel and
9 my guidance and I also tried to be proactive about
10 it when I was there to help make sure that we
11 could maintain compliance with the roles.

12 Sometimes that's extremely proactive, sometimes
13 it's in the middle of something, sometimes it's
14 after the fact. Ask anybody who knows me in
15 connection with state government.

16 I think you know I was known as the
17 Minister of Defense and that was a warmhearted,
18 grateful characterization of how people felt that
19 I was always focused on trying to make sure that
20 people executed their responsibilities as public
21 service in a way that would minimize the risk of
22 error in connection with the roles, whether that
23 was the ethics roles or whether it was generating
24 potentially a bad news story that might create an
25 appearance that maybe somebody had done something

1 L. Lacewell

2 wrong that ought to be investigated.

3 It was my job to generate -- to help
4 generate an environment in which people felt they
5 had the advice and counsel that they needed to
6 move forward on the agenda for the people and that
7 didn't cease when I went from Chief of Staff to
8 being a member of the Cabinet who continued to
9 help the Chamber, which continued to want that
10 advice, to help them to move forward. It's just
11 the way it is.

12 Q. Ms. Lacewell, this explanation that
13 you just gave of your role is in relation to
14 Andrew Cuomo before as Attorney General and now as
15 Governor, correct?

16 A. It's in connection with -- can you
17 say that again?

18 Q. It's in relation to the role that you
19 served for Andrew Cuomo, whether it was in his
20 capacity as Attorney General or Governor, correct?

21 A. It's the role I served for the
22 Executive Chamber and the Governor in his official
23 capacity as Governor. Separately, you probably
24 know, I rendered legal advice in connection with
25 the Governor's campaign, but that's not what I'm

1 L. Lacewell

2 talking about here.

3 Q. Right.

4 Here, you're talking about the role
5 that you have played with respect to Governor
6 Andrew Cuomo --

7 A. Yes.

8 Q. -- both when you were in the
9 Executive Chamber --

10 A. Well, you keep saying Governor Cuomo.
11 I want to be clear. The Executive Chamber and the
12 Governor in his official capacity, yes.

13 Q. The Executive Chamber and Governor
14 Cuomo under Governor Cuomo's administration,
15 correct?

16 A. Yes.

17 Q. Both during the time when you were in
18 the Executive Chamber --

19 A. Yes.

20 Q. -- and even after you left New York
21 State government and were no longer a New York
22 State employee --

23 A. Yes.

24 Q. -- and even after you left the
25 Executive Chamber and were at DFS?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Correct.

Q. When you left the employment of New York State and worked in California, but provided legal advice to the Executive Chamber and the Governor, were you compensated for providing legal advice then?

A. No.

Q. Did you make any disclosures of your provision of legal advice to the Governor or the Executive Chamber after you no longer worked for New York State?

A. I don't understand the question. Disclosure to them that I was advising them?

Q. Disclosure to anyone. Any public disclosures.

A. I had an opinion from JCOPE before I left about transition matters that I was allowed to continue, notwithstanding the two-year bar, to provide transition advice in connection with having left the Chamber and that's typically what my conversations with the Chamber concerned.

Q. But sometimes your conversations with the Chamber concerned other topics; is that correct?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I don't recall.

Q. Did anyone at JCOPE know that you were providing legal advice to the Chamber in connection with sexual harassment allegations against Governor Cuomo?

MR. SCHUMAN: If you can answer without disclosing anything privileged, go ahead.

A. Specifically on that topic? No.

Q. Did you memorialize your engagements -- well, let's start again.

Did the Executive Chamber ever engage you to provide legal advice after you became the Superintendent of DFS?

A. I think I've already explained my role, which was a continuing and ongoing role that started when I joined the Governor's office in his first year to the State. It's not a separate engagement. It's in connection with my New York State employment, which I've said 17 times and which is on the JCOPE form. So no, there's no separate engagement letter because it wasn't a separate engagement.

Q. Now, did you provide advice to the

1 L. Lacewell

2 Chamber or Governor Cuomo regarding any sexual
3 harassment allegations?

4 A. I had conversations with the
5 Governor, as I indicated, on the topic of
6 allegations in the nature of sexual harassment
7 with other counsel in connection with the
8 Executive Chamber dealing with those allegations.
9 Did I personally advise the Governor? I don't
10 think I could even answer that question without
11 getting into the nature of the conversation, which
12 I can't do.

13 Q. Earlier, you said that you -- that as
14 far as you can remember, you did not handle any
15 sexual harassment allegations when you were in the
16 Chamber, correct?

17 A. Correct.

18 Q. You said you were not an expert on
19 sexual harassment issues, correct?

20 A. Correct.

21 Q. You deferred to the experts on sexual
22 harassment issues, right?

23 A. Correct.

24 Q. So I'm asking in connection with
25 sexual harassment allegations against the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Governor, did you provide any legal advice?

A. By the way, there's no connection between the statements that you just made and this question because by the time this all blew up, Alphonso David was gone and he was the expert that I typically deferred to. And by the way, that is why I spoke to him when this whole thing blew up.

Q. Back to my question, did you provide legal advice on the sexual harassment allegations?

A. I don't know what that means, on the sexual harassment allegations. Did I advise the Governor what to do in connection with sexual harassment allegations? That wasn't my role. That doesn't mean as an attorney there weren't legal issues that arose and this conversation ensued. But was I advising the Governor as a lawyer on the employment-related issues? That was not my role.

Q. Was it your role to provide advice -- legal advice -- to the Chamber about how to handle sexual harassment allegations against the Governor?

A. So this is what I would say because I feel like you're conflating things. There's a

1 L. Lacewell

2 whole range of issues that come up. Right? One
3 could be is this sexual harassment, what do you do
4 about it, but then there are other collateral
5 issues, related issues that could come up, which I
6 may well know the answer to. Right? So I weighed
7 in as a lawyer on a whole range of issues that
8 were arising from the allegations.

9 I wasn't the Governor's lawyer on the
10 allegation is the distinction I'm trying to make.

11 Q. Were you the Chamber's lawyer
12 regarding the allegations?

13 A. It's the same thing. In other words,
14 I'm part of the legal discussion and I'm weighing
15 in on the pieces I could be helpful on.

16 Q. You did not weigh in on the pieces of
17 is this sexual harassment, right?

18 A. I don't really think I could answer
19 that. I'm trying to help you as much as I can,
20 but I can't go any further because of the
21 privilege assertions. But in case it's helpful, I
22 would say, again, you can just see from the
23 documents that sexual harassment, our policy
24 changed over time, the definitions changed over
25 time, the law was changed. There's a whole body

1 L. Lacewell

2 of case law that I'm not necessarily personally
3 familiar with, so I'm not an expert in that area.
4 I'm not an expert in employment law, I never held
5 myself out to be. Others knew a lot more than me.
6 So would I try to be helpful, would I try to ask
7 the right questions, might I say have you talked
8 to this person or that person, did you look at
9 these documents or those documents, what does this
10 say, what does that say, this doesn't sound
11 advisable, then some collaborative conversations
12 might ensue and other advice might be obtained,
13 that would be normal and I don't think unusual
14 when it comes to complex legal issues that
15 different lawyers on the phone have different
16 roles.

17 Q. You said it just now that sexual
18 harassment law has changed over time.

19 To your knowledge, how has it
20 changed?

21 A. I don't have the details, but I know
22 that there were changes that broadened the
23 definition of what sexual harassment could be and
24 so I'm sort of alluding to those changes.

25 On top of that, the procedural

1 L. Lacewell

2 changes, there used to be an equal employment
3 lawyer. Officer, I should say. In each of the
4 agencies, I think the Chamber may have had a
5 committee early on as one point of the process.
6 It changed and it was not my role to be the expert
7 on the details of that. I just had enough
8 awareness to know either to raise these issues or
9 to send them to the right person.

10 Q. You mentioned earlier that you also
11 spoke with Alphonso David about Charlotte
12 Bennett's allegations.

13 When did you speak with him?

14 A. So it would be in that same time
15 period between early July, so probably between
16 July or August. I don't have the exact date.

17 Q. How many times did you speak with
18 Mr. David about Ms. Bennett's allegations?

19 A. I don't recall exactly, but certainly
20 a few times.

21 Q. Was anyone else involved in the
22 discussions?

23 A. Judy Mogul.

24 Q. Was she involved in each of your
25 discussions with Mr. David or did you have any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

one-on-one discussions with Mr. David?

A. I think I had -- wait, let me not mix things up. You're asking about Ms. Bennett?

Q. I'm asking about Ms. Bennett for now.

A. Right. Let me just think for a minute.

I don't recall any one-on-one conversations with him about Ms. Bennett.

Q. Did you speak with Mr. David about any other sexual harassment allegations against the Governor?

A. Yes.

Q. What sexual harassment allegations -- who were the complainants who had made the other allegations of sexual harassment that you discussed with Mr. David?

A. Lindsay Boylan.

Q. When did you speak with Mr. David about Lindsay Boylan?

A. I believe in December of 2020.

Q. Did you have any other discussions with Mr. David about Ms. Boylan's allegations?

A. I'm just thinking. I spoke to him on the GOER issue of her employment records, so I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

don't think we spoke more than a couple of times in December 2020 and I don't -- it's possible that we spoke again in January or once in a while. I just don't remember.

Q. What was the GOER issue of the employment records of Ms. Boylan?

MR. SCHUMAN: I'm sorry. I just couldn't hear that question. Can you repeat it?

MS. MAINOO: Sure.

Q. What was the GOER issue that you discussed with Mr. David concerning Ms. Boylan's employment records?

MR. SCHUMAN: Any substantive discussion is privileged, but if you could say the subject at a high level.

A. Whether GOER permitted the records to be disclosed to the public.

Q. Was anyone else involved in that discussion?

A. This is where I was trying to remember. So Judy Mogul was a part of these discussions, but it's possible -- and I believe I did actually have a one-on-one conversation with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Alphonso David without Ms. Mogul, but certainly kept her informed.

Q. Did you speak with anyone at GOER about the issue?

A. Yes.

Q. Who?

A. Michael Volforte.

Q. Was anyone else part of your discussion with Mr. Volforte?

A. Judy Mogul.

Q. How many times did you speak with Mr. Volforte?

A. I spoke to him once before the records were produced with Ms. Mogul and I spoke to him a couple of times after the records were produced in connection with potential press statements that the Chamber was thinking of disclosing about the disclosure of the records and those, I think, were one on one.

Q. Did you discuss allegations by any other complainants with Mr. David, allegations of sexual harassment?

A. I don't think so. I'm just wracking my brain a little bit. Nothing that I can recall.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

I mean, if anything, it would have been some casual reference to a news story or something, but nothing substantive.

Q. Just to confirm whether there's a privilege assertion with respect to any discussions with Mr. Volforte, I'll ask the question what did you discuss with Mr. Volforte?

MR. SCHUMAN: Yes. So I understand there's a privilege as to the substance of the communication, but I think the witness already gave you the general topic.

MS. MAINOO: Okay.

A. So GOER, as the expert on employment matters, including claims of harassment and, as you pointed out, the investigations typically go to GOER, the topic was did the law permit the Chamber to disclose certain documents pertaining to Ms. Boylan. That was the same topic before the disclosure of the records and afterwards.

Q. You also mentioned discussions with Ms. DesRosiers about Charlotte Bennett's allegations.

When did you have those discussions?

A. So to the best of my recollection,

1 L. Lacewell

2 the first conversation I had with Ms. DesRosiers
3 -- sorry.

4 The first conversation I had about
5 Charlotte Bennett was with both Ms. DesRosiers and
6 Judy Mogul, so that was around July 1st, roughly
7 speaking, and it's possible that Ms. DesRosiers
8 was on the phone with Judy Mogul on another
9 occasion or two when we spoke about it, but I
10 primarily spoke with Judy Mogul after that.

11 Q. Then what about Melissa -- going back
12 to GOER, did you speak with anyone else other than
13 Mr. Volforte?

14 A. At GOER?

15 Q. Yes.

16 A. No.

17 Q. Ms. DeRosa, when did you speak with
18 her about Ms. Bennett's allegations?

19 A. After speaking with Jill DesRosiers
20 and Judy Mogul. Judy Mogul and I -- and I can't
21 recall if Jill was on the phone, Jill DesRosiers,
22 spoke with Melissa and then after that, I had a
23 series of conversations with Melissa DeRosa and
24 Judy Mogul on the same topic.

25 Q. Other than Ms. Mogul, was anyone else

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

involved in your discussions with Ms. DeRosa?

A. I don't think so.

Q. Okay.

Now, I know I've focused just now on Ms. Bennett's allegations. I want to broaden the question to cover any other discussions about sexual harassment allegations against the Governor in which you were providing legal advice. I think earlier you mentioned the Governor.

A. I wasn't aware of any allegations involving the Governor that could be remotely characterized as sexual harassment or inappropriate prior to learning about what Ms. Bennett had to say and then what Lindsay Boylan tweeted, which was news to me, and then the other matters that ensued.

Q. Did you provide legal advice in discussions with Ms. Mogul about Ms. Boylan's allegations?

A. We hashed through some of the legal issues together. I wouldn't say I was giving legal advice to her.

Do you understand what I'm saying?

Q. I do.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Did you hash through the issues with anyone else?

A. Alphonso David.

Q. Anyone else?

A. Just remind me again. Are we talking about Lindsay Boylan or Charlotte Bennett or this is anyone? I got confused.

Q. This is anyone.

A. The question is did I render legal advice -- I'm sorry. Can you redo the question?

Q. Did you render legal advice or were you asked to provide legal advice regarding any of the sexual harassment allegations against the Governor?

A. So after Lindsay Boylan's tweet and then the ensuing publicity and then the ensuing news stories with other individuals alleging facts about their employment -- right? -- from time to time I would be on the phone with Judy Mogul and other people to help think through the legal issues arising from that is how I would describe it.

Q. Did those other people who are on the calls include non-Chamber employees?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Non-Chamber employees? So Steve Cohen could be on from time to time. I actually want to say once or twice Alphonso David may have been on the phone. But not very often.

Then also there were some conversations about press responses or -- not even responses -- emerging investigative news stories where press or political consulting experts were also on the phone and folks were trying to determine what is the best press response and what legal issues does that raise and it's sort of all being done at the same time. And Beth Garvey at some point was on the phone for some of that, but you said outside of state government. Then once lawyers were retained, external lawyers, sometimes they would be on the phone.

Q. So back in July 2020 or whenever you first learned about allegations by Charlotte Bennett, what did you learn about allegations by Charlotte Bennett?

MR. SCHUMAN: Objection insofar as calls for any communications in which the witness or other lawyers gave legal advice.

A. I believe the conversations would be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

privileged, so I don't know if I could answer that.

Q. Did you do anything to try to verify if Ms. Bennett's allegations were true or not?

MR. SCHUMAN: Same objection.

A. Did I do anything? My role was to talk it through with Judy Mogul and Alphonso David in terms of what the process and the steps forward were. I personally did not take steps other than that to determine if her allegations were true.

Q. Did you ever ask the Governor whether Ms. Bennett's allegations were true?

MR. SCHUMAN: Same objection.

A. I think I may have testified earlier to this, but Judy Mogul and I had a conversation with him about her. That's about as far as I can go.

Q. Did it matter to you whether or not Ms. Bennett's allegations were true?

MR. SCHUMAN: Objection.

A. Of course it matters to me.

Q. What's the reason it mattered to you?

A. We take claims of sexual harassment very seriously and our concerns for our employees

1 L. Lacewell

2 and whether the allegations were true or not true,
3 we wanted to understand what the allegations were
4 and there was -- it was important to understand
5 factually what she was saying occurred and whether
6 or not it lined up with the definition of sexual
7 harassment in the document that you showed me.

8 So it was important to understand not
9 just whether or not what she was saying was true,
10 but what was she saying and how did she feel about
11 it.

12 Q. Was it your understanding that
13 someone went through the exercise of determining
14 whether Ms. Bennett's allegations were true?

15 MR. SCHUMAN: You can answer without
16 disclosing privileged communications.

17 A. The initial focus was to make sure
18 that the Chamber understood what she was saying
19 factually had occurred because just by the nature
20 of things, people speak broadly and then they may
21 get more specific, so what exactly was she saying
22 had occurred. Right? Then what was the process
23 from there. Beyond that, I don't think I could
24 say anything more.

25 Q. Do you know if anyone went through

1 L. Lacewell

2 the exercise of comparing the factual allegations
3 that Ms. Bennett had communicated to the
4 definition of sexual harassment?

5 MR. SCHUMAN: Same warning to the
6 witness.

7 A. I don't know if I could get into
8 anymore detail, but I tried to help you see that
9 it was the focus of the initial discussions to
10 understand factually what she was saying and to
11 understand what the policy therefore meant.

12 Q. When you say it was the focus of the
13 initial discussions, are you just referring to the
14 initial discussions in which you were involved?
15 What do you mean by the initial discussions?

16 A. I mean the initial discussions that I
17 was involved in with Judy Mogul, Jill DesRosiers,
18 to whatever extent she was in the conversations,
19 and with Alphonso David.

20 Look, I'll say it again. Alphonso
21 David is an acknowledged expert on these matters.
22 So did I know personally how to proceed? I'm not
23 the expert. Will I render my help and help the
24 team understand the issues and the questions and
25 the conversations that should be had? Yes. But

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

beyond that, I mean, I think I've taken it pretty far and I don't want to trigger any waiver issues, unless you are going to tell me you're not going to treat it as a waiver.

Q. We'll get back to you on that.

You said we take claims of sexual harassment very seriously.

Can you elaborate on that?

A. I think that's self-evident. I didn't elaborate on it. It's really not a factual question. I think my statement is pretty clear.

I never heard any allegation of any sexual nature involving the Governor, prior to the communications that I had involving Ms. Bennett and she didn't allege that he touched her or propositioned her or anything. Lindsay Boylan's allegation of physical touching was the first I ever heard of any allegation involving the Governor.

Of course, as the Governor's office for the State of New York, the State takes allegations of sexual harassment very seriously and I concur with that and that has been what I have perceived throughout.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Is it your position that unless Ms. Bennett alleged the Governor has touched her or propositioned her that the conduct she described would not qualify as sexual harassment?

A. I'm not taking any legal position. I simply stated the fact. Let me put it this way -- I just want to think a minute because I do need to be careful with privilege issues.

There were allegations she made through the media that I had not previously heard until I read them in the media. Let me put it that way.

Q. Ms. Lacewell, did you ever see the notes that Judy Mogul took of her conversations with Charlotte Bennett?

A. I don't know if I personally saw them, but I'm aware of them and she walked me through them on the phone at the time.

Q. When you say Ms. Mogul walked you through her notes, do you mean Ms. Mogul read her notes to you?

A. I don't know if she was reading them or she was using them to a guide to recount what Ms. Bennett had to say.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

THE VIDEOGRAPHER: Ms. Mainoo --

MS. MAINOO: Off the record?

THE VIDEOGRAPHER: Yes. I need to change the media unit. This is the end of media unit number one.

We are off the record at 10:41 a.m.

(Brief recess taken)

THE VIDEOGRAPHER: This is the beginning of the media unit number two.

We are now on the record at 10:41 a.m.

Q. Ms. Lacewell, did you ever ask Ms. Mogul to let you see her notes of her conversations with Charlotte Bennett?

MR. SCHUMAN: Objection.

A. No.

Q. Did you ever ask Jill DesRosiers to let you see her notes of her conversations with Charlotte Bennett?

A. No.

Q. You said earlier that there were allegations that Charlotte Bennett made in the media that you learned about for the first time when they became public.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

At that time, did you ask anyone whether those allegations were true or not?

MR. SCHUMAN: Objection if it calls for any privileged communications.

A. No.

Q. Do you know if anyone asked the Governor whether Ms. Bennett's allegations were true?

MR. SCHUMAN: Same counsel.

A. I may have had privileged communications in that regard.

Q. Which of the allegations that you first read about in public reports -- I'll start again.

Which of Ms. Bennett's allegations did you first read about when they were made public?

A. That she viewed the conversation as an invitation to sleep with her -- to sleep with him, that she was not happy with how the Governor's office handled the matter. The initial New York Times story, she was happy. Subsequent stories, she was not happy, that she thought it should have been investigated.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Anything else?

A. That's what I recall, but I haven't read those news stories in a while.

Q. Was it up to Ms. Bennett to determine whether her allegations should have been investigated?

MR. SCHUMAN: Objection if you're calling for legal advice.

A. I'm here as a fact witness, right?

Q. Are you declining to answer?

A. I'm declining to give legal advice or legal opinions as a fact witness.

Q. According to Ms. Grasso's memo that we read earlier, if a complaint was made to a supervisor, manager, executive staff, counsel's office or Human Resources, that individual is required to send the complaint to GOER so that it will be investigated, right?

A. If the complaint constitutes sexual harassment, yes.

And it's also not clear to me that that would apply to the Governor, by the way.

Q. Do different rules apply to the Governor?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Well, when they -- you know, he appoints the head of GOER. Are you suggesting that the Governor's head of Employee Relations that he appoints would investigate the Governor? I remember the Inspector General under Elliot Spitzer effectively losing her job because she tried to investigate conduct involving the Secretary and the Governor when by law she reported to the Secretary because of the conflict of interest.

Q. So in that situation, are you suggesting that no one would investigate the Governor?

A. I didn't say that.

Q. So what are you saying?

A. I said it's not clear to me that any complaint of sexual harassment against the Governor, if it met the definition of sexual harassment, could go to GOER. That may be a gap. I don't know. But sending it to GOER, I think, would have been questionable.

Q. But the Executive Chamber has sent complaints of sexual harassment against the Governor to GOER, right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. No, not to my knowledge. The Governor's office, employees in the Governor's office, but not the Governor.

Q. You're not aware --

A. The Inspector General investigates allegations against all employees, including those of the Executive Chamber, but not against the Secretary and not against the Governor. That would be a conflict of interest.

Q. So you're not aware that the Executive Chamber sent Alyssa McGrath's sexual harassment complaint against the Governor to GOER?

A. I'm not aware of that and I don't agree with it. It may well have been that they felt they had to and then GOER can decide whether or not they think they can investigate it. I don't know, but I wasn't a part of that decision. I wouldn't have advised it.

Q. Are you aware that the Executive Chamber sent the complaint by the anonymous complainants of the sexual harassment allegations against the Governor to GOER?

A. I don't know who you are referring to, but I'm not aware of any complaints involving

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

the Governor going to GOER.

Q. Are you aware of complaints by an Executive Chamber employee that she was groped by the Governor in the executive mansion?

A. I read news stories in that regard, yes.

Q. Have you had any discussions with anyone in the Executive Chamber about those allegations?

MR. SCHUMAN: Objection if it calls for privileged communications.

A. Yes.

Q. Do you know who that complainant is?

THE WITNESS: I'm just thinking for a minute.

If the source of my knowledge is privileged, should I not answer?

MR. SCHUMAN: Yes.

A. Only from privileged conversations.

Q. Ms. Lacewell, is it your view that there's an exception to the reporting requirement of sexual harassment allegations to GOER if the allegations are against the Governor?

A. I've already expressed my opinion. I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

think it's a conflict of interest. I suppose you could send it there and that person could say "I can't investigate this because I have a conflict of interest."

Q. In your view, how should sexual harassment allegations against the Governor be handled?

A. Is that why I'm here? I'm a fact witness here. I don't think you want my expert opinion. Do you?

Q. Others seem to be consulting you for it.

What's your answer?

A. Yeah, but you're not my client.

Q. What's your answer, Ms. Lacewell?

A. My answer is I'm not here to give my opinions about the law.

Q. You gave your opinion that you think there is a gap maybe when sexual harassment allegations are made against the Governor. So I want to understand in light of that view, how do you think sexual harassment allegations against the Governor should be handled?

A. I'm really not here to talk about how

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

they should be handled, whether there's a mechanism, should there be a mechanism, what would it look like, etc. And if you are going to use against me that I tried to give you a little bit more information than I'm required to, then I'll just stop doing that. Okay?

Q. Just to be clear, you are refusing to answer that question?

A. I am not going to give my opinions in response to a deposition that is designed to seek the facts. That's right.

MR. SCHUMAN: I'm going to -- why don't you move on? Superintendent Lacewell is under oath to testify truthfully --

MS. MAINOO: Adam, we can discuss during a break. I'm going to keep asking questions now.

MR. SCHUMAN: Well, you can, but she's here to testify about facts under oath. She can't under oath --

Q. Ms. Lacewell, did you help in any way in dealing with Ms. Bennett's allegations before December 2020?

A. Did I help in any way in dealing with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

her allegations? I don't know what that means.

Q. Did you help the Executive Chamber in any way in dealing with Ms. Bennett's allegations?

A. In the way I have already testified to.

Q. Okay.

Now, what do you know about how the Chamber responded to Ms. Bennett's allegations?

MR. SCHUMAN: Privileged.

Objection.

A. The conversations that I had in that regard are privileged.

Q. Did Ms. Mogul tell a group, including nonlawyers who are also not Chamber employees, about how the Chamber responded to Ms. Bennett's allegations?

MR. SCHUMAN: If you can answer without disclosing privileged communications, then you can.

A. I don't recall.

Q. Did Ms. Mogul tell a group, including individuals advising on press issues who are not lawyers and who are not Chamber employees, how the Chamber responded to Ms. Bennett's allegations?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: Same counsel.

THE WITNESS: Can I confer on a
privilege issue for a minute?

MS. MAINOO: Of course.

THE VIDEOGRAPHER: Counsel, should we
go off the record?

MS. MAINOO: Yes. Thank you.

THE VIDEOGRAPHER: Standby.

We are now off the record at
10:52 a.m.

(Recess taken)

THE VIDEOGRAPHER: We are now on the
record at 10:55 a.m., back from break.

A. All right. Thank you for the chance
to confer on privilege issues. It's not always
clear to me where privilege has been asserted.

So here's what I recall: There was a
phone conversation that I was on, that Judy Mogul
was on, that Jeff Pollock was on, outside
political consultant, probably Melissa DeRosa was
on and I don't know -- I don't recall exactly who
else was on, but you asked conversations with
outside parties where Judy Mogul disclosed that
previously Charlotte Bennett had made certain

1 L. Lacewell

2 allegations involving the Governor and she
3 described what Charlotte had said and that it did
4 not meet the definition of sexual harassment in
5 the GOER policy, but that they should be aware of
6 it because we were dealing with the Lindsay Boylan
7 allegations in the press and so this was relevant
8 to that. That's what I recall.

9 Q. Do you recall Ms. Mogul saying that
10 Charlotte Bennett told Ms. Mogul that she had
11 experiences with the Governor that made her
12 uncomfortable?

13 A. That she had -- that Ms. Bennett has
14 a course of dealing with the Governor, that it was
15 a very positive relationship over a period of
16 time, that she viewed him as a mentor, that he's
17 very supportive of her, but that in their last
18 interaction, she started to become uncomfortable
19 with the conversation and she chose to remove
20 herself from a situation before it could become
21 anything worse, but that he had not touched her,
22 he had not propositioned her and that she was
23 proactively removing herself from a situation and
24 she was proud of herself for doing that
25 proactively before she would be in a situation

1 L. Lacewell

2 that could potentially be worse and that's why she
3 asked to be transferred out and that she didn't
4 want it pursued further and that she was very
5 grateful to Ms. DesRosiers and Ms. DeRosa for the
6 sensitivity in which they treated this process and
7 that she didn't want it pursued further. She
8 thanked them even after being transferred for
9 that.

10 Q. Did Ms. Mogul report that the
11 Governor had asked Ms. Bennett, according to
12 Ms. Bennett, about what she thought of age
13 differences between sexual partners?

14 A. It was something to the effect of the
15 Governor was extremely popular at the time, there
16 were some women who had crushes on him. This
17 expressed itself through mail that he received,
18 that part of Ms. Bennett's responsibilities at the
19 time was to look at the Governor's external mail,
20 that she may have told him this was the kind of
21 mail he was getting and they joked around about it
22 and that he asked her what appropriate age
23 difference would be. That's the best of my
24 recollection on that point. Not that he asked her
25 personally what age she would be comfortable with,

1 L. Lacewell

2 but the more general question of what is an age
3 gap appropriateness between two individuals, not
4 whether she would consider sleeping with an older
5 man.

6 Q. So the answer to that question is
7 yes?

8 A. I don't recall the question at this
9 point. I was trying to give you a fulsome answer
10 to the question. If you want to repeat the
11 question, I could tell you whether the answer is
12 yes.

13 MS. MAINOO: Sure.

14 Can the court reporter repeat the
15 question?

16 THE WITNESS: And if you want a yes
17 or no answer, just tell me. I'm trying to be
18 helpful and give you whatever recollection I
19 have and then you come back with "So is that
20 a yes?"

21 MS. MAINOO: Thank you.

22 (Whereupon, the record was read back
23 by the reporter.)

24 A. Yes.

25 Q. Now, in recounting what Ms. Mogul

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

told the group, you said that Ms. Mogul explained that Charlotte had chosen to remove herself from the situation before it got worse.

What did you mean by that?

A. That Ms. Bennett recounted that she had a long period of interactions with the Governor, that she thought it was a very positive working relationship, she enjoyed having discussions with him, viewed him as a mentor, that the last interaction she had, she started to feel uncomfortable in that last interaction and went to Jill for a transfer because she wanted -- literally wanted to get herself out of a situation before something could happen -- maybe he would proposition her, whatever; that's my words at this point -- but she said I started to get uncomfortable, I think it's better that I remove myself and she was proud of herself for taking that step, that she was having forethought was the concept.

Q. So is your understanding, based on what you've heard from Ms. Mogul, that Charlotte Bennett went to Jill DesRosiers specifically to ask for a transfer?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. So my understanding from the discussion that I just recounted -- right, so not any other privileged sources -- is that Ms. Bennett had previously been asking -- she was interested in moving, I think, to the health space or to some other position and after this last conversation, the one in which she began to feel uncomfortable, that she went to Ms. DesRosiers and said "How about that position I asked for? I really don't want to work directly for the Governor anymore."

Q. Did Jill DesRosiers ever share her notes of her conversation with Charlotte Bennett with you?

A. No. And I don't even know if she took notes, by the way. I have no knowledge of that.

Q. Do you understand that Ms. Mogul did not speak with Charlotte Bennett until Charlotte Bennett had already been transferred to the health position?

MR. SCHUMAN: Objection.

It calls for privileged communications.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I'm just thinking for a minute as to whether it was covered in this conversation that we were talking about. I think I only have privileged information in that regard. I think the chronology will speak for itself ultimately. I don't have any other knowledge outside of privileged communications.

Q. So the way Ms. Mogul told the story, at least during this group conversation, was that Charlotte went to Jill specifically to ask to leave the Governor's office, correct?

A. Yeah, and as I focused back in on the conversation, in that last conversation that we were just talking about that included Mr. Pollock, I believe what Ms. Mogul recounted was, as you said, that Ms. Bennett went to Jill DesRosiers to ask for the transfer.

Subsequent to that, Ms. DesRosiers came to Ms. Mogul and subsequent to that, Ms. Mogul spoke with Ms. Bennett, but I think the transfer might have already occurred. Again, the chronology will speak for itself.

Q. Was Ms. Mogul's telling of what happened, as she explained it during this call

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

with Jeff Pollock and others, consistent with your own understanding of the chronology based on other conversations?

A. Well, let's put it this way: I didn't hear anything new and I didn't hear anything different. I don't want to trigger any waivers.

Q. So you didn't hear anything inconsistent?

A. I did not hear anything inconsistent. That's right.

Q. Did Ms. Mogul say during the group call that Charlotte Bennett had reached out to Ms. Mogul and Ms. DesRosiers to ask whether an investigation was required pursuant to the handbook?

A. No. No. Again, it was that Ms. Bennett had gone to Ms. DesRosiers, who I believe was her supervisor, had had previous conversations about a transfer that triggered that, the transfer may have actually occurred, Ms. DesRosiers notified Ms. Mogul and then Ms. Mogul ultimately spoke with Ms. Bennett and the other conversations had ensued.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

In other words, went to her to see if she was comfortable speaking with Ms. Mogul, that that conversation was initiated by Ms. Mogul with or without Ms. DesRosiers, so like Ms. DesRosiers saying "Would you be comfortable speaking with Judy Mogul?" and they spoke to determine the nature of the underlying allegations of the request for the transfer.

Q. Did Ms. Mogul recall that no investigation was conducted regarding Ms. Bennett's allegations against the Governor?

A. No. I think Ms. Mogul was looking -- was speaking with Ms. Bennett about her transfer request proactively to find out why she was not comfortable working for the Governor anymore and see if she'd be willing to discuss it and identify what the facts were.

But the facts, according to Ms. Mogul, did not meet the definition of sexual harassment under the policy and Ms. Bennett did not want to pursue it further. Two separate points, period.

Q. Did Ms. Mogul explain that she had not done anything to investigate the facts that --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

THE WITNESS: I think you're

frozen --

MS. MAINOO: I think you're frozen,

too?

THE WITNESS: Actually, everybody is

frozen.

MS. MAINOO: Let's go off the record.

THE VIDEOGRAPHER: Standby.

We are now off the record at

11:08 a.m.

(Recess taken)

THE VIDEOGRAPHER: We are now on the

record at 11:17 a.m.

Q. Did Ms. Mogul explain during this group call that she had not done anything to investigate the factual allegations Ms. Bennett made regarding her interactions with the Governor?

A. I don't think that was addressed. In other words, she recounted what Ms. Bennett had said to her and determined that it didn't meet the definition of the sexual harassment, as I indicated. I don't know that she addressed whether she investigated whether the allegations were true because I think for the purpose of that

1 L. Lacewell

2 exercise, it doesn't matter if they're true or
3 not. Does the claim meet the definition of sexual
4 harassment? Whether the claim is true or not true
5 is immaterial.

6 But she's didn't affirmative say "I
7 didn't investigate whether or not it was true," if
8 that was the question.

9 Q. Did Ms. Mogul speak to whether
10 Ms. Bennett's allegations were of a sexually
11 harassing nature?

12 A. I don't recall that type of dialogue.
13 What I recall, as indicated, is that she compared
14 what Ms. Bennett had said to the sexual harassment
15 policy where there are definitions given and that
16 it did not meet any of those.

17 Q. Let's go to Lindsay Boylan.

18 Ms. Lacewell, how do you know -- do
19 you know Lindsay Boylan?

20 A. Yes.

21 Q. How do you know her?

22 A. I know her from when I came back from
23 California to the Governor's office. She was a
24 part of the administration. I don't recall at
25 that time whether she was directly employed by ESD

1 L. Lacewell

2 or whether she had become Deputy Secretary. I
3 think she was still an ESD employee, so I
4 interacted with her in staff meetings and economic
5 development-related conversations.

6 Q. Is it the case that even after
7 Ms. Boylan joined the Executive Chamber she was on
8 the payroll of Empire State Development?

9 A. Yes, I think so. That's not unusual.
10 Wouldn't surprise me.

11 Q. Ms. Boylan was also in the office
12 space of Empire State Development?

13 A. Yes. We offered for her to come to
14 the 39th floor, but I think she had a nice set up
15 at ESD, which is in the same building, just a
16 floor below, and I think she preferred to stay
17 where she was. I think her secretary was there
18 and so forth.

19 MS. MAINOO: We'll go to tab six.

20 (Whereupon, Exhibit 7 was marked for
21 identification.)

22 Q. Now, tab six is a series of text
23 messages between you, Melissa DeRosa, Jill
24 DesRosiers and Alphonso David. We'll flip through
25 it so you have a chance to see it.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Hold on. Go ahead. Could I see the top of that again, please? Thanks. Okay.

Q. So Ms. Lacewell, these text messages are from July 2018, correct?

A. Yes.

Q. They seem to reflect that Ms. Boylan was upset about interactions she had had with senior staff in the Chamber.

Is that fair to say?

A. Yes.

Q. You discussed the situation with Ms. DesRosiers, Ms. DeRosa and Mr. David, right?

A. Yes.

Q. There's a concern that Ms. Boylan might leave the Executive Chamber as a result of the situation.

Is that fair to say?

MR. SCHUMAN: Are you just asking about the text? I'm just sensitive to privilege if there's other communications with Ms. Lacewell or Mr. David where they're giving legal advice --

MS. MAINOO: I'm asking about the text, as reflected in the text.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I don't know if she actually said "I'm quitting," but whatever words she used were serious enough that when Ms. DeRosa says "Did she come in" -- people weren't sure if she had actually quit.

I think this happened a couple times.

Q. Did you speak with Ms. Boylan on that occasion? And we can go back to the text to try to jog your memory.

A. Obviously, there's the text where I reach out to her and she wanted some time. I can't recall if we did ultimately speak or did she just come back to work. I had a pretty good relationship with her, so we might have spoken.

Q. When you said just now that you think this happened a couple times, were you saying that you think there's a situation where Ms. Boylan threatened to quit or it appeared that she might be quitting a couple times?

A. Yes.

(Whereupon, Exhibit 8 was marked for identification.)

MS. MAINOO: Let's go to -- we'll mark this document as an exhibit. Let's go

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

to tab seven, which we will also mark as an exhibit. Okay. So let's start with the page Bates stamped LL_AG 04609.

MR. SCHUMAN: Sorry. Do you expect Ms. Lacewell to read this?

MS. MAINOO: I do not at all. Of course if Ms. Lacewell wants us to go back, we will do that. I just wanted to start here.

Q. So this is an email from Alphonso David dated September 20th, 2018 to Melissa DeRosa and Ms. Lacewell is copied and so is Jill DesRosiers. Earlier in the chain -- we could scroll down -- [REDACTED] is complaining about Ms. Boylan and Ms. DeRosa forwards that email to Alphonso David and says "Alphonso, please create a file for Lindsey. Please put this in it."

So basically what's happening is that Ms. DeRosa is asking Mr. David to create a file for Boylan and include this complaint from [REDACTED] [REDACTED] about the way that Ms. Boylan treated people.

Is that right?

A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. When you were in the Chamber, was there a practice of creating files for people under certain circumstances?

A. Alphonso David handled that as counsel and the employment matters, he would decide if there needed to be a file. In fact, I think that's his response, if you scroll up.

Q. Mr. Alphonso says "We manage all allegations and claims using the same process and applying the same standards."

Do you agree with that statement, Ms. Lacewell?

MR. SCHUMAN: Objection.

A. Well, I was focusing on the part that says given this was independently forwarded to counsel's office that we'd already begun compiling information on this, further allegations regarding this employee. I think this was one in a series of allegations that were coming to his attention.

Q. Okay.

A. So instead of creating a file, he's saying "I've already been creating a file."

Q. But is his statement --

A. Beyond what he says, I don't know

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

what his process is. I didn't work in counsel's office. The exact process that he used, I don't know, but I have the utmost respect for his integrity and I believe him when he says we apply the same standard to everybody.

Q. Is it consistent with your understanding that the Chamber managed all allegations and claims using the same process and applying the same standard?

A. I don't really understand the question beyond the context of this email where he's saying you're asking me to create a file, we have a process and we already have this, so we've already begun putting the file together. That's what he's indicating. I don't have any information to the contrary.

Q. In addition to what he says in the second sentence, he says, in the first sentence, "We manage all allegations and claims using the same process and applying the same standard."

Do you disagree with that statement?

A. No.

Q. So what we're going to scroll up and of course if you want to go to any other page, we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

will do that. We're going to scroll up to the page Bates stamped LL_AG 04584.

That document is a memo dated September 20th, 2018. So it's the same day that DeRosa asks David to create a file and he responded. It looks like Camille Varlack sends a memo to Alphonso David summarizing an apparent request to remove Lindsay Boylan from ESD's payroll and office space.

Is that right?

A. That's certainly one part of the document. I don't know if it discusses other matters, but yes, that's the first topic.

Q. We'll scroll down.

The third main bullet point says "Additional concerns were raised by [REDACTED] [REDACTED] regarding interactions between L. Boylan and ESD agency personnel."

So it looks like one of the reasons for the request to remove Boylan from ESD's office space and payroll, at least according to Varlack's memo, is based on the way that Ms. Boylan interacted with agency personnel, correct?

A. Look, the document speaks for itself,

1 L. Lacewell

2 but I don't think that's a fair characterization.
3 The bullet above says "The request is predicated
4 on the following:" and then has a list of things.
5 Then the next bullet says additional concerns were
6 raised. I don't know that the memo is indicating
7 that's a reason for her removal, but I don't have
8 any independent knowledge of that, other than what
9 the document says.

10 Q. Okay.

11 So the document says that Ms. Boylan
12 yelled at agency personnel.

13 Do you see that?

14 A. Yes.

15 Q. And the document also says that on an
16 agency-wide basis, Ms. Boylan was reported to be
17 hostile and a bully?

18 A. Yes.

19 Q. According to this memo, Ms. Varlack
20 spoke with [REDACTED] and [REDACTED] about
21 Ms. Boylan alleged mistreatment of agency
22 personnel, right?

23 A. Yes.

24 Q. Let's go to the page Bates stamped
25 4600. This is an email from Alphonso David to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Ms. Boylan and Ms. Varlack and according to this email from Mr. David, Ms. Varlack was going to conduct an investigation regarding the issues concerning Ms. Boylan, right?

A. I think it's an investigation, so I don't know what you mean by that word.

Q. If we scroll down, Ms. Varlack says in her email on September 20th to Ms. Boylan and Alphonso David that a personnel action that Ms. Boylan had taken was being reviewed by Legal. That's what I mean by investigation.

A. But Ms. Varlack is not doing an investigation. She's the Deputy Director of State Operations. Alphonso is the counsel. Reviewed by Legal would mean Alphonso.

Q. So Alfonso was doing an investigation?

A. I wouldn't necessarily characterize it as an investigation. Do you want me to tell you what I know about this or do you want me just to try to tell you what these words mean?

Q. Sure. Please tell me what you know about this.

A. Camille Varlack was Deputy Director

1 L. Lacewell

2 of State Operations, I was the Chief of Staff and
3 counsel to the Governor and Camille learned from
4 ESD that Ms. Boylan [REDACTED]
5 ESD's staff who worked on her matters and that the
6 staff there were very upset about it and she came
7 up to the 39th floor where I was and I believe she
8 told me about it and I said talk to Alphonso,
9 which is what I would do about any personnel
10 matter, and she said she was on her way to do
11 that.

12 She spoke to Alphonso. To my
13 understanding, he asked her to go get the facts
14 from ESD because this exposed the office to
15 potential litigation [REDACTED]
16 and as a result, [REDACTED] the general counsel of
17 ESD, recounted a whole litany of allegations about
18 Lindsay Boylan and the way she treated employees
19 and the health concerns this was generating and so
20 on and so forth.

21 Ms. Varlack either obtained a summary
22 from ESD, wrote a summary, some combination, gave
23 these documents to Alphonso and then Alphonso
24 decided as counsel how to address it, which was to
25 speak to Ms. Boylan and ask her about the

1 L. Lacewell

2 allegations -- I was not present for that -- and
3 as a result of that conversation, Ms. Boylan quit.

4 The allegation from [REDACTED] was
5 independent of this. The allegations from
6 [REDACTED] and someone else that Ms. Boylan treated
7 them with disrespect and was not cooperative and
8 was -- [REDACTED] was Lindsey's [REDACTED] and
9 felt the need to complain about her. These
10 matters were all sort of occurring independently
11 and at the same time and converging into Mr. David
12 dealing with the problem as counsel.

13 That's my understanding.

14 Q. Got it. Thanks, Ms. Lacewell.

15 Would you agree that the allegations
16 of potential sexual harassment against Governor
17 Cuomo exposed the Chamber to potential litigation?

18 A. Of course.

19 Q. The allegations of potential sexual
20 harassment by Governor Cuomo were not
21 investigated, right?

22 A. I don't know what you mean by that.
23 I can't speak in the aggregate about that,
24 especially given where we are.

25 By the way, you're investigating him,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

so I don't know what you mean. I need you to be more specific.

Q. Of course.

Ms. Bennett's allegations of potential sexual harassment against Governor Cuomo were not investigated by the Chamber, right?

A. As I had previously testified -- and I'm happy to say it again -- Judy Mogul learned that Ms. Bennett had asked for a transfer because she was no longer comfortable working directly for the Governor. She proactively sought out Ms. Bennett through Jill DesRosiers to see if she would be comfortable talking to her about what she meant. She reassured her during that conversation that she was free to say anything. Ms. Bennett recounted her experience.

Ms. Mogul reviewed the definition of sexual harassment. She spoke with Alphonso David -- I don't know who else she spoke to -- and she determined that it didn't meet the definition of sexual harassment, which Ms. Bennett was happy about because she did not want it pursued further, irrespective of whether or not it would have to have been pursued further if it was sexual

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

harassment.

That's my recollection.

I can't give you the ultimate conclusions that you may wish to include in your report. That's not what I'm here for. Whatever facts I have that are not privileged I'm happy to convey to you. I'm not doing ultimate conclusions. It's not my job and it's not the purpose of a deposition.

Q. Now, Ms. Mogul had learned about Ms. Bennett's allegations against Governor Cuomo before the end of June when she actually took the step of speaking with Ms. Bennett, right?

MR. SCHUMAN: You can answer without disclosing privileged communications.

A. Ms. Bennett -- sorry. Ms. Mogul learned about the allegations by Charlotte Bennett from Charlotte Bennett when they spoke, which I believe was before Ms. Mogul spoke to me, which was around July 1st.

Q. But Ms. Mogul first learned of Ms. Bennett's allegations from Jill DesRosiers in or around June 10th, 2020.

Right?

1 L. Lacewell

2 A. No. This is my understanding and it
3 doesn't mean that I have all the facts. Okay? My
4 understanding is Ms. Bennett had previously
5 expressed interest in moving to a health position.
6 Ms. DesRosiers had not acted on that. Ms. Bennett
7 went to Jill DesRosiers and said "I've been asking
8 for this transfer, I'm no longer comfortable
9 working directly for the Governor and I want the
10 transfer."

11 I believe -- and I could be wrong --
12 that Ms. DeRosa either agreed to or maybe even
13 effectuated the transfer and at some point not too
14 long after spoke with Judy Mogul about the
15 conversation and that Ms. Mogul proactively took
16 it upon herself to see if Ms. Bennett would speak
17 to her about what she meant -- why aren't you
18 comfortable working for him directly anymore, what
19 do we need to know -- and that Ms. Bennett is the
20 one who disclosed -- probably with Ms. DesRosiers
21 there, I think they were both on the phone
22 together -- what her experience had been.

23 So when you say that Ms. Mogul knew
24 before she spoke to Ms. Bennett, that's not my
25 information, but those are the facts that I'm

1 L. Lacewell

2 aware of.

3 Q. Whereas part of the investigation
4 into allegations about how Ms. Boylan treated
5 agency personnel, someone spoke to Ms. Boylan, the
6 accused, and asked her about the allegations --

7 A. I'm not talking about that. That is
8 not even a question. This is not oral argument.
9 Right? If you have a question, ask me the
10 question. As opposed to the way it is
11 mistreated -- the way it is mistreated treated was
12 different. It doesn't -- I can't answer that
13 question. It's compound. I don't understand it.
14 I don't agree with your characterizations and it's
15 not what I'm here for as a fact witness.

16 If you want to ask me was this
17 investigated -- if you want to ask me was this
18 investigated, fine. But to, like, load up a fact
19 pattern and say this fact pattern is different
20 from this fact pattern, it's not an appropriate
21 question. In a civil deposition in private
22 practice it would be objected to and sustained. I
23 don't understand it, it's not appropriate. Let's
24 do better.

25 Q. So let's do better and use your

1 L. Lacewell

2 question.

3 Were Ms. Boylan's allegations of
4 sexual harassment against Governor Cuomo
5 investigated?

6 A. I've answered it at least twice.

7 Q. Yes or no?

8 A. If you need me to do it again, I
9 will.

10 Q. Yes or no?

11 A. I don't know what you mean by
12 investigated.

13 Q. I mean it in the same way you just
14 used it.

15 A. How did I use it? I was using your
16 question.

17 MS. MAINOO: Ms. Court Reporter --
18 can the court reporter please repeat
19 Ms. Lacewell's statement about the question
20 that she was -- she said she'd be willing to
21 answer about whether allegations were
22 investigated --

23 THE WITNESS: Investigated by who?
24 Were Ms. Bennett's allegations investigated
25 by GOER? No. Were allegations against

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Ms. Bennett investigated by GOER? No, they were not.

Q. Were Ms. Bennett's sexual harassment allegations against the Governor investigated by the Chamber?

A. Judy Mogul -- I don't know if you would term it investigation, but she looked into it with Ms. Bennett and did a legal exercise and consulted with Alphonso David, among other things. So factually, that's what occurred at a minimum. Anything else you would have to ask her.

Q. Is there a reason you're not willing to answer the question about whether the Chamber investigated Ms. Bennett's sexual harassment allegations against the Governor?

A. Yes, because the term "investigated" here by you is a loaded term. What do you mean by investigated? Were people deposed and put under oath? No. What do you mean? I told you factually what I know three times, four times.

Q. Did anyone in the Chamber ask the Governor about Ms. Bennett's sexual harassment allegations against him?

A. I can't answer that without invading

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

attorney-client privilege.

Q. All right.

Ms. Lacewell, before December 2020, were aware of any allegations by Lindsay Boylan about the work environment in the Executive Chamber?

A. No.

Q. When did you first become aware of allegations by Ms. Boylan about the work environment in the Chamber?

A. Well, let me stop for a second. Work environment, what does that mean? I mean, work environment, what does that mean? I don't know what that means. Can you be more specific?

(Whereupon, Exhibit 9 was marked for identification.)

Q. Happy to show you a document. Let's go to tab 50. We'll mark it as an exhibit.

Ms. Lacewell, do you recognize this document?

A. Yes.

Q. What is it?

A. It's a Twitter thread by Ms. Boylan in December 2020, December 8th.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. What is it about?

A. It's about her allegations against the Governor.

Q. Concerning what?

A. Can you scroll? Is that everything? My recollection is she did a series of tweets over time in which she was being critical about her experience in the Governor's office before it culminated in a separate tweet in which she accused the Governor of sexual harassment.

But she had never said this to me, if that's your question. What she said to me was that she felt that Stephanie Benton and Annabel Walsh and perhaps Melissa were preventing her from going back to the Governor's office and dealing with him directly and that she felt she should have unfettered access back there and they were trying to block her and they wanted to be the only people to interact and she very much wanted to be back there.

In my experience with her at the time, she enjoyed her job. Those were the conversations that we had. As I mentioned previously, I had a good relationship with her at

1 L. Lacewell

2 the time. In fact, when she left, I was the one
3 who helped her get her access to her things
4 because she was willing to have a conversation
5 with me because she didn't put me in that
6 category. You know, she called them the "Mean
7 Girls," for whatever that's worth, and didn't put
8 me in that category.

9 Q. So let's talk about the allegations
10 Ms. Boylan made before her allegations, as you put
11 it, culminated in allegations about sexual
12 harassment against the Governor.

13 Did you do anything to try to verify
14 if those allegations were true or not?

15 A. I don't think they were specific. I
16 mean, you want to show me something specific that
17 she said or ask me something specific?

18 Q. I will ask you a specific question.
19 Yes or no, did you do anything to try
20 to verify if those allegations were true or not?

21 A. What allegations?

22 MR. SCHUMAN: Objection.

23 Q. The allegations Ms. Boylan made about
24 her experience in the Chamber before she made
25 allegations of sexual harassment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Can we put the document back up? I don't see any specific allegation that could have been investigated, unless you want to point my attention to something.

Q. Did you ever become aware of allegations by Ms. Boylan about a toxic workplace environment in the Chamber?

A. Other than what she tweeted and she wrote on Medium, I had never heard any such things from her. As I said, she seemed to enjoy her time in the office, she valued her relationship with the Governor. She sought him out and wished to have direct contact with him, contrary to the protocols of the Chamber. And even after she quit, she tried to come back. So it was not my understanding that she was unhappy with the environment at all until she was running for office and started tweeting this out.

Q. Once you learned through Ms. Boylan's tweets that she was unhappy with the environment in the Chamber, did you do anything to try to verify if those allegations were true or not?

A. Did I try to verify that she was unhappy in the Chamber when all of my experience

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

prior to that was that she was happy in the Chamber? No, I didn't.

Q. Did you discuss Ms. Boylan's allegations about the work environment in the Chamber with anyone?

MR. SCHUMAN: Objection to the extent it's privileged.

A. I discussed Ms. Boylan and her tweets -- beginning with her tweets -- with Judy Mogul and Melissa DeRosa in realtime as it was happening, yes. And with the press shop because, you know, this generated press issues.

Q. Did you discuss those tweets with the Governor?

A. I don't think I did.

Q. When did you first become aware of Ms. Boylan's sexual harassment allegations against the Governor?

A. When she tweeted it.

Q. Did you do anything to try to verify if Ms. Boylan's sexual harassment allegations were true or not?

MR. SCHUMAN: I'll caution the witness on any privileged communications.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I didn't personally do anything, but I participated in a series of conversations with lawyers about what she was alleging and other conversations occurred that I can't get into due to privilege and the Governor addressed it directly in the media.

Q. Did you ask the Governor if Ms. Boylan's sexual harassment allegations were true?

A. You already asked me if I spoke to him about the allegations and I didn't.

(Whereupon, Exhibit 10 was marked for identification.)

MS. MAINOO: Let's go to tab eight and we'll mark it as an exhibit.

Q. So let's look at numbers two through eight. This is a series of text messages that you produced or your counsel produced, Ms. Lacewell, and I'd like to focus on your texts with [REDACTED] [REDACTED].

Do you see them?

A. Yes.

Q. Okay.

So it looks like [REDACTED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

references Ms. Boylan's sexual harassment
allegations against the Governor and you say
"Running for office and made it up."

Who is [REDACTED] ?

A. She's a longtime friend of mine who
also works in state government, but I knew her
many years before.

Q. And she's still a state employee?

A. Yes.

Q. In New York?

A. Yes.

Q. What was the basis for your
suggestion that Ms. Boylan had made up her sexual
harassment allegations against the Governor
because she was running for office?

A. I was expressing to my longtime
personal friend my own personal opinion about
Lindsay Boylan's allegation, which was wholly
inconsistent with my experience with her in the
Chamber, and my personal impression, my personal
opinion was that she was trying to generate
publicity for her campaign and was willing to make
up this allegation.

That was my personal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Linda-Lacewell-non-State worker opinion about what she said and that's what I expressed.

Q. When you expressed this opinion, you weren't wearing your Minister of Defense hat?

MR. SCHUMAN: Objection.

A. That's not a real question. I thought we agreed to do better.

Q. Is that a yes or no?

A. I'm not answering that question. I already told you I was answering a personal friend. I'm sure you've expressed many opinions to your personal intimate friends and family about a whole range of things that don't represent your official employment position. Okay?

Q. You expressed this opinion that Ms. Boylan made up the sexual harassment allegations against the Governor, even though you had not done anything to look into Ms. Boylan's allegations, correct?

A. I said what I said when I said it. Right? I mean, that's just argumentative. Can we just get through this? What's your next question?

Q. Ms. Lacewell, did you help in any way in dealing with Ms. Boylan's sexual harassment

1 L. Lacewell

2 allegations?

3 MR. SCHUMAN: Objection if it calls
4 for privileged communication.

5 A. I've already testified on this as to
6 what my role was. Anything else I have is
7 privileged.

8 Q. You worked on drafts of statements
9 and letters in response to Ms. Boylan's sexual
10 harassment allegations, correct?

11 A. That's true.

12 Q. You worked on responses to press
13 inquiries regarding Ms. Boylan's sexual harassment
14 allegations, right?

15 A. Yes.

16 Q. You contacted current and former
17 Chamber staff to find out if Ms. Boylan had
18 reached out to them, right?

19 A. That was a part of the discussion,
20 yes.

21 Q. To make sure I have a clear
22 understanding, you contacted current and former
23 Chamber staff to find out if Ms. Boylan had
24 reached out to them, right?

25 A. I contacted them to let them know

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

that Ms. Boylan and people on Ms. Boylan's behalf were reaching out to former employees of the Chamber so that they wouldn't be surprised and taken aback if such a thing occurred and if they didn't volunteer it, I may have asked if they'd been contacted by anybody. Yes.

Q. You also contacted current and former Chamber staff to seek support for Governor Cuomo, correct?

A. I contacted individuals to see if they might be willing to sign on to some version of a statement or letter if we decided to pursue it, which we did not, in connection with the allegations. Yes.

Q. And you were involved in discussions about leaking information about Ms. Boylan to the press, right?

A. I don't agree with that characterization. I really don't.

Q. You were involved in discussions about disclosing --

A. I sought advice from Alphonso David and GOER as to the propriety of making publically available information about Ms. Boylan's tenure in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

State service and I communicated that to people in the Chamber. Yes, that's what I did.

Q. You were part of discussions about leaking information about Ms. Boylan to the press?

MR. SCHUMAN: You can answer.

MS. MAINOO: You can answer it, Ms. Lacewell.

A. I described to you what my role was and that's what my role was.

Q. I'll clarify that I'm seeking a yes or no answer to this question.

A. I can't answer that yes or no. I can't answer that yes or no.

Q. Were you involved in discussions about leaking Ms. Boylan texts that you used to challenge her motives for alleging sexual harassment against Governor Cuomo?

A. I'm sorry. Leaking her what?

Q. Texts, text messages that you used to challenge her motives for alleging sexual harassment against Governor Cuomo.

A. I mean, you used the term leak. I say make available. I don't know that you could characterize it as a leak in that regard. Yeah,

1 L. Lacewell

2 Lindsay Boylan had written a number of tweets to
3 individuals who worked for the Governor's
4 office -- I'm sorry -- texts, she'd written a
5 number of texts -- complaining about various
6 positions of the Governor's office and had taken a
7 threatening tone and there was discussion
8 internally about whether or not to make that
9 available in the press because the Governor is a
10 public official. He's the Governor of the state.
11 He's a servant of the people and there was
12 discussion about how could he defend himself
13 against these allegations, which appeared to be
14 politically motivated to generate attention for
15 her campaign, which had never been raised
16 previously. Even in the context of a private
17 audience with counsel of the Governor, she never
18 raised it. She appeared to have a very positive
19 relationship and desired to spend time with the
20 Governor as opposed to being intimidated by him.
21 This seemed to be something she was uttering in
22 the context of a political campaign.

23 And yes, we had discussion, as did
24 now President Biden, as did all kinds of public
25 officials, as did Dan Rather, as did other

1 L. Lacewell

2 prominent individuals who have been the subject of
3 complaints as to how do you respond to this in a
4 public environment. So a whole range of such
5 matters were discussed and I was there for some of
6 them. That's right.

7 Q. And you were part of discussions
8 about making available to the press tweets that
9 you used to attack Ms. Boylan's credibility,
10 correct?

11 A. Tweets that we used to attack her
12 credibility? I don't know what that means. She
13 had written tweets where she threatened -- it was
14 showed that she had pre-existing animus towards
15 the Chamber and to people in the Chamber and that
16 she had motives to be making things up and that
17 was accurate.

18 Q. And you were also part of the --

19 A. I don't know that they were actually
20 provided, by the way. There were discussions that
21 were had.

22 Q. You were part of discussions about
23 making available Ms. Boylan's personnel
24 information to the press as you testified earlier,
25 right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. What is this? We're doing a recap?
If I testified to it earlier, why do we need to do
this again?

Q. Humor me, please.

A. You're very busy. I'm very busy.
Can we just go to the next question?

Q. Let me repeat my question.

You were part of discussions about
making available to the press Ms. Boylan's
personnel records, correct?

A. By the way, it's not my understanding
that it even necessarily qualifies as personnel
records, but leaving aside that characterization,
as I've testified umpteen times, I speak with GOER
and I spoke with Alphonso David as to the
propriety of disclosing to the public information
about Ms. Boylan's tenure and her interactions and
the reasons she left in contradistinction to what
she was now claiming for the first time. Yes, I
sought that advice, I was a part of those
discussions. Period.

I have to say I hope this is actually
a fact-finding exercise and not a sort of series
of here's what we're writing in the reports and do

1 L. Lacewell

2 you agree with it or not agree with it. This is a
3 very serious matter. The manner in which you're
4 asking some of these questions is really
5 troubling. It really is. I don't hear some
6 spirit of walking through what do you know
7 factually, other than on my side, to volunteer
8 about it and then you say to me all the sudden you
9 want a yes or no answer. So that's the reason for
10 my impatience here.

11 Q. Ms. Lacewell, what do you know
12 factually about discussions that had Executive
13 Chamber had about Ms. Boylan's personnel
14 information?

15 MR. SCHUMAN: Objection if it calls
16 for privileged communications. If you have
17 something more than you've already testified
18 to that's not privileged, go ahead.

19 A. I think it's the same answer that I
20 gave a minute ago. I conferred with GOER, I
21 conferred with Mr. Alphonso, I had communications
22 within the Chamber that was privileged in
23 connection with the disclosure of the information
24 about Ms. Boylan's interactions with ESD employees
25 and Chamber employees.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Who from the Chamber was involved in discussion about the disclosure of information regarding Ms. Boylan's interactions with ESD employees and Chamber employees?

A. Well, I obviously already mentioned Mike Volforte from GOER, Alphonso David. Additionally, Judy Mogul, who was on the phone with me with Mr. Volforte. In addition -- please excuse me -- Melissa DeRosa, Rich Azzopardi. I'm trying to think if there's anybody else. I was in person with Mr. Azzopardi and Ms. DeRosa at the Capitol. So there may have been people on the phone, I'm just not sure.

Q. When did those discussions take place, Ms. Lacewell?

A. I think on the day of the disclosure. Now, there probably were conversations before that, but before any such documents would be disclosed, I wanted to make sure to talk to Alphonso David and GOER and that happened prior to disclosure, as I mentioned.

Q. Ms. Lacewell, is it the case that the Governor approved the disclosure of the documents involving Ms. Boylan's interactions with ESD and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Chamber employees?

A. I don't know.

Q. Do you know what, if any, role the Governor had in discussions about the disclosure of that information?

A. I don't know.

Q. Did anyone say anything about whether disclosing that information about Ms. Boylan could be considered retaliation?

MR. SCHUMAN: Objection if it calls for privileged communications.

A. That would be privileged.

Let me say, again, I spoke to Alphonso David and I spoke to GOER, but I can't get into the content.

Q. Did anyone say anything about whether the information was confidential?

MR. SCHUMAN: Same objection.

A. Again, I spoke to GOER, I spoke to Alphonso David, but I can't get into the content.

Q. Did anyone say anything about needing to treat the information as attorney work product?

MR. SCHUMAN: Same.

A. Same answer.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Ms. Lacewell, who first raised the idea of disclosing information about Ms. Boylan's interactions with ESD and Chamber employees?

A. I don't remember who first raised it.

MS. MAINOO: Let's go to tab 11 and we'll mark it as an exhibit.

(Whereupon, Exhibit 11 was marked for identification.)

MS. MAINOO: Let's keep scrolling down. Thank you.

Q. Ms. Lacewell, this is a series of text messages involving you, Alphonso David and Melissa DeRosa, correct?

A. I mean, I -- you can scroll up. The people don't -- Melissa DeRosa clearly. Yeah, that must be Alphonso David. She's addressing them. That's my DFS -- okay. Yes.

Q. Do you remember this discussion?

A. In general terms. Not specifically to this interaction.

Q. Okay.

So what do you remember?

MR. SCHUMAN: Objection to privileged communications.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I can speak generally. What's the date on this again? Is this the 13th? December 9th? Can you refresh my memory when Ms. Boylan's tweet was where she specifically said sexual harassment?

Q. December 13. We can put up the tweet, if it helps.

A. No, that's okay.

Well, I would say in general terms that Ms. Boylan was tweeting a series of allegations involving the Governor and Melissa DeRosa wanted to have all of the facts in order to understand the situation and what next steps might be. Crisis management 101. Get the facts.

Q. Do you recall if it was Melissa DeRosa's idea to disclose information about Ms. Boylan's interactions with ESD and Chamber employees to the public?

A. Well, it's one thing to want to see the file. It's another thing whose idea was it to disclose it. So this doesn't help me on this point. Yes, she wanted to see the facts and the details, but I don't think in this interaction, at least from what I can tell on this page, that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

she's saying do it.

Q. What else do you remember about these discussions related to Melissa DeRosa's interest in seeing the facts?

MR. SCHUMAN: Same caution.

A. Truthfully, I don't even remember talking about the file prior to the 13th, but obviously we did.

Q. So in this series of texts, DeRosa asks Alphonso David about Ms. Boylan's interactions with ESD and Chamber employees.

Correct?

A. Yeah, I mean, I think the theory was Ms. Boylan is making allegations against the Governor as though it was a work environment she didn't want to be a part of and that that's why she left implicitly. But in fact, Melissa understood that Alphonso David had handled Lindsay Boylan's departure and that she had quit when confronted about a series of allegations about ESD and then tried to come back.

So I don't know that Ms. DeRosa had previously seen all the details of that. I think that she, to my understanding -- right? -- was

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

trying to learn all of facts in that regard.

Q. Ms. DeRosa refers to Ms. Boylan's full file, right? She said she needed to see Ms. Boylan's full file, right?

A. Yes.

Q. And Mr. David said there was a copy of the file in the Chamber, correct?

A. Yes.

Q. It seemed like you confirmed around the same time that Ms. Mogul had the file?

MR. SCHUMAN: Same caution.

A. Well, she's reading from the text. I frankly don't even know why it was produced. I mean, I don't know how this is not privileged.

MR. SCHUMAN: It doesn't have our Bates stamp on it.

A. Let me put it this way: By answering questions about this text chain, it's not my intention to waive any attorney-client privilege or work product on behalf of the Executive Chamber of the Governor or anybody else. And I don't know if the Chamber has been made aware of this and if they've had an opportunity to advise whether or not they view this as privileged. I mean, I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

really don't know what else to say.

Q. So let's set that aside for now.

You said you remembered discussions from December 13.

What do you remember discussing on December 13?

MR. SCHUMAN: Same caution.

A. I think I need to get some privilege guidance on that series of discussions, if you don't mind taking a break for a minute.

MS. MAINOO: Of course.

Let's go off the record.

How much time do you need?

THE WITNESS: Couple minutes.

THE VIDEOGRAPHER: Standby, please.

This is the end of media two.

We are now off the record at 12:12

p.m.

THE VIDEOGRAPHER: This is the beginning of media unit three.

We are now on the record at 12:20 p.m., back from break.

MS. MAINOO: So can the court reporter please back the last question? I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

think what happened is Ms. Lacewell said she needed to consult on privilege issues?

(Whereupon, the record was read back by the reporter.)

A. Obviously, this was in connection with Ms. Boylan's file. Excuse me. Here's what I recall: On December 13, that was a period of time when I was working in the Capitol on COVID-19, second tour, and after Ms. Boylan tweeted, I had a conversation with Ms. DeRosa by phone, I met her in the Capitol and I identified and located a box of Alphonso David's files that he had left behind and found a folder or two related to Ms. Boylan in that and brought that to Melissa's office and subsequent to that is when the conversations occurred where I mentioned Rich Azzopardi was also in the office. Other people may have been on the phone. I believe that's the same day that Ms. Mogul and I spoke with Mike Volforte and that prior to that I had spoken to Alphonso David around the same time.

Q. Was the Governor involved in any of those discussions?

A. Not with me.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Was he involved in discussions with anyone else about the disclosure of --

MR. SCHUMAN: Caution regarding --

Q. Was he involved in discussions with anyone else about that?

A. I don't know.

Q. Excuse me?

A. I don't know.

Can I, while I think of it, go back and clarify that one question --

Q. Sure.

A. So one of first questions you asked me was whether I testified before and I mentioned the Percoco trial and during the break I also remembered, of course, you know, during the time I was a federal prosecutor from time to time I had to testify in connection with my work there. So I just wanted to add that.

Q. Thanks for that clarification.

Now, was the information about Ms. Boylan regarding her interactions with ESD and Chamber personnel, was it ultimately disclosed to the public?

A. One second. I'm just -- I'm just

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

trying to make sure that I don't have any
privilege issues here. Okay? Give me a minute to
think about it. Should we step outside for a
second so we don't have to turn this off?

MR. SCHUMAN: We can go on mute.

MS. MAINOO: We can go off the
record.

THE VIDEOGRAPHER: Standby.

We are now off the record at
12:23 p.m.

(Recess taken)

THE VIDEOGRAPHER: We are now on the
record at 12:24 p.m.

A. So the information was described in
the newspapers, so yes, it was made public.

Q. Did you ask anyone whether the
Governor approved of the disclosure of the
information regarding Ms. Boylan to the public?

MR. SCHUMAN: Objection.

Privileged.

THE WITNESS: If the answer is no, is
that going to be a waiver?

MR. SCHUMAN: No.

A. No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: Look, I'm going to --

A. I don't want to inadvertently trigger waiver by giving you --

MR. SCHUMAN: At the time same, we don't want to get into a privilege fight when there's nothing to fight about.

THE WITNESS: Right.

Q. Did it matter to you whether the Governor approved of the disclosure of information about Ms. Boylan's interactions with ESD and Chamber employees before that information was disclosed to the public?

MR. SCHUMAN: Objection.

Her legal analysis and considerations are attorney work product.

MS. MAINOO: This is not a question about her legal analysis.

A. Did it matter to me how? In what capacity?

Q. Did it matter to you in moving forward with participating in discussions about the disclosure of that information?

MR. SCHUMAN: She's participating as an attorney.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Let me say this: Melissa DeRosa handled the communications with the Governor, so any conversations that would need to be had she would have had and that would be her judgment.

Q. Based on -- did Melissa DeRosa approve of the disclosure of the information regarding Ms. Boylan to the public?

MR. SCHUMAN: Privileged.

A. The conversations I had about the disclosure of the records are privileged and I believe that's been asserted, so I can't get into the content of those conversations.

Q. Was Melissa DeRosa involved in discussions about disclosing the information about Ms. Boylan to the public?

A. I mean, I think I've already testified that I had discussions with Melissa DeRosa and Rich Azzopardi and then the conversations with Ms. Mogul, etc.

Q. Did you understand based on Ms. DeRosa's involvement in the discussions that any approvals required from the Governor would have been obtained?

MR. SCHUMAN: Objection.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

The content of those communications
is privileged.

A. I didn't have any conversations with
Ms. DeRosa about the Governor's view. I don't
know if she consulted with him or not. She may
have, she may not have. She's a very trusted aide
who's been managing the Governor's office for a
number of years now and it was for her to
determine whether or not she needed to confer with
him.

MS. MAINOO: Let's go to tab seven
and we'll mark it as an exhibit.

Q. I think we actually saw this document
already. Let's scroll down so we could see the
Bates number. Okay.

Ms. Lacewell, how did you -- is this
a document that was in your possession?

A. Yes.

Q. How did it come into your possession?

A. So I had a hard copy, I think, and I
don't recall whether I already had it from Judy
Mogul or whether I made copies when I was in
Albany when we were looking at these documents.

Q. Are these the documents -- are these

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

documents the ones that you said you identified and located in Alphonso David's files that he left behind?

A. So at least to some degree. In other words, Judy Mogul had some documents, there were some documents in the file. I don't think they were coterminus, but certainly this document was there, I believe.

MR. SCHUMAN: By "this document,"

Abena, you may want to show the witness --

MS. MAINOO: Sure.

Q. I'm referring to the full 28-page document.

A. Yeah, I don't think we need to go through the whole thing. I had a set of documents Judy had given me and I think in the Alphonso David folder there was huge overlap, but Alphonso may have had something Judy didn't have and vice versa. I don't know to what degree some of this is duplicate, but it's all in the same regard.

Q. Did you send any of those documents to anyone?

A. I don't think so. I certainly didn't send any to the press. I don't believe I sent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

them to Alphonso David and I don't know who else I might have sent them to. So I think the answer is no to the best of my recollection.

Q. Did you send any of these documents to Rich Azzopardi?

A. Well, no. But remember, he was in the room. Right?

Q. What is the significance of the fact that Mr. Azzopardi was in the room?

A. When you say send them to him, he was right there.

Q. Did he obtain a copy of the documents from the room?

A. Truthfully, I don't know exactly how the documents were assembled. Some redaction was done. Certainly the source of the documents would have been from what was in the box or what was in the folder that we've been describing. I didn't personally to the best of my memory hand them to him.

Q. Did Rich Azzopardi come into possession of any of the documents concerning Ms. Boylan's interactions with the ESD and Chamber employees?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

THE WITNESS: I kind of already answered it, but it's okay to answer?

A. Yeah. Yes.

Q. Do you know how he came into possession of those documents?

A. So I don't recall the specifics. If the document was in the room, I was there, Melissa DeRosa was there. How it ultimately got assembled, I do think I reviewed the redactions. Beyond that, I don't really specifically recall the mechanics of it.

Q. What do you know about how the documents were disclosed to the public?

MR. SCHUMAN: Objection if it involves any privileged communications.

A. I don't know actually how that was done.

Q. You referred at least a couple times to redactions.

What do you know about redactions of any of the documents?

MR. SCHUMAN: Same caution.

A. The names of complainants were redacted on privacy grounds.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Were you involved in discussions about redacting the names of complainants?

A. Yes.

Q. Did that happen before the documents were disclosed to the press?

A. It happened after I spoke to Volforte and before the documents were disclosed to the press, yes.

Q. Was Rich Azzopardi the person who sent the documents to the press?

A. I don't actually know.

Q. Ms. Lacewell, are you aware of a draft letter responding to Ms. Boylan's allegations?

A. Yes.

Q. What do you know about the draft letter responding to her allegations?

MR. SCHUMAN: You can answer without getting into privileged communications.

A. As I previously indicated, she had made allegations in the public record and a review was done of what is the range of options of how to respond and that included public communications, statements by us, statements by former employees,

1 L. Lacewell

2 current employees and a variety of these were
3 drafted and edited and circulated and to the best
4 of my recollection were not actually put into the
5 public record.

6 Q. What was the origin of these
7 statements?

8 A. I don't think I could get into that
9 without violating privilege, but it originates out
10 of what I just described.

11 Q. When did you first become involved in
12 discussions about the statements?

13 A. So without getting into the content
14 of the discussions, I think there may have been a
15 series of discussions before I got involved. So
16 things may have been drafted and so forth before I
17 was looped into the discussion. And then other
18 people made edits. I don't believe that I
19 personally made any edits other than on that one
20 paragraph statement you already showed me where I
21 changed the tense of a couple of the words.

22 Q. Do you know who was involved in the
23 discussions before you got involved?

24 A. I'm not sure actually.

25 Q. Do you know who made edits?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I think you may have a draft where there are edits that may have originated from Steve Cohen, but I don't know for sure and other drafts that sort of just come, but I don't know whose edits they were. Here's a new version, here's a new version, here's a new version, which, by the way, is just how the Chamber operates. It's very iterative.

Q. Who first discussed the statement with you?

A. To the best of my recollection, I got looped into an email and that was how I learned that this was being discussed.

Q. Who looped you into the email?

A. I don't remember.

Q. Do you remember if it was Stephanie Benton?

A. Either Stephanie Benton or Melissa DeRosa. It could be either of them.

Q. Who else was involved in the discussions.

You mentioned Steve Cohen?

MR. SCHUMAN: When you say discussions, are you referring to the emails?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MS. MAINOO: I'm referring to any discussions about the draft statement, by email or orally.

A. Let me think about this for a minute.

I can't say for sure. There's obviously possibilities. Like I don't know for sure if Judy Mogul was included or if she was included later, for example. Depending on the period of time, even outside counsel at some point got involved. So not to suggest they were editing the letter or advocating for it or anything, but it was discussed for a period of time and then at some point outside counsel was involved and ultimately nothing was done.

Q. Which outside counsel was involved?

A. I think Misha Hermose. Depending on the period of time, you know, if it was later -- I'm just trying to be careful with privilege.

MR. SCHUMAN: Identifying them --

THE WITNESS: Is okay?

A. At some point in time, there was a discussion with Elkan Abramowitz. I don't know that he saw the letter, but there was a discussion with him.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Do you remember Roberta Kaplan being involved?

A. Yes. Thank you. She reviewed a version. I think an email may have been produced to you where she was positive about it.

Q. You referred to outside counsel. Do you know who Elkan Abramowitz represented?

A. So Elkan represented the Governor's office. Elkan was representing the Governor's office in connection with the Eastern District inquiry on COVID and nursing homes and this sexual harassment matter was kind of in full -- you know, unfolding alongside and they started to blend into each other and on an interim basis, you know, he rendered some advice, but, you know, other counsel was obtained.

Q. Do you know who Misha Hermose represented?

A. To my understanding, she was representing the Executive Chamber. That may include the Governor in his official capacity before he got his own counsel. I'm not sure.

Q. Do you know who Roberta Kaplan

1 L. Lacewell

2 represents?

3 A. So I don't know the timeframe
4 exactly, but things changed. So I don't know that
5 I got a clear recollection. I mean, she -- I
6 think her partner was representing Melissa DeRosa.

7 MR. SCHUMAN: If you don't know,
8 don't guess.

9 A. But during an interim period, she may
10 have had broader advice and then settled into
11 representing a particular person. I just don't
12 know.

13 Q. Do you have an understanding of the
14 reasons you were looped into the discussions about
15 the letter?

16 A. Nobody explained it to me, but it's
17 consistent with the course of dealing that I
18 described where anything sensitive, complex that's
19 got litigation risk or investigation risk
20 associated with it, the Governor's office, Judy
21 Mogul, Melissa DeRosa, frequently asked for my
22 view on a theory that it's better to have multiple
23 voices to minimize the risk of mistake and I had
24 handled so many complex sensitive matters that I
25 might bring particular perspective with me to the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

table. That was my belief.

Q. I think just now you said that you understand Roberta Kaplan's partner now may represent Melissa DeRosa and that over time, Roberta Kaplan's role may have evolved.

Do you know who in the Executive Chamber, whether the Chamber or individuals, Roberta Kaplan has represented over time in connection with the sexual harassment allegations against the Governor?

A. I really don't know and I don't want to get it wrong.

Q. Did anyone ever ask you to sign on to this statement?

A. Which statement? No one asked me to sign on to any statement. I volunteered that I would sign on to that one-paragraph statement.

MS. MAINOO: Okay. Thanks for differentiating. Let's focus first on the longer letter that talked about various issues concerning Ms. Boylan and I'll put it up shortly so we're on the same page.

Let's go to tab 15. We'll mark it as an exhibit. Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

(Whereupon, Exhibit 12 was marked for identification.)

Q. So at the bottom of this is an email from Stephanie Benton on December 16th, 2020. Subject is "Last" and it's to you.

The first paragraph indicates that this statement is coming from Dani Lever, Cathy Calhoun and Alphonso David. It discuss, amongst other things, the complaints against Ms. Boylan from Empire State Development employees.

A. Yes.

Q. Do you remember when you first received a draft of this letter?

A. I don't remember. I mean, it says last, so I don't recall if I got prior drafts.

Q. Did you have any discussions about signing on to this letter yourself?

A. I don't think so.

Q. Is there a reason you don't think so?

A. You know, my memory is not ideal and some of these blend together. I would like to say no, but I don't have any recollection of being asked. Maybe is a better answer.

Q. Do you know who was involved in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

drafting this letter?

A. I do not.

Q. What was your role, if any, in connection with this letter?

A. Would you mind scrolling down?

So this was one in a group of drafts of potential communications that were discussed by the team and I don't actually recall any specific conversations about this draft, but my role would be what my role always was, which is to be sort of an alert and a watchdog on, you know, any legal or ethics or risk issues that could emanate from this document, the language of the document and so on and so forth.

Q. Did you consider whether this draft could raise risks regarding retaliation?

MR. SCHUMAN: Objection.

Privileged.

A. My thought process is privileged in my opinion.

Q. Ms. Lacewell, did you do any research about how other prominent men handled allegations of sexual harassment?

MR. SCHUMAN: Objection.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Work product.

A. Well, I think you have documents where I was circulating public comments by other prominent individuals, which I pulled off of Google, so yes.

Q. Specifically, you had done some research about how President Biden and Mike Bloomberg handled allegations of sexual harassment, correct?

A. Yes.

Q. What was the purpose of that research?

MR. SCHUMAN: Objection.

Superintendent Lacewell is not going to testify about her thought process in giving legal advice or legal advice she gave.

We'll acknowledge what you have in the documents to be the documents that demonstrate what they demonstrate.

MS. MAINOO: Adam, I just want to ask the question and if there's a privilege assertion, we'll listen to it.

MR. SCHUMAN: Okay.

A. I think I previously testified that

1 L. Lacewell

2 part of the process was to identify how other
3 individuals had responded and put that into the
4 mix of the conversation and the analysis and the
5 discussion.

6 Q. Ms. Lacewell, did you send either
7 this letter or versions of this letter to anyone?

8 A. I think the top of this shows I sent
9 it to Judy Mogul. Beyond that, I don't think so.

10 Q. Did you ask anyone to sign this
11 letter or versions of the letter?

12 A. Can you scroll up to the top? I
13 don't -- I don't think so. I spoke to Dani Lever
14 at some point, but I don't know if it was on this
15 letter. I did have some discussions with her as
16 to whether she would be amenable to signing some
17 version of some letter.

18 Q. Do you recall --

19 A. It may not have been this one.

20 Q. Do you recall sending versions of
21 this letter to Camille Varlack?

22 A. This version?

23 Q. Versions of a longer letter.

24 A. So there was a version of a longer
25 letter and I don't know if it was this one because

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

this -- well, first of all, this indicates it's going to be signed by these three people. There's some version of some letter that I did speak with Camille Varlack and a couple of other folks about whether they might be willing to subscribe to it.

Q. Did you ever consider yourself signing a version of the longer letter?

A. I don't think so.

Q. Why?

A. Well, that would get into a privileged discussion.

Q. Just to be clear, your own thought processes about whether you were comfortable signing the letter would raise privilege issues?

A. Officially, no one asked me to sign the letter. Now you're asking me why I wouldn't sign the letter and there were legal discussions about who is signing the letter that I can't get into.

Q. Was the Governor involved in discussions about the letter or versions of the letter?

A. I don't know.

Q. Did the Governor -- in your

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

experience, did the Governor send drafts of materials through Stephanie Benton?

A. On occasion.

Q. Looking at this document, seeing that it came from Stephanie Benton, do you have any sense of whether she was sending it on behalf of the Governor?

A. So I understand the reason for the question, but I really don't know. Could it have been something he wrote? Did Melissa do it? Did Melissa sit with a few people and they came up with this version and Melissa sent it around? I really literally don't know.

Q. Did you think this letter or version of it should be published?

A. Privileged.

MS. MAINOO: Let's go to tab 16 and we'll mark it as an exhibit.

(Whereupon, Exhibit 14 was marked for identification.)

Q. This looks like a version of the letter that we just looked at.

Do you agree?

A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Scrolling to the top, it went from Steve Cohen to Melissa DeRosa, Roberta Kaplan and yourself.

Did you have any discussions with any -- we'll start again.

Did you have any discussions with that group -- Steve Cohen, Melissa DeRosa and Roberta Kaplan -- about the letter or versions of it?

A. Can you scroll down again a minute to the first part, please? Yes, stop there for a second.

So I don't recall if we jumped on the phone about it or when we talked about it. We must have spoken about it at some point, but I don't remember any specific conversations.

Q. At the time of these communications, what was your understanding of Roberta Kaplan's role?

MR. SCHUMAN: I'm sorry.

Superintendent Lacewell said she just doesn't remember communications. Do you mean the email?

MS. MAINOO: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. At the time this email was sent -- I think on December 16th -- what was your understanding of Roberta Kaplan's role?

A. Can you please go back to the top, the header? Thanks.

So I knew she was an attorney in private practice, but I wasn't sure -- I don't believe that I was clear on exactly what her goal was. Was she advising the Governor, was she advising the Chamber, I wasn't quite sure. There were conversations that were happening without me, so I wasn't clear on her role.

Q. Did you ever ask anyone about her role?

A. That would be privileged.

Q. The question is whether you asked anyone.

A. I know, but that's really privileged in my opinion. I don't think her role was clear to me.

Q. Other versions of the letter -- and let's scroll down to the first paragraph of it -- other versions refer just to former senior staff members. In other words, they take out the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

language about Dani Lever, Cathy Calhoun and Alphonso David so that the idea was that the letter came from former senior staff members.

Are you aware of that?

A. Yes.

Q. What do you know about the inclusion of that language in other versions of the letter? In other words, language just referring to senior staff members without any names.

MR. SCHUMAN: Caution about privilege.

A. So as I indicated, various thoughts were considered over time and at some point, consideration was given to having multiple current/former senior members sign on to the letter. To the extent that this was former -- well, let me withdraw that.

So in any event, whose idea it was, where it came from, how it originated, I don't recall.

Q. Did anyone ask you to reach out to potential signatories of versions of the letter?

A. I reached out to potential signatories of the letter. How I got there --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

first of all, I don't remember the exact person, but how I got there really, I think, would invade privilege. But yes, I did reach out to some former employees.

Q. Did they agree to sign on to the letter?

A. I remember speaking to two people who were not interested in signing on to the letter because it had facts in it that they did not have personal knowledge of.

Q. Who are those two people?

A. Camille Varlack and [REDACTED].

Q. What facts did Ms. Varlack say she did not have personal knowledge of?

A. Can you scroll down for a minute? And I don't know that this was the version, by the way. It still says Cathy and so on and so forth.

MS. MAINOO: Let's go to tab 13 then and we'll mark it as an exhibit.

(Whereupon, Exhibit 13 was marked for identification.)

(Whereupon, Exhibit 14 was marked for identification.)

Q. So this exhibit is a version of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

letter you sent to Camille Varlack, right?

A. Yes. Can we please scroll down? The accusation being launched for political advantage, she said she didn't know.

Can you scroll down, please? Hold on.

So this petitioning matter, Ms. Varlack and [REDACTED] didn't have personal knowledge of. The text exchange with the budget director and Ms. Lever, they weren't familiar with those tweets and hadn't seen them. I'm sorry. Those texts. Or who her political consultant was -- if you don't mind scrolling a bit more, thank you -- or that there was information that she planned -- and her campaign planned this for political advantage.

Keep going, please. Thank you.

[REDACTED], I think, was not personally aware of the allegations involving ESD as well. Obviously, Ms. Varlack was aware. The way in which Ms. Boylan had referred to the Governor, I don't think either Ms. Varlack or [REDACTED] had knowledge about or her interactions with co-workers in public or her tweets.

1 L. Lacewell

2 Obviously, those would be public record, but they
3 hadn't seen them.

4 Again, the allegation to political
5 purposes they were not aware of and that's in
6 there a couple times.

7 Q. Did you consider whether sharing a
8 draft of the letter or drafts of the letter with
9 Ms. Varlack, [REDACTED] or anyone else could be
10 considered retaliation?

11 MR. SCHUMAN: Objection.

12 A. I'm asserting privilege.

13 Q. Did you ask anyone to help find
14 signatories to the letter?

15 A. There was discussion about who would
16 call which people. I can't get into it beyond
17 that because of privilege. I'm sure there's some
18 documents that reflect that.

19 Q. Mr. David was involved in discussions
20 about who would call which people, correct?

21 A. If you have a document that reflects
22 that, yes.

23 Q. Ms. Lacewell, before we move on to
24 other documents, is there a reason your email to
25 Ms. Varlack forwarding this draft statement was

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

sent from your gmail account as opposed to a work email account?

A. Well, my work email account is DFS. I didn't have a Chamber email account. So sometimes I had to think about it's really not about DFS, so what do I use. It would be helpful, I suppose, if I had an executive email account, I could have used that. Beyond that, no.

Q. How did you decide whether to send emails from your DFS email or your gmail?

A. Fact dependent.

If I had a Chamber email account, I may well have used that. It doesn't have anything to do with DFS and to put it on to a DFS system, these were confidential matters that were being considered. By default, I went to the personal email because I didn't have a Chamber email. That's my best memory.

Q. There were times when you discussed the sexual harassment allegations against Governor Cuomo using your DFS email, right?

A. I don't remember.

MS. MAINOO: For now, let's go to tab 19 and we'll mark it as an exhibit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

(Whereupon, Exhibit 15 was marked for identification.)

Q. This is a series of text messages and I would like to focus on numbers one to 21, which involve you, Ms. DeRosa, Mr. Cohen and Mr. David. Let's start with the first one.

Do you recognize this?

A. Yes.

Q. What is it?

A. It's a text from Alphonso David to the group about [REDACTED], who I think was in-house to company, if I'm not mistaken. And anybody who was in a corporation had to run by any public statements they might make with their in-house operation and those individuals were generally opposed.

Q. As the Superintendent of DFS, did you need to run by anyone if you were planning to sign on to a statement supporting the Governor in connection with the sexual harassment allegations?

A. I wasn't planning to, so I -- you mean that one paragraph? No. I'm the head of DFS. I run it.

MS. MAINOO: Let's move to tab 24 and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

we will mark it as an exhibit.

Let's scroll down. Great.

(Whereupon, Exhibit 16 was marked for identification.)

Q. I'd like to focus on the email that you sent, Ms. Lacewell, on February 21st.

Do you recognize it?

A. So that's a privileged document. I really don't feel comfortable unless the Chamber wants to tell me that email traffic involving Elkan Abramowitz is something I should be testifying about.

Q. Ms. Lacewell, are all of the recipients of that email Chamber employees other than Mr. Abramowitz and yourself?

A. Well, are you telling me that the Chamber is not asserting privilege on this document? It would make it a lot more comfortable.

Q. I'm just asking you whether there are non-Chamber employees on this email other than you and Elkan.

A. Yes, of course. The document speaks for itself.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Josh Vlasto is on this email?

A. Yes.

Q. He's not a lawyer?

A. Correct. I'm not going to make a privilege determination sitting here. If my counsel wants to advise me or if you could tell me that the Chamber is not asserting privilege, I'm more than happy. But I don't want to be the person making the decision, opening the door. It's really not my role.

Q. I'm happy for you to consult with your counsel.

A. All right. Should we do that now or over the lunch break? Whatever you want.

MR. SCHUMAN: First of all, can you scroll to the bottom of the document, please?

What do you want to do about lunch or breaks or timing today?

MS. MAINOO: Let's go off the record.

THE VIDEOGRAPHER: Standby.

We are now off the record at

1:08 p.m.

(Recess taken)

THE VIDEOGRAPHER: We are now on the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

record. The time is 1:40 p.m., back from break.

Q. Ms. Lacewell, before we took our break, I think there was a question about a privilege issue.

Were you able to consult with your counsel and can we continue discussing the document now?

A. Yes, I've already forgotten the topic, but I was able to confer, so thank you.

Q. Great. So we were looking at tab 24, which we've marked as an exhibit. We'll put it back up.

So I was directing you, Ms. Lacewell, to your email of February 21, 2021 at 6:08 p.m.

A. Yes.

Q. Can you provide the background of this email?

A. Do you mind scrolling down for a minute? February 21st. Go ahead, keep scrolling down, please. Is that the whole thing? Okay.

I don't think this email chain indicates what is the origin of this. Obviously, there were a number of media inquiries and

1 L. Lacewell

2 proposed press stories regarding sexual harassment
3 allegations and the Governor and it would be
4 normal for Rich Azzopardi or Peter Damian to come
5 back with "This is what the reporter plans to say
6 and therefore how are we going to respond?" and
7 then various permutations of the quote could be
8 discussed.

9 Q. Do you know whether this draft
10 statement -- let's scroll down more. We can go
11 back up.

12 Do you know if the draft statement is
13 one that the Governor prepared?

14 A. I don't know.

15 Q. Is there a reason you said you don't
16 need disgruntled former employee, just the facts?

17 MR. SCHUMAN: Objection if it goes to
18 legal analysis or work product.

19 A. Is there -- before my email, is there
20 a statement with the -- that has that language in
21 it?

22 Q. I think there's another email with
23 similar language, so we could come back to this
24 issue.

25 A. Well, I would have had legal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

considerations that I was considering with respect to the statement. That's about as far as I think I can go.

Q. I think earlier you mentioned other draft statements expressing support for the Governor in connection with the sexual harassment allegations.

Is that fair to say?

A. Yes.

Q. What do you know about those other draft statements?

A. Well, I mean we talked about the one-paragraph statement, we talked about the iterations of the longer statement. I don't recall any other particular statements.

Q. What are the origins of the one-paragraph statement?

A. I think -- I don't know if you showed me, but you have the email, right? I know what it is. It's on -- didn't you show me that?

Q. I don't think we've shown you yet.

A. Somebody sent to me -- maybe Stephanie Benton -- the one paragraph statement, proposed statement, as something we considered

1 L. Lacewell

2 doing to kind of put in our back pocket, so that's
3 what that one was and then various people made
4 various calls. I made some calls. I think I
5 talked with -- I'm getting a little ahead of you,
6 but just to get through it, I believe I spoke with
7 [REDACTED] and she was comfortable with that
8 and I think Camille Varlack was comfortable with
9 it, but wanted to be contacted before it actually
10 went out to make sure that she still felt that.
11 Later when went to JCOPE, she said she didn't want
12 to do the statement, but at that point, we weren't
13 going to use the statement anyway. I don't
14 remember if I called anyone else.

15 Q. Is it right that the Governor asked
16 Stephanie Benton to send that statement to you?

17 A. I don't know.

18 Q. Did the Governor ask for you to find
19 50 names to sign onto that statement?

20 A. So I have seen the email and she was
21 not specific with me about who said that.

22 Q. When Ms. Benton referred to "he," who
23 did you understand her to refer to?

24 A. Can I see the document?

25 MS. MAINOO: Sure. Let's put up tab

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

20. We'll mark it as an exhibit.

THE WITNESS: Thank you.

(Whereupon, Exhibit 17 was marked for identification.)

Q. So scrolling up, this is an email from Stephanie Benton to you, copying Melissa DeRosa. She says "This is progress. How do we get him 50 plus names? Would be great to keep his mind on this path," etc.

A. All right. So I read that to mean how do we get 50 names in support of him, how do we achieve this for him. Not necessarily confirmatory that he was the driver of that. That's why I say I don't know. I didn't talk to Melissa or Stephanie about that.

Q. Do you have direct access to the Governor, Ms. Lacewell?

A. Do I have direct access to him? I dealt with him much more frequently when I was in the Chamber and before I went to California and much less towards the end of my tenure there before I moved to DFS. I didn't frequently speak with him directly during this period of time. It was rare actually.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Did Stephanie Benton serve as a Governor's intermediary to you in connection with discussions about the sexual harassment allegations?

A. So again, I don't know if she had spoken with him, if she had spoken with Melissa, if she had spoken with Steve. I don't know who she spoke to. Was she on occasion an intermediary for the Governor? Yes. Was she an intermediary on this? I just don't know.

Q. Let's go back to the bottom of the email and there's a draft statement and it says "Send to Linda. Tell her ask 50 names to sign the following letter."

Do you know who that is from, Ms. Lacewell?

A. Well, Stephanie obviously sent me the email. Who the person is "send to Linda," could that be the Governor? It could be the Governor, but I don't know and I don't want to speculate.

Q. Do you think -- do you reasonably think it could be anyone else?

A. Could be Melissa. I mean, that's more doubtful, I agree. I'm just telling you I

1 L. Lacewell

2 don't actually know.

3 Q. Melissa is copied on the email,
4 right?

5 A. Yes, but that looks like a cut and
6 paste from something.

7 Q. Is it fair to assume --

8 A. I think she's copied. Right?

9 Q. Yes, she is.

10 A. I don't want to argue about who it
11 is. I'm just telling you I don't know. It could
12 be him. I don't know. Yeah, she's copied.

13 Q. You did follow this direction to try
14 to find signatories for the letter, right?

15 A. Yes.

16 Q. Did you try to find out who was
17 making this request of you?

18 A. No. I didn't ask --

19 Q. You followed the instructions -- but
20 you followed the instructions without knowing
21 where they were coming from?

22 A. Melissa is on the email. She's the
23 secretary to the Governor. She's the top aide.
24 She runs the state. Doesn't matter to me whether
25 it's coming from Melissa or it's coming from the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Governor.

Q. Because it's the same thing?

A. It's not the same thing. It's just that Melissa has authority. It doesn't have to be the Governor.

Q. Do you remember who you reached out to you about signing this statement?

A. So as I mentioned previously, [REDACTED] and Camille Varlack, without being refreshed with another document including names, other folks that I may have spoken to, I don't remember anybody else. [REDACTED]. I may have called [REDACTED], now that I think about it. She was the former head of administration to the Governor and she was with [REDACTED]. But it was something that we were going to put in our back pocket and see if we ever wanted to use it. There was no present intention to actually issue it, so ...

Q. Ms. Lacewell, how many hours do you think you spent helping to respond to the sexual harassment allegations against the Governor?

A. I couldn't quantify it.

Q. Would you say it was more than ten

1 L. Lacewell

2 hours a week between December and March?

3 A. No.

4 Q. Less than that or more than that?

5 A. Less.

6 Q. More than five hours a week?

7 A. You know, I just don't know. When
8 you say per week -- right? -- I mean, clearly on
9 the 13th, which, by the way, happened to be a
10 Sunday, I believe, that was a day we, you know,
11 several hours spent on it. And the day starts at
12 6:00 in the morning and runs until, you know,
13 midnight. So I was available to them as they
14 needed me. I jumped on calls, I was in the text
15 chain, etc. So I can't quantify the time.

16 Q. Is it fair to say that whenever
17 sexual harassment allegations were made public,
18 you spent more time helping deal with the fall
19 out?

20 A. Yes.

21 Q. Around those days, can you quantify
22 approximately how many hours you would spend?

23 A. No, I really can't. It could be The
24 New Yorker is going to write a story and you could
25 have three calls about it, they could be five

1 L. Lacewell

2 minutes each. Then the next day could be 45
3 minutes. It spreads out over a period of time.
4 Typically, these things are not -- apart from the
5 day of the tweets by Ms. Boylan, they're not
6 necessarily consuming the day.

7 Q. Did you always make yourself
8 available to help the Chamber when they contacted
9 you about helping with the response to the sexual
10 harassment allegations against the Governor?

11 A. I volunteered that to you a minute
12 ago. Yes.

13 Q. When you were reaching out to various
14 individuals to ask them to sign on to statements
15 of support, did you ever spend time trying to
16 convince anyone to sign on to a statement?

17 A. No. I mean, why they were not
18 interested in signing, but I didn't try to
19 persuade them to sign. Explain to me why they're
20 not comfortable because the draft of the letter
21 might change in response to how people respond,
22 but I didn't try to persuade people.

23 Q. Okay.

24 Did you become aware of the more
25 detailed allegations Ms. Boylan made about the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Governor in February 2021?

A. Are you referring to the Medium article?

Q. Yes, I am.

A. Yes, I read that.

Q. When did you read that?

A. When it appeared, probably within minutes.

Q. Did you do anything to try to verify if the more detailed allegations in the Medium post were true or not?

MR. SCHUMAN: Objection if it calls for any privileged communications.

A. In February? February of this year?

Q. I'm referring to the detailed allegations that came out in February of this year, did you do anything to try to verify if those allegations were true or not?

A. So soup to nuts, beginning to end, it was not my role to verify whether any allegations were true. It was my role as an attorney to confer and consult with lawyers and personnel in the Governor's office about legal issues and potential responses within the bounds of the law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

So no, I didn't investigate any allegations by anybody. That wasn't my role.

Q. Do you know if anyone in the Chamber investigated Ms. Boylan's allegations as reflected in the Medium post?

MR. SCHUMAN: Same caution.

A. So leaving aside your word investigated, conversations were had about the allegations and their veracity and beyond that, I really can't get into it.

Q. Did any of those conversations involve the Governor?

A. Other than what I testified to earlier today where I said I had some direct conversation with the Governor and Judy Mogul, I have no other recollection in that regard, so I don't believe so. And I would just reiterate I really spoke to him very rarely during that period of time.

Q. Who from the Chamber did you speak with most frequently during that period of time?

A. Judy Mogul, Melissa DeRosa.

Q. Did you ask anyone from the Chamber whether the more detailed allegations reflected in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Ms. Boylan's Medium post were true or not?

MR. SCHUMAN: Same caution.

A. Those conversations are privileged.
I can't get into those.

Q. Did you help with the response to
Ms. Boylan's more detailed allegations?

A. Yes. I continued to advise the
Governor's office about the propriety of legal
statements emanating from the Governor's office in
regard to any new allegations that were emerging
on the sexual harassment issues during that period
of time, including the Medium post.

MS. MAINOO: Let's go to tab 25 and
we'll mark it as an exhibit.

(Whereupon, Exhibit 18 was marked for
identification.)

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's an email exchange,
February 24th, 2021, Melissa DeRosa, myself and
other individuals, including Elkan Abramowitz,
marked privileged about the content of the Medium
post and including a plane trip she referenced.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. It looks like Melissa DeRosa sent a draft statement about Ms. Boylan's claims, correct?

A. Yes.

Q. And the draft said Ms. Boylan's claims of inappropriate behavior are quite simply false?

A. Yes. With the context of factual information about a flight, just to be clear.

Q. Okay.

When you wrote "Seems fine," what were you opining on?

THE WITNESS: So I take it Liz Smith is on this, so I'm permitted to answer.

MR. SCHUMAN: Without disclosing any privileged communications, but if you could provide context as to the press statement itself.

A. Ms. Boylan made a factual allegation and it was demonstrably false based on flight records and inquiry made of individuals who were on those flights and the office proposed to say it was factually false and that seemed fine by me.

Q. Are you saying that the flight

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

records showed that Ms. Boylan's allegations were demonstrably false?

A. The office identified flights that Ms. Boylan was on in those locations during that period of time and identified who was on those flights and spoke with the individuals who were on the flights and they all denied that this conduct had occurred and that was a factual basis to say that her statements were false.

Q. You did not yourself have personal knowledge of whether Ms. Boylan's statements were false; is that correct?

A. Correct.

Q. Before December 2020, were you aware of any issues involving someone named Kaitlin relating to the Governor?

A. Let me think about the timeframe for a second. Before December 2020 -- again, hopefully I'm not off on the timeframe -- but I think before December 2020, I think the answer is no.

Q. Did you ever become aware of issues involving Kaitlin relating to the Governor?

A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. When was that?

A. So again, I'm not on the chronology, but at some point she tweeted some type of statement in support of Lindsay Boylan and that triggered some conversations, so that was when I became aware.

Q. Who did the tweets trigger conversations amongst?

A. So I think I can do this process step without getting into any privilege. I became aware that [REDACTED] had reached out to the Chamber to talk about Kaitlin [REDACTED] and Beth Garvey was really busy I think with the budget and she either asked me to handle it or asked me to handle it with Judy -- I can't remember exactly how it worked -- and then Judy and I together spoke with [REDACTED] to debrief them about what it was they were trying to convey and there were a series of other conversations related to that subsequently and there were briefings on this within the Governor's office and certainly with Melissa DeRosa. Beth Garvey may have been too busy to be a part of those. I don't recall whether she was read into that, so to speak, or not.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. How is it that Kaitlin's tweets triggered some activities?

A. Right. So I guess --

THE WITNESS: Am I allowed to testify about the content of the conversation with [REDACTED] ?

MR. SCHUMAN: Yes.

THE WITNESS: Okay.

A. So [REDACTED] at [REDACTED] ultimately conveyed to us that she had been paying attention to Ms. Katilin [REDACTED] Twitter account because she believed that Ms. Katilin [REDACTED] had complaints about the work environment and working for the Governor when she was there I think is a -- she was a -- not exactly a briefer. She was Deputy Director of the Governor's offices, I think, but in any event, working for the Governor. She had seen a tweet that Ms. Katilin [REDACTED] had issued supporting Lindsay Boylan and -- now, my memory is a little unclear. I think she originally -- I can't remember if she had already talked and debriefed Ms. Katilin [REDACTED] before the first conversation we had or whether that happened subsequent to our conversation and then she came back to me, so it kind of merges together

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

a little bit in my mind, but that was the origin.

Q. Before Ms. [REDACTED] ultimately conveyed information to you about Katilin [REDACTED] tweets, had Katilin [REDACTED] come to your attention?

A. No.

Q. Who participated in the first discussion with [REDACTED]?

A. Myself and Judy Mogul and [REDACTED] [REDACTED] and I believe that was it. Usually, Ms. Mogul would have had one of her staff with her, but she didn't have anybody available, so between her and [REDACTED], I was asked to jump in.

Q. Who participated in the discussions you had with [REDACTED]?

A. With [REDACTED]? Judy and I -- Ms. Mogul and I had more than one conversation with [REDACTED] I think just the three of us and I don't know -- I don't recall if Judy Mogul later on down the line had conversations with [REDACTED] that I wasn't on once other personnel became available.

I also -- there's another conversation with [REDACTED] personnel later and I think [REDACTED] was on the phone for that with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

the general counsel, somebody like that. But she may not have been on. I just don't remember. She may have just arranged it.

Q. Was anybody else on that call with the general counsel of [REDACTED]?

A. I know there was one call where there were two people from [REDACTED] on the phone and the other person may have had some sort of operational role. I'm not sure. Nobody else from the Governor's office.

I think Judy Mogul had some calls involving her personnel that I wasn't on, but the calls that I had, it's entirely possible that, you know, I may have had a call with somebody at [REDACTED] with one of Judy's people. I just don't remember.

Q. When did these calls with [REDACTED] take place?

A. So again, I'm not great on the dates, but starting with the day of the tweet, I think Ms. Mogul and I spoke with [REDACTED] a couple of times that day maybe and then we may have called her back and then at some point some additional conversations were triggered where

1 L. Lacewell

2 **Katilin** was trying to send a message back about
3 her view about what had happened during her
4 tenure.

5 Q. What did you learn from [REDACTED]
6 about **Katilin**?

7 A. So initially, it's very hard --
8 [REDACTED] is not an attorney, so she didn't
9 necessarily speak with precision and part of the
10 conversation was trying to pin down exactly what
11 she knew and exactly what happened as opposed to
12 how she filled in the lines, which, as you know,
13 as attorneys, that's very important.

14 But to the best of my recollection, I
15 think that [REDACTED] was saying that Kaitlin
16 [REDACTED] was already at [REDACTED] before [REDACTED]
17 became aware of her. She learned that she had
18 come over. In other words, I don't know that she
19 was part of the initial discussion of **Katilin**
20 moving from the Governor's office to [REDACTED]. But
21 what she had gleaned -- [REDACTED], that is -- is
22 that Kaitlin [REDACTED] worked in the Governor's
23 office, that the Governor's office wanted to
24 transfer her out because **Katilin** didn't want to
25 work for the Governor anymore and [REDACTED] was

1 L. Lacewell

2 asked if they would take her and find a place for
3 her and find a role for her and that's how she
4 came to be there and that [REDACTED] further came
5 to understand -- again, I don't know exactly from
6 whom at the time -- that Katilin [REDACTED] was very
7 emotional about her tenure in the Governor's
8 office, it was very upsetting to her, that she
9 viewed it as traumatic, that she may have had
10 [REDACTED] and she was very upset about it and the
11 part that became confusing is [REDACTED], I think,
12 was inferring because it may have been in the
13 nature of sexual harassment, but she didn't have
14 any details and -- just to get ahead of it for
15 summary purposes -- that when Katilin [REDACTED] downloaded
16 to [REDACTED] directly, what she was complaining
17 about was about being criticized and maybe being
18 yelled at and that she felt this was happening in
19 part because she was young and a woman and was
20 attractive and that she didn't think she was
21 qualified for the job -- if I'm remembering this
22 correctly -- and that she must have been hired
23 because of her appearance and that when asked for
24 something, a specific example -- "Do you have any
25 specific examples that led you to believe this?"

1 L. Lacewell

2 -- she indicated that at some point the Governor
3 asked her to go on his computer and look at
4 something involving automobiles and she was
5 standing in front of him in a skirt and she was
6 uncomfortable with that.

7 Q. What did you do based on this
8 information you got from [REDACTED]?

9 MR. SCHUMAN: Objection.

10 It involves privileged
11 communications.

12 A. Well, briefed Melissa DeRosa, had
13 additional conversations with [REDACTED] to
14 further pin down what exactly she was conveying
15 and asked [REDACTED] to assure Katilin --
16 because at this point for sure Kaitlin [REDACTED] had
17 spoke with [REDACTED] and expressed some concern
18 about her job and was she in trouble and asked --
19 oh, and spoke with -- let me think for a second.

20 I believe Judy Mogul and I also spoke
21 with Alphonso David and conveyed back to
22 [REDACTED] that she should assure Katilin [REDACTED] that
23 there would be no consequences to her in
24 connection with her position for truthfully
25 reporting any facts about her tenure in the

1 L. Lacewell

2 Governor's office, for which [REDACTED] reported
3 back Katilin [REDACTED] was very grateful.

4 Q. Who was involved in the discussion
5 with Mr. David?

6 A. I'm sorry?

7 Q. Who was involved in the discussion
8 with Alphonso David?

9 A. I believe that Judy Mogul and I spoke
10 with him together, but it's possible she spoke to
11 him without me or vice versa. I just know we
12 sought his input.

13 Q. I think earlier when you described or
14 characterized the discussions with [REDACTED]
15 about what she had learned from Katilin [REDACTED], you
16 said [REDACTED] was inferring that the issues may
17 have been raised in the nature of sexual
18 harassment.

19 What did you mean by that?

20 A. Again, it was a little hard to pin
21 down [REDACTED], which is why we kept saying
22 "Well, what did she say? What did other people
23 say? What are you talking about?" and she didn't
24 really have any details until she spoke directly
25 with Katilin [REDACTED] -- and again, I can't remember -- I

1 L. Lacewell

2 do remember this part, actually, which is that
3 [REDACTED] said that she spoke with Katilin [REDACTED]
4 right after the tweet, but I don't know if she
5 spoke to us first and, you know, asked Katilin [REDACTED]
6 if she would be willing to talk about the
7 experience and reassured her that whatever she was
8 saying was fine and debriefed her at length, which
9 included what I summarized previously, including
10 the anecdote about going on to the Governor's
11 computer.

12 But then later -- and again, I'm
13 getting ahead of you -- somehow Katilin [REDACTED] came
14 back around -- let me back up. I just remembered
15 something.

16 In that initial conversation that
17 [REDACTED] had with Katilin [REDACTED], according to
18 [REDACTED], Katilin [REDACTED] said that she'd been in
19 touch with Lindsey and her attorney and that
20 Ms. Boylan or her attorney were looking at
21 potentially bringing legal action, that they
22 wanted up to 12 or 14 women to do such a thing
23 and Katilin [REDACTED] suggested that she might be a part
24 of that.

25 I can't remember if she said it

1 L. Lacewell

2 definitively, but the fact that she indicated she
3 had spoken with Ms. Boylan's counsel and I think
4 Ms. Boylan's counsel indicated to her that she
5 could be anonymous and not have to disclose her
6 name.

7 So later on, Ms. Mogul, through
8 either a colleague or a supervisor, got word back
9 either to the general counsel of [REDACTED] or to
10 [REDACTED] that why was Judy Mogul saying that
11 Katilin [REDACTED] said that she'd been sexually harassed
12 by the Governor or that she had hired an attorney
13 or was going to do anything in that regard because
14 those things were false and why was Ms. Mogul
15 saying these things and she wanted to make clear
16 that it was all false, which is what triggered
17 additional conversations, because Ms. Mogul -- let
18 me retract that.

19 Katilin [REDACTED], having indicated she might
20 have a lawyer, there would be obviously concern
21 about speaking directly to somebody who might be
22 represented and so I think initially -- I can't
23 remember if I'm on the call with Ms. Mogul or she
24 briefed me about it, but she spoke with, I think,
25 [REDACTED] or whoever the intermediary was for

1 L. Lacewell

2 **Katilin** who conveyed her upsetness with all of
3 this and Ms. Mogul conveyed well, I couldn't speak
4 to her directly, so I was trying not to do that
5 and then I believe that Ms. Mogul indicated that
6 she wanted to speak directly to **Katilin**, but I
7 was not on that call for sure where she directly
8 expressed "I never said sexual harassment, that's
9 not what it was about, I wasn't hiring a lawyer,
10 why are people making things up, it's not true"
11 and so on and so forth.

12 Q. What was the purpose of discussing
13 issues that **Katilin** had apparently raised with
14 **_____**?

15 A. Well, they involved her tenure with
16 the Governor's office and also **_____** reached out
17 to us to bring it to our attention.

18 I'm sure that you know this, but
19 **_____**, although it is an authority and not an
20 agency, the Governor's office, I always think of
21 it more like a corporate headquarters, that there
22 are a bunch of affiliates and subsidiaries. So
23 counsel to the Governor, the general counsel of
24 the agencies and authorities have dual reporting
25 to the head of their agency or authority and back

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

to Beth Garvey on the operational policy side as well. So [REDACTED] reached out through its staff trying to get Ms. Garvey's attention -- they couldn't reach her because she was on the budget -- to consult about this and to bring to her attention and to seek advice about what to do.

Q. Do you know if anyone reported the issues that Katilin [REDACTED] had apparently raised to GOER?

I'll ask again.

Do you know if anyone reported to GOER the issues that Katilin [REDACTED] had apparently raised?

A. Not to my knowledge.

Q. Were you involved in any of those discussions about making a report to GOER?

MR. SCHUMAN: I'll caution you about the substance of any of those discussions.

A. No.

Q. Do you know if anyone from the Chamber spoke directly to Katilin [REDACTED] ?

A. I believe Judy Mogul had a conversation with Katilin [REDACTED] , but I think she probably had somebody on the phone with her.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Whether that was one of her people or somebody from [REDACTED] or both, I don't know.

MR. SCHUMAN: Same caution about the content of discussions between you and Chambers.

THE WITNESS: Okay.

Q. Did you learn about the substance of the discussion between Ms. Mogul and Katilin [REDACTED] ?

A. Yes. Ms. Mogul briefed me on it.

Q. What did you learn?

MR. SCHUMAN: Same caution.

A. Well, the purpose of Ms. Mogul's conversation with Katilin [REDACTED], together with whoever else was on the phone, was to enable Katilin [REDACTED] to speak directly as to what she had conveyed through the other [REDACTED] person, maybe [REDACTED].

I don't know if I should really be getting into the conversation I had with Ms. Mogul as to what her recounting of that conversation was, but it's not anything new than what we've already talked about. I'll put it that way.

Q. Were you involved in discussions with anyone else from Chamber about reaching out to Katilin [REDACTED] ?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: Caution about the content of any such discussions.

A. I don't think I could go into any further detail. I spoke with Judy Mogul, spoke with Alphonso David, spoke with Melissa DeRosa about this whole series of events. I think that's probably as far as I can go on privilege.

Q. Did you ever speak with Melissa DeRosa and Staffer #6, who is not a Chamber employee, about Katilin?

A. Yes. Well, wait for a second. Hold on. Only because you said Staffer #6, so I'm trying to think if I spoke with her directly. Yes.

Q. What did you discuss?

MR. SCHUMAN: Same caution.

A. I'm just trying to get the facts straight in my head for a minute who was involved in the conversation. I'm just trying to think if I spoke with her directly or was I only speaking with other people because that bears so much on privilege.

Do you have anything for me on that whether I spoke directly to Staffer #6?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Did you speak directly to Staffer #6 about a conversation that Staffer #6 had with --

A. Oh, yes. Yes.

Q. Okay.
What did you discuss?

A. She said that she called Katilin -- they had previously been friendly I think at the Governor's office, I think if I'm not mistaken -- and talked about -- I believe talked about Lindsay Boylan and the fact that -- ultimately, the fact that Katilin had tweeted something supportive of Lindsay Boylan and I don't really remember details beyond that and that was something ultimately that Katilin through the intermediary, -- if that's the right person -- complained about, why is Linda -- that's me -- looking at her LinkedIn, why is Staffer #6 -- Staffer #6 -- calling her from the MTA and that she wasn't happy about that.

MS. MAINOO: I think we need to switch the tape.

THE VIDEOGRAPHER: This is the end of media unit number three.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

We are off the record at 2:24 p.m.

(Brief recess taken)

THE VIDEOGRAPHER: This is the beginning of media unit number four.

We are now on the record at 2:24 p.m.

Thank you.

Q. Ms. Lacewell, did you look at Kaitlin [REDACTED] LinkedIn?

A. Yes, I did.

Q. Do you remember when you did that?

A. Around the time of speaking with [REDACTED] about her.

Q. What was the reason you looked at Katilin [REDACTED] LinkedIn?

A. I was trying to remember who she was and what her tenure was in the Governor's office.

Q. Did you remember?

A. No. I mean, I'm sure I interacted with her, but I really didn't remember her.

Q. Do you remember anything else about your discussions with Staffer #6 [REDACTED] about her conversation with Katilin [REDACTED] ?

A. Not that I recall.

Q. Do you remember learning that Staffer #6 [REDACTED]

1 L. Lacewell

2 [REDACTED] had recorded her conversations with
3 Katilin [REDACTED] ?

4 A. Yes.

5 Q. Tell me what you know about that.

6 A. I just want to make sure I'm getting
7 the players straight, so just give me a second. I
8 think -- can I just get a minute on privilege?

9 MS. MAINOO: Okay. We'll go off.

10 THE VIDEOGRAPHER: Standby.

11 We're now off the record.

12 The time is 2:26 p.m.

13 (Recess taken)

14 THE VIDEOGRAPHER: We are now on the
15 record.

16 The time is 2:27 p.m.

17 A. Would you like me to answer?

18 Q. Yes.

19 A. So I learned that the conversation
20 had been recorded. I did not render legal advice
21 in that regard. The conversations preceding her
22 call internally with lawyers and Melissa DeRosa --
23 I don't mean to indicate that the topic of taping
24 wasn't discussed; again, I'm trying to be careful
25 about privilege -- then ultimately I learned that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

they had spoken and that it had been recorded.

There was no decision reaching in the conversations that I had, so others may have had conversations without me in the interim is what I'm trying to say.

Q. What discussions were you involved in about Staffer #6 reach out to Kaitlin ?

MR. SCHUMAN: Caution about conversations between those in Chamber while you're acting as counsel.

A. I had conversations with Melissa DeRosa, I believe Steve Cohen in the same conversation. I believe Judy Mogul, but I don't know if these are separate conversations and that's what I recall.

Q. And those calls took place before Staffer #6 contacted Kaitlin ?

A. Yes.

Q. I should be more precise. Did those calls take place before Staffer #6 called Kaitlin ?

A. Yes.

Q. Do you know whether Staffer #6 had already texted or otherwise communicated with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Kaitlin [REDACTED] as of the time of your discussions?

A. I don't recall. Maybe not.

Q. When did you have your discussions?

MR. SCHUMAN: Can you clarify what you mean by -- you mean in Chamber?

MS. MAINOO: Within Chamber. Well, with Melissa DeRosa, Mr. Cohen, who is not part of Chamber and Ms. Mogul maybe.

A. I don't have a date for you, but after Katilin [REDACTED] tweeted and before [REDACTED] Staffer #6 had the phone conversation with Kaitlin [REDACTED]. Was it the same day as the call? Was it a day prior to the call? I don't know. I don't remember.

Q. Do you know if the Governor was involved with any of the discussions within Chamber about --

A. I don't know.

Q. And when is the first time you spoke with Staffer #6 [REDACTED] about her discussions with Katilin [REDACTED] ?

A. Same time period.

Q. Did you speak with [REDACTED] Staffer #6 before she had the phone call with Katilin [REDACTED] ?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. So I can't remember if my conversations on the topic of [REDACTED] calling her included a conversation that she was in before she made the call or whether I was purely having internal conversations.

Q. Do you remember speaking with Staffer #6 after she had spoken to Katilin?

A. Yes.

Q. What did you discuss?

A. So I was on the phone with her and others. I don't remember exactly who else. Was Melissa DeRosa on the phone? Was Judy Mogul on the phone? I don't recall who else. She discussed the call, said she'd been very nervous and she -- I think she may have actually played the tape of the call, probably it was on her phone or something like that and she played it.

Q. When you say that Staffer #6 discussed the call, what did she say?

A. She described what happened during the call and said she was very nervous.

Q. What did she say had happened during the call?

A. I don't remember exactly. I don't

1 L. Lacewell

2 think it was particularly substantive. I think it
3 was to the effect of there may have been some
4 preliminary catch up, I'm not exactly sure, but,
5 you know, the meat of it was more in the nature of
6 "Did you hear about Lindsay Boylan? I saw you did
7 that tweet. You know, I'm hearing from reporters
8 that -- reporters are asking questions about why
9 you sent that tweet." Words to that effect.

10 Q. Would you have been part of a
11 discussion about [Staffer #6] telling [Katilin]
12 that reporters were asking questions?

13 A. So I can't get into the content of my
14 conversations that don't involve [redacted]
15 [Staffer #6].

16 Q. Did you know for a fact at this time
17 whether reporters were asking questions about
18 [Katilin] tweet?

19 A. I don't know either way.

20 Q. Did you ask anyone?

21 A. Again, that's getting into privileged
22 conversations.

23 Q. You said [Staffer #6] may have played
24 the tape.

25 Did you say anything about the

1 L. Lacewell

2 recording of the call?

3 A. [REDACTED] was upset that
4 she'd been very nervous and I tried to reassure
5 her and calm her down that everything was fine.
6 That is about it.

7 Q. Staffer #6 was also upset that she
8 had recorded Katilin right?

9 A. I don't know.

10 Q. Do you know if Katilin was aware
11 that Staffer #6 was recording their conversation?

12 A. Do I know if Katilin was aware that
13 she was being recorded? I don't think she was
14 aware.

15 Q. What's the reason you say you don't
16 think she was aware?

17 A. I just don't think she was aware.

18 Again, I would reiterate I didn't
19 give any direction that the conversation be
20 recorded. I learned after the fact that it had
21 been recorded.

22 Q. After you learned after the fact that
23 the conversation had been recorded, you told
24 Staffer #6 that she had done nothing wrong; is
25 that correct?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I don't know if I said "You've done nothing wrong," but let me say two things: Number one, if she got legal advice that it was okay to record the conversation, then she did nothing wrong. And number two, my general intention was just to try to calm her down because she was upset.

Q. So did you tell Staffer #6 that she had done nothing wrong with the intention of calming down Staffer #6?

A. I don't remember saying that.

Q. Did you know what state Katilin was in when the call was recorded?

A. What state she was in? No.

Q. So would you have had a basis to opine on whether or not Staffer #6 had done anything wrong?

MR. SCHUMAN: Objection.

It's not -- mischaracterization.

A. Also, what I said to you was I didn't advise or direct Staffer #6 to record the conversation. If another attorney did, is not an attorney and she would be entitled to rely on the advice of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

counsel. With that being said, I don't remember telling her that she didn't do anything wrong in recording the conversation. I did try to calm her down.

Q. Since you have invoked an advice of counsel defense on behalf of [REDACTED] --

A. No, I didn't. No, I didn't. That's just not true. That's really not true. It's really not called for. I said I didn't advise her to do it and if another attorney did, then she would have been entitled to rely on that.

I will refrain from trying to help you in that regard in the future.

Q. Ms. Lacewell, do you know if another attorney advised [REDACTED] Staffer #6 regarding recording her phone call with [REDACTED] Katilin [REDACTED] ?

MR. SCHUMAN: Caution you regarding privilege.

A. The only information that I have in that regard is privileged.

Q. Do you know who [REDACTED] Staffer #6 spoke with about her conversation with [REDACTED] Katilin [REDACTED] ?

MR. SCHUMAN: Same caution.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. If you're asking the same question a different way, I have the same answer, which is that the source of any of my information in that regard is privileged. But it wasn't me.

Q. Did you consider whether recording a call with **Katilin** without her knowledge could be considered retaliation?

MR. SCHUMAN: Caution.

A. I didn't advise her to record to call. I didn't direct her to record the call, so what my thought process was when I was having privileged conversations with people in the Chamber is privileged. What I considered, what I thought about is privileged.

Q. But what your thought process was when you spoke with **Staffer #6** whether before or after the call, is not privileged.

Do you agree?

A. I don't recall telling her that she didn't do anything wrong with reference to the recording.

Q. Did you understand from your discussions with that Kaitlin felt her appearance was leading the Governor to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

treat her in a way that made her uncomfortable?

A. Can you repeat the first part of the sentence again? Did I understand from what?

Q. From your discussions with [REDACTED] at [REDACTED] that Kaitlin [REDACTED] felt her appearance was leading the Governor to treat her in a way that made her uncomfortable?

A. What I learned from [REDACTED] is that [REDACTED] conveyed to her that she believed her youth and her appearance led the Governor to be harsh with her and critical of her and she believed his treatment of her in that regard was due to her youth and her appearance, that that was her belief.

MS. MAINOO: All right.

Let's put up tab 27 and we will mark it as an exhibit.

(Whereupon, Exhibit 19 was marked for identification.)

Q. Do you recognize this document, Ms. Lacewell?

A. Yes.

Q. What is it?

A. It's my handwritten notes of a call

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

with [REDACTED] and presumably Judy Mogul,
though the top part doesn't indicate that.

Q. Do you remember when you wrote the
notes?

A. Can you just scroll down a bit for
me, please?

I think it was contemporaneous with
the call, doing the best I could.

Q. As far as you can tell, is there
anything substantive that's missing from the
notes?

A. Well, yeah. I mean, I was trying to
get down on paper the substance as best as I could
while she kept talking and there are doubtless
gaps given the pace of the conversation and then
sometimes we looped back to things, etc.

Q. On the first page, at the top, top
left corner, it seems to indicate that you learned
from [REDACTED] that Kaitlin [REDACTED] thought she got
the job she did in Chamber because of her
appearance.

Is that fair to say, based on your
notes?

A. She believed it was because of her

1 L. Lacewell

2 appearance, yes.

3 Q. Then let's scroll down a little bit
4 and right in the middle, the third line in the
5 middle, I read it as saying that Kaitlin [REDACTED]
6 felt her appearance was leading him, being the
7 Governor, to treat her in a way that met her feel
8 uncomfortable.

9 A. That's what [REDACTED] was saying,
10 yes.

11 Q. Then I think there's a reference to
12 something you talked about earlier, as an example,
13 the Governor asked Katilin [REDACTED] according to your
14 notes and -- according to your notes of your
15 discussion with [REDACTED] -- the Governor asked
16 Katilin [REDACTED] to search for car parts and he was
17 behind her, watching her.

18 Do you see that?

19 A. Yes, I do. So as far as I remember
20 it, when [REDACTED] was speaking with Katilin [REDACTED]
21 and Katilin [REDACTED] said I believe because of my -- I do
22 think it was youth and appearance -- that the
23 Governor was treating her in a way that made her
24 feel uncomfortable, I think that the reference on
25 the left there to fluid was [REDACTED] saying she was

1 L. Lacewell

2 trying to let the conversation flow, but once in a
3 while -- she tried not to interrupt too much, but
4 that she -- I think she did say "Can you give me
5 an example?" and that the only concrete item that
6 **Katilin** could recount was this episode involving
7 searching for car parts the computer for the
8 Governor while he was located behind her and she
9 was wearing a skirt.

10 One second.

11 That was the most tangible example.
12 That's what that reference means underneath.

13 Q. Right. Not that it was the only
14 tangible example, but that it was the most
15 tangible, correct?

16 A. Yes, but she couldn't give any other
17 example.

18 Q. Did you share the notes of your call
19 with **██████████** with anyone else?

20 A. Did I share the notes? No. We
21 briefed Ms. DeRosa, which I previously indicated.

22 Q. Did you consult with Mr. David based
23 on your discussion with **██████████**?

24 A. Yes.

25 Hold on a second.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

At some point in the sequence of events, either I or Ms. Mogul conferred with Mr. David. If it was Ms. Mogul, she then advised me. If it was me, I advised her. I just don't remember which one of us spoke to him.

Q. Did you speak with the Governor about the potential allegations by **Katilin** ?

A. I would, again, invoke privilege on conversations with the Governor and Judy Mogul without saying either way whether we talked about that.

Q. I'm asking whether the conversations happened. I'm not asking what you advised during those conversations.

A. But you're asking me if we talked about her allegations. That's pretty substantive.

Did I speak with the Governor about sexual harassment allegations with Judy Mogul? Yes. Beyond that, it's privileged in my opinion.

Q. Did you investigate **Katilin** potential allegations?

A. If you'd like me to say it again, it's not my role to investigate any allegations while I was in the Chamber or after I left and I

1 L. Lacewell

2 did not investigate any allegations. My role as a
3 lawyer was to help the team to think it through in
4 terms of legal issues, ethics issues, risk issues,
5 investigation issues and the like and that's what
6 I did.

7 Q. What was your role in this call with
8 [REDACTED]? What role were you playing?

9 A. So as I indicated -- and I think this
10 is on the same day -- Beth Garvey had asked me to
11 get involved in debriefing [REDACTED] about the
12 reason for her call and this second call, as far
13 as I recall it, was a follow up because we were
14 having a little bit of trouble to my recollection
15 pinning down exactly what did Katilin [REDACTED] say as
16 opposed to how [REDACTED] heard it and she just
17 was not sort of a concrete factual speaker. So
18 that if you said to her "All right, you said she
19 thought she was saying X. What did she actually
20 say?" the next sentence could be completely
21 different and we were trying to pin down the exact
22 facts that had be recounted to her.

23 Q. So when you try to clarify your role,
24 are you drawing a distinction between gathering
25 facts about what potential complainants said

1 L. Lacewell

2 versus gathering facts from the Governor?

3 A. I don't really understand that
4 question. It's part of the role of an attorney to
5 gather the facts to make a legal determination,
6 right? And in fact, counsel to the Governor, Beth
7 Garvey, asked me to do exactly that.

8 Q. Were you involved in gathering facts
9 from the Governor about what happened in his
10 interactions with Katilin [REDACTED] ?

11 A. Gathering facts from the Governor?
12 I'm just going to go back to my privileged
13 response, which is that the very few and rare
14 conversations that I had directly with the
15 Governor and Judy Mogul are privileged and it was
16 not my role to investigate matters.

17 In fact, I extricated myself from
18 this once Judy had personnel in terms of speaking
19 directly with [REDACTED], you know, continued to be
20 involved in advising on the governor's side.

21 Q. Is there a reason you extricated
22 yourself from this?

23 A. Well, usually Judy, she's special
24 counsel to the Governor and matters involving the
25 agency, she would usually be the person who

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

handled it with one of her people and then as needed or as warranted or as she saw fit, she could involve me to consult and confer with me about what she was learning. That was the way that it usually operated.

MS. MAINOO: Let's go to tab 28. We will mark it as an exhibit, too.

(Whereupon, Exhibit 20 was marked for identification.)

Q. Do you recognize this document, Ms. Lacewell?

A. Yes.

Q. What is it?

A. Those are typewritten notes that I took and we produced involving a call with [REDACTED] and [REDACTED], the GC of [REDACTED], a call that Judy Mogul and I had on January 14th according to the document of this year about Kaitlin.

Q. And would this call have happened after or before the call that's memorialized in the notes we just looked at before?

A. After. This is what I was referencing earlier when I was summarizing the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

exchanges that Kaitlin [REDACTED] was trying to send a message back and the general counsel was conveying this to us.

Q. As of January 14th, were you still involved in this situation or would you say you extricated yourself?

A. Extricated, I guess, is too strong a word and I guess I had not totally extricated by then. But extricated from direct dealings with [REDACTED]. I don't remember what was going on with Judy's staff that she couldn't do this without me. I continued conferring with her about it, even if I wasn't on the call.

Q. As of January 14th, you were aware of potential sexual harassment allegations by Charlotte Bennett, correct?

A. Well, that depends what you mean. I've already told you Judy Mogul expressed in a non-privileged setting that she concluded it was not sexual harassment. But those events had occurred, yes. Those conversations had occurred.

Q. Now, did you consider any conclusion that Judy Mogul made about whether Charlotte Bennett's allegations constituted sexual

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

harassment to be independent?

MR. SCHUMAN: Objection.

A. I mean, I can't even answer that question. You're asking me for the workings of my mind on something at this point in time, right? If you're asking me about my thought process as an attorney conferring with the Chamber about potential allegations of sexual harassment, then you're invading the attorney-client privilege and I can't answer.

Q. I think earlier you suggested that any investigation that GOER does into sexual harassment allegations against the Governor might raise a conflict of interest.

Correct?

A. Yes.

Q. Would any determination reached by special counsel to the Governor regarding potential sexual harassment allegations against the Governor similarly raise conflicts of interest?

A. So look, I don't want to argue with you, but let me just say this: I hope you're talking to GOER. An agency is allowed to do a

1 L. Lacewell

2 preliminary inquiry to determine whether or not
3 there is anything to convey to GOER.

4 Beyond that, we conferred with
5 Alfonso David, who is an expert in this regard, on
6 the matter of -- I've even lost who we're talking
7 about here -- Charlotte Bennett, Kaitlin [REDACTED].
8 He is the expert.

9 So if you want to use our time by
10 arguing with me about the legal issues at the
11 heart of this case, I suppose that's up to you.
12 But I'm trying to remember that I'm not the lawyer
13 in this discussion. That's why I have a lawyer,
14 that's why the Chamber has lawyers. I'm sure
15 they'll present to you on all these issues. Do I
16 have opinions? Of course I have opinions. But
17 it's not my role here.

18 Q. Did you share your notes of this call
19 with anyone?

20 A. I don't think so. I should say no,
21 not to my recollection. The notes? Did I share
22 the notes? I didn't share the notes. We briefed
23 Melissa DeRosa. Either Judy or I spoke with
24 Alphonso David. But the notes themselves, no, I
25 don't believe I shared those with anybody. The

1 L. Lacewell

2 notes were meant to be more of an aid to be able
3 to do the briefing. So they weren't supposed to
4 be verbatim or even necessarily 100% accurate.
5 They were like a memory prompt. As you could see,
6 my memory is not always so solid and I'm not even
7 usually a note taker. I'm not a note taker, so I
8 was kind of, like, in this position because if
9 Judy is asking the questions, she doesn't like to
10 also take notes. So it's, like, not even a
11 position I'm usually comfortable with.

12 But you've got to also remember at
13 the same time we're dealing with COVID, we've got
14 highly stretched personnel and not everybody is
15 available all the time and everybody is exhausted.
16 Sometimes in these conversations somebody else
17 isn't available. I pitched in. Beth Garvey is
18 doing the budget, dealing with COVID. Judy's team
19 is doing everything, including all the procurement
20 on COVID and everything else. It's like everybody
21 is stretched and exhausted, so I just say that as
22 context.

23 Q. Were you still serving in your role
24 as Superintendent of DFS during this time?

25 A. Throughout. Even when I was embedded

1 L. Lacewell

2 in the Governor's office from March 2nd to
3 Memorial Day, I was responsible for DFS. And when
4 I was embedded in December, I was responsible for
5 DFS. Yes. We all did double, triple, quadruple
6 duty on behalf of the people on COVID. That's
7 just what it took. The Governor's office ain't
8 that big and that's why they end up relying on
9 folks like me.

10 Alphonso David leaves. He's the
11 expert on these matters, they're going to reach
12 out to him, they're going to reach out to me.
13 This is not a Fortune 500 corporation with lawyers
14 on retainer and, like, a vibrant, robust staff.
15 You're dealing with issues that are complex.

16 Q. In what way were you embedded in the
17 Chamber?

18 A. On COVID?

19 Q. Are you just referring to being part
20 of the COVID task force? Is that what you mean
21 when you say you were embedded in the Chamber?

22 A. No, I was physically embedded. I'm
23 based in New York City. On March 2nd, I was in
24 London on DFS business. I got -- I had just
25 gotten there and as a matter of hours, I was told

1 L. Lacewell

2 to get on an overnight flight and get to Albany.
3 I took a red eye flight, was driven up to Albany
4 on COVID and asked to be part of a team that was
5 going to be ultimately embedded there after I went
6 back to New York City a couple of times and then I
7 moved into a hotel with my pets and went to the
8 Chamber every single day of the week for months,
9 tracking COVID and trying to pitch in with the
10 team as much as I could up that mountain and down
11 that mountain and then in December, when the
12 second wave was hitting and the focus was on
13 upcoming vaccinations, I was asked to come back
14 and I did.

15 That's why I was in Albany when
16 Lindsay Boylan sent her tweet regarding the
17 Governor and that's why I was able to come into
18 the Capitol on a Sunday because I was at the hotel
19 in Albany.

20 Q. Who told you to go to Albany from
21 London?

22 A. So I was at a business dinner and I
23 didn't know my phone was blowing up from all kinds
24 of people and they finally got [REDACTED] and
25 asked him where he was and he tracked me down and

1 L. Lacewell

2 said they want you back in Albany and the request
3 was coming, I think, from Melissa DeRosa. I think
4 the Governor did not know that I was in London and
5 that was the first positive case in New York
6 State, March 2nd.

7 Q. Going back to the exhibit, there's a
8 reference to [REDACTED].

9 Do you know who that is?

10 A. Yes. [REDACTED] had been the
11 head of [REDACTED], so he may have been the head of
12 [REDACTED] when Kaitlin [REDACTED] came in, I don't know,
13 because [REDACTED] was, as these notes reflect, the
14 acting head of [REDACTED]. I think [REDACTED] had
15 left, although he may have been on the board, so
16 he had a continuing role, and [REDACTED] was
17 acting at the time.

18 Q. Did you ever speak with him about
19 [REDACTED] Katilin [REDACTED] ?

20 A. I don't think so.

21 Q. Your notes mention that Kaitlin
22 reiterated had not retained counsel and had never
23 used the term sexually harassed.

24 What was the significance of that, if
25 any?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. So the first -- one second. Right. The first paragraph -- so [REDACTED] is recounting his conversation with [REDACTED] I think it is and Kaitlin [REDACTED]. In that conversation, [REDACTED] I think was saying that Kaitlin had not said that she was sexually harassed and had not said she was represented by counsel.

Then in the next paragraph, [REDACTED] [REDACTED] says Kaitlin reiterated this again, meaning in that call, so it's a recounting of the conversation.

Q. Did that bear on what you did following the call?

MR. SCHUMAN: Objection.

A. Well, you know, again, just to be helpful, we briefed Melissa DeRosa, we conferred as we conferred. Beyond that -- I mean, that was my role, so in terms of what I did, I did what I would have done anyway.

Q. To be clear, your role was to join the call at Beth Garvey's request and then debrief Melissa DeRosa?

A. That was the earlier conversation. My role was to help Judy Mogul, as another lawyer,

1 L. Lacewell

2 to take the facts, confer with Judy Mogul about
3 potential legal issues, how to proceed and that
4 could be, by the way, just identifying have you
5 spoken to these people, have you looked at these
6 documents, have you reviewed these policies?
7 Because even though I'm not the expert, I could
8 flag the issues and help her talk it through,
9 think it through going forward and help her
10 debrief Melissa DeRosa, etc.

11 Q. Do you know if other than talking to
12 GOER about whether Ms. Boylan's -- information
13 about Ms. Boylan's interactions with ESD and
14 Chambers could be disclosed to the press, whether
15 there was any discussion with GOER about sexual
16 harassment allegations against the Governor?

17 A. I don't know other than what you said
18 to me at some point during this conversation. And
19 just to reiterate, other than what we described,
20 I, you know, in over 10 years, 12, 15 years was
21 never aware of any allegation against the Governor
22 involving anything of a sexual nature, whether it
23 amounted to harassment or not.

24 Q. Do you know of any discrimination
25 allegations against the Governor?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I am not aware of any discrimination allegations involving the Governor as far as I recall. Now, that doesn't mean there wasn't some allegation from some agency that something was discriminatory and he was ultimately responsible, but no, I'm not aware.

Q. Have you ever stayed overnight at the mansion, Ms. Lacewell?

A. Yes.

Q. How many times?

A. I think twice. I think twice.

Q. When did you stay overnight at the mansion?

A. I don't have the exact date for you, my apologies, but the last time was earlier this year and the other occasion would go back some years and I'm trying to even remember what the occasion was. But when I stayed there earlier this year, it was the second time I had stayed over, it wasn't new.

Q. What was the occasion?

A. Earlier this year?

Q. Yes.

A. A group of us went up there to confer

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

and it's a long trip from New York City. I think the idea was to have dinner and discussion and the offer was made to stay over since it would be late rather than trying to drive back and then I think not everybody stayed and I think -- and then folks who had stayed left in the morning.

Q. Who was in the group?

A. Myself, Melissa DeRosa. Judy Mogul was there, but I think did not stay over. She had some other family-related commitment, if I'm not mistaken. Liz Smith, a political consultant, Jeff Pollock, same. I'm trying to remember -- I think Steve Cohen didn't come. He was invited and maybe didn't come. I believe Stephanie Benton was there. She also may not have stayed over. I stayed over, Elizabeth stayed over, Jeffrey Pollock stayed over. I think Melissa DeRosa stayed over, but I can't remember exactly. I mean, but she may have.

Q. Did any of you travel up to Albany together?

A. I believe I traveled by myself with the DFS driver. I believe that Liz Smith and Jeff Pollock may have come together. I don't think

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

they both drove.

Q. What was the --

A. Sorry. I think Judy Mogul drove herself because she knew she was going to need a car later.

Q. What was the subject matter of the discussion that took you up there?

A. What was the subject matter? The general purpose was to talk about strategy and public reaction on the sexual harassment allegations, but within that was the opportunity for Judy Mogul and I to have a privileged conversation with the Governor.

Q. When was this trip?

A. I'll try to get you the date. I'm sure I could get you the date. I don't have it at the ready. I'm trying to think if there were any public events that would help me, but I can get you the date.

Q. Was it early March?

A. It's possible.

Q. Before that time, had you had any conversations with the Governor about the sexual harassment allegations?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Let me just think for a minute. So not substantive, but -- not substantive on his side. In other words, somebody said something on the phone and he jumped on for a few minutes to listen to what we were saying. That type of thing.

Q. Did the Governor listen to any discussions about the disclosure of information about Ms. Boylan's interactions with the ESD and Chamber employees?

A. Did he listen in to any conversations about that? Not to my recollection.

Let me say this: Certainly not at the time -- certainly not in 2020, so -- so I have no -- beyond that, I don't have any recollection, but I know for sure not last year.

Q. What about this year?

A. I don't recall that topic being discussed in front of him.

Q. What topics do you remember being discussed in front of the Governor?

MR. SCHUMAN: Objection.

A. To the extent that the conversation included political consultants or outside press

1 L. Lacewell

2 people, it was in the nature of what they thought
3 might be advisable for him to say publically when
4 he's at press conferences and how he might respond
5 to questions, things like that.

6 Q. Ms. Lacewell, were you part of any
7 discussions about the appointment of an
8 independent investigator to look into the sexual
9 harassment allegations against the Governor?

10 A. Yes.

11 Q. When did those discussions happen?

12 A. So again, being bad on dates, but
13 during the time that the Governor's office, there
14 were external calls for investigation and there
15 was discussion in the Governor's office about how
16 to handle that and there was series of efforts
17 contemporaneous with that to identify respected,
18 highly credible, capable attorneys with the
19 capacity to potentially do an investigation like
20 Judith Kay had done previously and as with all
21 such matters of vetting of that individual through
22 public -- typically public sources to try to make
23 sure that we weren't inadvertently getting someone
24 who might have a conflict of interest or perceived
25 conflict of interest or the press wouldn't

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

criticize it as someone who was interested, trying to identify that short list.

Q. Who was part of the discussions?

A. Myself; Melissa DeRosa; Judy Mogul; Steve Cohen; Beth Garvey, the counsel in Chamber; Alphonso David, but to a lesser degree, like I think he was asked sort of on the side; the vetting team in the Governor's office who did the vetting; Elkan Abramowitz, but that's everybody I could remember so far.

Q. Which candidates were considered?

MR. SCHUMAN: I'm just going to caution -- we know you have some documents about this, if you want to show them, but Superintendent Lacewell is not going to review the content of discussions that are privileged.

A. So different individuals had different names to put forward to consider. I mean, it was not an easy exercise and so certainly Barbara Joans, her name came up because she was a former judge. We were trying to -- this is not supposed to get into content.

Lawyers who, you know, had a

1 L. Lacewell

2 reputation for integrity and at least some of them
3 who had experience in dealing with sexual
4 harassment or discrimination allegations who may
5 have done such inquiries or written reports. [REDACTED]
6 [REDACTED], the former AG from New Jersey. I recall
7 [REDACTED]. But, you know, [REDACTED]
8 was very involved in the Biden transition and we
9 didn't want to make it look political. Things of
10 that nature.

11 Those are the names that I recall off
12 the top of my head and also -- I'm sorry. Also,
13 there were some lawyers but there were other
14 lawyers who I didn't know them, but they were
15 expert in this area, but they had conflicts of
16 interest. Actual conflicts of interest involving
17 clients, I believe.

18 Q. Was Roberta Kaplan considered?

19 MR. SCHUMAN: Objection.

20 A. I don't recall. I don't recall.

21 There could have been discussion about people like
22 her. Sometimes somebody can raise a name and
23 somebody can quickly say that's not going to work
24 because of XYZ. So there were a lot of names
25 bandied about.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Was the Governor involved in any of those discussions?

A. He was not involved in the conversations I had. Were other people on those calls speaking with him? I don't know. They didn't report back on that. Obviously before names went into the press or were proposed, obviously he was part of a discussion and he may actually at that point have been on a call or two before the name went out that I was on.

THE WITNESS: I'm going to need a restroom break at some point.

MS. MAINOO: Sure. Let's take it now.

THE VIDEOGRAPHER: We are now off the record.

The time is 3:17 p.m. for break.

THE VIDEOGRAPHER: We are now on the record.

The time is 3:23 p.m., back from break.

(Recess taken)

Q. Is there anything else you wanted to say on that question?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. No, I don't think so. Thank you.

Q. What was your role in the vetting process?

A. I either asked Judy Mogul to have the vetting team look at these folks or sometimes, to save time, I spoke to the vetting folks directly and said stop vetting or start vetting this person if names were being eliminated. I wanted to make sure that the folks who were part of the consideration were aware of any facts from the vet that they may need to be aware of.

Q. What was the process?

A. Names being identified, discussed, sometimes as a group, sometimes small groups, back and forth. The vetting, based on the information from the vet, maybe it's not a good idea, move on to the next, so on and so forth.

Q. How long did this take place for?

A. So my recollection is it was a pretty compressed period of time to try to, you know, identify the right person or persons on, I think, a same-day basis, if I'm not mistaken.

Q. Were there any discussions with the potential candidates?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: I'll just caution the witness if this conversation you had is different then if it's an internal privilege conversation about somebody else having a conversation.

A. I did not to my recollection have any conversations with any of the potential candidates. It's possible that other people did some and that may have taken names out of the running.

Q. Do you know how many names were identified?

A. I don't remember exactly, but it could have been a dozen, up to a dozen, could have been more. Not all proceeding, you know, through the process, but, you know, an initial identification of as many names as possible.

Q. At some point Barbara Jones was selected, correct?

A. Yes. That's right.

Q. Describe the process leading up to her selection.

MR. SCHUMAN: If you can.

A. So that, I think, is privileged. I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

tried to give you as much as I can on process and I even indicated she's a former judge who was highly respected, had, I think, done matters of this kind before. Judith Kay had also been a former judge, you know, since deceased, obviously. There's a certain model there, but beyond that I really can't get into.

Q. Was there a discussion about the fact that Ms. Jones used to be law partners with Steve Cohen?

MR. SCHUMAN: Caution the witness that discussions you had were privileged --

A. Yeah, that's privileged communications. But let me say this: Nobody expected that to be a problem. She has the utmost integrity. For anyone to question whether Barbara Jones could be independent is a bit crazy.

Q. Did you have any discussions with Ms. Jones?

A. No, I don't think I spoke to her.

Q. Did anyone speak with her?

MR. SCHUMAN: Same caution.

A. Yeah, I mean I think that's

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

privileged. Obviously somebody would have to speak with her before her name could go out there.

MS. MAINOO: Let's go to tab 30.

We'll put it up. We'll mark it as an exhibit.

(Whereupon, Exhibit 21 was marked for identification.)

Q. I'd like to focus on your email, Ms. Lacewell, on February 27, 1:34 p.m. The subject is "Barbara Joans agreed to do it subject to fast conflicts check."

A. Okay.

MR. SCHUMAN: As to substantive discussions and contents, it's still privileged.

A. Okay. Go ahead.

Q. Was Chris Cuomo involved in discussions about selecting an investigator?

A. I see his name on the email, but I don't remember him being on phone conversations. Can you scroll down? I don't think I'm the one to put him on the email chain. This looks very long. Anyway, I was replying to a chain that I had.

Q. Did you speak with Chris Cuomo at any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

time between December and the present about the sexual harassment allegations against the Governor?

A. I did not speak to him one on one. He was on some of the calls that I was on that included Jeff Pollock and/or Liz Smith, as well as Melissa DeRosa, etc. I was on some of those calls about press issues typically.

Q. Okay.

So going back to your email at 1:31, it looks like you updated the group that Ms. Jones had agreed to serve as the independent investigator, correct?

A. Yes, that's what the email says. Let's put it that way.

MR. SCHUMAN: I'm not seeing the document saying that.

THE WITNESS: The subject line, "Barbara Jones agreed to do it subject to fast conflicts check" at 1:31 p.m.

MR. SCHUMAN: In the portion of the document we see that says it, but earlier, we don't see the subject line, so it's not clear.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

THE WITNESS: Yea, I think it was me, by the way, putting that there. I did not speak to her, though.

Q. It looks like before that at 1:30 p.m. you had forwarded a draft statement regarding Ms. Bennett's allegations, correct?

A. Yes. Can you just scroll down right before that? Hold on. So I did not draft that statement. So I'm not sure -- could you scroll down further? Okay. Can you come forward now? Thank you. Hold on. Let me see what it's saying. Stop there for a second.

So the first sentence and the second paragraph were, as I'm sure you know, from a statement made earlier by the office, not in connection with appointing an investigator. So I didn't draft that language, so I don't -- then of course the last sentence would be new, but mindful of counsel's admonition about privilege and with all that being said, I don't remember exactly how this came together.

Do you have a particular question?

Q. The first question is it looks like you were sending these emails from your DFS email.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Do you remember the reason for that?

A. I'd have to see where it originated. Sometimes it's just where I was originally contacted, the beginning of the chain.

Q. Next question is did you have any role in drafting this statement that you sent along at 1:30 on February 27th?

A. As I indicated, the first two paragraphs were preexisting. The last sentence may have been a variation on a statement that had been discussed.

Q. Regardless of when different sentences were originally drafted, did you have any role in drafting any of that language?

A. So I don't remember drafting it. Would I have reviewed it? Weighed in on it? Made suggestions? Yes.

Q. Did you have personal knowledge about any of these statements?

A. No offense, but that was a little bit cute. I told you the first paragraphs had been previously drafted. Are you asking me if I was involved back then outside of this email in the drafting of those paragraphs and what my role was?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Because that's not what I understood the question to be.

I understood the question to be was I involved in drafting the statement about Barbara Jones, to which I indicated the first couple paragraphs were a repeat of what had already been put out there with the new sentence that Barbara Jones would investigate.

Q. Let's take this sentence by sentence.

The first sentence says "Ms. Bennett's concerns were treated with sensitivity and respect and in accordance with applicable law and policy."

Do you have personal knowledge of that?

THE WITNESS: Can I answer that without privilege?

MR. SCHUMAN: Can we go off the record?

A. First of all, Ms. Bennett said in the New York Times she was treated with sensitivity, words to that effect.

Second, I already told you in a non-privileged setting, Judy Mogul, special

1 L. Lacewell

2 counsel, said there was not a violation of the
3 policy and I told you folks conferred with
4 Alphonso David for counsel with the Governor.

5 So if you want to ask me -- I don't
6 really understand do I have personal knowledge of
7 each sentence. My knowledge is my knowledge, as
8 I've already testified and expressed to you. I
9 don't really understand the purpose of the
10 question.

11 When you start asking me do I have
12 personal knowledge, the knowledge I have was
13 acquired through the course of dealings, including
14 a whole series of privileged conversations that I
15 can't get into.

16 Did I believe the sentence to be
17 accurate? Yes, I did. Based on the whole course
18 of dealings and the privileged conversations that
19 I had, I believed that sentence to be accurate.

20 The matter was promptly escalated to
21 Special Counsel. That's Jill DesRosiers to Judy
22 Mogul. She received the transfer she requested --
23 I testified about that -- and in which she had
24 expressed a prior interest. She was thoroughly
25 debriefed by Judy Mogul. She expressed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

satisfaction. She thanked Judy and Jill. In the time she said "This is not about Judy or Jill, my complaint is with the Governor." The determination reached at the time, Judy Mogul said I looked at it, this was my conclusion and Ms. Bennett didn't wish to pursue it further.

So I believe all of that to be accurate based on the testimony that I have already provided.

Q. What is the resolution that's referenced in the statement?

A. That she received the transfer that she requested and she was satisfied with that.

Q. I'm looking at the language that Ms. Bennett was consulted regarding the resolution.

What do you understand by that?

A. That she received the transfer she requested and she did not wish to pursue it further and she was satisfied with that and did not want it pursued.

Q. You're saying --

A. That she had proactively taken herself out of a situation before anything

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

improper could occur and she was proud of herself for doing that.

We're getting to the point where we're going to start arguing over the facts. You may disagree with me, but I don't think we're having an oral argument on whether or not my opinion is correct.

Q. You're saying all this based on what you heard from Ms. Mogul, correct?

A. Not just Ms. Mogul. I'm saying it based on the testimony I've already given you and Ms. Mogul is not the only person I spoke to. Right?

Q. You're saying this based on what you heard from Ms. DesRosiers as well; is that right?

A. Not just her.

Q. Okay.

What else is the basis for your statements?

A. Speaking with Alphonso David, former counsel to the Governor who is an expert in such matters and who advised throughout.

Q. Ms. Lacewell, do you know whether any corrective action was taken in relation to the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Governor based on Ms. Bennett's allegations?

A. Corrective action meaning what?

Q. For example, are you aware of a protocol for staffing the Governor following Ms. Bennett's allegations?

A. I'm just trying to think if my information is other than privileged. I mean, the only conversations I had in those regard with were Judy Mogul and those conversations, I believe, are privileged. Yeah.

Q. Ms. Lacewell, are you aware that Ms. Bennett raised with Ms. Mogul and Ms. DesRosiers concerns about the Governor becoming angry if an inquiry went forward and noting the fact that the Governor is a powerful person?

MR. SCHUMAN: I caution you not to reveal discussions you had --

A. Are you asking -- I'm sorry.

Was I aware that Ms. Bennett told -- excuse me -- Ms. DesRosiers and Ms. Mogul that she was afraid of the Governor and something moving forward?

Q. That's the question.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. No, I never heard that before other than after she obtained counsel and after the New York Times story.

Q. Did you ever ask Ms. DesRosiers if she had notes of her conversations with Ms. Bennett?

MR. SCHUMAN: Same caution.

A. No.

Q. Now, this draft statement does not say whether the so-called debrief on the facts took place, correct?

A. Correct.

Q. Why?

MR. SCHUMAN: Same caution.

A. Again, these statements are being imported into the statement about Barbara Jones, so you're asking me completely out of context about the crafting of a statement from sometime previously and any conversations I would have had in that regard would be privileged.

Q. Ms. Bennett was transferred before the so-called debrief on the facts, right?

A. As I've testified multiple times, I believe that Jill DesRosiers either transferred or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

agreed to the transfer before even speaking to
Judy Mogul about the requested transfer.

Q. In the statement, it says nothing
about whether the Governor was told about
Ms. Bennett's allegations, right?

A. Correct.

Q. What do you know about that?

MR. SCHUMAN: Same caution.

A. I mean, I've really already testified
to all of this and now you're trying to go through
it again through the statement. Any conversations
I had about the Governor and this matter are
privileged.

Q. The statement also says nothing about
what, if anything, was done to stop the Governor
from behaving in the way Ms. Bennett described,
correct?

A. The statement and the document speak
for themselves. Let's please not waste time.
There's no jury here, there's no judge to make a
ruling. The statement is a statement. Right?

Q. Same question.

What do you know about that?

A. What do I know about what?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. What do you know about any actions that were taken to stop the Governor from behaving in the way Ms. Bennett described?

A. That's really an argumentative question and I fully described my role and I fully described what I do and don't know and what is privileged. I have nothing to add to that.

Q. Ms. Lacewell, is March 2nd, 2021 the night that you stayed overnight at the mansion?

A. I don't recall. I mean, maybe you have something for me, but I just don't recall.

Q. When did you first hear about the allegations by the anonymous complainant who we discussed earlier?

MR. SCHUMAN: Caution regarding privileged communications.

A. I believe -- let me just think for a minute. I want to be accurate.

To the best of my recollection, I learned about it because either it was in the press or was going to be in the press was the first I learned.

Q. Did you discuss those allegations with the Governor?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. I'm asserting attorney-client privilege based on my prior testimony of conversations Judy Mogul and I had without saying yes or no to that.

Q. Did you discuss those allegations with Judy Mogul?

A. Same answer. But I played the same role I played previously, which is as an attorney to confer and consult with the team about these allegations.

Q. Did these allegations upset you, Ms. Lacewell?

A. Of course.

Q. Why did they upset you?

A. Well, she was describing essentially an assault. Of course that is upsetting.

Q. Did Charlotte Bennett's allegations upset you?

A. I can't really answer that without getting into attorney-client privileged conversations and I'm not sure what the relevance is as to whether I personally was upset. Nobody really cares.

Q. You mentioned earlier that you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

learned some things in the public reports of Charlotte Bennett's allegations that you did not know before, so I will ask it this way.

Did what you learned in the public reports of Charlotte Bennett's allegations upset you?

A. Again, that's very intertwined with attorney-client conversations that I had internally.

Q. Did it matter to you whether or not the anonymous complainant's allegations were true?

A. Say that again.

Q. Did it matter whether the anonymous complainant's allegations were true or not?

A. Did it matter to me how? As an attorney? As a woman? As a human being? What are you asking me?

Q. Let's start with as an attorney.

A. It all matters. Right?

Q. And as a woman?

A. Of course.

Q. Why?

A. It was upsetting to me that Charlotte Bennett had apparently said one set of facts and

1 L. Lacewell

2 then after she was represented by counsel and
3 after she told the New York Times she had no
4 complaint about Judy Mogul, that she then
5 criticized Judy Mogul and tried to describe her as
6 some kind of villain, which is the farthest thing
7 from Judy Mogul, who is a careful, caring lawyer,
8 person, human being who Ms. Bennett had indicated
9 to the New York Times she had no quarrel with and
10 who Ms. Bennett had thanked and then the facts, as
11 described by Ms. Bennett's counsel, deviated
12 markedly and that was upsetting because I really
13 hoped that Ms. Bennett was not being taken
14 advantage of by an attorney looking to bring a
15 lawsuit. Yeah, that was upsetting to me.

16 Q. To this day, have you looked at
17 Ms. Mogul's notes of her conversations with
18 Ms. Bennett?

19 A. I don't think so. Not to my
20 recollection.

21 Q. Did you continue helping the Chamber
22 to deal with allegations by the anonymous
23 complainant?

24 A. Yes.

25 Q. How did you help the Chamber deal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

with the allegations by the anonymous complainant?

MR. SCHUMAN: Same as the earlier
caution.

A. Yes. The same as I always had, to
assist Ms. Mogul on the legal issues arising. I
don't remember the exact chronology of folks
retaining counsel and obviously the investigation,
but, you know, the Chamber dealing with the matter
publically and tapering off a bit -- right? -- as
things such as your investigation had an
inception, except that the press continued to ask
a lot of questions about the Governor directly and
the office and news stories continued to emanate
and those had to be handled.

So over time, I think I was less
involved and I'm not involved anymore, given this.

Q. When you say given this, you are
referring to the ongoing investigation?

A. Yes.

Q. Before that, when you were continuing
to help the Chamber the same as you always had,
did you do anything to try to verify if the
anonymous complainant's allegations were true?

MR. SCHUMAN: Same caution, plus

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

we've been through this a few times.

A. My conversations in that regard are attorney-client privileged.

By the way, at a certain point, there either was or wasn't going to be an investigation. Either by Barbara Jones or someone like that or ultimately by the Attorney General's team. So I'm just noting that in terms of investigating things.

As I indicated, it was not my role to investigate the facts, which doesn't mean there weren't conversations about it, which are privileged.

Q. The first discussions in the Chamber about doing an independent investigation into sexual harassment allegations against the Governor happened after the first public reports of sexual harassment allegations against Governor, correct?

A. I did not follow that. Do you want to read it back or --

(Discussion off the record)

Q. Ms. Lacewell, the first discussions in the Chamber about conducting an independent investigation into sexual harassment allegations against the Governor took place after the first

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

publicly reported sexual harassment allegations against the Governor, right?

A. I can't answer that without exposing attorney-client privileged communications.

Q. Was there any discussion in 2020 about doing an independent investigation into sexual harassment allegations against the Governor?

A. Same answer.

Q. You're aware of other sexual harassment allegations against the Governor other than the ones we've discussed so far, correct?

A. Are you asking me if I'm aware of other allegations? Only the ones reported in the media to the extent that there's a legal conclusion as to whether or not they constitute sexual harassment, but I understand that they're part of your review.

Q. Have you played the same role in terms of helping the Chamber deal with those allegations?

A. To some degree yes, but given the timeframe, a lesser degree.

Q. Again, when you say given the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

timeframe, you're referring to the ongoing investigation by the Attorney General's office?

A. Yes. I don't recall exactly when each of these additional comments, analysts and others, where those are placed in time. But again, the office had to field inquiries.

MS. MAINOO: We're going to put up a document. The Bates number is LL_AG 04739. We will mark it as an exhibit.

(Whereupon, Exhibit 22 was marked for identification.)

Q. Ms. Lacewell, do you recognize this document?

A. It's an email from Peter Ajemian to Melissa DeRosa and myself and others on March 9th, 2021 marked privileged. I can't tell exactly the topic just because I only see the top of the document.

Q. Okay. Let's scroll down.

THE WITNESS: Did I produce this?

MR. SCHUMAN: Yes.

THE WITNESS: This is not privileged?

MR. SCHUMAN: Want to go off -- let's take two minutes. Is that okay?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MS. MAINOO: Sure.

THE WITNESS: I just want to make sure I'm okay to answer your questions. That's all.

THE VIDEOGRAPHER: This is the end of media unit four.

We are now off the record at 3:56 p.m.

(Recess taken)

THE VIDEOGRAPHER: This is the beginning of media unit five.

We are now on the record at 3:58 p.m. Thank you.

THE WITNESS: Thank you for that chance to confer with counsel. Please go ahead.

Q. Okay. Let's scroll down.

It looks like this email chain is discussing press coverage about the disclosure of Ms. Boylan's employment records, correct?

A. Yes.

Q. Scrolling up, it looks like there's a draft statement from Mr. Volforte, who you mentioned earlier --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Yes.

Q. -- of GOER. Right?

So let's look at Peter Ajemian's email on March 9th at 12:13. The statement is along the lines that a government entity -- a government entity has the discretion to share redacted personnel records, including in instances when members of the media ask for such publish information and when it's for the purpose of correcting inaccurate statements made in the press, as was the case in this situation as it related to the circumstances surrounding Ms. Boylan's departure.

What does that mean?

MR. SCHUMAN: Just before the witness answers, our understanding is that Chambers has not invoked privilege as to the document, but insofar as Ms. Lacewell had particular privileged conversations, she's not going to share that, consistent with earlier objections and testimony.

But subject to that, she can answer without -- she will not be disclosing privileged conversations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Would you mind just scrolling down a bit? I don't know if this is the first time this language appears. Keep going. Keep going. Thanks. Yeah. Okay.

Here's as much as I think I can say to you without invading other privileged conversations: As I previously testified on the subject of the personnel-related records of Ms. Boylan that were disclosed to the press, I spoke with Alphonso David, I spoke with Mr. Volforte with respect to this statement. To the best of my recollection, counsel to the Governor, Beth Garvey, I think without invading privilege, was involved in discussions about the statement and as I mentioned in my earlier testimony, I spoke with Mr. Volforte both before and after the documents were disclosed.

This is the occasion which I spoke to him afterwards and then to the best of my recollection, Ms. Garvey spoke with Mr. Volforte as well. So based on a number of conversations and privileged conversations and lawyer's input, this is the statement that was arrived at.

Q. Was this statement ever issued?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. So to the best of my recollection -- and I'm sorry I'm not good with the timeline -- early on, some version of this statement was issued and then by the time we got to this point, I don't recall if we issued it again, being in a different place.

Q. So according to this draft statement, inaccurate statements were made in the press regarding the circumstances surrounding Ms. Boylan's departure.

Do you agree with that?

A. Yes, I do.

Q. What facts support that?

A. Ms. Boylan, through her statements, was inaccurately creating an appearance that she fled the Governor's office due to conduct by the Governor, when, in fact, she quit when confronted with allegations by women of color at ESD who complained about her and felt that they suffered health consequences as a result, in addition to whatever other allegations are in those documents and then after having quit, tried to come back again and besides which, as I've previously expressed to you, she -- my perception of her

1 L. Lacewell

2 tenure was that she sought interactions with the
3 Governor, wanted to go back there to talk to him
4 directly and that it was not the case that she was
5 uncomfortable around him, she sought his company,
6 she sought audiences with him without other
7 individuals and despite having been told that the
8 presumed protocol was that conversations should be
9 had at staff level before they were raised with
10 the Governor.

11 So the depiction she was making was
12 that the work environment forced her out, when in
13 fact to my understanding, it was the work
14 environment she created at ESD that when
15 confronted about, she said "I'm leaving" and then
16 she still tried to come back and never once in
17 that context articulated any discomfort with the
18 Governor. On the contrary, she sought him out.

19 So yes, I do think she was making
20 inaccurate statements in the press and I do think
21 that the facts about her interactions at ESD and
22 with the Governor's office was of the nature of
23 public information and facts that the public ought
24 to know when an individual such as Ms. Boylan is
25 running for public office and in the context of

1 L. Lacewell

2 that campaign for the first time gives a highly
3 misleading account of why she left the office.

4 In fact, you could argue there was an
5 obligation to disclose those facts in the context
6 of a political campaign, so I agree with it
7 entirely. Whether or not I agree with it, the
8 legal proposition that is expressed, I'm not the
9 expert on. I agree that it corrected inaccurate
10 statements. I'm not the legal expert on it, but
11 as I indicated, I spoke with the folks who were
12 the legal experts on it.

13 Q. Ms. Lacewell, can you point to any
14 statements that Ms. Boylan made that she left the
15 Chamber because of the work environment?

16 A. I don't have all her statements at my
17 disposal sitting here, but I can assure you that
18 we reviewed them all at the time and that was my
19 conclusion and everybody else's, that she was
20 saying she tried to get out multiple times and
21 that she finally escaped because, you know,
22 working around the Governor was so traumatic for
23 her and it's just not consistent with the reasons
24 why she left and she tried to stay.

25 It's not consistent at all. It's

1 L. Lacewell

2 highly contradictory and in the complex of a
3 political campaign raised for the first time where
4 she refused to talk to the press about it. She
5 first put out a blanket statement and said "By the
6 way, I'm not talking to the press." Inaccurate,
7 misleading, highly suspect.

8 Then in a late exchange in her
9 campaign for the first time puts out factual
10 statements about what she claims occurred that not
11 only had she never raised, which I understand can
12 happen sometimes, but that was flatly inconsistent
13 with the relationship that I observed, with the
14 comments that she made to me and with the process
15 that led to her departure in which she quit when
16 confronted by allegations that were upsetting to
17 me personally as a woman and as a public servant
18 that people of color at ESD had adverse health
19 effects from working with her.

20 Q. Did you consult with the people of
21 color that you say had adverse health effects from
22 working with Ms. Boylan before disclosing
23 information regarding their interactions with
24 Ms. Boylan -- before the Chamber disclosed
25 information regarding their interactions with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Ms. Boylan to the press?

A. Their names were redacted.

Q. My question was did you consult with them?

A. I didn't speak to folks at ESD about the allegations involving Ms. Boylan's interactions with folks there. I don't know what conversations ESD had with those individuals or that Camille Varlack had with ESD, but I did not interact with the individuals at ESD before, during or after their allegations. That was not my role. I deferred that to Alphonso David as counsel with the team.

Q. And before the Chamber disclosed information regarding ESD personnel's interactions with Ms. Boylan, do you know whether anyone in the Chamber consulted with those ESD personnel?

A. I don't know. We consulted with Mr. Volforte and Mr. David and the documents were redacted of individual's names.

Q. We have Ms. Boylan's tweets that I think you were referring to much earlier. These are tweets from December 5th, 2020. I think these are the tweets you were just referring to as well.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. That's not everything. She didn't make the allegation of sexual harassment until the 13th and then she wrote a long Medium post. It was only after that that the documents are disclosed.

So are you going to ask me to go through all of her statements and identify for you? If so, I would rather supplement the record after I have a chance to go through it in detail.

Q. Well, the employment records were disclosed in December 2020 before the Medium post, right?

A. I guess that's true. But it was December 13th when she made that allegation.

Q. Let's start with the December 5th allegations.

A. This --

Q. Excuse me?

A. How many pages is this going to be of her tweets?

Q. It looks like one.

A. Is that the only day in which she was tweeting about her experience at the Governor's office? I don't think that's true.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. It's not. We'll put them up.

A. I'm really asking if we could do this as a supplemental record. I mean, I'll do the page, but I don't want to be here for 40 minutes going through her tweets and identifying my view as to which of her exact statements were false.

MR. SCHUMAN: How much more do you have?

MS. MAINOO: We can take a break after I'm done with this line of questioning.

THE WITNESS: I don't need a break. We want to know how much longer we're here.

MS. MAINOO: I mean, the longer we sit here debating the next question, the longer --

THE WITNESS: Assume we're done with the debate about the next question. Can you give us as a courtesy -- as a professional courtesy -- any kind of sense of roughly how much longer you have?

MS. MAINOO: I hope to be done within two hours.

THE WITNESS: Go ahead.

Q. Can you point me to the inaccurate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

statements about the reasons why Ms. Boylan left the Chamber?

A. Hold on. Well, I don't think in any of this she's indicating why she left, but it's the led up to that as though the reason she left -- I'm sorry. Can you go back, please? -- as though the reason she left was that it was a toxic working environment.

I've had many jobs where people were deathly afraid and maybe saying the same thing. Hold on.

If you're not one of those handful of people, your life -- working for him is dispiriting. She doesn't say that's why she left, but that's the lead up of it -- she loved that job is my impression. Can you scroll down, please?

"I tried to quit three times before it stuck."

The reasons she tried to quit were because she would be on the phone with people and they would say something in connection with some work issue that she didn't like and she would hang up. She would hang up. "I don't have to listen to you, I don't have to talk to you. Why are you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

trying to tell me what to do?"

It had nothing to do with the Governor. The environment is beyond toxic. Hold on. Can you scroll down, please? Is this the whole thing? Yes, I think there's a lot more than this.

MS. MAINOO: Charlotte, did you put up the December 13th tweet?

A. "I did not sign whatever they told me to sign."

To my understanding, nobody told her to sign anything. That's just not true.

MS. MAINOO: Let's mark as an exhibit the document we just took off the screen.

(Whereupon, Exhibit 23 was marked for identification.)

(Whereupon, Exhibit 24 was marked for identification.)

Q. Anything you want to point to here, Ms. Lacewell? These are the December 13th tweets.

A. Is this the beginning of that, of that text chain?

Q. I believe so.

A. Okay. Could you please scroll back

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

down? Thank you.

"My first experience of workplace sexual harassment when my mom got her first job" -- go ahead. Is that everything? Hold on. Go ahead. Wait. I'm sorry. I think you went a little too far.

"Not knowing what to expect, what's the most upsetting part, aside from knowing that no one would do a damn thing, even when they saw it," suggesting that people observed her being sexually harassed and didn't do anything about it.

"I'm angry to be put in the situation at all that because I'm a woman I could work my whole life to better myself and help others and still fall short."

Can you scroll down -- I mean, I'm assuming the word "short." I don't see that word.

Q. All right. Happy to move on from these tweets.

A. I'm sorry. Is that everything? There's other discussion that she makes.

Q. We can put tab 50 back up with the December 8th tweets, see if you see anything there.

1 L. Lacewell

2 A. No. Where's the part where she says
3 "I don't intend to talk to the press" and so
4 forth? Isn't it on this day?

5 Q. We can look for it and make sure to
6 show it to you since you want to see it.

7 MR. SCHUMAN: Superintendent Lacewell
8 doesn't want to see it. You asked a
9 question, we want to give a complete answer.

10 MS. MAINOO: Let's go to tab eight.

11 Charlotte, let's put tab eight up.

12 (Whereupon, Exhibit 25 was marked for
13 identification.)

14 Q. This is a series of text messages --

15 A. I'm sorry. I haven't completed my
16 answer to that prior series of questions. Are you
17 not going to show me --

18 Q. We'll look for it in the meantime. I
19 don't want to waste your time while we look for
20 it. If you're okay with it, let's go to this
21 document.

22 So this is a series of text messages
23 that you produced. If we have not marked it as an
24 exhibit already, we should.

25 I want to go to number 210. Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Great. This looks like a text message on March 12, 2021.

In your production, you redacted the person you're speaking with, but it looks like the person makes a suggestion that there was -- this is how I'm reading it. The person makes a suggestion that there was a toxic culture in the Chamber that used the physical touch of women to demean and control them.

Is that a fair reading?

A. So what happened is -- this is an individual who doesn't work for the state, he doesn't work for the state, he's a personal friend of mine, who forwarded me an article, as you can see above, in 207 I think from New York Magazine.

Could you just scroll up a bit, please? Little bit more, please. Right.

So 202, that individual is saying to me -- wait. I'm sorry. Could you scroll up, please? Just one more. That's right.

199, my friend is saying to me there's now another woman, just now. This is 202. New York Magazine reporter on CNN. That's 203.

They put quotes from her article on

1 L. Lacewell

2 the screen. So I'm saying "Today? I don't think
3 so" because this person is trying to convey to me
4 there's like some breaking news story and I'm
5 saying in 204 that article already ran and she is
6 saying why don't you call me and I'm saying I'm on
7 the phone and she said they said it was just in
8 and then I think -- would you scroll down
9 please? -- I guess CNN was saying just in, but the
10 New York Magazine article had already run where an
11 Albany reporter had been given an interview.

12 I said not a claim of harassment,
13 everything is always just in. I was annoyed with
14 her for acting as though there was some breaking
15 news when there wasn't and then she gives her
16 personal opinion as to what this interview
17 connotes, that it could go to whether or not there
18 was a toxic culture, etc., etc., and I see yes,
19 meaning I get the point you're trying to make, but
20 it's not breaking news. She said sorry, I hadn't
21 heard of it before. She's trying to give me
22 breaking news, except it's not breaking news. I'm
23 on the phone, I'm busy. She's saying here's what
24 I think it means and I'm saying I get that's what
25 you think it means, but it's not new, so I'm

1 L. Lacewell

2 working essentially.

3 Q. So when you say "Yes, but it's not a
4 new woman is my only point," you're not saying
5 yes, I agree with what you're saying, my only
6 point is that it's not a new woman?

7 A. Correct.

8 Q. Who is the sender?

9 MR. SCHUMAN: We indicated to you we
10 weren't going to disclose it. It's somebody
11 unconnected to anybody else in this matter or
12 New York State. It's a personal friend of
13 the Superintendent.

14 MS. MAINOO: We can discuss
15 separately if there's a legal basis for the
16 redaction.

17 (Whereupon, Exhibit 26 was marked for
18 identification.)

19 MS. MAINOO: Let's go to tab 41 and
20 we will mark that as an exhibit.

21 Q. So it looks like, again, there's
22 discussion about responses to press inquiries and
23 upcoming press articles.

24 Is that right?

25 A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Ms. Garvey seems focused on potential issues regarding retaliation.

Do you see that?

A. The emails I'm looking at are not from her.

Q. We'll go to the relevant email from her. Okay. So let's go to a page Bates numbered 3094.

A. Let me just read this.

Q. Okay.

A. Could I see the email right before? Hold on.

Q. Ms. Garvey says, in the second paragraph of her email, she seems to be addressing Ms. DeRosa, "Like you said, there's no there there with the story and we're pushing back on an anecdote he acknowledged to all of us earlier is true. We're just creating new liability for a retaliation claim that is ultimately Governor's personally."

Were you involved in the discussion about this language and potential exposure to claims of retaliation?

A. I'm on the email chain. I don't know

1 L. Lacewell

2 what I said. I assume you will take me to the
3 right point. I'm obviously on it and I obviously
4 read it.

5 Q. I'm not asking about anything you
6 said in the email. I'm asking you about whether
7 you were involved in discussions about this issue
8 of potential retaliation claims.

9 A. Any conversations that I had in that
10 record would be privileged. Suffice it to say the
11 reason I'm involved, Judy Mogul is involved, Steve
12 Cohen is involved, sometimes Alphonso David is
13 involved, Misha Hemosi is on the email, sometimes
14 Elkan Abramowitz is. Everybody is struggling to
15 make sure can they put out a factual statement
16 that is responsive to the story without
17 generating -- nobody wants to generate any
18 additional legal problems and not everybody on the
19 email chain is a lawyer and they don't necessarily
20 understand where those lines are. It's exactly
21 the job of the lawyers -- any of them -- to point
22 out and this is not an unusual back and forth.

23 Here's what I'd like to say. Why I
24 can't I say this? Explain it to me. You're the
25 lawyers, explain it to me. It gets explained and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

that's that.

Q. Are you asserting a privilege claim about this document?

MR. SCHUMAN: Chamber has not invoked privilege to withhold this document from production, that's why you have it.

But Chamber, as we understand it, is invoking privilege as to any related discussions that Ms. Lacewell may have had in providing legal counsel to Chamber.

A. Which is why, by the way, I asked you if you were going to point me to something on the chain since that's within, you know, the bounds of what I understand I can answer.

Q. So we'll talk separately and off the record without wasting Ms. Lacewell's time about this selective waiver or -- I don't even know what to call it -- issue with privilege, but let's move on.

A. I would just bear in mind that this email chain includes Liz Smith and Josh Vlasto and Jeff Pollock and conversations -- conversations that I may have had on the topics that you're raising. I would be referring to conversations

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

potentially that did not include those individuals, if that's helpful to understanding what I'm trying to say.

Q. Thanks for explaining that.

Is it possible that those individuals may have been part of those conversations?

A. You know, I -- let me put it this way: I'm not asserting privilege to you on any conversations that I recall where they were a part of it.

(Whereupon, Exhibit 27 was marked for identification.)

Q. Okay. So let's go to tab 46.

This looks like another discussion about press statements and you see at the top MDR leave, as it was.

Can you provide context for this?

We'll mark it as an exhibit.

A. Melissa DeRosa is not an attorney. She's a very effective communications professional and advisor and she respects my opinion and I was reinforcing what others were saying to her, to leave that phrase out of the statement.

Q. What was the reason you were saying

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

she should leave that phrase out of the statement?

A. Well, leaving aside whether or not this document is privileged as it includes individuals like Jeff Pollock and Liz Smith. I think that unfortunately your question would go to my legal analysis and other privileged conversations that I would have had with other people who are more expert in these matters.

Q. When you were in the Executive Chamber Ms. Lacewell, how often did you interact with the Governor?

A. Well, you know it changed over time. Right? So it depended on the time period and what my role was. There was a period of time where I was responsible for executive operations, a lot of the work that Jill DesRosiers, before she went on leave, was doing and that was almost continual.

In my role as Special Counsel while I was in the Chamber -- you know, you spoke earlier of access to him. I had access to him, which I used judiciously. He's a very busy man with a lot going on, but if I needed to speak with him on legal matters, I had access to him through typically Stephanie Benton, but it really was very

1 L. Lacewell

2 dependent on my role.

3 And when I came back from California,
4 I had been gone for a while and then I was back
5 and he was extremely busy, plus running for
6 re-election and I think there was probably less
7 reason, generally speaking, to communicate with
8 him directly and a lot of the communications
9 Melissa DeRosa handled, so that's the best I can
10 do to explain that to you.

11 Q. Maybe it would be helpful for us to
12 talk about the different roles that you held.

13 A. Okay.

14 Q. So thanks for clarifying that point.
15 So what were your responsibilities as
16 Special Counsel to Governor Cuomo?

17 A. So I started in the Governor's office
18 and initially my title was Special Assistant to
19 the Governor. Then the title was changed to
20 Special Counsel to sort of capture the fact that
21 my work was a new administration, but when I
22 started to focus on things like use of state
23 aircraft, state resources, ethics and legal
24 resources and the like, my title was changed to
25 special counsel to reflect that that was a

1 L. Lacewell

2 privileged role.

3 I was the person who focused on
4 identifying and managing legal issues, ethics,
5 legal issues arising out of the Governor's and the
6 staff's and potentially the campaign access --
7 right? -- to state resources. The idea being that
8 counsel to the Governor, [REDACTED], later
9 [REDACTED], etc., Alphonso David, were more
10 focused typically on the budget and legislation
11 and litigation that was ongoing that was being
12 managed and sort of core counsel to the Governor
13 matters as contemplated in the statute, but that
14 the complexities of the legal environment for a
15 Governor are such that there are other matters
16 that need to be addressed, but there simply isn't
17 the capacity in counsel's office and that those
18 individuals, leaving aside [REDACTED], who is a former
19 federal prosecutor who was not there for too long,
20 didn't have the experience necessarily. I was a
21 former federal prosecutor, I had done
22 investigations in the AG's office on some of these
23 issues.

24 So that, you know, one of the public
25 officers law guidelines rules around, as I've

1 L. Lacewell

2 already mentioned, use of state aircraft, the
3 mansion, the Governor's name, gifts and matters of
4 the foil, which raise a whole host of legal
5 issues. I know there are other things, but I'm
6 not thinking of them right now. I know there's a
7 whole portfolio around that that I was the lawyer
8 for.

9 Most much of that has been inherited
10 by Judy Mogul, in case that end up being helpful
11 after I left the Chamber. Then at some point, as
12 you're doubtless aware, we created a statewide
13 system of special counsels for ethics, risk and
14 compliance, the theory being that what I was
15 trying to achieve for the Governor's office, which
16 was being proactive to avoid potential legal,
17 ethics issues by advising people ahead of time and
18 not being so reactive to when things happened to
19 go wrong and then it's just a big press problem or
20 potential investigation was being managed
21 proactively, that if we could export that to other
22 state agencies, because anything that happens at a
23 state agency is going to be at the foot of the
24 Governor's office ultimately since he appoints
25 people there and the general counsels report up to

1 L. Lacewell

2 the counsel here and so on and so forth.

3 So of course I set up that program
4 and that took up a lot of my time during that
5 period of time recruiting and training and meeting
6 those people all the time and trying to help them
7 to identify what were the legal and litigation and
8 ethics risk areas for that agency based on the
9 nature of what it did, what the history of it had
10 been, how do we close some of these gaps, were
11 there problems that were statewide that could be
12 managed by the statewide system, etc., etc.

13 Then, of course, once there were
14 investigations, either by JCOPE or DA's offices or
15 US attorney's offices, I typically managed in the
16 Governor's office our handling of those where
17 necessary with -- or where appropriate with
18 outside counsel, you know, whether that was the
19 Percoco investigation. These are all, as you
20 know, publically known. The Lyons investigation.
21 Subpoenas that may have come in about government
22 programs that would connect back to the Governor's
23 office and so on and so forth and also being
24 someone that people were comfortable with
25 approaching to ask for advise on these issues of

1 L. Lacewell

2 legal matters, ethics, etc., can I do this, what
3 do I do about this, including at agencies. The
4 general counsel could call me, a commissioner
5 could call me and I would call them to work it
6 through.

7 Also, if there were going to be news
8 stories that were going to be critical of
9 government activity about raising concerns about
10 the integrity of something, then I would work with
11 the team to marshal the facts and determine what
12 was happening and was everything okay legally,
13 ethically, etc. Did we need to make changes, did
14 we need to do reforms, etc., etc.

15 So that's a pretty broad but I think
16 pretty fulsome discussion of the role and of
17 course I had other things that I was doing as
18 well. Right? I was very involved in
19 appointments, both to boards and commissions, and
20 in trying to recruit because recruiting was -- I
21 ended up falling into some of these gaps.
22 Recruiting was a huge issue for the Governor's
23 office because people don't want to work in Albany
24 and certainly not for that kind of money and
25 certainly not for the high-stress environment

1 L. Lacewell

2 where they're working all the time and gotta
3 answer the phone 24 hours a day and on the
4 weekends.

5 And I already mentioned at one point
6 I was responsible for the Governor's events and
7 operations, which was managing a massive,
8 sprawling team. In that regard, I oversaw the
9 speech writing team. I basically plugged in
10 wherever there was a gap and somebody asked me to
11 do it.

12 Q. How often did you interact with the
13 Governor when you were in that position?

14 A. So I think I answered this, but
15 during the time when I was involved in speech
16 writing or government events, I was talking with
17 him probably daily, probably multiple times a day.

18 In the early days when I was dealing
19 with use of state aircraft and all that -- well, I
20 was in staff meetings. I was in executive staff
21 meetings on pretty much a weekly basis and, you
22 know, I would be pulled in on appropriate matters
23 to meet with the Governor and I think a lot of
24 that is reflected right in the schedules for the
25 Governor. You know, it varied over time.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

I was going to say something else.
Then obviously -- so okay. The effects are
separate.

Q. So it's not about DFS.

What would your interactions have
been since you were appointed as a Superintendent
of DFS?

A. So much more sporadic. We did, you
know, the press conference together on an opioid
investigation by DFS, so I had some conversations
about that with him on the phone. Then, of
course, a briefing in person and then we did the
event together.

During COVID, you know, when I first
came to the Capitol, I was part of a team that was
meeting with him, you know, at least once a day,
if not more. Then as COVID progressed and there
were health concerns, that team sort of shrunk and
it became rare, I think, for me to interact with
him personally. I mean, he was so busy that once
in a while I would be on the phone with him with
either Judy Mogul or sometimes with [REDACTED],
who was counsel to the Governor, about litigation
theories related to the federal government.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Things of that nature.

And then fast forward to the Lindsay Boylan related allegations and then I was really primarily dealing with Melissa DeRosa and only, you know, that one conversation at the mansion that I mentioned and a couple times, as I indicated, I think he was on the phone with folks who were talking about the matter, but he didn't express very much.

Q. How long was the conversation at the mansion that you and Judy Mogul had with the Governor?

A. Pretty brief, I think. Less than half an hour. Pretty brief. I think Judy Mogul had a conversation with him without me, so I think my conversation with them was pretty brief.

Q. You're saying that when you all were at the mansion, you think Judy Mogul had a separate conversation with the Governor?

A. I don't know if she had that then and I don't know if it was before or after that. But I believe she had a one-on-one conversation with him that I was not involved in. It may not have been that day.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. But it was about the sexual harassment allegations?

A. Yes.

Q. Has the Governor ever spoken harshly to you in the time that you worked together?

A. Harshly? I think he's criticized me in sometimes an abrupt manner, especially when I was running his events, which was not really my area of expertise, but I've worked with him for many years. We have a very good relationship. I feel that he values my work and respects me and I'm obviously grateful for the opportunity to be in public service and to advise the team and I've always thought of it as the Governor and the team march down the field, scoring all these great wins, marriage equality, minimum wage, etc., etc., and my job is to help the team to make sure that they're avoiding or managing any legal or litigation or ethics issues along the way that could detract from that, interfere with that and help keep the Governor's office, the public trust, the Governor safe and sound.

Q. Has he ever yelled at you?

A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. When you were in the Chamber, how often did he yell at you?

A. I can't really quantify it. You know, during the time that I was managing his official life, so to speak, his schedule on a day-to-day basis, where he's going, what the event is, being briefed, what is the event, all of that, there's so many opportunities for something to be wrong, go wrong, not be ready and it's a source of frustration for him and there's so much detail associated with it that he could become impatient. Whether he was upset with me or he was upset with a member of the team, he expressed that.

Q. Are you talking about the time when you served in the position of Chief of Staff and counselor to the Governor?

A. No, because when I came back, I didn't have that role. I know you would think so, since I was Chief of Staff. I'm talking about long before I went to California and while Joe Percoco was still in the office. The Governor asked me to step in and take over events for a period of time. He thought I was an operational person and that I could do it, even though I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

couldn't tell you which members of the legislature represent which parts of upstate New York.

I just realized I said that on the record.

Q. How long did you hold that position for?

A. I think it was less than six months. I really did not enjoy doing it and I didn't want to do it anymore.

Q. What did you do after that?

A. I think I went back to the day-to-day role of, you know, managing the legal -- operations itself is a host of -- Governor's operations itself has a host of legal issues associated with it. Sometimes it would be going on a trip, you know, how do we get the aircraft, what are the legal issues on that, etc., etc. So I went back more to that and I don't -- it's so many years, I don't remember the sequence of when the -- of course that would be a matter of public record when the special counsel program was created and also I became first chief risk officer and I did initiative with the AG's office on litigation and risk management and, you know, the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

other roles that I've described in being a special counsel.

Q. Did you ever yell at the Governor during your time in the Chamber?

A. Not that I can recall. It's possible.

Q. Did he ever curse at you?

A. He's used swear words in my presence, yeah.

Q. Which ones?

A. The F word. Not every day. Not commonly, but I've been around the man for many years.

Q. Was it ever directed at you?

A. You know, it could have been something along the lines of "Are you effing kidding me about this?" That type of thing.

Q. Did he ever insult you when you worked with him in the Chamber?

A. I don't think so.

Q. Did he ever call you stupid?

A. No, not to my memory. I don't think he believed I was stupid and I don't believe he would ever call me that. Maybe something that I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

did was stupid or somebody else did was stupid or
how did an alarm not go off in my head about
something stupid -- did a little bell ring as to
how stupid that was, but calling me stupid
personally, no.

Q. Have you ever heard him call anyone
else stupid?

A. No.

Q. Has he ever threatened you?

A. No.

Q. Have you ever threatened him?

A. No.

Q. Have you ever heard him threaten
anyone?

A. No.

Q. Has he ever thrown anything at you?

A. No.

Q. Have you ever seen him throw anything
at anyone?

A. No.

Q. Have you ever thrown anything at him?

A. No.

Q. Did he ever touch you?

A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. In what way?

A. Put his hand on my shoulder, give me a hug, give me a kiss in greeting, put his arm around you when you're walking down the hall. That type of thing. Put his arm around you when he's taking a picture.

Q. Where did he kiss you?

A. On the cheek. Sometimes both cheeks.

Q. Did you ever kiss him?

A. Sometimes on the forehead.

Q. Did you ever kiss him?

A. Yes.

Q. Where?

A. On the cheek.

Q. Did he ever comment on your appearance?

A. [REDACTED] That's all I remember.

Q. Did you ever comment on his appearance?

A. [REDACTED] I don't recall anything else.

Q. Did you ever hear him make comments

1 L. Lacewell

2 of a sexual nature?

3 A. No.

4 Q. Did you ever hear him make comments
5 with sexual innuendos?

6 A. No.

7 Q. Did you ever hear him comment on the
8 size of his hands?

9 A. Yes, I think he's done that
10 publically.

11 Q. What have you heard him say?

12 A. He's a physically demonstrative
13 person, if that's the right expression. Oh, look
14 at my hands, they're so big. He was prone to sort
15 of commenting on -- in a mocking way -- about how
16 good looking he was, but meaning that he wasn't.
17 You know, that he had a big nose, etc., how big my
18 hands are, that type of thing.

19 Q. In the Chamber, did you ever see the
20 Governor yelling at any staff members?

21 A. Yes.

22 Q. How often?

23 A. It's hard to quantify it. I mean --
24 and also, as expressed, I wasn't around him all
25 the time and for some periods of time, I was

1 L. Lacewell

2 around him for longer than others. It would be
3 probably much more in context of these events as a
4 source of frustration.

5 Q. Did you ever hear him insulting a
6 staff member in the Chamber?

7 A. Insulting, no. Would he characterize
8 people's abilities? Yes. I don't think that's an
9 insult, which is the only reason why I hesitate.
10 That's not what that person does, that type of
11 thing.

12 Q. Did you ever see or hear about staff
13 members in the Chamber being upset by treatment
14 they got from the Governor?

15 A. Jill DesRosiers would get upset from
16 time to time when she was doing the same role that
17 I already described and that it was frustrating
18 that there were one thousand things that could go
19 wrong and it's the kind of role where, you know,
20 press and events are two things the Governor could
21 do better than anybody else and so if something
22 goes wrong when somebody else is in charge of it
23 and he's upset by it and that a good event doesn't
24 get recognized, but something that goes wrong is
25 always going to be an issue and there's so many

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

things that can go wrong and she worked incredibly hard, so she would get frustrated sometimes.

Q. Other than getting frustrated about things not going well, did Jill DesRosiers ever get frustrated about the way the Governor interacted with her?

A. Well, she was frustrated by his interactions with her in that role, that she thought he was never going to be happy, never going to be satisfied, critical about the work she was doing, but she loved the job. She didn't want to give it up.

Q. Based on your observations, how did the Governor treat Jill DesRosiers based on other senior staff?

A. I didn't think it was any different. It's just that that area was a source of frustration.

Q. How did you think the Governor treated you compared to other senior staff?

A. I didn't think it was any different. I think he appreciated the high quality of senior staff that he had and he expressed that. At the same time, he was harder on himself than any of us

1 L. Lacewell

2 and once I said to him "It's never enough for you"
3 and he said "It's never enough because it's never
4 enough," meaning in the job.

5 So he's very demanding, demanding of
6 himself, very demanding of us and was constantly
7 elevating the standard of getting things done,
8 getting things produced and done professionally --
9 yeah, very high stress pressure cooker environment
10 that, you know, some people thrived in and would
11 be bored in any other environment and people
12 reacted differently to that, but I think he was
13 the same with everybody in that regard.

14 Q. What led to your saying "It's never
15 enough for you"?

16 A. He was criticizing about something
17 and I don't know if it was when I was in that role
18 with the events, etc. I had a very good
19 relationship at that point, so I felt like I could
20 express myself and I said that to him because I
21 felt I always performed at a high level, yet he
22 was being critical that it wasn't enough, so I
23 said "It's never enough for you" and that was his
24 response and look, I got it. You know, I -- the
25 things that he has achieved, in my opinion, for

1 L. Lacewell

2 the people of the State of New York over these
3 terms -- Elliot Spitzer was very short in office,
4 Governor Patterson was very short in office,
5 George Patacki, from what I could tell, did not
6 run state government, paid no attention to the
7 agencies and didn't necessarily, from what I could
8 determine, have an agenda of making change for the
9 people, whereas the Governor's achievements were
10 endless. You almost couldn't keep up, he was
11 getting so much done. And to be a part of that
12 was very rewarding and in fact, being in a high
13 pressure environment where you're being challenged
14 constantly and it's never enough, I got that. If
15 I made the choice to be there, that's how it was
16 going to be. I respected him greatly and I valued
17 my relationship of trust with him.

18 Q. Is that still the case?

19 A. Yes.

20 Q. Did you ever observe or hear about
21 any differences in the way the Governor treated
22 men versus women on his staff?

23 A. No. He was just as critical of men
24 as women, just as hard on men as women. I didn't
25 perceive any difference.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Did you ever observe or hear about the Governor flirting with a staff member?

A. Say that again.

Q. Did you ever observe or hear about the Governor flirting with a staff member in the Executive Chamber?

A. Bantering. That type of flirtation. Nothing beyond that.

Q. Can you describe that?

A. I'm trying to remember any specific episodes, but, you know, the kind of harmless, being charming and bantering that could occur really in any work environment given that we're all human beings. Nothing beyond that.

Q. When you say harmless, harmless from whose perspectives?

A. Everybody's.

Q. As perceived by you?

A. As perceived by me.

Q. Did you ever see the Governor hug other staff members in the office, in the Executive Chamber?

A. The hugging that I recall would typically be at the mansion, so I don't -- he

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

could greet guests with a hug in the Governor's office, guests of all kinds. Men, women, old, young. But staff members, he hugged me once in the Governor's office when I gave him some very good news about a legal matter, but that's the only time I recall.

Q. Did you ever see the Governor kiss staff members in the office in the Executive Chamber?

A. Kiss in greeting? That type of thing, yes.

Q. Women and men?

A. Yes.

Q. Has he ever kissed you in the Executive Chamber?

A. I don't recall. It would be much more likely to have been at the mansion, sort of in greeting. The first time he saw me, when he came back to California, where was that, I don't recall. So I can't recall it out, but I don't remember.

Q. Have you ever seen the staff member sit on a Governor's lap?

A. No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Have you ever heard about a staff member sitting on the Governor's lap?

A. I have to rule out privileged conversations, so other than ...

Q. Who were those privileged conferences with?

A. Judy Mogul.

Q. When did they take place?

A. During this period of time after -- I think it was in connection with press inquiries, so after December of 2020.

Q. Other than Judy Mogul, did you discuss the issue with anyone else?

A. Not to my recollection.

Q. Have you ever heard the Governor comment on a staff member's appearance in the Executive Chamber?

A. Not that I can recall.

Q. Have you ever heard the Governor comment on a staff member's clothes in the Executive Chamber?

A. On their clothes?

Q. Yes.

A. He would mock John Majora all the

1 L. Lacewell

2 time on his ties. He would talk to men about
3 whether their shoes were polished. He might say
4 something in the nature of "Nice outfit" or words
5 to that effect. That's pretty much all I recall.
6 Or you got a haircut or why don't you get a
7 haircut, what's with that beard on a man, etc.

8 Q. Did you ever hear him make comments
9 to women on their clothes?

10 A. Other than what I just described, no.

11 Q. So what you just described applied to
12 men and women?

13 A. Well, a lot of it wouldn't apply to a
14 woman, but -- haircuts could apply to women. I
15 already told you he commented on my [REDACTED],
16 but nothing else that I recall.

17 Q. Did you ever hear about the Governor
18 asking someone if she had a boyfriend on the
19 staff?

20 A. Other than what was in the media or
21 any other internal privileged conversations in
22 that regard, no.

23 Q. What were those internal privileged
24 conversations?

25 A. In connection with the reporting in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

the media.

Q. Who were they with?

A. You said did I ever hear of it?

Okay. Hold on a second.

So to the extent that we either received press inquiries or there were statements in the media after Lindsay Boylan's allegation and there was internal discussion in that regard was the genesis of having conversations about that. You asked if I ever heard of it. That's how I heard of it.

Q. Did you say Judy Mogul is the person you discussed them with?

A. I don't remember. She's the most likely person, but I don't recall specifically.

Q. Did you discuss with Stephanie Benton hearing about the Governor asking if somebody had a boyfriend?

A. No.

Q. Did you discuss with any other members of senior staff hearing about the Governor asking if someone had a boyfriend?

MR. SCHUMAN: Other than --

A. Other than privileged --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: -- privileged

conversations coming out of the allegations
in the press?

A. Right. I never heard of any such
thing until the time that either the press was
asking or it was being reported in the media. And
then I don't have specific recollections of
conversations, but it would have been normal for
that to be a part of the discussion with Judy
Mogul, Melissa DeRosa, the same individuals that I
mentioned previously. I just don't have a
specific recollection and it's in that context.

Q. Did you ever hear the Governor call a
staff member of the Executive Chamber "honey" or
"sweetheart" or a similar term?

A. Not that I can recall. Certainly not
"sweetheart." Did he ever say "honey" or "dear"?
It's entirely possible. I don't have any
recollection about that.

Q. Did you ever hear about the Governor
using the term "Mean Girls" to refer to any
Chamber employees?

A. Hearing the Governor say that?

Q. Yes.

1 L. Lacewell

2 A. No. The only person I ever heard
3 said that was Lindsay Boylan, as I previously
4 testified.

5 Q. Who did Lindsay Boylan use that term
6 in relation to?

7 A. Stephanie Benton, Annabel Walsh and I
8 think Melissa DeRosa.

9 Q. Did you ever hear about anybody else
10 using that term "Mean Girls" to refer to any of
11 the women you just mentioned?

12 A. No. Other than Lindsay Boylan, I
13 think, in the press used that term.

14 Q. Do you know if the Governor --

15 A. Sorry. Maybe in her Medium piece.

16 Q. Do you know if the Governor ever had
17 a sexual romantic or other personal
18 relationship -- not just a friendly
19 relationship -- with any staff members in the
20 Chamber?

21 A. Not to my knowledge.

22 Q. Were you ever told that might have
23 happened?

24 A. No.

25 Q. Did you see media reports regarding a

1 L. Lacewell

2 potential sexual or romantic relationship between
3 the Governor and any staff members?

4 A. First of all, let me back up for a
5 minute. In the Attorney General's office, there
6 was some opposition research being done. There
7 was a brother of a defendant in a criminal matter
8 who started sending around anonymous allegations,
9 including that the Governor had had a relationship
10 with a staff member in the AG's office. She was
11 in one of the regional offices, [REDACTED]
12 [REDACTED]. So I just want to amend my answer
13 there.

14 And as far as the press, look, we got
15 media inquiries about whether or not the Governor
16 had been involved with anybody. I think the
17 Governor was asked directly at press conferences
18 whether he had been romantically involved with any
19 staff. I believe he said no.

20 But beyond that, I don't have any
21 information.

22 Q. Is that the subject of any privileged
23 discussions that you've had since allegations of
24 sexual harassment have come out?

25 A. I can't comment on privileged

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

discussions, right? You asked me if I'm aware if he had any such relationships, privileged or unprivileged. I'm telling you flatly the answer is no. I'm not going to get into whether that was a topic of discussion in a privileged conversation. What I'm telling you is I have no such information.

Q. I also asked whether you were ever told that might have happened.

A. Yeah. Other than what I said about media inquiries, the answer is no.

Q. Who was the subject of the media inquiries?

A. The subject of the media inquiries?

Q. Yes.

A. I remember the press saying "Did you ever have a romantic relationship with anybody in the Chamber?" I don't know who they were referring to and I don't recall any specific individuals.

I think the New York Post was trying to insinuate that **Senior Staffer #1** was so close to the Governor that maybe they had a romantic relationship, which was really sexist garbage to

1 L. Lacewell

2 attack a high ranking woman with that and as a
3 woman, I was offended.

4 Q. Anyone else?

5 A. Not that I -- no, not that I recall.
6 I mean, you asked me about Senior Staffer #2, but
7 not that I recall otherwise.

8 Q. What's the answer about Senior Staffer #2

9 SS #2

10 A. I already answered that. I said I
11 had no such information and I have no such
12 information. I have no reason to believe -- no
13 reason to believe whatsoever that the Governor was
14 romantically or sexually involved with anybody who
15 worked for the Governor's office or any state
16 agency during the time he was Attorney General or
17 in the entirety of the time that I've known him.
18 Nothing. Not even a rumor. And he ran for office
19 multiple times with a lot of highly financed
20 opposition researchers and nothing ever was
21 alleged.

22 Q. Do you know if the Governor ever
23 hired or expressed interest in hiring a woman
24 after meeting her for the first time at an event?

25 A. Yes.

1 L. Lacewell

2 Q. What do you know about that?

3 A. Here's what I recall: While I was in
4 the Governor's office, I've already mentioned
5 recruiting was a source of much frustration and
6 very difficult to do and the Governor was not
7 satisfied with the quality of the operation. From
8 time to time, he would say "You can't find
9 somebody, I'll find somebody" and he might be at
10 an event and observed somebody in the course of
11 their duties and decide that person is highly
12 capable, so I'll hire that person and I'll bring
13 them into the Governor's office and they'll fix
14 everything. And inevitably, it didn't work. I
15 remember [REDACTED] was one of those
16 individuals.

17 With respect to Kaitlin [REDACTED], I was
18 not in the Governor's office when she was hired.
19 When I came back, she was already there. Anything
20 that I learned in that regard was subsequent. I
21 can't recall if anybody else was hired out of an
22 event, but it wouldn't surprise me.

23 Q. Are you aware of any incidents of
24 harassment, bullying or any other hostile or
25 aggressive manner by the Governor?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. No.

Q. How would you describe the work environment in the Chamber?

A. Well, I think I've done that, but let me try to encapsulate it. It's a relatively small group of people with an enormous portfolio and the job gets more complicated over time for any Governor through the years as life and state matters get more complicated and we have additional crises and so on and so forth.

So it's a high pressure environment, it's a hard working environment, it's not a 9:00 to 5:00 and it's not a Monday through Friday and individuals are expected to be available on their phone all the time and even if they're away to produce whatever needs to be produced and it's full on. And it's very stressful in that regard.

The flip side of that, as I already mentioned, it's highly rewarding to be part of a team that is getting so much done and people who want to be in public service and can tolerate a high stress environment like that -- myself, others -- find it very rewarding.

Some people do it for a period of

1 L. Lacewell

2 time and then go to an agency because they don't
3 want to live that lifestyle anymore. It's
4 perfectly understandable. I mean, even in the
5 White House, it tends to be, like, a two-year tour
6 and then who can sustain that? It's not
7 sustainable for most natural human beings.

8 So very collaborative with the team,
9 to my belief, the executive team, not about egos,
10 not about me looking good, you looking good. It's
11 about getting the work done and jumping in and
12 also very consulting and collaborative in terms of
13 before doing anything important, make sure you
14 talk to everybody, the Governor needs to say, get
15 everybody around the table, have the conversation.
16 And he was right. If you go out and have the
17 conversation and talk it through, even if you
18 thought you knew everything, somebody would have a
19 different perspective on something and you might
20 go in a different direction. Some of the most
21 talented people that I dealt with in my life.

22 Q. Who would you put in that category?

23 A. The most talented people? Melissa
24 DeRosa is a superstar from a young age, which
25 she's been doing, running the state, the first

1 L. Lacewell

2 woman to be secretary and, in my opinion, enduring
3 a lot of sexism externally with respect to her
4 role and the kind of criticism heaped on her would
5 never have been done in my opinion to a man as
6 secretary. That's my personal opinion.

7 Jill DesRosiers, highly, highly
8 talented operationally, intergovernmentally and on
9 the substance, worked harder than any human being
10 I've ever seen in my life.

11 Judy Mogul, who was a tremendous
12 lawyer, who I'm sure you know used to be our
13 outside counsel and came on the inside, is both
14 incredibly talents and smart and dedicated and
15 also just a lovely human being, interpersonally
16 and I think very appreciated in that regard by the
17 staff.

18 The counsel over time, incredibly
19 talented, sometimes in different ways, [REDACTED]
20 [REDACTED], Alphonso David, all the
21 counsel, Beth Garvey now.

22 You know Stephanie Benton and what
23 she does. Grace under pressure every day of the
24 week and kind of the glue for us a lot of the
25 times when I was in the Chamber, trying to make

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

sure people were talking to each other.

The budget director, Robert Mujica, best budget director in the history of time in my opinion. Kelly Cummings, total rock star operationally. Nobody is better than her at what she does. All of this team. The Governor said it's the best team he's ever had and he's had a set of teams for sure.

Q. How did senior staff treat each other in the Chamber?

A. I think senior staff treated each other well. I mean, could people become impatient and critical, of course, but mostly, given the nature of the job, it was sort of in the trench together, trying to get things done and nothing should be personal and, you know, trying to make sure that we're actually speaking to each other and not leaving anybody out could be a perennial concern, but, you know, again nothing was about that individual trying to be a hog of the credit or something else. It was about getting the work done.

I very much enjoyed my working relationship with the team there and over time

1 L. Lacewell

2 became pretty close to Melissa DeRosa and Jill
3 and -- a little less so with Jill because she's so
4 busy -- and obviously Judy Mogul and Jim Malatras
5 when he was there, etc.

6 Q. Did you ever observe senior staff in
7 the Chamber yelling at any staff members?

8 A. I think all staff that I ever
9 interacted with in the Executive Chamber from time
10 to time would yell, myself included. It's a very
11 high pressure job and if somebody made a stupid
12 mistake, then it's highly likely that somebody is
13 going to erupt and say "What the hell just
14 happened?" and try to get answers and typically
15 get on the phone with agencies who often didn't
16 have the facts, didn't understand the problem and
17 didn't understand the speed with which response
18 was needed.

19 Q. Did you ever observe or hear about
20 senior staff cursing at any staff members?

21 A. That I think much less so. I don't
22 recall that.

23 Q. Did you do that?

24 A. Not that I remember. I don't think
25 so. But anything is possible. I've worked there

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

for many years.

Q. Did you ever overhear about senior staff in the Chambers insulting any staff members?

A. Insulting them? You know, again, understanding the common meaning of insult, no. Characterizing people's strength and weaknesses, yes, for sure. If that person has no idea what they're doing, sure.

Q. Did you ever observe Joe Percoco insulting any staff members in the Chamber?

A. To the best of my recollection, he did that a lot with [REDACTED].

Q. Let me ask my question again.

Did you ever observe senior staff in the Chamber insulting any staff members?

A. Just so we're clear, I was there for so many years --

Q. I appreciate that. We're talking about a long period of time.

A. So yes, I observed Joe Percoco yelling at people. He was a yeller and he had a very tense relationship with [REDACTED], who he appeared not to like, and yes, he would insult him and yell at him.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. Anyone else other than Joe Percoco?

A. Not that I can recall. I mean, he yelled a lot, but the insulting, I don't recall him doing that with anybody else as far as I can remember.

Q. What would he say to [REDACTED]?

A. He was an idiot, he didn't know what he was doing. That kind of thing. I think more pungent language that I don't recall. I just remember the tenor of it.

Q. Did anyone intervene?

A. So I don't have specific recollections, but I think Stephanie Benton tried to be helpful with that relationship. You couldn't really intervene with Joe Percoco. That ought to be clear to everybody right now.

Q. Did you ever observe senior staff in the Chamber threatening any staff members.

A. No.

Q. Did you?

A. No.

Q. Did you ever observe or hear about senior staff in the Chamber throwing things at any staff members?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. No.

Q. Did you do that?

A. No.

Q. Did you ever observe or hear about senior staff in the Chamber flirting with any staff members?

A. Senior staff of the Chamber flirting with any staff members? Joe Percoco would flirt with [REDACTED], who was one of his reports. Beyond that, I can't think of anything specific.

Q. Did you do that?

A. I don't think so.

Q. Are you aware of any incidents of bullying or other hostile or aggressive behavior taking place between Chamber staff?

A. No.

Q. I think earlier when you were describing interactions with other New York State agencies you described, at a minimum, some tension.

Did you ever yell or curse at other State employees in dealing with other State agencies?

A. I certainly yelled at them. I don't

1 L. Lacewell

2 have specific recollections and I don't recall
3 cursing at anybody. I think I've mellowed over
4 the years, so in those earlier years, I can't rule
5 it out.

6 Q. Did you ever observe or hear about
7 any of your colleagues in the Chamber doing that
8 with employees of other State agencies?

9 A. Certainly yelling at them. Cursing
10 at them, I don't recall that.

11 Q. What about in connection with your
12 role on the COVID-19 task force? Did you ever
13 yell at employees in other State agencies?

14 A. I don't recall yelling at anybody at
15 any State agencies, but the Department of Health
16 personnel, we definitely had some very tense
17 conversations about how they were managing a whole
18 range of public health issues and those
19 conversations could get pretty heated.

20 I don't remember specifically yelling
21 at a particular individual, but the conversation
22 could get pretty heated and the stakes were
23 extremely high obviously.

24 Q. When you say the conversations could
25 get pretty heated, could you describe in what way

1 L. Lacewell

2 the conversations could get heated?

3 A. You know, I would propose that we
4 needed to do something or we needed some
5 information or whatever the item might be and they
6 would push back with sort after classically
7 stereotypical bureaucratic agency approach, that's
8 not the way we do things or that'll take until
9 next week or not getting the urgency of it and I
10 would exert pressure on them to come through with
11 what I thought or I and the team thought needed to
12 be done to protect people during a public health
13 emergency or to get the information that we needed
14 and, you know, I don't think that the Department
15 of Health was used to that. You know, their role
16 became preeminent during COVID, so I don't know
17 that I had dealt with that much before that and
18 I'm sure from their perspective -- I'm not a
19 health expert, but a lot of those issues had to be
20 managed out of the Chamber because the Department
21 of Health frequently was just not up to the job.

22 Q. From your perspective, are you a
23 health expert?

24 A. No. But I know how to get things
25 done.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Q. How would you exert pressure?

A. By saying I understand you think it's going to take three weeks, but we need it tomorrow and how can we make that happen and I don't agree with you and that's a bureaucratic answer, etc., etc.

Q. And in doing so, did you ever raise your voice?

A. I'm sure I did.

Q. In doing so, did you ever scream at anyone?

A. I don't recall any screaming.

Q. Do you know if any of your colleagues screamed at anyone?

A. Again, I'm sure conversations were heated, but I don't recall any screaming.

Q. Have you ever become aware about someone who raised a concern about how about Chamber employee is treated, him or her?

A. That's pretty broad.

Q. Setting aside the recent allegations that have been made public, have you ever become aware of concerns that anyone has raised about mistreatment by a Chamber employee?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

MR. SCHUMAN: If you were aware of things given your role in terms of providing legal advice, that's obviously privileged. Other than that --

A. Not that I can recall.

Q. Do you have a Blackberry, Ms. Lacewell?

A. I do not.

Q. Have you ever had a Blackberry?

A. Yes.

Q. When's the last time you used one?

A. When I was in the Executive Chamber and I can't remember -- certainly before I went to California. Then when I came back from California, I can't remember if they were still using Blackberries or they switched over to iPhones. So if they were using Blackberries, then I certainly had one then, but I surrendered the electronic devices when I moved over to DFS and then used DFS equipment.

Q. Did you ever pin with the Governor?

A. Yes, when I was in the Chamber.

MS. MAINOO: I think we might need to switch the tape.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

Take a break.

THE VIDEOGRAPHER: This is the end of media unit five.

We are off the record at 5:27 p.m.

(Brief recess taken)

THE VIDEOGRAPHER: This is the beginning of media unit six.

We are now on the record at 5:28 p.m.

Q. Ms. Lacewell, do you understand that the Governor uses pin messages to communicate?

A. He certainly did when I was in the Chamber. I don't know for sure that he still uses a Blackberry because I don't have a Blackberry, so I don't communicate with him that way.

Q. Did you understand the reasons he used pin messages?

A. He doesn't use email and needed a way to communicate with staff and couldn't do so by email, so the pin function was successful.

Q. When he was Attorney General, did he use email?

A. I'm trying to think. I don't think I know. I don't recall. I think the answer is no, but I don't have any recollection and frankly, I

1 L. Lacewell

2 wasn't as close to him then.

3 Q. Since you were appointed to the DFS,
4 how have you communicated with the Governor?

5 A. In person, by telephone, once in a
6 very blue moon by text initiated by me. That's
7 it.

8 Q. When you communicated with the
9 Governor by text, what device did you communicate
10 with on his end?

11 A. On his end? Good question. Whatever
12 phone number I had from Stephanie Benton, which
13 changed from time to time. I don't know frankly
14 if that was an iPhone or if it was a Blackberry.
15 I'm not sure.

16 Q. Were you communicating directly to
17 the Governor in those instances or through
18 Stephanie Benton?

19 A. With the text messages? Those are
20 direct. And if I may elaborate, it was in the
21 nature of the "Happy birthday, have a wonderful
22 year" or "I saw that speech, you did a tremendous
23 job." It wasn't anything substantive.

24 Once I was at DFS on the text
25 messages, I wanted to be able to communicate with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

him directly, but it really was not substantive.

Q. What's the phone number that you have for the Governor that you texted him at?

A. I don't think this has changed. I have [REDACTED]. I hope you'll be redacting that so he doesn't have to change his phone number.

Q. When's the last time you communicated with the Governor that the phone number?

A. Long time ago. Probably his birthday last year.

Q. What month?

A. Early December.

Q. When you were in the Chamber, did you ever provide any guidance about email hygiene?

A. Yes.

Q. What guidance did you provide?

MR. SCHUMAN: You can answer without getting into privilege.

A. Right. So early on in the Governor's tenure, I was involved in helping to create a document retention policy because the Governor's office under prior reference did not have one and state law did not provide for one. Agencies had a

1 L. Lacewell

2 requirement of having a document retention policy
3 through the state archives, which is part of the
4 State Education Department, but that did not apply
5 to the Governor and advocacy groups were in favor
6 of there being a document retention policy in the
7 state archives.

8 They were interested in wanting to
9 have documents for posterity, so we looked at the
10 agency model and adapted that to the Governor's
11 office based on the type of documents that would
12 be generated and within that, in response to your
13 question, was of course the topic of emails and
14 whether emails had to be retained and it was a
15 position of state archives that emails did not
16 need to be retained -- emails as emails -- unless
17 they otherwise fit the characterization of
18 documents that needed to be retained, such as if
19 it had a contract in it or things to that effect.

20 So then outside of that, I believe in
21 the AG's office I believe we had a 90-day auto
22 deletion policy on email traffic that I was not
23 involved in creating and that policy was carried
24 forward to the Governor's office and then there
25 were a series of news articles and complaints

1 L. Lacewell

2 about it and because it made the documents
3 inaccessible under FOIL in the view of the media
4 that typically made FOIA requests, so I was part
5 of a team that discussed changing that and we
6 eliminated the auto delete, so that everybody's
7 emails were not automatically deleted, but it was
8 handled on an individual basis, so that an
9 individual could determine I want my personal
10 email to be deleted every four months, every three
11 months, every two months, every 30 days and that
12 request would be made to the IT director and while
13 I was in the Governor's office before I went to
14 California, I would typically be the person who
15 would approve or disapprove that based on who the
16 individual was and what their email traffic
17 was and what the sensitivity was, since emails are
18 not required to be retained under the policy that
19 we incorporated from state archives.

20 Now, if there was a FOIA request or
21 litigation hold, of course the auto deletes would
22 be suspended.

23 Q. Ms. Lacewell, what's the last time
24 you were the part of any discussions involving the
25 Governor?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

A. Well, other than with my counsel -- so it's a bit broad. Do you mean -- I'm not sure exactly what you mean. Obviously I speak to my lawyers about the Governor, right?

Q. No, I mean in which the Governor participated.

When's the last time you were part of any discussions in which the Governor participated, whether or not he said anything?

A. Thank you for that.

Well, certainly whatever the date of the time that I was at the mansion with Judy Mogul and then I mentioned to you that he may have been on the phone a couple of times with a group of people I described and other than that, just thinking, I don't think I've spoken with him directly since then. If I think of anything, I'll tell you. But I don't believe that we've spoken.

Q. How about Judy Mogul?

A. I spoke to Judy Mogul all the time.

Q. Melissa DeRosa?

A. I speak to Melissa DeRosa all the time. I haven't spoken to her in several days, as far as I can remember, but no, I speak to both of

1 L. Lacewell

2 them all the time.

3 (Whereupon, Exhibit 28 was marked for
4 identification.)

5 Q. Earlier, you had asked about some of
6 Lindsay Boylan's tweets. I think we've been able
7 to go back and find them. Would you like to
8 supplement your answer by looking at those tweets?

9 A. Yes, thank you.

10 Okay. That's probably the whole
11 exchange, right?

12 Q. That's what we understand.

13 A. So let me sort of encapsulate. In
14 reading her tweets, beginning with the ones that
15 you showed me earlier on the 8th, I believe that
16 she was creating an impression that she left the
17 Governor's office because she was being sexually
18 harassed by the government and then she tried
19 multiple times to get away from him and it didn't
20 succeed and finally she broke free.

21 I believe that those statements were
22 misleading and inaccurate in that I had
23 participated in a series of discussions around
24 allegations by individuals at ESD that counsel
25 confronted her with that she proactively then quit

1 L. Lacewell

2 and then within a matter of days sought to come
3 back to the Governor's office.

4 Rather than her being driven out due
5 to sexual harassment and having to flee that
6 environment, the other side of the story was that
7 she was confronted with allegations about her own
8 behavior and chose to quit and was interested in
9 coming back, contrary to feeling the need to get
10 out of there.

11 I realize it may be hard to sort of
12 parse text by text, but that's how I read the
13 totality and I believe that's how the press read
14 it, by the way, and I believe that's how they
15 characterized it and it was, in my opinion,
16 misleading and inaccurate and politicized to bring
17 exposure to her campaign.

18 That was my opinion. I obtained
19 advice. Without disclosing those facts, I spoke
20 with the facts who are the experts before they
21 were disclosed because I'm not the expert and
22 that's what happened.

23 Q. I think there's another tweet from
24 December 13 that was cut off, so we'll just put
25 that up in case it speaks to your interpretation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

of Ms. Boylan's tweets.

A. Thank you. Is that the end of it?

If you wouldn't mind scrolling up for a minute please -- "I could never anticipate what to expect. Would I be grilled on my work, which was very good, or harassed about my looks or would it be both in the same conversation. This was the way for years. Above that, many saw it and watched."

So that was relevant to my interpretation that I just described and I might have seen this earlier, but again, just to recap without wasting folk's time, I believe that she was generating an impression that she was being sexually harassed, that that's why she left. We had facts to the contrary that were relevant to that.

I'm sorry. I think you might be muted.

Q. This interpretation, other than I've heard in your testimony, it's not reflected in any of the contemporaneous documents, correct?

A. I don't know. And there may be things you don't have due to privilege, right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

You want to call me a liar? I'm a former federal prosecutor and attorney. My opinion is my opinion. Right? It probably doesn't mean that much to you, but the fact remains we sought advice.

MS. MAINOO: Let's take a short break. I'll say two-minute break so I could see if we have any other questions.

THE WITNESS: Sure.

THE VIDEOGRAPHER: Standby.

We are now off the record at 5:42 p.m. for break.

(Recess taken)

THE VIDEOGRAPHER: We are now on the record.

The time is 5:46 p.m.

We are back from break.

Q. Ms. Lacewell, is there anything you would like to add or any answers you wish to clarify before we finish?

A. Not at this time. Thank you.

Q. Is there anything else you can think of that's relevant to our investigation?

A. I never know how to answer that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L. Lacewell

question. Not that I wish to say at this time.

Q. When you say "not that I wish to say at this time," what do you mean by that?

A. You may not have asked me about every single things, right? There may be other relevant things. I don't want to rule that out. It's your investigation. You've got many sources of information, so I don't want to presume.

Q. If you'd like to make a brief sworn statement, you may do so now.

A. Thank you. I decline that.

MS. MAINOO: We will conclude this examination. I remind you that you have continuing obligation under our subpoenas. If we need to you come back to answer additional questions, we'll contact you through your attorney.

If you have additional documents that are responsive to our document subpoenas, you have a continuing obligation to produce them to us and I'll also remind that you Executive Law 63(8) prohibits you and your counsel from revealing anything we asked or anything you said during your testimony to anyone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, SARA K. KILLIAN, RPR, CCR
and Notary Public of the State of New York,
do hereby certify that LINDA LACEWELL,
the witness whose examination under oath
is hereinbefore set forth, was duly sworn,
and that such deposition is a true record
of the testimony given by such witness.

I FURTHER CERTIFY that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 16th day of June, 2021.



SARA K. KILLIAN, RPR, CCR
Notary Public of the State of New York