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CONFIDENTIAL

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IN THE MATTER OF THE
INDEPENDENT INVESTIGATION UNDER
NEW YORK STATE EXECUTIVE
LAW SECTION 63(8)
----- X

June 17, 2021
9:34 a.m.

CONFIDENTIAL REMOTE VIDEOTAPED
INVESTIGATION of WITNESS 6-17-21, taken by
the New York Attorney General's Office,
pursuant to Executive Order 63(8), before
Theresa Tramondo, AOS, CLR, a Notary
Public of the State of New York.

Reported by:
THERESA TRAMONDO, AOS, CLR
JOB NO. NY4638345

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APPEARANCE OF COUNSEL:

CLEARY GOTTLIEB STEEN & HAMILTON LLP

One Liberty Plaza

New York, New York 10006

BY: RAHUL MUKHI, ESQ.

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212-225-2000

ALSO PRESENT:

PHIL GLAUBERSON, VIDEOGRAPHER, VERITEXT

LEGAL SOLUTIONS

1

2

THE VIDEOGRAPHER: Good morning.

3

We are going on the record at 9:35

4

a.m. Eastern Time, June 17, 2021.

5

Please note that microphones are

6

sensitive and may pick up whispering

7

and private conversations. Please

8

mute your microphone whenever

9

possible. Audio and video recording

10

will continue to take place unless all

11

parties agree to go off the record.

12

This is media unit one of the

13

video-recorded deposition of Larry

14

Schwartz in the Matter of Independent

15

Investigation under New York State

16

Executive Law Section 63(8). This is

17

deposition is being held remotely.

18

My name is Phil Glauberson from

19

the firm Veritext and I am the

20

videographer. The court reporter is

21

Theresa Tramondo from Veritext.

22

I am not authorized to

23

administer an oath. I'm not related

24

to any party in this action, nor am I

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financially interested in the outcome.

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Counsel will please now state their appearances and affiliations for the record; if there are any objections to proceeding or to the court reporter administering the oath virtually, please state them at the time of the appearance, beginning with the noticing attorney.

MR. MUKHI: Rahul Mukhi, Joon Kim and Charlotte Chun from Cleary Gottlieb on behalf of the New York Attorney General's Office.

MR. PETRILLO: Petrillo Klein & Boxer for the witness, Larry Schwartz. You have Guy Petrillo and you have John Allen, A-L-L-E-N.

MR. MUKHI: All parties agree that the court reporter can swear/affirm the witness in virtually via Zoom as if the witness was in the same room as the court reporter.

Unless there are any objections by any party, say it's so stipulated.

So stipulated.

1

2

Yes.

3

MR. PETRILLO: So stipulated,

4

yes.

5

L A W R E N C E S C H W A R T Z ,

6

called as a witness, having been duly

7

sworn via Zoom by a Notary Public, was

8

examined and testified as follows:

9

BY THE REPORTER:

10

Q. State your name for the record,

11

please.

12

A. Lawrence Schwartz,

13

S-C-H-W-A-R-T-Z.

14

Q. What is your address, where are

15

you right now?

16

A. I'm at my lawyer's office, 655

17

Third Avenue, New York, New York 10017.

18

EXAMINATION BY

19

MR. MUKHI:

20

Q. Good morning, Mr. Schwartz.

21

Thanks for participating today.

22

So as you just heard, I am a

23

lawyer with Cleary Gottlieb. Joon Kim,

24

Charlotte Chun and I are appearing on behalf

25

of the New York Attorney General's Office in

1 Schwartz - Confidential
2 connection with our independent
3 investigation.

4 And as you heard, its under
5 New York Executive Law Section 63-8, and the
6 investigation concerns allegations of sexual
7 harassment against the Governor, as well as
8 the surrounding circumstances.

9 You are here today pursuant to a
10 subpoena issued in connection with the
11 investigation. Do you understand that?

12 A. Yes.

13 Q. Our investigation is
14 confidential, and so we request that you
15 keep our questions today and any information
16 you may learn from us today confidential.

17 Do you understand?

18 A. Yes.

19 Q. As you heard, this proceeding
20 today is being video recorded, as well as we
21 have a court reporter making a transcript.
22 You're also under oath, you were just sworn
23 in, that means you must testify truthfully
24 and completely just as if you were
25 testifying in a court of law.

1 Schwartz - Confidential

2 Do you understand?

3 A. Yes.

4 Q. Okay. And you understand that
5 means also that your testimony is subject to
6 the penalty of perjury?

7 A. Yes, sir.

8 Q. So if you would like to make a
9 brief sworn statement, we ask that you do so
10 at the conclusion of our examination today,
11 if you so wish.

12 I will be asking you questions
13 and I will give you an opportunity to give
14 your complete answers, but at the end, I
15 will also give you an opportunity to put in
16 a sworn statement if you wish, okay?

17 A. Yes.

18 Q. So, Mr. Schwartz, although this
19 is a civil investigation, the New York
20 Attorney General's Office also has criminal
21 enforcement powers. You have the right to
22 refuse to answer a question if answering the
23 question would incriminate yourself;
24 however, any failure to answer, can be used
25 against you in a court of law in a civil

1 Schwartz - Confidential
2 proceeding, not a criminal proceeding, but a
3 civil proceeding. It cannot be used against
4 you in a criminal proceeding, but in other
5 contexts, like the civil context, a refusal
6 to answer based on a fear that an answer
7 will incriminate you may be used against
8 you.

9 Do you understand?

10 A. Yes, sir.

11 Q. Now, you're appearing with
12 Mr. Petrillo and Mr. Allen today, who I
13 understand are in the room with you. At any
14 time if you need to consult with them, you
15 may do so. I would ask, if you can, if
16 there is a question pending to answer the
17 question before we break, if you can do so,
18 okay?

19 A. Yes.

20 Q. Now, as we've discussed, we have
21 a court reporter here, and so there are a
22 couple of rules of the road to make it go
23 smoothly and so we get a clean transcript.
24 So in response to my questions, if they're
25 -- even if they're yes or no, please answer

1 Schwartz - Confidential
2 with a verbal full response, as opposed to
3 what we might do in ordinary conversation
4 with a nod or uh-huh or something along
5 those lines, so we have a clean record.

6 Now, please also allow me to
7 finish my question entirely before you begin
8 to answer, even if you think you know where
9 I'm going, so we don't talk over each other,
10 in particular, and this is one of the
11 critical things to remember so the court
12 reporter can create an accurate transcript
13 especially in this format.

14 Now, if at any time today, you
15 do not understand a question, just let me
16 know. It's important that you understand
17 the question, including because you're under
18 oath, so I want you to understand the
19 question. If you don't understand the
20 question, let me know, and I will try to
21 rephrase it. Okay?

22 A. Yes.

23 Q. Now, I'll be asking about some
24 names and potentially dates and other
25 specific information. Even if you don't

1 Schwartz - Confidential
2 remember a specific name or date, I would
3 ask that in response to those types of
4 questions, you give me your best approximate
5 answer, if you can, while letting me know
6 that the answer might not be exact; is that
7 fair?

8 A. Yes.

9 Q. And similarly, if you don't know
10 the answer to one of my questions or you
11 don't recall, you should let us know, but if
12 I ask a question, you have a general
13 recollection, but not a specific detailed
14 recollection, I'd ask that you let me know
15 that you have a general recollection and
16 tell me the general recollection rather than
17 saying flat that you don't recall anything.
18 Okay?

19 A. Yes.

20 Q. Okay. So I mentioned if you
21 need a break to speak to your attorney at
22 any point, let me know; likewise if you need
23 a break for any other reason, just let us
24 know, and again, I would ask that you just
25 answer the question first and then we can

1 Schwartz - Confidential

2 take a break.

3 Now, I will ask this both of you
4 and Mr. Petrillo.

5 Can you confirm that the only
6 other individuals in the room with you today
7 are Mr. Petrillo and Mr. Allen?

8 MR. PETRILLO: Yes.

9 A. Yes.

10 Q. Mr. Schwartz, and counsel, can
11 you please confirm, both of you, that no one
12 else is listening in to this proceeding or
13 testimony through a phone or some other
14 device?

15 A. No.

16 MR. PETRILLO: No, not that we
17 know of, yeah.

18 Q. Can both Mr. Schwartz and
19 counsel confirm that no technology is being
20 used by you as the witness and counsel to
21 create a recording of this proceeding?

22 A. Confirm.

23 MR. PETRILLO: No.

24 Q. And can you confirm,
25 Mr. Schwartz, that you won't communicate by

1 Schwartz - Confidential

2 text or real time during breaks with anyone
3 other than your counsel about the substance
4 of your testimony?

5 A. Confirm.

6 Q. Now, just a couple of other
7 preliminaries.

8 We want to let you know that
9 witnesses are protected from retaliation for
10 participating in our investigation. We ask
11 that you let us know through your lawyer if
12 you have any concerns you're being
13 retaliated against in any way based on your
14 participation today and your truthful
15 testimony. Okay?

16 A. Yes.

17 Q. Are you taking any medication or
18 drugs that might make it difficult for you
19 to understand my questions today?

20 A. No.

21 Q. Any reason why you would not be
22 able to answer my questions truthfully
23 today?

24 A. No.

25 Q. So, please, restate your full

1 Schwartz - Confidential
2 name, date of birth and your current home
3 and business addresses for the record,
4 please.

5 A. My current what address?

6 Q. Home and business.

7 A. Oh, okay. My name is Lawrence
8 Schwartz, S-C-H-W-A-R-T-Z; my date of birth
9 is [REDACTED] my home address is [REDACTED]
10 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] my
11 work address is [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
12 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

13 Q. Mr. Schwartz, have you given
14 sworn testimony before?

15 MR. PETRILLO: Of any kind,
16 right?

17 MR. MUKHI: Of any kind.

18 MR. PETRILLO: Of any kind.

19 (Witness confers with counsel.)

20 MR. PETRILLO: If you're unsure,
21 you could tell him, just to make sure
22 that they have all of the information.

23 A. I'm unsure if it falls under the
24 category of sworn testimony.

25 MR. PETRILLO: But you

1 Schwartz - Confidential

2 have appeared.

3 A. But I have --

4 MR. PETRILLO: Right.

5 A. -- I've appeared before the
6 Manhattan District Attorney's Office once,
7 I've appeared before the U.S. Attorney's
8 Office for the Southern District once, and I
9 appeared before JCOPE, the State Ethics
10 Commissions once. I don't know if any of
11 those were considered to be under sworn
12 testimony. I don't recall.

13 Q. Generally what were the
14 circumstances when you appeared before the
15 Manhattan District Attorney's Office?

16 A. It was many years ago. At the
17 time, the senate minority leader Manfred
18 Ohrenstein was under investigation. I was a
19 member of the central staff of the New York
20 Senate Minority and I was asked to come in
21 and cooperate in the investigation by the
22 Manhattan DA's Office.

23 Q. How about your appearance before
24 the U.S. Attorney's Office in the Southern
25 District or --

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2 A. At that time the U.S. Attorney's
3 Office was investigating activities and
4 conduct involving the Moreland Commission
5 that was created by Governor Cuomo at that
6 time. I was secretary to the Governor. And
7 I was asked, and I voluntarily came in to
8 answer any questions that the U.S.
9 Attorney's Office had.

10 Q. And then finally what were the
11 circumstances surrounding your appearance
12 before JCOPE?

13 A. JCOPE asked me to come in. They
14 had questions they wanted to ask me
15 regarding Mr. Joe Percoco and his activities
16 in terms of being the Governor's campaign
17 manager and using his old State office
18 during the campaign.

19 Q. Have you ever testified in a
20 deposition before?

21 A. I don't recall being in that
22 situation.

23 Q. How about, have you ever
24 testified in court?

25 A. To the best of my knowledge, no.

1 Schwartz - Confidential

2 Q. Now, turning to your testimony
3 today, other than meeting with your counsel,
4 did you do anything else to prepare for your
5 testimony today?

6 A. Just meetings and my counsel.

7 Q. Other than Mr. Petrillo and his
8 colleagues at his firm, have you discussed
9 the fact that you would be testifying today
10 with anyone else?

11 A. I did have a conversation with
12 Beth Garvey, counsel to Governor Cuomo. I
13 was on the phone discussing with her --

14 MR. ALLEN: Is this privileged?

15 MR. PETRILLO: Yes. Quick
16 break. I want to understand if it's a
17 privileged conversation.

18 MR. MUKHI: Okay, okay.

19 THE VIDEOGRAPHER: Are we going
20 off the record?

21 MR. MUKHI: Off the record.

22 THE VIDEOGRAPHER: Going off the
23 record at 9:56.

24 (Discussion off the record.)

25 THE VIDEOGRAPHER: We are back

1 Schwartz - Confidential

2 on the record. The time is 9:57.

3 MR. PETRILLO: I think we can
4 proceed, if you're ready for it -- for
5 us.

6 Q. Yes. Why don't you consider
7 your answer, Mr. Schwartz?

8 A. I did give Beth Garvey, counsel
9 to the Governor, a courtesy heads up that I
10 was coming in. I didn't give her a specific
11 date and time. I just told her I was coming
12 in probably the following week to meet with
13 the attorneys, the investigators involved.

14 Q. So that was a call you had with
15 Ms. Garvey last week?

16 A. My recollection, I believe it
17 was last week or the week before, whenever I
18 was aware that I was coming in to meet or
19 testify.

20 Q. Can you describe that
21 conversation, what you told her and what she
22 said in response, to the best you can
23 remember?

24 A. I just told her --

25 Q. Yes.

1 Schwartz - Confidential

2 A. It was very brief. I just told
3 her I was scheduled to come in to be
4 interviewed.

5 Q. What was her response?

6 A. She said thank you, basically,
7 and that was it.

8 Q. Any discussion with Ms. Garvey
9 about the potential substance of your
10 testimony today?

11 A. No.

12 Q. Any other conversations with
13 anyone about your testimony today besides
14 Mr. Petrillo and his colleagues and
15 Ms. Garvey?

16 A. Only other than I've let my wife
17 know that I was coming in. I haven't
18 discussed it with anyone else.

19 Q. Okay. So Mr. Schwartz, you
20 should have received a binder of documents
21 that we sent to Mr. Petrillo. Okay, yes,
22 because I see it in the background there.

23 If you could just confirm that
24 you haven't looked at that binder up until
25 now and are seeing it for the first time or

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2 the document at least at this point during
3 the deposition; is that correct?

4 A. Yes.

5 MR. MUKHI: So Mr. Petrillo, if
6 you could open up the binder, it
7 should have tabs, and let me know once
8 it's in front of Mr. Schwartz. We're
9 going to start with Tab 1.

10 MR. PETRILLO: Okay, give me a
11 sec.

12 MR. MUKHI: Sure.

13 MR. PETRILLO: Okay, we're all
14 set.

15 Q. Mr. Schwartz, looking at Tab 1,
16 do you see this is a subpoena for your
17 testimony today directed to you, courtesy of
18 Mr. Petrillo?

19 A. Yes, I do.

20 Q. And do you understand that your
21 testimony today is being taken pursuant to
22 the subpoena you're looking at right now?

23 A. Yes.

24 (Court Reporter confers with
25 attorneys over marking exhibits.)

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2 (**RQ)MR. MUKHI: I think have
3 not been marking them, but we will
4 attach them to the transcript.

5 Q. You can go to Tab 2. Do you
6 recognize Tab 2 as the subpoena for
7 documents that was previously sent to you by
8 our office?

9 A. Yes.

10 Q. Now, did you review this
11 document subpoena?

12 A. Can you explain what you mean by
13 your question; did I look for documents?
14 I'm not sure -- I want to make sure I
15 understand.

16 Q. Yes. Let me be more precise.
17 I'm going to be asking about documents you
18 collected.

19 But my question right now is
20 whether you read the subpoena before you
21 endeavored to collect documents.

22 A. Yes.

23 Q. Now, we received your
24 Declaration of Compliance with the subpoena
25 this morning. I have that in front of me.

1 Schwartz - Confidential

2 And I understand -- do you have that
3 declaration in front of you?

4 A. No.

5 MR. PETRILLO: No, we don't, but
6 if you want us to get it, we can.

7 MR. MUKHI: Okay, I think at
8 some point, but why don't we see if I
9 could ask a couple of questions that
10 he can respond to without it, but if
11 you guys need it, let's take a break
12 and you can print it out, but.

13 Q. I understand you performed a
14 search for documents and information
15 requested by the subpoena, not including
16 materials within the possession, custody and
17 control of the New York State government.

18 Do you recall you declared that
19 in your declaration?

20 A. Yes.

21 Q. So putting aside the documents
22 that may have been in the State's
23 possession, custody and control, for the
24 documents that you produced personally in
25 response to the subpoena, were you the one

1 Schwartz - Confidential
2 who gathered responsive documents in
3 response to the subpoena?

4 A. Yes.

5 Q. Other than the documents you
6 provided to us through your counsel, did you
7 find any additional documents in response to
8 our request?

9 A. The only documents I found were
10 the ones I handed over to my counsel.

11 Q. So Mr. Schwartz, let's turn to
12 another subject.

13 You gave your business address
14 today. What do you currently do for work?

15 A. I am the chief strategy officer
16 for a company called On the Go or also known
17 as OTG. They are a company -- they're a
18 food and beverage concession operator only
19 in airports, and we're in ten airports in
20 the United States and one in Canada.

21 Q. I'll come back to that position,
22 but for now my question is: Do you hold any
23 other positions other than chief strategy
24 officer of -- I'll refer to it as "OTG"?

25 A. At the company?

1 Schwartz - Confidential

2 Q. Either at the company or outside
3 the company.

4 A. I also serve on the board of the
5 MTA.

6 Q. Any other positions currently?

7 A. Not that I could think of.

8 Q. The [REDACTED] [REDACTED] address you
9 gave, is that the business address for OTG?

10 A. Yes, sir.

11 Q. So backing up, can you just
12 describe your educational background
13 post high school?

14 A. Post high school?

15 Q. Yes.

16 A. I have a Bachelor's from
17 Binghamton State University. I graduated
18 there in 1980. That's it.

19 Q. Any postgraduate degrees?

20 A. No, sir.

21 Q. Can you give an overview of your
22 employment history since you graduated SUNY
23 Binghamton in 1980?

24 A. My first job was approximately
25 in 1981 I think, '80/'81. I worked for the

1 Schwartz - Confidential
2 City of New York. I was under a grant
3 program. I was evaluating the New York
4 City's Employee Performance Evaluation
5 Program to see if it was working, if it was
6 working well or it wasn't working well. In
7 1982, I was hired in August of '82 to work
8 for the New York State Senate Minority, Fred
9 Ohrenstein was the senate minority leader at
10 the time. I stayed there until 1987. I
11 left in July, June or July, I believe, of
12 1987. I then left, I ran the campaign of
13 Pat Halpin for Suffolk County Executive.
14 And then in January of 1988, I became deputy
15 county executive in Suffolk County. He was
16 elected to a four-year term, he did not get
17 reelected. And in 1991 I was an independent
18 consultant. In 1992, I got hired by then
19 Congressman Charles Schumer for his campaign
20 and some other campaigns that I was involved
21 with. In 19 -- either '90 -- I can't
22 recall, I went to for M&R Strategic
23 Services, I think it was 1993, doing
24 governmental relations work for M&R
25 Strategic Services and political consulting

1 Schwartz - Confidential
2 work for the company. I was involved and
3 worked on at that time Governor Mario
4 Cuomo's campaign for a fourth term in 1994
5 while I was an employee of M&R Strategic
6 Services. In 1996 I ran the campaign of
7 soon to be Westchester County Executive Andy
8 Spano. I went to work for Andy Spano in
9 January of 1997. I stayed as the deputy
10 county executive for 11 years. I then got
11 asked by then Governor David Paterson to
12 come join his administration. I believe
13 that was at the beginning of February of
14 2009. I became secretary to Governor
15 Paterson I believe at the end of February of
16 2009. And then Attorney General, then
17 Governor Elect Governor Cuomo, asked me to
18 stay through a transition period, which I
19 agreed to do, and I was either a senior
20 advisor or special advisor to the Governor
21 in January 2011; he then asked me to stay
22 and become secretary again, and I became
23 secretary to the Governor in July of 2011,
24 and I stayed a secretary to Governor until I
25 left State government service in February of

1 Schwartz - Confidential

2 2015.

3 Q. From 2015 to present, have you
4 been chief strategy officer at OTG?

5 A. I joined OTG I believe -- think
6 it was March 26th of 2015. I took a little
7 time off between my time in State government
8 and before I went into the private sector.
9 I needed to take a little time off.

10 Q. A couple of follow-up questions.
11 You mentioned M&R Strategic
12 Services --

13 A. Yes.

14 Q. -- as one of your places of
15 employment. What is M&R Strategic Services?

16 A. They're a lobbying firm. They
17 were doing lobbying work in New York City
18 and as well as Albany. My work was New York
19 City, as well doing political consulting
20 work on political campaigns, if we were
21 retained or hired to do it.

22 Q. Were you a registered lobbyist
23 while you were working at M&R Strategic
24 Services?

25 A. I don't recall if I was required

1 Schwartz - Confidential

2 to register in New York City or if I did. I
3 don't recall ever being registered to lobby
4 in Albany because I didn't do any lobbying,
5 but I don't recall. That was many years
6 ago.

7 Q. Okay. All right. Have you ever
8 been a registered lobbyist of any kind?

9 A. I have registered as an employee
10 under OTG.

11 Q. Now one follow-up, you mentioned
12 that the transition from Governor Paterson
13 to Governor Cuomo, Governor Cuomo asked you
14 to stay on initially as senior advisor,
15 ultimately as secretary. Did you know
16 Governor Cuomo before he was elected
17 Governor?

18 A. Yes, I did.

19 Q. Can you describe how you knew
20 Governor Cuomo prior to his election as
21 Governor?

22 A. Over the years being in
23 politics, he was in politics, I was in New
24 York State politics, you know, we would just
25 have interactions with each other. When I

1 Schwartz - Confidential
2 was running the campaign of Patrick Halpin
3 in 1987 for Suffolk County Executive, he was
4 a political advisor to the Governor, his
5 father at the time, and he was a key
6 decision-maker in Democratic party politics,
7 and so I had conversations, interactions
8 with him regarding the county executive's
9 race. I was the deputy campaign manager for
10 his father, Governor Mario Cuomo, in 1994.
11 I certainly had interactions with him then.
12 In 1987, when I was the county executive in
13 Suffolk, he oversaw HELP, the homeless
14 housing not-for-profit organization, and he
15 was interested in building a project in
16 Suffolk County and I had interaction with
17 him in his effort, which we were successful
18 in building a HELP project in Bellport, Long
19 Island. Those are just some examples of my
20 interactions with him over the years.

21 Q. And so it sounds like you just
22 described several professional interactions
23 you had with Governor Cuomo prior to his
24 election.

25 Did you also have a personal

1 Schwartz - Confidential

2 relationship with Governor Cuomo prior to
3 his election as Governor in or about fall of
4 2010?

5 A. I don't recall having a personal
6 relationship. It was all a professional
7 one.

8 Q. Prior to 2011, did you ever
9 socialize with Governor Cuomo prior to him
10 being elected Governor?

11 A. Not that I recall.

12 Q. Now, can you describe what
13 volunteer positions you have held over the
14 years in addition to the employment you
15 listed earlier?

16 A. Can you repeat the question for
17 me, please?

18 Q. Sure. Why don't we break it
19 down this way.

20 So you mentioned you're on the
21 MTA board?

22 A. Yes.

23 Q. Is that a paid position or a
24 volunteer position?

25 A. That is a volunteer position.

1 Schwartz - Confidential

2 Q. Are you -- have you held any
3 other volunteer board positions over the
4 years?

5 A. I don't recall having served on
6 any of the boards in a volunteer capacity
7 that I can think of.

8 Q. And we come back to this, but in
9 your Declaration of Compliance -- and again,
10 let me and Mr. Petrillo if you need it in
11 front of you -- but in the first paragraph
12 you say, "In March 2020 I volunteered to
13 assist the Office of the Governor of the
14 State of New York in the State's COVID-19
15 response," and then you go on to describe
16 some of the efforts that you were involved
17 in.

18 How long -- what was the
19 position that you took in March 2020 that
20 was a volunteer position to assist in the
21 connection with the COVID 19 response of the
22 State?

23 MR. PETRILLO: If I could
24 interject, I put the declaration in
25 front of the witness.

1 Schwartz - Confidential

2 MR. MUKHI: Okay, thank you.

3 MR. PETRILLO: Yes.

4 A. I would -- sometime in
5 mid-March, I believe it was, of 2020, I was
6 asked by the Governor and the administration
7 if I could help out with the COVID pandemic.
8 New York State was at the center of this
9 pandemic, was hit first in this country and
10 hit the worst. And he asked if I could
11 volunteer and give time to help his
12 administration and the State, and I agreed
13 to do it.

14 And I was asked to take on a
15 number of roles and responsibilities. One
16 is to make sure that the State did not run
17 out of what's known as PPE, which are masks,
18 protective equipment for frontline
19 healthcare workers, emergency responders.
20 The other thing was to make sure that we had
21 enough ventilators for our healthcare
22 system, because many people were being
23 admitted for hospitalization and into an
24 ICU. I then got asked to oversee and stand
25 up what's called SURGEON FLEX, which is

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2 basically patient load-balancing to make
3 sure that no hospital was overrun with too
4 many patients and patients' lives would be
5 at risk. There was this article, one of
6 Health and Hospitals Corporation, it was
7 Queens, there was allegations of letting
8 people die, and it was maybe because there
9 wasn't enough staffing because it was just
10 they were overwhelmed with patients. So I
11 was involved with making sure that we could
12 properly and adequately move patients around
13 through the hospital system to make sure
14 that everyone got proper care and avoided
15 any kind of fatalities. And then later
16 during my time in 2020, I was asked if I
17 would oversee in standing up with Bloomberg
18 philanthropies a new contact tracing program
19 for COVID.

20 Q. So focusing on the earlier
21 period beginning in March 2020, did you --
22 were you given a title when you agreed to
23 volunteer your time?

24 A. I don't recall having a title
25 back then.

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2 Q. Were you put on any task force
3 or any other bodies related to the COVID-19
4 response?

5 A. I believe I was part of the
6 COVID task force, as many other people were.

7 Q. And you say later during your
8 time in 2020 you were asked to oversee
9 standing up contact tracing with a Bloomberg
10 charity. Approximately when that was in
11 2020?

12 A. I don't recall the exact dates.
13 I think it was approximately around May of
14 2020. The State of New York had a contact
15 tracing program, but it couldn't handle the
16 volume of cases that COVID presented and so
17 it was creating a new universal system and
18 program that could handle the volume of
19 cases so that we could probably trace them
20 and prevent community spread of the virus.

21 Q. In connection with that later
22 period and working on contact tracing, were
23 you given a title or a particular position
24 in connection with that responsibility?

25 A. I don't recall being given a

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2 title. Just asked to do it.

3 Q. You have your declaration in
4 front of you. We will get to the December
5 2020 period in a minute, but you indicate
6 that during this earlier period in 2020,
7 you're saying, "Each case I worked from the
8 Executive Chamber of Governor's Office"; do
9 you see that?

10 A. Yes.

11 Q. So what did you mean by that,
12 working from the Executive Chamber of the
13 Governor's Office?

14 A. I used an office and desk inside
15 the Capitol on the second floor.

16 Q. Did you -- let me ask this:
17 Before December 2020 you refer to
18 volunteering again in December 2020. Do you
19 see that? This is in your second to last
20 paragraph.

21 A. Yes.

22 Q. So you start in March 2020 with
23 the responsibilities you just described and
24 then you start again in December 2020
25 concerning vaccine distribution, planning

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2 and distribution. Did there come a time in
3 between when you stopped volunteering your
4 time for the State?

5 A. Yes, I was winding it down. My
6 time on PPE and ventilators and contact
7 tracing, I started to wean -- wind it down.
8 I had made a number of recommendations to
9 the administration on a going-forward basis
10 on how to deal with PPE and ventilators from
11 a procurement standpoint and some other
12 recommendations, and I just advised and
13 helped them carry out any of the
14 recommendations that they wanted to follow
15 up with that I had made.

16 And then on contact tracing, I
17 always made myself available to the Health
18 Department and anyone else. So if they
19 wanted to bounce anything off of me or get
20 my opinion or advice, I made myself
21 available. I spent most of my career in
22 public service. We were dealing with a
23 health epidemic and I feel a responsibility
24 to not just the public, you know, just be
25 available, if they had questions, I could

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2 help.

3 Q. Let me ask it this way: Did
4 there come a time after March 2020 when you
5 stopped working out of the Executive Chamber
6 before you came back in December 2020?

7 A. Approximately around the third
8 week or last week of June of 2020, I stopped
9 working out of the Chamber.

10 Q. Now, when you worked out of the
11 Chamber starting in March of 2020, did you
12 have an Executive Chamber e-mail address?

13 A. Yes, I did.

14 Q. And did you continue to have
15 that e-mail account after you left or at
16 least stopped working out of the Chamber in
17 June 2020?

18 A. To the best of my recollection,
19 I did continue to have it.

20 Q. You continued to have it, okay.
21 So focusing on this March to
22 June time period, 2020, who did you report
23 to with respect to the responsibilities you
24 described?

25 A. I didn't have any -- nobody was

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2 a direct report. Obviously, I report to the
3 Governor, and as a courtesy, obviously, you
4 know, I made myself available to the
5 secretary of the Governor, but as former
6 secretary of the Governor nobody asks -- it
7 wasn't where I had to report to somebody.

8 Q. So in the more colloquial sense
9 of the word, would you report what you were
10 working on and the status of that directly
11 to the Governor?

12 A. I would use my judgment where it
13 was appropriate either to keep the secretary
14 to the Governor informed or the Governor
15 informed if I thought it was appropriate,
16 necessary.

17 Q. Were the Governor and the
18 Governor's secretary the two principal State
19 employees that you reported to on your
20 activities?

21 A. Well, again, if I thought it was
22 appropriate, I would bring things to their
23 attention or I would brief them on something
24 that I thought they should know out of
25 respect. I did have conversations with

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2 other senior leaders, whether it was Robert
3 Mujica, the budget director, or someone in
4 the counsel's office, if I thought it was
5 appropriate, you know. We worked as a team
6 and it's important to keep people in the
7 loop, you know, so they're aware of what's
8 going on, and also to ask for assistance
9 where it's appropriate, needed.

10 Q. Who were the other senior
11 leaders, and again, for now we're focused on
12 this March 2020 to June 2020 time period,
13 besides the Governor, the Governor's
14 secretary and Mr. Mujica that you would have
15 conversations with on a regular basis?

16 A. Again, as I pointed out to you,
17 we worked as a team, as I work with people
18 like Jim Malatras, [REDACTED] [REDACTED], people in
19 State ops. I can't think of [REDACTED] last
20 name, but people with the Department of
21 Homeland Security. So there were many
22 people I work with in the administration
23 because of the nature of the logistics that
24 went on. [REDACTED] I can't think of her
25 last name, ESDC. Linda Lacewell as well.

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2 I'm just -- I'm trying to think here. It
3 was just a lot of staff, you know. We
4 worked with everyone that was involved with
5 these activities. [REDACTED] [REDACTED] from the
6 Health Department. I worked closely with
7 Commissioner Zucker from the Health
8 Department and his staff. [REDACTED] [REDACTED] on
9 contact tracing, others on their staff that
10 they were involved with either PPE or
11 ventilators or other health equipment.

12 Q. Did anyone as a formal matter
13 report to you when you held these
14 responsibilities between March 2020 and
15 June 2020?

16 A. Nobody officially reported to
17 me. I think where people understood and
18 knew that I was overseeing certain functions
19 and roles, so they would come to me, or I
20 would have the final say or signoff, but it
21 was nothing official. Many of these people
22 are people I worked with when I was
23 secretary. We had working relationships.

24 Q. If you could just clarify. I
25 know you described the areas you were

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2 focused on, but could you specify what the
3 areas were that you had final say or signoff
4 on again during this March 2020 to June 2020
5 time frame?

6 A. Well, after I got there, I was
7 involved with the decision-making of where
8 PPE went, how much went -- it went, the
9 ordering of PPE. The same thing with
10 ventilators or other medical equipment. You
11 could lump it all under PPE, so whether it's
12 masks, gloves, gowns or medical equipment.

13 On load-balancing, on patient
14 load-balancing, there was a team of people.
15 I was again overseeing it, but I was working
16 with Dr. Zucker, [REDACTED] [REDACTED], there was
17 another name -- person I forgot, [REDACTED]
18 [REDACTED] and other people, and we set up a
19 team to be able to monitor if there were any
20 kinds of problems or situations where
21 hospitals -- any hospital was getting
22 overrun with patients. We also coordinated
23 sending patients to the Javits Center or to
24 the COMFORT, which was a ship that came in
25 to help treat COVID patients.

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2 Q. What you just described, is that
3 what you were referring to as the functions
4 you would have the final say or signoff on?

5 A. Can you explain to me what you
6 mean by "final say"?

7 Q. Well, I'm actually using your
8 words where you said you were overseeing
9 certain functions and roles and so people
10 would come to you where you may have -- you
11 have, you said, the final say or signoff.

12 A. I would generally approve the
13 decisions unless, of course, the Governor or
14 the secretary to Governor wanted to go in a
15 different direction and wanted to do it
16 differently, then that's what we did, but
17 generally speaking, it would require my
18 approval.

19 Q. In the areas you described in
20 your earlier answer?

21 A. Yes. And then also, of course,
22 with contact tracing later on.

23 Q. All right. Now, sticking in
24 this March to June 2020 time frame, you
25 mentioned the State personnel and officials

1 Schwartz - Confidential
2 you would deal with specifically and
3 generally. Were you also having
4 interactions, again, during this time frame
5 March 2020 to June 2020 with county-level
6 officials?

7 A. You know, I can't recall with
8 specificity. I'm sure, you know, that from
9 time to time a county executive or some
10 other elected official, member of Congress,
11 would call and say this hospital may need
12 help or can you help someone out. I've been
13 in politics and government for a lot of
14 years. I have relationships. So I'm sure I
15 got phone calls. I can't recall each call.
16 And I took them, and, you know, where
17 appropriate and need help.

18 Q. So is it accurate, please let me
19 know, that you have a general recollection
20 of interacting with certain county
21 executives during this time frame March 2020
22 to June 2020, in connection with the areas
23 you were overseeing as you described
24 earlier?

25 A. I have a general recollection of

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2 talking to elected officials on all levels,
3 which included county executives, but not
4 exclusively county executives.

5 Q. Understood.

6 Do you have a specific
7 recollection of any particular county
8 executives that you had phone calls with or
9 dealings with in any form concerning your
10 areas of responsibilities during this time
11 frame March 2020 until June 2020?

12 A. I know I spoke to Laura Curran,
13 the Nassau County Executive, because she
14 would call a number of times having concerns
15 and needing help.

16 I can't recall other specific
17 names of individuals on a county level that
18 I may have spoken to during that period of
19 time.

20 Q. We will come back to the
21 December '20 to April 2021 time frame that
22 you describe in your declaration, but I want
23 to back up now, if that's okay, and talk
24 about your time in the Executive Chamber
25 under Governor Paterson.

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2 So I think you described that
3 you began to work with Governor Paterson and
4 his administration in February of 2009; is
5 that right?

6 A. Correct.

7 Q. Can you describe how you came to
8 work in the Executive Chamber under Governor
9 Paterson around that time?

10 A. I was actually contacted by
11 Governor Paterson. He -- his secretary at
12 the time, [REDACTED] [REDACTED], had to resign.
13 He was looking for someone to replace
14 Mr. [REDACTED], excuse me. He told me that I
15 was on everybody's short list. So he asked
16 to meet with me and talk about -- he wanted
17 to get to know me and see whether or not he
18 wanted to ask me if I would be willing to
19 join his administration.

20 Q. Had you had any prior
21 relationship with Governor Paterson?

22 A. No, not really, no.

23 Q. All right. And this applies to
24 both your period as secretary to Governor
25 Paterson, and let me know if it's fair to

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2 apply to both, but I want to know generally
3 what are the duties and responsibilities of
4 the secretary to the Governor?

5 A. I mean, in terms of my time with
6 the Governor, I -- I mean, I'm just trying
7 to make sure I answer this accurately for
8 you. I report directly to the Governor.
9 I'm the top appointed official in the
10 administration in probably the State of New
11 York. And, you know, the roles and
12 responsibilities can vary from governor to
13 governor in terms of the role they want the
14 secretary to play. I was involved with
15 budget negotiations under Governor Paterson
16 and oversaw budget negotiations in the
17 development of the budget and conclusion of
18 the budget. I was, obviously, overseeing,
19 involved with a number of special projects,
20 initiatives of the Governor. If staff would
21 come to me or agency heads come to me with
22 problems or issues, questions, I was
23 obviously there to give them advice,
24 guidance, help them solve problems or how to
25 address an issue, and make recommendations

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2 to the Governor on how to address certain
3 issues. Like with Governor Paterson, he was
4 legally blind, so when he would have to give
5 his State of the State address, I would
6 recommend that we limit his speech to no
7 more than 20 minutes because we would have
8 to record it and he would have to memorize
9 it, and it's very difficult to try to
10 memorize a speech, let alone, and so I would
11 recommend that to the Governor, and then he
12 would sign off, and then I would make sure
13 the speech got written the way he wanted,
14 and we would get it to him early on so he
15 had enough time to memorize it, and if he
16 wanted to make changes, we had an adequate
17 amount of the time to make those changes.
18 And that's one small example, but that's --
19 all right.

20 Q. So that's helpful. And I take
21 it from your answer you're describing your
22 roles and responsibilities as secretary to
23 Governor Paterson.

24 A. Yes.

25 Q. When you were secretary to

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2 Governor Paterson, I take it you reported
3 directly to the Governor?

4 A. Yes.

5 Q. Did anyone report to you, again,
6 focusing your time as secretary to Governor
7 Paterson?

8 A. Well, yes. I mean, the Chamber
9 staff technically reports to the secretary
10 to Governor. And while the budget director
11 and the counsel to the Governor don't
12 legally or technically report to the
13 secretary to Governor, they all understand
14 that secretary to Governor is the number one
15 position and we work together as a team, and
16 they would come to me prior to, you know,
17 meeting with the Governor or recommending
18 something to the Governor or they would talk
19 to me afterwards. So they understood my
20 role and responsibility. And department
21 heads also knew, agency commissioners knew.

22 Q. Now, you mentioned earlier that
23 during the transition from Governor Paterson
24 to Governor Cuomo, Governor Cuomo asked you
25 to stay on with the Executive Chamber. Can

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2 you describe that process and the
3 conversations you had with the Governor
4 about staying on?

5 A. You know, I was obviously --
6 after he got elected, there was a
7 transition. I worked with his transition
8 team. I made sure -- I had relationships,
9 again, with many people on his transition
10 team, so I made myself available, I wanted
11 to make sure the transition went as smooth
12 as possible, be as helpful as I could, and
13 it was sometime in December of 2010 where
14 the Governor called me and just asked me
15 over the phone if I would stay, I think it
16 was six months, to help with the transition
17 after he was sworn into office, because
18 obviously you can't complete the whole
19 transition in a matter of six weeks.

20 Q. And did you have conversations
21 with anyone else besides Governor Cuomo
22 about staying on after he was sworn in for
23 approximately six months?

24 A. I don't recall having a
25 conversation with anyone but the Governor.

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2 Q. And then did the Governor when
3 he took -- initially took office, did he
4 have a secretary to the Governor?

5 A. Yes, he did.

6 Q. And who was that?

7 A. Steven Cohen.

8 Q. And then when did you become
9 secretary for Governor Cuomo?

10 A. Well, after the budget was
11 adopted in April of 2011, I was approached.
12 Steve's -- was -- agreed to come on for a
13 temporary basis. I don't know if it was
14 supposed to be more than six months. So I
15 had been asked sometime in either April or
16 May, you know, if I would become secretary
17 again. And I agreed to do it and became
18 officially secretary in July when Steve's
19 six months ended or right after the end of
20 the session, which was in late June.

21 Q. Who approached you about taking
22 on the secretary position, again, starting
23 in July 2011?

24 A. Well, at the time I got a heads
25 up from Joe Percoco, who then was working

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2 for the Governor, that the Governor might be
3 approaching me to ask me to stay on and
4 become secretary and then the Governor
5 called me into his office, I believe. I
6 don't fully recollect if it was -- I think
7 he called me into his office, we had a
8 face-to-face conversation, and he asked me
9 if I would take on the position.

10 Q. Now, I want to ask about where
11 you were located within the Executive
12 Chamber offices during this period. When
13 you were senior advisor, before you assumed
14 the secretary position, where did you work
15 in the Cuomo administration?

16 A. I was in the Chamber. I was on
17 the same side as where the Governor's Office
18 is, but across the hall in an office from
19 where the Governor's Office is and where the
20 secretary to the Governor's Office is. It's
21 just on the other side of the hallway, there
22 are offices there.

23 Q. I take it you're referring to
24 the Governor's Offices in Albany?

25 A. Yes, sir.

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2 Q. Did you -- again when you were
3 senior advisor, before taking on the
4 secretary position, did you also have an
5 office in New York City?

6 A. Yes, I did.

7 Q. Where was that office in
8 relation to the Governor's Office in New
9 York City?

10 A. It was, again, on the same floor
11 as the Governor's Office. It was next to
12 where the secretary to the Governor's Office
13 sits.

14 Q. And then if you could just --
15 you referenced it, but if you could just
16 describe how your location of where you're
17 sitting changes once you assume the
18 secretary position, again, in July of 2011?

19 A. I moved back into the secretary
20 to the Governor's Office on the other side
21 of the hallway.

22 Q. And in Albany is that office of
23 the secretary right next to the Governor's
24 Office?

25 A. Between the secretary to the

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2 Governor's Office is a waiting room and the,
3 you know, Governor's personal secretary, and
4 then he has a conference room, and then his
5 office is there. So, like technically you
6 could say my office is closest to the
7 Governor, but there is a number of rooms
8 between my office and the Governor's Office.

9 Q. All right. How about in New
10 York City, when you were secretary, where
11 was your office in relation to the
12 Governor's Office in New York City?

13 A. The office layout in New York
14 City is like a square, okay, and the
15 Governor's Office was in one corner of the
16 square and the secretary to the Governor's
17 Office was in another corner of the square
18 of the floor. So you would have to walk
19 down the hallway if he called and wanted to
20 see you while you were in New York City.

21 Q. Now, you mentioned the duties
22 and responsibilities as secretary can depend
23 on who the Governor is. Did your duties and
24 responsibilities differ when you were
25 secretary to Governor Cuomo as compared to

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2 when you were secretary for Governor

3 Paterson?

4 A. I would say a little bit. You
5 know, I was -- I had -- I was less involved
6 in the scheduling aspects, right, of
7 Governor Cuomo than I was under Governor
8 Paterson just because in the way the nature
9 of the staffing situation was different in
10 the two administrations. We were very short
11 staffed in the Patterson administration.
12 That wasn't the case in the Cuomo
13 administration.

14 Q. Other than that, any significant
15 changes in duties and responsibilities?

16 A. I had a lot more work under the
17 Cuomo administration than I did the
18 Patterson administration.

19 Q. That actually leads to my next
20 question. How would you describe the
21 differences in management styles, if any,
22 between Governor Paterson and Governor
23 Cuomo?

24 A. Governor Cuomo was much more of
25 a hands-on person. He's a tireless worker,

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2 very bright, had a lot of goals and
3 objectives that he campaigned on and wanted
4 to see get done as the Governor of the State
5 of New York for the people of the State of
6 New York. So he laid out a very ambitious
7 agenda, and obviously in addition to the
8 agenda, things come up during the course of
9 the year, but he was very actively involved
10 in the budget process, the legislative
11 process, and you know, initiating a lot of
12 new initiatives and special projects.

13 Q. Did you notice any changes in
14 the Executive Chamber office culture from
15 your time under Governor Paterson compared
16 to your time under Governor Cuomo?

17 A. Morale was low in the Governor
18 Paterson office, a lot of people had left, a
19 lot of the deputy secretaries to the
20 Governor had left, we had a lot of people in
21 the press office that had left. We had a
22 great team in Governor Cuomo's Office. We
23 worked very well together. We liked each
24 other, we got along, and it was a good
25 working environment.

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2 Q. I have one other area to cover
3 before I was planning to take a break unless
4 you want to take a break now. It's up to
5 you.

6 MR. MUKHI: I think our court
7 reporter is in charge. Why don't we
8 take a break now.

9 THE VIDEOGRAPHER: This will end
10 media unit one. We're going off the
11 record at 10:15, June 17, 2021.

12 (Recess.)

13 THE VIDEOGRAPHER: We are back
14 on the record. The time is 11:06,
15 June 17, 2021. This will begin media
16 unit two.

17 Q. Okay. Mr. Schwartz, just a
18 couple of other questions concerning your
19 past employment with the Executive Chamber
20 prior to 2020.

21 When you were secretary to
22 Governor Cuomo, was it also the case like
23 under Governor Paterson that Executive
24 Chamber staff reported to you as secretary?

25 A. Yes.

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2 Q. Now, I believe you said earlier
3 that you left the Executive Chamber and your
4 position as secretary in 2015; is that
5 accurate?

6 A. Yes, February of 2015.

7 Q. And why did you leave in
8 February of 2015, the Cuomo administration?

9 A. I was 57 years old and I felt
10 that I needed to make money outside of
11 public service to financially -- provide
12 financial security to my family.

13 Q. And how did you -- what led you
14 to the position at OTG?

15 A. Somebody I knew, a friend,
16 introduced me to the CEO of the company, who
17 was looking for somebody, you know, to come
18 work there, and he asked me to meet with
19 him.

20 Q. And have you been chief strategy
21 officer since 2015 at OTG?

22 A. Since March 26th of 2015, yes.

23 Q. What are your duties and
24 responsibilities as chief strategy officer
25 at OTG?

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2 A. I provide, obviously, any
3 counsel and advice and guidance that the CEO
4 asks for an opinion or input on. I kind of
5 oversee all government relations aspects of
6 the company, I work closely with the
7 business development team, I'm involved in
8 collective bargaining negotiations and
9 discussions, and basically make myself
10 available to all senior leadership in the
11 company for any advice or assistance they
12 need.

13 Q. And then you mentioned you're on
14 the board of the MTA. When were you
15 appointed to the board, approximately?

16 A. I don't exactly recall. I think
17 I have been on there for about five years,
18 so, give or take, but I don't recall. I've
19 been on for a while.

20 Q. Who appointed you to the board
21 of the MTA?

22 A. Governor Cuomo.

23 Q. And approximately how much time
24 do you spend being in your role as a MTA
25 board member and those responsibilities?

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2 A. The board -- things have changed
3 because of COVID. In pre-COVID the board
4 would meet once a month, the full board, on
5 one day a month, and then we had committee
6 meetings on a separate day once a month and
7 at times, you know, depending on the
8 situation, there could be conference calls
9 or board briefings as well. So you know, it
10 could be anywhere from two days a month to
11 four or five days a month, as well as some
12 phone calls, depending on the circumstances
13 and what's going on at the MTA.

14 Q. And I believe you testified
15 earlier that the MTA board is the only board
16 you sit on?

17 A. To the best of my recollection,
18 that is the only board I am sitting on.

19 Q. Let's turn to another subject.
20 I want to ask you if you could
21 describe your professional relationship with
22 the Governor, Governor Cuomo.

23 MR. PETRILLO: Any particular
24 period of time or...

25 Q. Over the years, if you can.

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2 It's a broad question, but if it's helpful,
3 we can focus on the period when you were
4 senior advisor and secretary from 2011 to
5 2015.

6 A. My relationship when I was
7 senior advisor and secretary was completely
8 professional. You know, I am an employee of
9 the State, I'm an employee of the Governor,
10 I serve at his pleasure, and it was
11 completely professional.

12 Q. Would you say that you had a
13 good working relationship with the Governor
14 from 2011 to 2015?

15 A. Yes.

16 Q. Ad just so the record is clear,
17 when I refer to the "Governor," I'm
18 referring to Governor Cuomo. If I mean to
19 refer to Governor Paterson, I will be
20 specific. Okay?

21 A. Okay.

22 Q. And could you describe your
23 personal relationship with the Governor, and
24 for this I'm describing from 2011 to
25 present?

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2 A. Again, I had a professional
3 relationship with the Governor. You know, I
4 worked all the time; you know, I served, you
5 know, I was involved in constructing the
6 State budget, I was involved in negotiating
7 the State budget, I was involved with
8 negotiating many pieces of legislation that
9 were priorities for him, from the property
10 tax cap to gay marriages, to working on many
11 initiatives, such as the building of the new
12 Tappan Zee Bridge, it's now called the Mario
13 Cuomo Bridge. I showed up at the Capitol
14 early in the morning and I left late at
15 night.

16 Q. Did you -- between 2011 and
17 present, have you socialized with the
18 Governor outside of work?

19 A. No, and not that I can recall,
20 you know, in terms of -- I may have been at
21 the same functions as with him, but we
22 didn't -- if you're asking me did I hang out
23 with him, the answer is I don't recall
24 hanging out with him.

25 Q. How about, so you leave in 2015

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2 and you come back in March 2020. Did you
3 continue to stay in touch with the Governor
4 during that window when you were no longer
5 working for the State?

6 A. Yes. I mean, clearly there were
7 conversation that took place as an MTA board
8 member. I was asked to, kind of, like
9 oversee a couple of projects. The Subway
10 Action Plan that he had put together, he
11 asked for my assistance as a board member to
12 make sure it was getting done and get done
13 properly. There was a time when Amtrak had
14 to shut down or most of Penn Station, they
15 called it the "Summer of Hell" in the press,
16 and he asked for my help, again, as a member
17 of the board to oversee, making sure, that
18 you know, trains ran on time and people
19 understood changes in schedules. So if he
20 needed my help or wanted my help or
21 assistance on something from time to time,
22 he would call me and ask me if I could help
23 on a, you know, project or issue that was
24 important to him.

25 Q. During these phone calls or in

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2 separate phone calls in this period 2015 to
3 2020, did you and Governor Cuomo catch up on
4 a personal level as well?

5 A. You know, after his 2018
6 campaign, which I was involved with, right,
7 he asked for my help on that campaign.
8 Again, I -- it was as a volunteer, right,
9 that I helped. I wasn't on the paid
10 campaign staff. [REDACTED]
11 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
12 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] So I
14 mean that was the extent of, you know,
15 having a personal conversation about
16 something.

17 Q. You're aware that the Governor
18 relatively recently published a book on,
19 broadly speaking, the pandemic response?

20 A. Yes.

21 Q. Have you read the book?

22 A. No.

23 Q. Well, there's a section where --
24 or a portion that describes speaking to you,
25 the Governor speaking to you about coming

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2 back to volunteer, and in that section he
3 describes how he thought you would be
4 willing to do it if he asked because how
5 good of a friend you were to him. Would you
6 agree with that description of being a good
7 friend of the Governor?

8 A. I would agree that generally
9 when he's asked for my help, I've said yes,
10 and we're professional friends and political
11 friends.

12 Q. All right. Now I take it when
13 you were secretary to the Governor, you
14 spoke to him every day, sometimes multiple
15 times a day; is that fair?

16 A. I would say that's a pretty
17 accurate, probably, description.

18 Q. Spoke to him in person and on
19 the phone every day or virtually every day
20 when you were secretary?

21 A. Yes.

22 Q. And then would you also attend
23 events with the Governor?

24 A. Yes.

25 Q. When you were secretary?

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2 A. Yes.

3 Q. Once you returned to -- or once
4 you took the position you described in
5 March 2020, how often did you speak to the
6 Governor beginning in March 2020?

7 A. I can't give you an accurate
8 account. To the best of my recollection, it
9 certainly wasn't daily necessarily. It was,
10 you know, on an as-needed basis. So I mean,
11 I did have conversations with him, but it
12 was basically if I thought I needed to speak
13 to him or he called me into a meeting,
14 either one on one or with other people, to
15 discuss something and that either I was
16 involved in, you know, so, you know, it
17 was -- I can't say it was a consistent
18 daily -- or you know, kind of,
19 communication, I don't recall we did.

20 Q. So understand not daily, to your
21 recollection, and you don't recall
22 specifically, but generally, can you put
23 some parameters around it, was it a weekly
24 basis or less than that, if you recall?

25 A. I can't recall to describe it in

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2 a way that you're -- it was on an as-needed
3 basis or as-he-needed basis or as I thought
4 it was appropriate, as I mentioned earlier
5 that I felt he needed to be briefed or the
6 secretary needed to be briefed, or just made
7 aware of something so they wouldn't be
8 surprised, but you know, it was more ad hoc
9 or something he wanted to talk about. So I
10 don't think there was any consistency -- I
11 could have gone three or four days without
12 talking and I could have had three, four
13 conversations in a day, so.

14 Q. Just to back up, the time period
15 between 2015 and 2020, you talked about
16 various phone calls you had with the
17 Governor. Just ballpark, what were the
18 frequency of you speaking to the Governor
19 during that time frame?

20 A. From the time I left as
21 secretary to March 2020?

22 Q. Exactly.

23 A. I would say infrequent.

24 Q. Give me a parameter?

25 A. He would -- you know, when he

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2 wanted some help on something, he would call
3 me, and we didn't really talk other than
4 when he was looking for help or advice or if
5 I got asked to go to a political meeting,
6 you know, a campaign meeting or some other
7 kind of political meeting and he was present
8 and I saw him, or if I attended one of his
9 fundraisers, I would see him.

10 Q. Would it be fair to say you saw
11 or spoke to him a few times a year in those
12 years, '15 to 2020?

13 A. Yes.

14 Q. I want to ask you about whether
15 you've had certain conversations with the
16 Governor and I'm not limiting the time frame
17 here, okay?

18 So has the Governor -- well, why
19 don't I put it this way: Since he became
20 Governor in 2011, so 2011 forward, okay.
21 Has the Governor ever discussed with you any
22 romantic interests he has had for another
23 State employee?

24 A. I don't recall ever having that
25 type of conversation with the Governor.

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2 Q. Has the Governor ever commented
3 in your presence on another State employee's
4 looks or physical appearance?

5 A. I don't recall the Governor ever
6 saying anything like that to me.

7 Q. Has the Governor ever to you or
8 in your presence ever made comments of a
9 sexual nature involving State employees?

10 A. I don't recall the Governor ever
11 doing that as well.

12 Q. Has the Governor in conversation
13 with you or in your presence ever commented
14 on the relationship status of a female State
15 employee?

16 A. I don't recall the Governor ever
17 having that type of conversation with me as
18 well.

19 Q. Did he ever tell you about him
20 flirting with any female State employees?

21 A. I don't recall that ever
22 happening as well.

23 Q. Do you ever recall him telling
24 you that a female State employee was
25 flirting with him?

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2 A. I don't recall him ever
3 mentioning that to me.

4 Q. Are you aware of any sexual or
5 romantic contact between the Governor and
6 any other State employees?

7 A. I don't recall a single
8 situation that would fall into that category
9 other than what has appeared in newspapers.

10 Q. I just want to clarify the
11 record. I didn't hear it clearly and I
12 think the transcript needs to be accurate.

13 Did you say I do recall a single
14 situation or I don't?

15 A. I don't.

16 Q. Let me finish so we're clear.

17 A. Sorry, I apologize. I broke the
18 rule.

19 Q. We will be very clear about
20 this, so you will have the opportunity. I
21 want to be clear.

22 Did you say I do recall a single
23 situation that would into that category or
24 you do not recall a single situation that
25 would fall within that category?

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2 A. I do not recall.

3 Q. So that's clear now.

4 Now, you referenced there have
5 been allegations of sexual harassment
6 against the Governor in the newspapers for
7 the last several months. You're aware of
8 those, correct?

9 A. I'm aware of what I read in the
10 press, yes.

11 Q. Have you had any conversations
12 with the Governor about the allegations that
13 have been in the press?

14 A. No, I've not.

15 Q. Now to another topic. Could
16 you -- it's a broad question, but if you
17 could do your best to answer it, can you
18 describe as a general matter what you
19 observed about the Governor's interactions
20 with his Executive Chamber staff?

21 A. Can you be more specific of what
22 you're asking me to respond to, please?

23 Q. Okay. Did you ever witness the
24 Governor yell or curse at someone at work?

25 A. The Governor has high

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2 expectations of himself and his staff and he
3 can be tough, and if he's not happy with
4 someone's job performance, he could make it
5 clear to them that he's unhappy with their
6 job performance. And you know, I don't
7 recall him cursing, like, in front of -- to
8 another staff person in front of me, or --
9 right, but, you know, he's got a tough
10 demeanor and a tough style and he's
11 demanding of himself and he's demanding of
12 his staff to get things done.

13 Q. Have you ever -- you said you
14 didn't recall him cursing in front of you to
15 another staff member. Have you seen him
16 yell at another staff member in your
17 presence?

18 A. The Governor is not really what
19 I would describe as a yeller, but you know,
20 he's tough and, you know, might say tough
21 things to people that they may not -- that
22 may upset them or they may not want to hear,
23 but he's not necessarily what I describe as
24 a yeller.

25 Q. When you were secretary, were

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2 there any instances when other Executive
3 Chamber employees came to you with a
4 complaint or concern about the way the
5 Governor had treated them?

6 A. I don't recall a specific
7 circumstance. I mean, it's a long time ago,
8 you know. I'm sure from time to time staff
9 discussed with me an incident or a situation
10 either in a staff meeting or one-on-one with
11 the Governor, you know, that either maybe
12 upset them or made them uncomfortable, so.

13 Q. All right. By the way, when you
14 were secretary of -- for Governor Cuomo, did
15 anyone ever come to you more specifically
16 with a complaint about potential sexual
17 harassment by the Governor?

18 A. I don't recall a single time
19 anyone came to me with that.

20 Q. How about any complaints that
21 were brought to you about potential sexual
22 harassment by any of members of Governor
23 Cuomo's senior leadership team?

24 A. Are you asking about people in
25 the Chamber?

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2 Q. Yes. Let's start with the
3 Chamber.

4 A. Yeah, I don't recall of a single
5 situation while I was secretary where that
6 occurred.

7 Q. How about outside the Chamber
8 involving State employees?

9 A. We had a zero tolerance policy
10 when it came to sexual harassment, and there
11 were situations in State government where
12 there were complaints or allegations, and to
13 the extent that it required my attention at
14 the time, I worked closely with either the
15 counsel to the Governor's Office in making
16 sure that all proper procedures were
17 followed. We had a zero tolerance policy.

18 Q. What does "a zero tolerance
19 policy" mean in items of the Executive
20 Chamber's sexual harassment policy?

21 A. I can't give you what the legal
22 official definition of the State's sexual
23 harassment policy is. I could give you
24 Larry Schwartz's Secretary to the Governor.
25 Thing is, we have zero tolerance for sexual

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2 harassment and if an investigation finds
3 that you committed an act of sexual
4 harassment, then the proper outcomes,
5 whether it's termination, resignation,
6 whatever, is to take place.

7 Q. Now, I take it from some of your
8 prior answers, you have only been with the
9 Governor in person at what you would
10 describe as professional event or
11 surroundings; is that fair?

12 A. Yes. I -- look, when I was
13 secretary to the Governor, we had a camping
14 trip, there were 15 people on a camping trip
15 overnight, but that was more pro -- that was
16 professional. It wasn't like I was alone
17 with the Governor. There were 15 people on
18 the trip. So yes.

19 Q. Fair enough. It sounds like
20 that was a professional work -- professional
21 social event?

22 A. Yeah, yes.

23 Q. And so in those contexts when
24 you have been with the Governor, which you
25 just described as always been in some sort

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2 of professional context, have you ever
3 witnessed the Governor kissing anyone?

4 A. Are you asking -- can I ask you
5 for specificity; men and women, anyone?

6 Q. Yes, anyone.

7 A. I mean, I will tell you that I
8 think the Governor has kissed me. So, you
9 know, I mean, I'm -- he's kissed other
10 people on the cheek. So, you know, it's...

11 Q. Men and women?

12 A. To my -- to the best of my
13 recollection, yes.

14 Q. Have you ever seen him hugging
15 anyone?

16 A. He's hugged me, yes, to the best
17 of my -- he's given people hugs.

18 Q. Both men and women?

19 A. Yes.

20 Q. Have you ever seen him ask
21 someone whether he could kiss them?

22 A. No, I don't recall ever hearing
23 that.

24 Q. And have you ever seen him put
25 his hands on someone's face, someone's face?

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2 A. I don't recall remembering
3 whether or not I've ever seen him do that or
4 not.

5 Q. How about putting his hands on
6 someone's neck or back; do you recall seeing
7 him do that?

8 A. You know, I'm sure when I was
9 secretary, he's grabbed me by the cheek or
10 something like that, but I don't recall
11 specific instances of other people, you
12 know, in terms of grabbing them or
13 something.

14 Q. Have you ever witnessed
15 something in the context where you've been
16 with the Governor where you thought the
17 Governor had inappropriately touched
18 someone?

19 A. I don't recall ever seeing the
20 Governor do anything inappropriate in terms
21 of touching someone.

22 Q. Did you ever observe the
23 Governor in the context you have been with
24 him being, in what you observed, flirtatious
25 with someone?

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2 A. I don't recall ever seeing the
3 Governor acting in a flirtatious manner.

4 Q. Have you ever heard the
5 Governor -- we talked about your one-on-one
6 conversations with him. Now I'm asking, you
7 know, in situations where there may have
8 been other people present. Have you ever
9 heard him comment on someone's appearance or
10 attire?

11 A. I don't recall him saying --
12 doing that in my presence.

13 Q. Have you ever seen or heard
14 about him, the Governor, making sexual jokes
15 or innuendos?

16 A. You know, I don't recall -- when
17 you say a sexual joke, can you specify what
18 you -- what you -- are you referring to a
19 staff person? I don't know what you're
20 referring to.

21 Q. Well, I want what you would
22 consider to be, you know, in your own mind a
23 sexual joke or innuendo made to, you know,
24 any person in your presence.

25 A. I don't recall him doing that.

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2 Q. Have you ever observed or heard
3 secondhand of the Governor commenting on
4 someone's sex drive?

5 A. I don't recall ever hearing
6 that.

7 Q. Have you ever observed or heard
8 secondhand the Governor commenting on the
9 size of his hands?

10 A. I don't recall him having the
11 conversation with me or hearing that.

12 Q. Now, have you ever observed or
13 heard about the Governor talking about Bill
14 Clinton and cigars?

15 A. The Governor did share with me a
16 story about a cigar box that he got from the
17 Governor -- former President, yes.

18 Q. What was that story?

19 A. It's a long time ago, but
20 basically he told a story about a gift that
21 the President gave him. It was a cigar box
22 and it was in his conference room or in his
23 office and he had shown it to us, you know.
24 So that was basically the extent of the
25 story.

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2 Q. Do you recall, in that
3 conversation or any other time, the Governor
4 referencing the cigar box in the context of
5 information that came out regarding the
6 Monica Lewinsky investigation?

7 A. I don't recall that.

8 Q. Now, have you heard or heard
9 second -- strike that.

10 Have you observed or heard
11 secondhand the Governor using nicknames for
12 Executive Chamber staff?

13 A. I can't -- I don't recall
14 people, when I was there, having nicknames.
15 But I don't recall that.

16 Q. Now, did you observe,
17 participate, hear secondhand in anything,
18 when you were secretary, that you would
19 consider to be hazing for State employees?

20 A. Never recall hearing or seeing
21 any type of hazing.

22 Q. Did you observe or hear
23 secondhand about employees being asked to
24 memorize song lyrics?

25 A. I don't recall that ever

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2 happening.

3 Q. Do you recall ever observing or
4 hearing about the Governor throwing fruit or
5 something else at Executive Chamber staff?

6 A. I don't recall ever seeing that
7 or hearing about it.

8 Q. Have you ever witnessed or heard
9 about anyone sitting on the Governor's lap?

10 A. I don't recall ever seeing or
11 hearing that either.

12 Q. Have you ever heard about the
13 Governor giving out roses on Valentine's Day
14 to female exec -- certain female Executive
15 Chamber staff?

16 A. I don't recall or remember him
17 doing that.

18 Q. Mr. Schwartz, you referenced
19 before that you've read news reports about
20 the recent allegations of sexual harassment
21 against the Governor. Do you know any of
22 the complainants that have been publicly
23 identified in those records?

24 A. Yes.

25 Q. And who do you know?

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2 A. Well, my memory had to be
3 refreshed regarding Ana Liss and Alyssa
4 McGrath.

5 Q. Starting with Ms. Liss, what do
6 you mean by your memory had to be refreshed?

7 A. Well, when the story came out
8 where she made an allegation or whatever, I
9 asked Jim Malatras about Ana Liss, and he
10 reminded me that she had worked as a fellow
11 for Howard Glaser, right, and that was sort
12 of like at the tail end of when Howard
13 Glaser was director of State operations, and
14 so I didn't have any contact with her, I
15 didn't work with her, but she certainly was
16 there when I was secretary to the Governor.

17 And Alyssa McGrath, when I was
18 there between December of 2020 and April of
19 2021, she was assisting me on the COVID
20 vaccine stuff.

21 Q. Let me just back up. So
22 Ms. Liss, you believe, overlapped with you
23 in the Executive Chamber towards the tail
24 end of your time as secretary; is that what
25 you testified?

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2 A. To my recollection, it's -- she
3 was working as a fellow.

4 Q. Okay.

5 A. And she was working for Howard
6 Glaser at the time, you know, but I had no
7 interaction with her other than being
8 reminded that she was there when I was
9 secretary in that capacity.

10 Q. Did you, after you were
11 refreshed, recall observing any interactions
12 between Ms. Liss and the Governor during
13 your prior tenure within the Executive
14 Chamber?

15 A. I don't recall any interaction
16 between the two of them.

17 Q. Do you recall hearing about,
18 aside from what you may have read recently,
19 the Governor asking Ms. Liss about her
20 dating life, touching her or commenting
21 about her physical appearance?

22 A. I don't recall ever hearing
23 anything regarding that.

24 Q. And so Ms. McGrath you said came
25 to assist you in December 2020 until

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2 April 2021 with respect to vaccine
3 distribution. What was her title when she
4 was working with you?

5 A. I don't know what her official
6 title was. There was a number of women that
7 were outside the office that were like
8 assistants to the Governor, performed
9 administrative duties for the Chamber and
10 the Governor. And she was certainly one of
11 the individuals in the office next door to
12 me.

13 Q. And then starting in 2020,
14 December, did she perform administrative
15 duties for you until you left in April 2021?

16 A. It wasn't immediately. It was,
17 you know, not long into it where she was
18 assigned to help me with, you know, things
19 like scheduling, right.

20 Q. Do you know what Ms. McGrath was
21 doing within the Chamber before she was
22 assigned to you?

23 A. I was not aware of what her
24 duties were, specific duties, no.

25 Q. Did you have any understanding

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2 of why she was moved from her prior duties
3 to be assigned to you in December 2020?

4 A. I don't recall being aware of
5 that, no.

6 Q. Have you ever observed
7 Ms. McGrath interact with the Governor?

8 A. I don't recall ever seeing any
9 interaction between Ms. McGrath and the
10 Governor.

11 Q. Did you attend a holiday party
12 that the Governor attended with State
13 employees in December 2020?

14 A. In December of 2020?

15 Q. Yes.

16 A. I don't recall attending a
17 holiday party that the Governor hosted in
18 December 2020.

19 Q. Did Ms. McGrath at any time
20 after you met her ever discuss her
21 interactions with the Governor with you?

22 A. I don't recall Miss McGrath ever
23 having any conversations with me regarding
24 the Governor.

25 Q. And outside what you read in the

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2 press, have you had any conversations with
3 anyone regarding -- and outside of with your
4 counsel, any conversations with anyone
5 regarding Ms. McGrath's interactions with
6 the Governor?

7 A. I don't recall having any
8 conversations with anybody regarding any
9 interactions between Ms. McGrath and the
10 Governor.

11 Q. Now, do you know Lindsey Boylan?

12 A. Only from the newspaper reports.

13 Q. Do you have any firsthand
14 knowledge of her allegations other than what
15 you read in the newspaper?

16 A. I do not.

17 Q. Same question about Charlotte
18 Bennett; do you know Charlotte Bennett?

19 A. Charlotte Bennett was in the
20 Chamber in March of 2020. My contact with
21 Charlotte was passing her in the hallway and
22 saying hello. And, you know, I would buy --
23 I used to buy ice cream for the staff and we
24 included the administrative assistants and
25 they would say thank you for thinking of us

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2 and including us. That's it.

3 Q. Did you ever observe Ms. Bennett
4 interacting with the Governor?

5 A. I don't recall ever seeing
6 Ms. Bennett interact with the Governor.

7 Q. By the way, when you came back
8 in March of 2020, where were your offices
9 located within the Executive Chamber?

10 A. As I mentioned earlier, it was
11 on the same hallway, same side of the
12 Chamber as the Governor's Office, on the
13 other side of the hallway, a few doors down,
14 there is a -- I was sitting in an office
15 right there.

16 Q. And that's -- are you describing
17 the location in Albany?

18 A. Yes, I am.

19 Q. And did you since March 2020
20 work out of a New York City office at any
21 time?

22 A. No.

23 Q. Now, Ms. Bennett; any firsthand
24 knowledge of her allegations?

25 A. No, I had no recollection -- I

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2 have no recollection of her having any
3 interaction with the Governor, so.

4 Q. There has been an allegation or
5 allegations publicly reported by an
6 individual named Kaitlyn. Do you know who
7 that person is?

8 A. Kaitlyn?

9 MR. PETRILLO: Do you have a
10 last name or --

11 MR. MUKHI: No.

12 Q. Just publicly reported. I'm
13 just asking -- and the answer could be I
14 don't know. I'm asking if you've seen the
15 report of a complainant identified only by
16 her first name as Kaitlyn and whether you
17 have personal knowledge of who that Kaitlyn
18 is?

19 A. I don't recall knowing someone
20 or -- by that name. Without knowing the
21 full name, I just...

22 Q. Okay. Have you seen that there
23 was an anonymous complaint in the press by a
24 person who alleges the Governor groped her
25 in the Executive Mansion?

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2 A. I'm aware of what I read in the
3 press, yes.

4 Q. Are you aware of this
5 complainant's identity?

6 A. I believe I'm aware of who that
7 person might be, yes.

8 Q. Who do you believe this person
9 might be?

10 A. Brittany Commisso.

11 Q. Why do you believe that?

12 A. One is Alyssa McGrath said, you
13 know, her comments, about her
14 relationship -- like I knew Alyssa and
15 Brittany were very close, they talked all
16 the time. Brittany also had a desk outside
17 of my office. And just, you know, general
18 scuttlebutt.

19 Q. Have you ever observed
20 Ms. Commisso interact with the Governor?

21 A. I don't recall any -- seeing
22 any interaction between Miss Commisso and
23 the Governor.

24 Q. Did Ms. Commisso ever discuss
25 her interactions with the Governor with you?

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2 A. I don't recall her ever having
3 any conversation with me regarding any
4 interactions between her and the Governor.

5 Q. Have you discussed the
6 allegations of the anonymous complainant
7 with the Governor?

8 A. I do not recall having any
9 conversations with the Governor regarding
10 Miss Commisso.

11 Q. I'll come back to this. You
12 said -- actually, let me ask: Have you seen
13 public allegations by an individual named
14 Anna Ruch or Ruch?

15 A. Only what I've seen in the
16 press.

17 Q. Any firsthand knowledge
18 whatsoever?

19 A. No. I wasn't at the wedding.

20 Q. How about allegations by an
21 individual named Karen Hinton, have you seen
22 those?

23 A. Only what I've read in the press
24 again.

25 Q. Any firsthand knowledge, one way

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2 or the other, about those allegations?

3 A. No.

4 Q. Did you say no? Sorry, I just
5 didn't pick it up.

6 A. You asked me if I have any
7 firsthand knowledge of the allegations, no,
8 no.

9 Q. Now, you mentioned you haven't
10 had any conversations with the Governor
11 about the allegations of sexual harassment
12 against him; is that accurate?

13 A. I don't recall having any
14 conversations with the Governor regarding
15 any of the allegations.

16 Q. Have you had conversations with
17 others who worked for the Governor, meaning
18 the Executive Chamber staff, about the
19 allegation of sexual harassment against the
20 Governor?

21 A. I don't recall having any
22 conversations with anybody on his executive
23 staff regarding the allegations.

24 Q. Do you recall any conversations
25 with Melissa DeRosa, the current secretary

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2 to the Governor, about the allegations of
3 sexual harassment against the Governor?

4 A. I don't recall having any
5 conversations with Melissa about that.

6 Q. And by "conversations," just so
7 I'm clear, I mean in person, phone calls,
8 texts or e-mails with any member of the
9 Governor's staff about the sexual harassment
10 allegations against the Governor.

11 A. Again, I don't recall having
12 conversations in any of the forms you just
13 outlined, you know.

14 Q. All right. So I want to turn
15 back for a moment to when you returned to
16 having responsibilities related to COVID-19,
17 in particular vaccine distribution in
18 December 2020. How did that come about that
19 you were asked to take on that role
20 beginning in December 2020?

21 A. There was another individual,
22 ██████████ ██████████, that was originally asked if
23 he would kind of oversee, I think, back in
24 October of 2020 in putting together a
25 program, and I got a call, my recollection

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2 is I got a call from the Governor at the end
3 of November, maybe the very beginning of
4 December, asking me to oversee it. [REDACTED]
5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] and couldn't continue
6 in his role, and whether or not would I be
7 willing to come back and oversee this
8 critical piece.

9 Q. What specifically did the
10 Governor ask you to come back and oversee
11 beginning in December 2020?

12 A. You know, the administration and
13 distribution of the vaccines. We actually
14 didn't have a very long lengthy or specific
15 conversation what all that meant. He just
16 asked me whether or not I would be willing
17 to come back and do it, he needed my help,
18 and I said yes.

19 Q. And during that conversation,
20 were there -- with the Governor, did you and
21 the Governor discuss any responsibilities
22 you would have other than overseeing
23 administration and distribution of the
24 vaccines?

25 A. No. The whole conversation was

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2 very vague, and it wasn't until I got there
3 where I had to start -- it was trial by
4 fire, which I've said publicly, and I had to
5 figure out what was going on, because the
6 first Pfizer allocation was -- came a week
7 after I got there. So I basically put
8 together a team of people and we worked
9 together as a team to administer the
10 program.

11 Q. During your time between
12 December 2020 and when you left in
13 April 2021, did you have any duties and
14 responsibilities other than the
15 administration and distribution of COVID-19
16 vaccines?

17 A. I was there, I mean, to oversee
18 the vaccine program.

19 Q. And that was your only duty and
20 responsibility; is that fair?

21 A. To help out, yes.

22 Q. Now, when the Governor asked you
23 in December 2020 to come help out, as you
24 just said, where were you living at the
25 time?

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2 A. At [REDACTED] [REDACTED] [REDACTED] [REDACTED]

3 [REDACTED] [REDACTED] [REDACTED]

4 Q. Did there come a time when you
5 were spending -- and we can enlarge in the
6 time to all of 2020, did there come a time
7 when you were spending nights at the
8 Executive Mansion?

9 A. Yes.

10 Q. When was that?

11 A. Two different occasions. It was
12 in March of 2020 through June 2020 and then
13 again it was in December of 2020 through
14 March of 2021.

15 Q. So the first period, March to
16 June of 2020, how many nights a week were
17 you staying overnight at the Executive
18 Mansion?

19 A. At the beginning I would come up
20 on a Monday morning and then leave -- it
21 depended. I mean, I would generally stay up
22 there for a week, I would run out of
23 clothes, and I would go home, you know, and
24 repack with fresh clothes. So, you know, I
25 was probably for the first month, six weeks,

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2 I don't recall, I was probably up there five
3 to seven days. And then I would go home
4 that evening and come back the next morning.
5 And then after that period, I was there
6 basically three days a week until June, the
7 third week in June, last week in June, and
8 then I continued whatever responsibilities I
9 had, I did it from [REDACTED] or New York
10 City in my -- from my OTG office.

11 Q. During this period March to
12 June, during the times you were spending
13 overnight in the Governor's Executive
14 Mansion, was the Governor living there?

15 A. Yes.

16 Q. Were there others besides the
17 Governor that you saw spending overnight at
18 the Executive Mansion, including members of
19 the Governor's staff?

20 A. Yes.

21 Q. Who else were spending -- was
22 spending overnights at the Executive
23 Mansion?

24 A. Outside his daughters [REDACTED] [REDACTED]
25 [REDACTED], Stephanie Benton and Melissa

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2 DeRosa were.

3 Q. How frequently, from your
4 observations when you were there, how
5 frequently were they spending overnight at
6 the Governor's Executive Mansion?

7 A. I don't recall when they started
8 staying there overnight. It wasn't when I
9 first got there. It was a few weeks or
10 whatever it was after I started there. And
11 I don't know for how long before they --
12 they were there until I stopped, and at some
13 point they moved out, but I don't know
14 exactly when.

15 Q. And where would you sleep in the
16 Executive Mansion, if you could just
17 describe the setup a little bit?

18 A. On the third floor of the
19 Mansion.

20 Q. Do you know where the Governor's
21 bedroom is in the Mansion?

22 A. I think it's on the second
23 floor.

24 Q. And did you know where
25 Ms. DeRosa would sleep --

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2 A. No.

3 Q. -- when she --

4 A. No, did not.

5 Q. And how about Ms. Benton?

6 A. No.

7 Q. You don't know where either
8 Ms. DeRosa or Ms. Benton would sleep when
9 they stayed overnight at the Executive
10 Mansion?

11 A. I don't know what bedrooms they
12 used in the Mansion, no.

13 Q. Now, you came back you said in
14 December 2020 and started staying overnight
15 again in the Executive Mansion until, I
16 think you said, March 2021; is that right?

17 A. It was like 11 weeks where I was
18 up there and then I stopped commuting to
19 Albany.

20 Q. During this period were you
21 also -- let me ask it this way: How
22 frequently were you staying overnight during
23 that period December 2020 to --

24 A. Again, I would drive up early
25 Monday morning and I would leave Friday

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2 evening.

3 Q. So it's fair to say most
4 weeknights you were staying over through
5 Friday?

6 A. Tuesday through Thursday is
7 probably accurate.

8 Q. Okay.

9 A. Monday -- sorry, Monday through
10 Thursday. Sorry.

11 Q. Understood.

12 During this time -- the second
13 time period, December 2020 through
14 March 2021, were Ms. DeRosa and Ms. Benton
15 also staying overnight at the Executive
16 Mansion?

17 A. No, they were not.

18 Q. Anyone else besides the Governor
19 and his family members or his -- who were
20 staying overnight during that period,
21 December 2020 to March 2021?

22 A. To the best of my recollection,
23 only the Governor and his family who were in
24 the Mansion while I was there.

25 Q. So focusing on the period from

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2 March 2020 to June 2020, when Mr. DeRosa and
3 Ms. Benton were also staying overnight in
4 the Executive Mansion, did you ever see or
5 hear about any physical contact between the
6 Governor and either Ms. DeRosa or
7 Ms. Benton?

8 A. I don't recall ever hearing or
9 seeing, witnessing any physical contact
10 between either one of them and the Governor.

11 Q. And how about any other State
12 employees, physical contact between any
13 employee and the Governor that you ever
14 observed or heard about while you were
15 staying overnight at the Executive Mansion
16 during that time period we discussed?

17 A. I don't recall ever seeing
18 anyone -- any other State employee in the
19 Mansion while I was staying there during the
20 COVID periods other than Stephanie and
21 Melissa.

22 Q. Did you know why Stephanie
23 Benton and Melissa DeRosa were staying
24 overnight at the Executive Mansion during
25 the period we discussed?

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2 A. What I recall is there was a
3 concern about if people got COVID and they
4 would need to quarantine and I think the
5 Governor wanted to have his two top people,
6 that if any of them had got COVID that they
7 were in the same physical location so that
8 he was able to perform his duties and get
9 work done.

10 Q. Now, you came back to work on
11 vaccine distribution and issues. Were you
12 given a title, number --

13 A. No, I don't recall ever being a
14 title, and I certainly didn't ask for one.

15 Q. Have you seen and heard yourself
16 being referred to as the "vaccine czar"
17 during this time frame?

18 A. I've seen descriptions of that
19 in the press, yes.

20 Q. Do you agree with that
21 characterization or descriptor of your
22 position during this time period December
23 2020 through April 2021?

24 A. That is something that the press
25 or somebody made up or decided to use as a

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2 descriptor. It's not -- I was there, I was
3 asked by the Governor, his administration to
4 help the people the State of New York, to
5 oversee a program, and that's the role, I
6 think was to help oversee and coordinate
7 that effort.

8 Q. What would you describe in this
9 time period, again the December 2020 through
10 April 2021, what areas of responsibility did
11 you have the final word or say-so on?

12 A. Again, you know, I got there,
13 the first Pfizer doses I was there to -- I
14 had to figure out what was put together
15 prior to my getting there, why certain
16 decisions were made in terms of how things
17 were constructed and stood up, and I had to,
18 you know, just learn why certain decisions
19 were made and the purpose of those, and then
20 kind of work and coordinate with everyone
21 what was -- going forward what would be the
22 best decisions to make sure that the right
23 people early on were -- had access to a
24 limited supply of vaccine.

25 Q. How would you describe the areas

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2 once you came into the role in December 2020
3 that you had decision-making authority for?

4 A. You know, again, I basically was
5 responsible on a day-to-day basis to make
6 sure that all the pieces of the initiative
7 were getting done. That required
8 consultation with a lot of people that had
9 been working on this previous to my
10 returning to Albany. Again, there was a lot
11 of education going on, and then there was
12 also a lot of outreach to a lot of
13 stakeholders in the healthcare community.
14 And, again, one of the things I did early on
15 was assemble a team of people, and I worked
16 closely with Commissioner Zucker and his
17 staff, as well as State operations staff,
18 the counsel's office, the budget office and
19 I also worked closely with [REDACTED] [REDACTED],
20 who went back to Northwell, to understand
21 some of the decision-making that was done
22 prior to my getting there and just
23 understanding how the program worked and,
24 obviously, because of the role that I was
25 asked to play, I had, you know -- I played a

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2 role in how we were going to move forward.

3 Q. You said you assembled a team.
4 Who was part of your team?

5 A. Robert Mujica was on it; his
6 deputy budget director, [REDACTED] -- I'm going
7 to blank on her last name -- she was
8 invited, [REDACTED] [REDACTED] [REDACTED] [REDACTED]
9 Howard Zucker, [REDACTED] [REDACTED]. Did I say
10 [REDACTED] [REDACTED]? [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED] someone from the press office. It
12 varied, but there was usually someone from
13 the press office. There are probably a
14 couple of other -- [REDACTED] [REDACTED] from the
15 Governor's counsel's office.

16 Q. Who did you report to when you
17 were in the vaccine position starting in
18 December 2020?

19 A. Again, I really didn't report to
20 anyone. Again, having been a former
21 secretary to two Governors, I was given the
22 discretion to know, respectfully, when to
23 get signoff on something or to bring to
24 their attention, either the secretary of the
25 Governor or the Governor himself. Unless,

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2 of course, I was asked to participate in a
3 meeting and solicit my opinion or advice on
4 how to proceed forward with something
5 involving vaccines.

6 Q. And did anyone report to you?

7 A. I didn't have any official
8 direct reports. People would -- I mean, we
9 worked as a team. People understood my role
10 and responsibility to this date and we
11 worked together as a team. Also, I should
12 say the Boston Consulting Group was also
13 part of the team as well, and they were on
14 the team and on the daily calls that we
15 would do.

16 Q. And would members of the team
17 come to you with -- to make a final decision
18 or say-so on particular issues related to
19 vaccines during this time period?

20 A. On the distribution and
21 administration of vaccines, for the most
22 part, yes.

23 Q. What types of issues related to
24 the distribution and administration of
25 vaccines would other State employees come to

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2 you for a final decision?

3 A. The distribution of vaccines was
4 done on a formula basis, right. There were
5 many things that factored into the formula,
6 including the amount of supply that we were
7 receiving on a week-to-week basis, but it
8 was all done on a formula basis with the
9 help of our consultants. So sometimes there
10 may be a thing about one hospital wanted to
11 send some of the vaccine to another
12 hospital, right, and is it okay, or somebody
13 had a question or an issue or a problem, but
14 the decisions of where vaccines went or how
15 much vaccines was all based on available
16 supply and our targeted populations on a
17 week-to-week basis, and there was formulas
18 on determining how much we could distribute
19 to different stakeholders or different
20 regions of the State.

21 Q. You mentioned this formula. Do
22 you know how the formula was put together
23 that you described?

24 A. Well, again, it depended on who
25 we were trying to vaccinate, which varied,

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2 which evolved over time. So at the very
3 beginning we were dealing with certain
4 subsets in hospital, healthcare workers. So
5 the consultants would calculate the number
6 of personnel, so it was data driven. And as
7 we added either more people either in terms
8 of essential workers or we did it by age,
9 again, the calculations were done based on
10 that essential worker group, or if it was
11 done by age, how many of those individuals
12 resided in each county of the State of New
13 York.

14 Q. So you mentioned the formula
15 evolving depending on where the target was
16 to get the vaccines to the populations.
17 Were you involved in the decisions when to
18 make those changes to the formula you
19 described?

20 A. There were discussions about
21 when and how, what either essential workers
22 groups should be added as supply improved or
23 as we made progress in getting a certain
24 targeted population vaccinated, and I
25 certainly weighed in with my opinion of who

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2 we should -- who should go second, third,
3 but it was a group discussion, with input
4 from the Governor.

5 Q. Focusing on the county level,
6 county officials, did you interact with
7 county officials during this time period in
8 your vaccine position?

9 A. Yes, I did.

10 Q. Who were the various county
11 officials you dealt with during this time
12 frame?

13 A. I dealt with county health
14 departments, I dealt with county executives.
15 I may have dealt with -- you know, not every
16 county has a county executive. They may
17 have a chairman of the board of legislators
18 or they may have a board of supervisors.
19 So, you know, I had different people
20 contacting me, you know, for different
21 reasons.

22 Q. If you could describe what were
23 some of the reasons that county officials
24 would contact you in connection with your
25 vaccine responsibilities, starting in

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2 December 2020?

3 A. Well, early on, like, I got a
4 lot of calls complaining about the State's
5 decision-making, about who was going first
6 and getting vaccines, or the State limiting
7 the role of counties in administering the
8 vaccine, so there were a lot of complaints
9 about that. There were complaints sometimes
10 about wanting to get more vaccine, right,
11 than was available. So, I mean, early on
12 those were the type of calls.

13 We also scheduled, we did a
14 massive webinar that we did that I
15 participated in that didn't just include all
16 the counties, but it had thousands of people
17 on it from the healthcare community to first
18 responders to everyone. That was public and
19 it fully explained the program. We did a
20 PowerPoint presentation and we clearly
21 outlined how the program of administering
22 vaccines was going to work, what did work,
23 and here were all the procedures and
24 processes and the dos and don'ts.

25 Q. So you mentioned there were

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2 complaints from county officials about
3 wanting to get more vaccines. Was that more
4 vaccines than they were allocated under the
5 current formula that you described earlier?

6 A. As I mentioned, earlier on, the
7 sort of, like, the county health departments
8 had either no role or a very limited role in
9 the administration of vaccines, so that's
10 where the original complaints are from.

11 When the counties were allowed to begin to
12 play a role, they didn't like the role that
13 the State was giving them, that was another
14 complaint. And then, obviously, they wanted
15 to be able to get more people in their
16 counties vaccinated and they were always
17 asking if it was possible to get more
18 vaccine. And everything, again, was based
19 on who they were allowed to vaccinate under
20 State guidelines and the amount of vaccines
21 that we were receiving from the federal
22 government against the number of people that
23 fell into the categories that they were
24 allowed to vaccinate. So, again, it was all
25 driven by data and analytics.

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2 Q. The request you would get for
3 more vaccines, were those sometimes referred
4 to as supplemental vaccine requests?

5 A. That was later on in the
6 program. Quite frankly, it didn't happen
7 until sometime when -- in the Biden
8 administration when supplies started ramping
9 up and we might find out at the very last
10 second that we would -- we're getting some
11 additional vaccine or -- we would find out
12 every week what our following week's
13 allocation would be, right, and everyone
14 that participated in receiving vaccine had
15 to book what they wanted, right, so you had
16 early on Pfizer, Moderna, eventually you
17 added J&J, but everybody had to prebook
18 their requests. Those prebooks were
19 analyzed, right, and, again, based on our
20 supply and what was being requested by
21 hospitals, pharmacies, counties, any other
22 stakeholder we had, we allocated, and if --
23 based on prebooking, whatever, we might have
24 had some extra left over, or we may have had
25 a surplus from the following week, so

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2 occasionally I said, look, I have some
3 extras, so if anybody is interested, let me
4 know if you are seeking any more and how
5 much, and I said depending on what the
6 requests are, and how much is available, we
7 will distribute accordingly.

8 Q. So why don't we focus on two
9 time periods then. There's the -- the
10 earlier time period it sounds like, before
11 there's a supplemental vaccine process, when
12 you got complaints from county officials
13 about wanting to get more vaccine, were
14 there occasions where you facilitated those
15 respective counties getting additional
16 vaccine distributions?

17 A. Could you just -- I'm sorry,
18 could you repeat your question? I
19 apologize.

20 Q. Sure. I'm breaking it into two
21 periods like you did. So earlier when there
22 wasn't, you know, abundance of vaccines, you
23 said you were getting calls from county
24 officials about trying to get more vaccines
25 and complaints about that. Were there

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2 occasions when you were able to satisfy that
3 complaint by getting the county that was
4 calling additional vaccines?

5 A. You know, I don't think you were
6 ever able to provide enough vaccine based on
7 what -- generally until very late in the
8 program when you got to a certain threshold
9 of people at least getting their first dose,
10 okay. And then, like today, supply far
11 exceeds demand, but at the time demand far
12 exceeded supply.

13 We had concerns back then. We
14 had a couple of major winter storms that
15 delayed delivery of vaccine. I would get
16 calls about concerns about not having the
17 second dose available when people were
18 scheduled it and could we arrange to use
19 some first doses as second doses and then
20 replace them, okay. So I would get calls
21 like that. I would get calls, could we put
22 up a popup site for a week. I would get
23 other types of calls, and, you know,
24 eventually I had scheduled weekly calls with
25 all the counties in which county executives,

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2 county representatives, people from county
3 health departments, all -- it was like every
4 Monday at 3 o'clock, and I would update
5 everybody on what is going on. And then
6 there was also time for people to ask
7 questions. People would e-mail me or call
8 me or text me and they would always say if
9 you ever have any extra, right. Again, I
10 wouldn't call it supplemental. No, those
11 wouldn't be it. If we ever had extra or
12 surplus or we got notified at the very last
13 minute of additional allocation, I would say
14 to everyone if anyone needs or could use
15 more, just submit a request, and then those
16 requests were analyzed by the consultants
17 and other members of our team, and we made
18 decisions on where it needed to go based on
19 throughput.

20 Again, I just want to make it
21 clear, everything was done by -- you know,
22 by some calculation or formula.

23 One of the other calculations
24 was throughput. Hospitals had to have a
25 98 percent throughput. Pharmacies had to

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2 have a 98 percent throughput. Counties had
3 to have a 98 percent throughput. If a
4 county or a hospital was only at 80 percent
5 throughput, but they were continuing to ask
6 for more than the allocation, we weren't
7 giving it to them because they weren't using
8 their full allocation from the prior week.

9 So these were all very, you
10 know, whether people agreed with them or
11 not, there was a structure on how we
12 allocated vaccines to everyone.

13 MR. PETRILLO: Sorry to
14 interrupt. Could we take break soon?

15 MR. MUKHI: Yes, that's fine.
16 We could break now.

17 MR. PETRILLO: Okay, let's
18 break.

19 THE VIDEOGRAPHER: This will end
20 media unit two. We're going off the
21 record at 12:36, June 17, 2021.

22 (Luncheon recess: 12:36 p.m.)

23

24

25

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2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:19 p.m.)

4 THE VIDEOGRAPHER: We are back
5 on the record. The time is 1:20 p.m.,
6 June 17, 2021. This will begin media
7 unit three.

8 L A W R E N C E S C H W A R T Z,

9 resumed and testified as follows:

10 EXAMINATION BY (CONT'D.)

11 MR. MUKHI:

12 Q. Mr. Schwartz, so before lunch we
13 were discussing both calls from the county
14 executive on vaccine distribution, as well
15 the formulas you were describing. Do you
16 recall that?

17 I'm not sure if I heard you,
18 Mr. Schwartz?

19 A. Yes.

20 Q. Let me see if I could come at it
21 this way and tell me if this is accurate:
22 Were there times when county executives
23 would call you for additional -- or other
24 county officials would you call you for
25 additional vaccine allocations and your

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2 response would be, "We got a formula, I
3 don't have any extra vaccines right now,"
4 and, "So sorry, there is nothing I can do";
5 is that fair?

6 A. Excuse me. Somewhat fair, yes.
7 I mean, I would say to you again, we did a
8 public webinar, we explained the process and
9 procedures. I was doing these weekly calls
10 in which I always explained the situation,
11 and regardless of who -- what county called,
12 you know, you know, I basically explained to
13 them the formula, how it works. If there
14 was any extra, we would do that, but people
15 would make requests could they have a popup
16 site. There were other requests, not always
17 just about an increase in allocation. It
18 could be know you measure us by throughput,
19 I need an extra day; can I have an extra day
20 to get rid of my vaccine doses, I don't want
21 to be penalized.

22 Again, I mentioned to you
23 earlier that we had two major snowstorms.
24 We were getting delays in shipments from the
25 federal government. People were nervous

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2 about second doses being there in a timely
3 manner. What do we do? There were other
4 issues regarding would people get in trouble
5 if they couldn't use every dose in the vial.
6 So there were many different topics and
7 issues besides allocations that I would get
8 calls, text messages or e-mails, calls on,
9 so.

10 Q. All right. That's helpful.
11 I'll come back to some of those.

12 On allocation issues, were there
13 also occasions where you were able to
14 satisfy requests from counties, you know, in
15 addition to what the allocation was under
16 the formulas that you described?

17 A. Again, it's not necessarily a
18 yes or no answer or black and white answer.
19 I know that maybe that's what you would
20 like -- would like me to say, but, again,
21 everything was done -- it was formula
22 driven. It was based on the amount of
23 supply we were getting from the federal
24 government, okay, and if there was any
25 carryover surplus from someplace, or we got

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2 additional allocations at the last minute
3 from the federal government, if something
4 went on, I would say to everybody I have
5 some extra, right, Pfizer, I have extra
6 Moderna. If anybody wants it or could use
7 some more, please let me know.

8 You also have to realize that we
9 were restricted on also how much of this
10 extra we might have, because you couldn't
11 break up the trays. It wasn't like -- I
12 couldn't break a Pfizer tray. Moderna came
13 in batches of a hundred. Pfizer came in
14 batches of 975. You can have multiple
15 counties sharing the tray. I couldn't,
16 like, break the tray up.

17 So I'll give you an example. A
18 county may say I want three extra trays.
19 Based on all the requests I had, I gave them
20 one extra tray because I -- because I was
21 trying to help everybody, not one at the
22 expense of the others. And they'd say, you
23 know, they'd rather -- they wished they had
24 gotten three, but they said thank you very
25 much, I got one extra tray, it was more than

1 Schwartz - Confidential

2 I was expecting or counting on. That's how
3 it worked.

4 Q. You mentioned a couple of other
5 examples. You've mentioned throughput --

6 A. Yes.

7 Q. -- a couple of times.

8 A. Yes.

9 Q. In the context of COVID
10 vaccines, what are you referring to as
11 throughput?

12 A. We wanted to make sure that --
13 as I mentioned earlier, we would get weekly
14 allocations from the federal government,
15 right, the CDC, the federal government. We
16 wanted to make sure we used up a hundred
17 percent of our allocation each week, right,
18 and that there weren't surpluses. So we
19 monitored the throughput of every outlet,
20 whether it was a mass vax site, a pharmacy,
21 a county health department, a physician
22 group, a federally qualified health center,
23 whoever we allocated doses to, we monitored
24 how much throughput, how many shots in arms
25 they delivered each week and they -- when we

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2 started, there had to be over 90 percent and
3 then we increased it to 98 percent, and it
4 was monitored on a weekly basis.

5 Q. Okay. And so focusing on the
6 time period for the throughput, you said
7 sometimes you'd get calls from county
8 officials -- one of your examples was, "I
9 know you measure us by throughput, I need an
10 extra day." What did you mean by a request
11 from a county official about needing an
12 extra day related to throughput?

13 A. It could have been any outlet.
14 It wasn't just limited to counties.

15 Q. Yes.

16 A. They were setting up a fair or a
17 POD, and they could only schedule it on a
18 certain day or there was a weather problem
19 and people didn't show, and they rescheduled
20 them. So I would try to work with that.
21 You know, the goal here was to get shots in
22 arms as fast as possible and that means to
23 utilize a hundred percent of our allocation
24 over a seven-day period. And if there was a
25 legitimate reason why they weren't going to

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2 be able to do it, if they explained it, it
3 sounded legitimate, then, you know... it
4 didn't happen very often. Quite frankly, it
5 happens more now, because we're at
6 70 percent, you know. When we were at 60,
7 you're kind of in the hesitancy factor and
8 there are fewer people that -- as I
9 mentioned earlier, at the beginning the
10 demand was great, supply was low. Now
11 supply is great, demand is low. Now you
12 have big -- you know, you know, so.

13 Q. Okay. And what was the
14 potential penalty or repercussions if a
15 county or other organization didn't meet the
16 seven-day throughput requirements within the
17 seven days?

18 A. Again, that -- I want to make it
19 clear also, in addition to having the weekly
20 calls, I sent out weekly letters to all the
21 counties telling them what their allocation
22 is, who they were able to vaccinate with
23 those allocations. Again, it was clearly
24 made clear. So they may have received a
25 smaller allocation the following week, but,

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2 again, they had to prebook before, so we
3 would look at what they prebooked. They may
4 actually -- if they had a few extra doses,
5 they may have prebooked fewer doses, so
6 their allocation might have been lowered
7 based on their request, not because of any
8 decision that the team made, right?

9 So, again, this was done very
10 objectively. It was using formulas and data
11 analytics to figure out, including dealing
12 with equity access. The federal government
13 uses socially -- SVIs, social variable
14 indexes. We look at number of African
15 Americans, Hispanic, Black and brown
16 populations, other minority groups. We look
17 at by ZIP code and we also make
18 determinations. We look at the number of
19 people vaccinated, people of color, and we
20 try to -- and we bring this to the attention
21 of the counties and then try to assist them
22 in getting more people of color in terms of
23 dealing with equity access. We created
24 dashboards to show everybody the progress
25 they were making in overall throughput, as

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2 well as people of color.

3 So everything was very
4 transparent and it was very aboveboard to
5 basically assist them and help them and,
6 therefore, help the State in getting people
7 vaccinated.

8 Q. A couple of follow-ups.

9 So in your example you said you
10 would get calls, Can I have an extra day to
11 get rid of my vaccine doses, I don't want to
12 be penalized. What was the penalty that
13 could potentially apply if a provider county
14 didn't get an extra day to get rid of their
15 vaccine or use up their vaccine doses?

16 A. I didn't increate (sic) any
17 penalties. I mean, the question was whether
18 or not under the Governor's Executive Order
19 if there were penalties, or in the MOU that
20 everyone had to sign that the State
21 distributed, whether or not there was
22 anything in there that would need to be
23 enforced. I had no interest in being
24 punitive. My goal and objective was to get
25 people vaccinated, and so my attitude was to

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2 work with everyone and help everyone
3 succeed, so, again, it didn't -- it wasn't
4 limited to counties. It was pharmacies,
5 federally qualified health centers,
6 physician groups, right. We had a seven-day
7 rule, use it or lose it. It was either in
8 the MOU or the Executive Order. People were
9 worried about being penalized, not because
10 of Larry Schwartz, but because of what we
11 said in the MOU that they signed. And I
12 could make the argument that certain things
13 were a deterrent to get more people to
14 participate because they said, "I don't want
15 to get into trouble."

16 So my attitude was if people ran
17 into a problem because of weather or some
18 other circumstance, we worked with them,
19 right, to get vaccines, vaccines in arms.

20 Q. A couple of follow-ups.

21 So you said it wasn't you, Larry
22 Schwartz, who would personally impose a
23 penalty for not meeting the seven-day
24 requirement; is that your testimony?

25 A. There is an MOU that people had

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2 to sign and I believe in the MOU it also
3 spelled out requirements and
4 responsibilities of anyone that was
5 accepting an allocation of vaccines.

6 Q. And one of those requirements --
7 let me know if this is accurate -- was that
8 generally you have to use as the county
9 hospital, whoever is participating, the
10 doses you received within seven days or
11 potential penalties apply; is that accurate?

12 A. I would have to go back and look
13 at the exact language or the language that's
14 in the MOU to say exactly, but it would have
15 been -- whatever was in the MOU or in the
16 Governor's Executive Order. You know, the
17 idea was everyone was expected to comply on
18 a good-faith basis with what they signed and
19 agreed to adhere to.

20 Q. Did you have an understanding
21 who would impose penalties if whoever signed
22 the MOU or subject to the Executive Order
23 didn't comply with those requirements?

24 A. The Governor's counsel's office
25 was involved. I mentioned to you earlier

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2 ██████████ ██████████, who worked in the Governor
3 counsel office, was part of the team; Beth
4 Garvey certainly participated in a number of
5 the Zoom calls and was kept abreast to
6 ██████████ and/or myself what was going on. So
7 that would have been a legal matter for them
8 to either decide or make recommendations
9 back to the Governor, not me.

10 Q. Okay. So why would folks call
11 you, you know, in the example you gave, can
12 I get an extra day to get rid of my vaccine
13 doses; what was your understanding?

14 A. They saw me -- whether it was
15 based on press reports or anything else,
16 that I was overseeing the vaccine program
17 for the State.

18 Q. So your understanding was that
19 the people calling you had an understanding
20 that you had decision-making authority over
21 whether they would get the extra day if they
22 needed it to satisfy the throughput
23 requirements; is that fair?

24 A. There were a number of times
25 where they called other people on the team

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2 and asked other members of the team if they
3 could have it. Sometimes those people that
4 I worked with would let me know that they
5 got a call and, you know, what they were
6 planning on doing and generally it was fine.
7 There were no issues there, so.

8 Q. But my question was, was it your
9 understanding that the providers, the other,
10 you know, county and local officials who
11 were calling you in your example to get the
12 extra day to satisfy the throughput
13 requirements, believed that you had
14 decision-making authority over whether they
15 would get the extra day or not?

16 A. Again, as I mentioned earlier,
17 people called me for all sorts of reasons.
18 They called me for help most of the time,
19 help in setting up a POD, help in setting up
20 a mass vax site, help in other ways, and
21 including if they ran into a problem, they
22 asked for help in terms of working with them
23 and cooperating with them. And so if they
24 called me, I worked with them. I worked
25 with everybody, you know. I work with

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2 hospitals, I work with pharmacies, I work
3 with the FQHCs, I work with local
4 governments, I work with Republicans,
5 Democrats, I work with everybody. This was
6 a public health issue and that's how I
7 always saw it, as a public health issue.

8 Q. Understood. So were there
9 occasions, whether it was hospitals,
10 pharmacies, county officials, where they
11 would come to you because they needed
12 additional time to meet their throughput
13 requirements and you did work with them to
14 get that additional time because you thought
15 they were acting in good faith?

16 A. Most of the time if I got a
17 request, and it didn't happen a lot, but
18 most of the time when I did get a request,
19 it came from the health commissioner or
20 someone from the local health department,
21 not the local elected official.

22 Q. So it was like county health
23 official or --

24 A. Every county in the State of New
25 York has a county health department and with

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2 a county health commissioner, and it was
3 generally the county health commissioner
4 that would ask for the extra day --

5 Q. Okay.

6 A. -- or a little extra time, not
7 an elected official, right.

8 Q. Okay.

9 A. Sometimes maybe elected
10 officials say if you have any extra, I could
11 use it, you know, but that's, you know,
12 but...

13 Q. Okay. When a county health
14 department official or commissioner called
15 you on occasions with respect to the extra
16 day or extra time for the throughput
17 compliance, were there times when you said
18 okay, yes, you can have the extra time?

19 A. What I generally would do is
20 have a conversation with other people on the
21 team and the Boston Consulting Group, I
22 would look at their throughput over a number
23 of weeks and if they were doing a great job
24 on throughput, you know, I would give them
25 the extra day, because it was a legitimate

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2 reason. If they were struggling on their
3 throughput week in and week out, you know, I
4 might have, you know, considered other
5 options, but I can't recall that. You know,
6 I just -- but it was analytically done.

7 Q. How was that decision
8 memorialized, if at all, you know, when you,
9 after consulting with the team, informed a
10 county health department that they had extra
11 time to meet the throughput?

12 A. It could have come in maybe one
13 of three forms; return phone call, an e-mail
14 response, or a text message, depending on
15 how they contacted me. I would just contact
16 them back the same way.

17 Q. So return phone call, e-mail
18 response or text message from you?

19 A. Yes. Occasionally, if it came
20 from [REDACTED] [REDACTED] or somebody else, they
21 may have gotten back to that individual.
22 So, you know.

23 Q. Okay. You mentioned PODs. What
24 are PODs?

25 A. Points of distribution. We

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2 would do like a -- as you know, the State
3 had a number of mass vax sites, right. They
4 were all, kind of, permanent sites. A POD
5 is a temporary thing. Like we would put a
6 POD in a local -- in an area for like a week
7 or three days or four days. We did PODs in
8 the minority communities around the State.
9 Over a weekend we would go to a NYCHA
10 housing project, we would go throughout the
11 State and do -- you know, we'd bring a
12 thousand doses and administer them, we did
13 churches, and so we would -- you know, if
14 people felt that -- if we saw that
15 throughput was slow in certain regions of
16 the State, we would try to reinforce it or
17 we supplement it by putting up a temporary
18 POD and we'd staff it and try to work
19 cooperatively with the local jurisdiction in
20 doing that.

21 Over time we increased the
22 number of vax sites. Originally, I think we
23 started with 11 and we grew it to over 20,
24 including FEMA sites. We put up I think six
25 FEMA sites in conjunction with the federal

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2 government. So, you know, as time evolved
3 the program grew. As our supply grew, we
4 were able to do more.

5 Q. Now, would you get requests from
6 county officials to set up either PODs or
7 permanent sites within their local
8 jurisdictions?

9 A. I did get requests for mass vax
10 sites. The Governor at one point in the
11 process had a press conference. He had all
12 the county executives on and he said if
13 anybody is looking and wants a mass vax site
14 or a POD, you know, please let us know,
15 right. So that happened. So, you know, we
16 were getting requests from time to time from
17 different county execs, from different
18 counties either for a POD or a mass vax
19 site.

20 Q. What was the decision-making
21 process after you got a request from a
22 county executive or different counties for
23 either a POD or a mass vax site?

24 A. The original mass vax sites were
25 done based on where we had State facilities.

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2 So we used the Javits Center, right. We
3 used Aqueduct, we used the Syracuse State
4 Fair.

5 When the Governor said he wanted
6 to expand the number of mass vax sites, I
7 sat down with the Boston Consulting Group
8 and others. We mapped out based on drive
9 time and we looked at vaccination rates to
10 determine where we should site the
11 additional sites that the Governor asked us
12 to stand up.

13 So, again, it was based on where
14 were there current -- you know, the original
15 10 or 11 sites, what was the driving
16 distance time it took to get to those sites,
17 and in addition to that, we looked at the
18 admin rates, of the vaccine admin rates in
19 the different jurisdictions, and we came up
20 with a consensus on where the additional
21 sites should go based on those objective
22 criteria.

23 Q. So that sounds like, as you're
24 describing it, the initial standing up of
25 additional sites.

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2 After that set of decisions was
3 made, did you then get requests from county
4 execs for you to stand up sites beyond what
5 had been originally decided within their own
6 local jurisdictions?

7 A. After we stood up the additional
8 sites that the Governor requested, Ed Day,
9 the Rockland County executive, had asked for
10 a mass vax site in Rockland County. The
11 State delegation from Rockland was also
12 lobbying very hard that there should be one
13 in there, and when we looked at the
14 vaccination rates and we looked at the fact
15 that there were hot spots in Rockland
16 County, the COVID rate, we looked at that as
17 well, eventually a decision was made to add
18 Rockland County. I would say it was at
19 least probably a month or months after the
20 others were stood up. Then we added one in
21 Rockland County because of the COVID
22 positivity rate in Rockland.

23 Q. Any other specific requests for
24 additional vaccination sites that you recall
25 coming in from various counties in New York?

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2 A. Not that I recall. In
3 addition -- because, again, in addition to
4 the original sites, we had six more that we
5 added from FEMA, in partnership with them,
6 and plus the additional ones that we added,
7 you know, we had a lot of coverage
8 throughout State.

9 Q. We will come back to this in a
10 minute. I want to ask you about whether you
11 considered yourself a State employee when
12 you were operating in this position with
13 responsibilities with respect to vaccines.

14 A. I did not consider myself a
15 State employee.

16 Q. I want to be clear here, and we
17 will get to the issue of whether you were a
18 public officer under the law, but why didn't
19 you consider yourself a State employee?

20 A. Because I was doing it as a
21 volunteer. I was -- I came under the Public
22 Officers Law as a member of the MTA board
23 and I'm required to file annual financial
24 disclosure statements. I served in State
25 government, I retired from State government,

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2 and I had no desire or interest to come back
3 to help the State of New York as a State
4 employee. I was always willing, ready and
5 able to come back and volunteer my time and
6 services if asked and it was appropriate.

7 Q. So during this time you had an
8 office, as you mentioned a couple of times,
9 out of the Executive Chamber in Albany; is
10 that right?

11 A. I was given an office to work
12 out of while I was performing my duties and
13 responsibilities for the State.

14 Q. And you also had a State e-mail
15 address, you mentioned earlier, that you
16 were using during this time, December 2020
17 to April 2021?

18 A. Well, I was given an e-mail
19 address so people knew how to contact me.
20 It wouldn't have been appropriate for them
21 to contact me from my OTG address, nor was
22 it appropriate to use any other e-mail
23 address, so we set up a Chamber e-mail so
24 people knew how they could contact me by
25 e-mail.

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2 Q. Were you given any State-issued
3 electronic devices; did you get a BlackBerry
4 or iPhone or laptop?

5 A. No, no, no.

6 Q. How would you, for example,
7 check your Executive Chamber e-mail address?

8 A. Either through my business iPad
9 or through my personal phone or my business
10 phone.

11 Q. By "business," do you mean
12 OTG-owned iPad and phone --

13 A. Yes, yes.

14 Q. Now, you mentioned you were
15 still during this period serving as chief
16 strategy officer at OTG?

17 A. Um-hum.

18 Q. This December 2020 to
19 April 20 --

20 A. Um-hum.

21 Q. What's your split in time
22 between doing these various
23 responsibilities, very broad
24 responsibilities, you described with respect
25 to vaccine and responsibilities you have at

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2 OTG?

3 A. Again, during COVID, as I
4 mentioned to you, the company runs
5 restaurants, food courts and grab-and-go
6 markets in airport terminals and during
7 COVID we were literally shut down. So it
8 wasn't like there was a lot of activity
9 going on for the company and I was putting
10 in anywhere from 12 to 16-hour days, nearly
11 seven days in both stints and the vast
12 variety of my job was spent on COVID-related
13 activities.

14 Q. So fair to say that both stints
15 you were spending 12 to 16 hours a day on
16 your COVID-related responsibilities and
17 minimal time on OTG responsibilities under
18 the circumstances?

19 A. I guess -- as I said, the
20 majority of my time was spent on
21 COVID-related activities and when I was
22 needed or required to do something on behalf
23 of the company, I -- it got fitted into my
24 schedule.

25 Q. Now, let me ask, were there any

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2 conflict checks or other approval processes
3 you went through related to your employment
4 at OTG when you took on either of these
5 COVID-related roles that you've described?

6 A. You would have to speak to the
7 counsel's office regarding that. Again, I
8 served as a board member on the MTA. I fall
9 under the Public Officers Law. Under that,
10 I'm required to file an annual disclosure
11 statement each year and, you know, my
12 returning both times was vetted by the
13 counsel's office to make sure everything was
14 done appropriately.

15 Q. Now, you mentioned that you made
16 JCOPE financial disclosures in connection
17 with your role as an MTA board member; is
18 that right?

19 A. (Nodding.)

20 Q. Did you have make any JCOPE
21 filings with regard to either of your
22 COVID-related positions you've been talking
23 about?

24 A. I was never asked to.

25 Q. And I take it you never did,

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2 then?

3 A. I was never asked to, so,
4 therefore, you know, it wasn't done, other
5 than my financial disclosure statement that
6 I'm required to do.

7 Q. As part of being an MTA board
8 member?

9 A. Yes.

10 Q. Now, turning to when you left in
11 April 2021 from the vaccine distribution and
12 role you have been describing, why did you
13 choose to leave at that time, in April 2021?

14 A. I got a phone call, I think it
15 was on April 28th, from counsel to the
16 Governor, Beth Garvey --

17 MR. PETRILLO: After that call,
18 what happened? I don't want you to
19 talk about what --

20 A. The State legislature amended
21 the Governor's Executive Order. One of the
22 amendments to the Executive Order was that
23 all volunteers would come under the Public
24 Officers Law and that interpreted that I
25 would then fall under having a second

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2 two-year prohibition in terms of being able
3 to lobby the executive branch of government.
4 When I left, I had a two-year prohibition.
5 This would have triggered a second two-year
6 prohibition, and so I effectively resigned
7 my position, my role.

8 MR. MUKHI: I just want it to be
9 clear, Mr. Petrillo, I think you said,
10 "I don't want you to talk about," was
11 it the substance of his conversation
12 with Ms. Garvey and was the basis for
13 that instruction privilege?

14 MR. PETRILLO: I'm not sure that
15 he actually said Ms. Garvey; although,
16 I think it was Ms. Garvey, if you were
17 ask about that. But counsel's office,
18 I think, might have been the term
19 used. But I'm not sure about the
20 privilege in this area and because I
21 think the substantive information is
22 the information that Mr. Schwartz just
23 supplied, my strong preference would
24 be not to test the matter.

25 So I'm invoking it on a

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2 protective basis, but I would not be
3 opposed to further discussions about
4 it off the record, if it's relevant.

5 MR. MUKHI: I mean, I just want
6 to be clear on the basis, and correct
7 me if I'm wrong --

8 MR. PETRILLO: Yes.

9 MR. MUKHI: -- privilege is the
10 basis for the instruction?

11 MR. PETRILLO: Yes.

12 MR. MUKHI: Or potential
13 privilege. All right.

14 MR. PETRILLO: Yes.

15 MR. MUKHI: Okay.

16 Q. Do you in your role -- have you,
17 I should say, in your role as chief strategy
18 officer of OTG lobbied the State?

19 A. We employ a New York lobbyist to
20 do our lobbying, so I coordinate through our
21 lobbyist, but the lobbyist, which is
22 Greenberg Traurig, is the one that is the
23 front-facing entity on behalf of OTG on
24 anything related to New York.

25 Q. I guess the question I have is:

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2 What is the concern about lobbying and how
3 did that relate to your role at OTG at all
4 that led you to leave in that time period?

5 A. Well, again, if I needed to pick
6 up the phone and speak to [REDACTED] [REDACTED], who
7 is the executive director of the Port
8 Authority of New York and New Jersey,
9 regarding an issue that involves our
10 company, I would be prohibited from calling
11 and talking to him, right. So I saw that
12 problematic in not being able to fulfill my
13 duties and responsibilities for OTG.

14 Q. So I want to turn to another
15 topic. In December of 2020, you recall
16 Ms. Boylan made certain allegations
17 concerning the Governor?

18 A. In terms of what I read in the
19 press.

20 Q. Yes.

21 A. Yes.

22 Q. And you're aware of that?

23 A. From the press, yes.

24 Q. Understood.

25 You read it in the press?

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2 A. Yes.

3 Q. And then there were additional
4 allegations that you read about in the press
5 over the next few months, including
6 February 2021 and March 2021; do you recall
7 that?

8 A. I recall reading in the press
9 that other women came forward with their own
10 allegations.

11 Q. Now, were you involved in the
12 Governor's or the Executive
13 Chamber's -- withdrawn.

14 Were you involved in any
15 discussions about the response for any of
16 these allegations of sexual harassment
17 against the Governor?

18 A. I don't recall being involved in
19 any of -- in any discussions involving that.

20 Q. Do you recall participating in a
21 phone call with Josh Vlasto, the Governor,
22 Bill Mulrow, Dane Rosenthal, Ken Sunshine in
23 March 2021 about the allegations and the
24 impeachment inquiry?

25 A. I don't recall being on that

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2 phone call.

3 Q. Do you recall being involved in
4 any discussions about a letter being drafted
5 in response to Ms. Boylan's allegations
6 around 2020, December 2020?

7 A. I do not recall being involved
8 in that conversation or discussion.

9 Q. Do you recall being involved in
10 any discussions at any time with anyone
11 about potentially providing Ms. Boylan's
12 personnel file to members of the press or
13 anyone outside of the Executive Chamber?

14 A. I do not recall being involved
15 in any discussion regarding Ms. Boylan's
16 personnel file or distribution of a
17 personnel file of hers.

18 Q. Again, focusing now on December
19 2020, are you aware of a statement that was
20 drafted by individuals associated with the
21 Governor in support of him around this time
22 frame concerning sexual harassment
23 allegations?

24 A. Can you clarify? When you say a
25 statement of, what, from who?

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2 Q. Sure. A written statement by
3 individuals who either worked for the
4 Governor, knew the Governor, supporting him
5 in light of Ms. Boylan's allegations around
6 2020, December 2020?

7 A. I don't recall specifically. I
8 may have read it in the press after it was
9 published, but that's the only way I would
10 have become aware of it.

11 Q. No internal discussions that you
12 recall being a party --

13 A. I do not recall any internal
14 discussions regarding the writing of that
15 letter.

16 Q. Were you involved in drafting
17 any statements to the press regarding the
18 sexual harassment allegations against the
19 Governor?

20 A. I did not recall being involved
21 in any discussions involving -- regarding
22 responses on the sexual harassment
23 allegations.

24 Q. If you go to Tab 6 in your
25 binder.

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2 MR. PETRILLO: We are there.

3 Q. You know, this is a very long
4 document. If you see, you know, several of
5 the clippings relate to the allegations
6 against the Governor, among other topics,
7 and this came from the Executive Chamber and
8 the metadata indicated it came from your
9 files.

10 Do you recall receiving press
11 clippings, you know, these types of
12 aggregated press clippings that included
13 clippings regarding the allegations against
14 the Governor?

15 A. I would receive daily press
16 clippings from the press office.

17 Q. Okay.

18 A. Yes.

19 Q. And did that -- did the daily
20 press clippings, were you receiving them at
21 all times when you came back in March 2020
22 and December 2020, or did you start
23 receiving them after the allegations of
24 sexual harassment?

25 A. To the best of my recollection,

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2 I believe I was receiving clippings when I
3 began. To the best of my recollection, I
4 might have even requested or asked that I
5 receive the clippings when I was
6 volunteering my time, just so I knew what
7 was going on around the State and what was
8 being said in general about COVID and things
9 that the State was working on.

10 Q. Why don't we go to Tab 10. I
11 will read it into the record. While you're
12 reviewing it, the Bates stamp is
13 Chamber_AG_00033669.

14 So, Mr. Schwartz, did you get a
15 chance to review the document?

16 A. Yes, I did.

17 Q. And so, if you see the document,
18 the original e-mail at the bottom is from a
19 pressoffice@exec.ny.gov. Do you see that?

20 A. Yes.

21 Q. That's a statement from Governor
22 Andrew M. Cuomo. Do you see that?

23 A. Yes.

24 Q. And it's February 28, 2021 at
25 5:34. Do you see that?

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2 A. Yes.

3 Q. Do you see the reference to
4 Ms. Bennett in the last paragraph of the
5 Governor's statement?

6 A. Yes.

7 Q. Do you recall around the time of
8 this statement by the Governor that
9 Ms. Bennett had come forward publicly about
10 her allegations?

11 A. I was aware of Ms. Bennett's
12 allegations to the press.

13 Q. Did you have an understanding
14 that this statement was, or do you have an
15 understanding and recollection that the
16 statement of the Governor was drafted
17 shortly after Ms. Bennett went to the press
18 with her allegations?

19 A. You know, I don't recall the
20 timing of the events, so, you know, it may
21 have been. I just don't, you know -- if it
22 was as a result of her coming out and making
23 her allegations, or you know, so.

24 Q. But you do see the reference to
25 Ms. Bennett in the last paragraph?

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2 A. Yes, yes, I do.

3 Q. So and then you forward the
4 e-mail, it looks like, a few minutes later.
5 Do see that at the top, 5:51?

6 A. Yes.

7 Q. And you forward it to [REDACTED]
8 [REDACTED] Do you see that?

9 A. Yes, I do.

10 Q. Who is that?

11 A. [REDACTED] [REDACTED] is a former
12 counselor to the Governor, someone I worked
13 with when I was secretary to the Governor
14 and she also happens to be a good personal
15 friend of mine and my neighbor in [REDACTED]
16 [REDACTED]

17 Q. Why did you forward the e-mail
18 to her, the statement from the Governor?

19 A. We're just good friends and we
20 both work for the Governor and, you know, I
21 just was -- it was just casual conversation
22 and was kind of curious, you know, you know,
23 what she thought, what --

24 Q. Sorry, go ahead.

25 A. No, that's it.

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2 Q. Okay. So you say, "Interesting.
3 Admitting something?" What did you mean by
4 that?

5 A. I just -- I was just curious
6 what -- what the -- what she thought the
7 press statement meant.

8 Q. And was there a question you had
9 whether something in the statement was an
10 admission by the Governor?

11 A. No. You know, again, we both --
12 we both work for the Governor. We're
13 colleagues, we're friends, and, you know, he
14 made this statement, and I was just -- you
15 know, we were having a conversation about
16 his statement.

17 Q. I understand. But my question
18 was about -- why don't we go to Tab 11. We
19 could come back to 10. I will just read it
20 for the record. It's Chamber_AG_00033670.
21 And so this is actually, it's a minute
22 earlier. You see you forward the same
23 e-mail to someone named [REDACTED] [REDACTED]. Do you
24 see that?

25 A. Yes.

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2 Q. Who is [REDACTED] [REDACTED]

3 A. She's a long-term -- long-time
4 friend. She used to be married to
5 [REDACTED] [REDACTED] [REDACTED] He's been a
6 lobbyist in Albany for many, many years.
7 I've known her for many years. She actually
8 worked for Governor Cuomo when he was in
9 HUD, you know, just a friend, as [REDACTED] is a
10 friend.

11 Q. And [REDACTED] [REDACTED] as of 2021, did she
12 have any role for Governor Cuomo that you
13 know of?

14 A. With COVID?

15 Q. No. Just generally. Was she
16 advising Governor Cuomo, as far as you know,
17 advising Governor Cuomo?

18 A. I don't recall her playing that
19 role.

20 Q. In the e-mail to [REDACTED] [REDACTED], you
21 wrote, "Admitting he said/did it?" Do you
22 see it?

23 A. Yes.

24 Q. So my question is, you sent
25 these two e-mails with similar questions

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2 about whether there's an admission by the
3 Governor, and so what I'm trying to get at
4 is: Did you believe there was something
5 that raised a question in your mind from the
6 statement whether the Government -- the
7 Governor was making an admission? And read
8 over the statement if it's helpful in
9 refreshing you.

10 THE WITNESS: Could we take a
11 bathroom break?

12 MR. PETRILLO: Mr. Schwartz just
13 asked me whether he could take a
14 bathroom break, but you previously
15 said you want him to answer any
16 pending question, so we will leave it
17 to you.

18 MR. MUKHI: That's fine. Why
19 don't we take a break.

20 Q. And why don't you during the
21 break, after you use the restroom, take some
22 time to review the statement and the two
23 e-mails and see if it refreshes you, okay?

24 MR. PETRILLO: Ten minutes?

25 MR. MUKHI: Yes.

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2 THE VIDEOGRAPHER: This will end
3 media unit three. Going off the
4 record at 2:15, June 17, 2021.

5 (Recess.)

6 THE VIDEOGRAPHER: We are back
7 on the record. The time is 2:22, June
8 17, 2021. This will begin media unit
9 four.

10 Q. Mr. Schwartz, so right before
11 the break we were discussing these two
12 e-mails forwarding the Governor's
13 February 28, 2021 statement to

14 [REDACTED] and [REDACTED] My question
15 was, was there anything in the statement
16 that you viewed as a potential admission by
17 the Governor?

18 A. No, I don't believe anything in
19 the statement was an admission of sexual
20 harassment. So I don't believe that that's
21 what his statement -- that it wasn't an
22 admission of that.

23 Q. Did you think it was -- so to
24 [REDACTED], with Tab 11, you say,
25 "Admitting something," question mark, did

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2 you think the Governor was admitting
3 something of relevance?

4 A. You know, again, I would say on
5 both e-mails it was just banter between two
6 friends, you know, and it's a conversation,
7 you know. It was a long time ago. I don't
8 recall why I wrote it that way, but it was
9 just like, it was more or less like what do
10 you think, you know. That's all it was.

11 Q. On the second e-mail to [REDACTED] [REDACTED],
12 when you ask, "Admitting he said/did it,"
13 what did you mean by "it"?

14 A. I don't recall. Again, it was a
15 while ago. I was focused on vaccines. The
16 statement came out, again, it was two
17 friends, it was banter, it was having a
18 conversation, so, you know.

19 Q. So I just want to be clear.
20 Your testimony under oath is that, for
21 example, when the Governor said in this
22 statement, "I now understand that my
23 interactions may have been insensitive or
24 too personal and that some of my comments
25 given my position made others feel in ways I

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2 never intended. I acknowledge some of the
3 things I have said have been misinterpreted
4 as unwanted flirtation. To the extent
5 anyone felt that way, I'm truly sorry about
6 that," that at the time you didn't at least
7 have a question in your mind whether the
8 Governor was admitting relevant information
9 to the allegations that have been raised by
10 Ms. Bennett and others?

11 A. Look, I don't believe his
12 statement was an admission of sexual
13 harassment. I believe the Governor's
14 statement, he was being apologetic that he
15 may have said things or done things that
16 people might have misinterpreted or maybe
17 were not appropriate and he was being
18 apologetic for that and I don't recall --
19 when I sent those e-mail to [REDACTED] and
20 [REDACTED], what I was -- you know, again, it
21 was just banter and conversation, you know.
22 Maybe it was related to he was admitting
23 that he was being flirtatious, I don't know.
24 I don't recall, but I wasn't -- it wasn't
25 about that he committed sexual harassment.

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2 Q. We can put those away.

3 Going back to the county
4 executive, you mentioned you started having
5 weekly calls and I understand that those
6 Monday 3:00 p.m. calls would include county
7 executives among others; is that right?

8 A. Yeah, it wasn't mandatory.
9 County executives joined the call if they
10 wanted to, and also county health
11 commissioners, it could have been deputy
12 county executives. It was an open forum
13 opportunity to get updated on decisions and
14 policies of the State, as well as for them
15 to ask any questions they may have on --
16 that was vaccine related. It was a standard
17 call.

18 Q. Who were the participants? You
19 mentioned some examples, but who were the
20 participants in the calls?

21 A. From the State side?

22 Q. Yes. On the State -- let's
23 start with the State side.

24 A. A lot of times it was [REDACTED]
25 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] from

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2 the State Health Department also
3 participated. I don't recall, but
4 occasionally maybe [REDACTED] [REDACTED] from the
5 intergovernmental office listened in. I
6 think that's basically, you know, who I
7 recall from the State team side that was on
8 the calls.

9 You know, there were upwards of
10 over 300 people at times on the calls, so I
11 couldn't tell you exactly. We didn't do a
12 roll call, you know, take attendance each
13 week, so people got on.

14 Q. Would you lead the calls from
15 the State side?

16 A. Yes.

17 Q. And then I know you said it's up
18 to 300 people at times, but you said it was
19 an open forum. Open to who? Was it open to
20 county officials or some broader group?

21 A. It was open to county
22 executives, county health commissioners,
23 staff for the county executives, staff for
24 the county health departments or anybody
25 else on the county level that was involved

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2 with the vaccine program, so.

3 Q. So it was county-level officials
4 of varying levels, but no private persons,
5 for example, were participating in that
6 Monday 3:00 p.m. call?

7 A. Not that I'm aware of.

8 Q. That wasn't the intent of the
9 call, okay?

10 A. No, that was not the intent.
11 And also it is an opportunity, because as I
12 mentioned earlier in one of your questions,
13 I would send out every week a letter to
14 provide -- to providers regarding their
15 allocation and the breakdown of those
16 allocations between Pfizer, Moderna and also
17 J&J, and if there was eligibility
18 requirements on who a particular provider
19 could vaccinate, it was a reminder there, or
20 if we expanded the eligibility population
21 for a provider, that would be mentioned also
22 in the letter. So, clearly, if anyone had
23 any questions regarding the substance of the
24 letter, there was an opportunity also for
25 them to ask questions regarding the letter

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2 they received, if they chose to.

3 Q. That's helpful.

4 And so related to that, was
5 there a particular format that applied to
6 the call? You know, would someone kick off
7 the call and then open it up to questions?
8 Could you give us a sense of how it worked?

9 A. Generally speaking, I would --
10 once enough people got on the call, I would
11 begin the conversation. It was basically
12 just to update everybody on what was going
13 on. You know, the letters went out on a
14 Saturday, so it was the previous Saturday,
15 so I would hear them on the phone Monday.
16 So I may have just reinforced some of the
17 information that was in the letter. If
18 anything else new came up, if there was
19 anything in the press that I thought was
20 worthy of just providing clarification on, I
21 would do it. The vast majority of the time
22 spent on these calls was to give the people
23 on the calls, the counties, the opportunity
24 to ask questions.

25 Q. I think you said these Monday

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2 3:00 p.m. calls didn't start right away when
3 you started in December, but began sometime
4 thereafter?

5 A. Yes. I don't recall exactly
6 when. It wasn't immediate. It was a few
7 weeks after, right. I mean, we did other
8 things prior to the weekly calls. I did
9 very early on a Zoom call with all the
10 counties. I also did a Zoom call with all
11 the State legislators, I did one with the
12 Assembly Majority/Minority, the Senate
13 Majority/Minority, I did those. I've been
14 doing other phone calls as well as Zoom
15 calls, and then I just thought it would be a
16 good idea to do weekly calls with the
17 counties.

18 I was also doing weekly calls
19 with the two hospital associations in the
20 State. So it might -- might -- these calls,
21 these informational calls weren't just for
22 counties. It was done with the two
23 organizations that represent all the
24 hospitals in the State of New York.

25 Q. And once the Monday 3:00 p.m.

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2 calls started, did they happen every week,
3 to your recollection, until you left in
4 April of 2021?

5 A. Yes. There might have been one
6 week when it went from a Monday to a Tuesday
7 or a Wednesday because it was a holiday and
8 the holiday fell on a Monday, but they
9 happened once a week. And depending on the
10 nature of the question that was asked, you
11 know, certainly if I couldn't answer it,
12 then someone else on the team from the
13 Health Department or wherever, who had more
14 knowledge than I, would answer the question;
15 ██████████ ██████████ ██████████ ██████████ ██████████ or
16 somebody else.

17 Q. So you would field some of the
18 questions --

19 A. Yes.

20 Q. -- from county officials and
21 then at other times other State --

22 A. Yes.

23 Q. -- employees would field them,
24 okay.

25 Were there any other weekly or

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2 biweekly calls that you had that involved
3 the county executives? Regular calls, I'm
4 talking about?

5 A. No. As I mentioned to you
6 earlier in our conversation, even before the
7 weekly calls started, I would get text
8 messages, phone calls, they left voice mail
9 messages, e-mails, wanting to speak to me on
10 all sorts of issues involving vaccines, and
11 generally speaking, regardless of who they
12 were, I got back to them in a timely manner.

13 Q. So I want to ask you about those
14 phone calls, text messages and other
15 interactions and I want to focus on the
16 period from December 2020 until March. So
17 we will get to March in a minute, but I want
18 to focus on that earlier period.

19 During that time period, do you
20 recall having one or more phone calls or
21 e-mails, one-on-one conversations with Marc
22 Poloncarz, the county executive of Erie
23 County?

24 A. From what period of time?

25 Q. When you started in December

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2 2020, through the beginning of March.

3 A. End of February, first week of
4 March, is that what you're asking me?

5 Q. Yes. Before that, before that
6 period.

7 A. Yes, I recall having at least
8 one conversation with County Executive
9 Poloncarz.

10 Q. What do you recall about that
11 conversation?

12 A. Prior to my getting involved
13 with vaccines, I alluded to you earlier
14 [REDACTED] [REDACTED] was asked to kind of -- be the
15 point person or lead-in setting up an
16 infrastructure, and one of the things that
17 was created, they call them hubs. So there
18 are ten regions in the State and they
19 created these ten hubs, which was a
20 consortium of hospitals from the region,
21 other healthcare providers. The person --
22 the hospital that was designated as the lead
23 for Western New York is someone that the
24 county executive had a poor working
25 relationship with and he thought that

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2 person was not capable of leading the effort
3 of the hub, and he wanted to communicate his
4 feelings and objections to that person. He
5 wasn't consulted on who was chosen. It was
6 before my time, but I was there, and he
7 wanted to give me his input on that.

8 Q. Do you recall conversations with
9 Mr. Poloncarz about vaccine allocation
10 issues related to Erie County?

11 A. I don't recall any additional
12 conversations I had with County Executive
13 Poloncarz specifically. I mean, we may have
14 had conversations about him asking for
15 additional doses. I can't tell you the
16 timing. I had calls about throughput with
17 him. Our consultants were saying that their
18 throughput was lower than what was required.
19 So I said this is what the consultants are
20 telling me, what are your numbers showing,
21 so if there is a difference, we could
22 reconcile them. All my conversations that I
23 may have had with Poloncarz was informative,
24 substantive and friendly.

25 Q. Again, prior to late February,

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2 first week of March, do you recall any
3 one-on-one conversations, e-mails, texts,
4 phone calls with Steve Bellone, County
5 Executive of Suffolk, regarding vaccine
6 distribution?

7 A. I don't recall how many. I
8 don't recall specifically. I don't doubt
9 that I, you know, that I may have had one or
10 more calls with Steve about -- he may have
11 called me, he may have questions, you know,
12 you know. I've known Steve when I was -- I
13 worked closely with Steve when he was county
14 executive and I was secretary to the
15 Governor, so we had a working relationship.
16 We got along very well.

17 Q. That reminds me, backing up, how
18 long have you known Mr. Poloncarz?

19 A. I don't recall exactly, but I
20 believe, I hope I'm right, I believe County
21 Executive Poloncarz was the county executive
22 if not all my time as secretary to the
23 Governor, part of my time as secretary to
24 Governor.

25 Q. You knew him back then?

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2 A. Yes, it would have been from
3 back then, yes.

4 Q. Again, same time period,
5 December of 2020 through end of February,
6 first week of March, did you have any phone
7 calls you recall with Jason Garnar, County
8 Executive of Broome County?

9 A. Again, I don't recall, but I'm
10 not -- I had so many phone calls with so
11 many different people. I may have had one
12 or more phone calls during that time to talk
13 about the vaccines. You know, sometimes
14 people would call and say why can't we do 65
15 plus, because, again, there were eligibility
16 guidelines, what hospitals could do, what
17 FQHCs could do, what county health
18 departments could do and not do. So people
19 would call and say why am I limited to this,
20 why can't I do that. So it's possible. I
21 just don't recall if I did and how often I
22 did it, had them.

23 Q. How long have you known
24 Mr. Garnar?

25 A. I think he was elected -- I'm

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2 not even sure. I think he was elected after
3 I was secretary to the Governor, so I --
4 after I left the secretary to the Governor.
5 So the relationship could have started when
6 I was volunteering during COVID. I don't
7 recall.

8 Q. How about Pat Ryan, the Ulster
9 county executive; do you recall one or more
10 phone calls with him, again, during this
11 period December 2020 until the end of
12 February, early March?

13 A. What I recall, the county
14 executive would text me, e-mail me, possibly
15 I spoke to him by phone, asking me questions
16 on different topics, you know, about vaccine
17 allocation, asking me about other things
18 related to the vaccine program.

19 Q. Those conversations were over
20 the phone, text, e-mail?

21 A. E-mail.

22 Q. During this time frame?

23 A. Yes, yes. Yeah.

24 Q. And how long have you known
25 Mr. Ryan?

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2 A. Well, Mr. Ryan I believe was a
3 newly-elected county executive, so it would
4 have only been from the time when I
5 volunteered for COVID.

6 Q. How about George Latimer; did
7 you have conversations with him during this
8 same time period about vaccine distribution?

9 A. Again, I don't recall specific
10 conversations or when they may have taken
11 place. I don't doubt I -- that I didn't --
12 regarding having conversations, I've known
13 George for 20 years, right. We're friends
14 and I know him a long time. So whether he
15 called me or I called him, and if he had a
16 question, you know, I don't recall, but it
17 may have happened.

18 Q. How about Adam Bello, the Monroe
19 County executive?

20 A. Again, I don't believe I ever
21 had any working relationship with County
22 Executive Bello until I started volunteering
23 on my COVID activities. I think he was also
24 a relatively newly-elected county executive.
25 I don't believe he was -- he wasn't the

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2 county executive when I was secretary to the
3 Governor, to the best of my recollection.

4 Q. Do you recall conversations with
5 him during this time frame, December 2020
6 through the end of February, early March?

7 A. Again, to my recollection, you
8 know, I can't recall if I did or if I
9 didn't, how often, right. I'm not
10 disputing, again, that conversations could
11 have taken place. I just, you know... but
12 if they had questions about the program or
13 just questions in general or something like
14 that, we probably, you know, again,
15 communicated via text or an e-mail or an
16 actual call.

17 I got text messages and phone
18 calls and e-mails from Marc Molinaro, Steve
19 McLaughlin, Ed Day, you know, County
20 Executive Picente from Oneida County, Ryan
21 McMahon from Onondaga County. So I was in
22 communication, the County Executive of
23 Chemung, Cattaraugus, Niagara County. There
24 are 57 counties. I probably got phone calls
25 and texts and messages from all 57.

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2 Q. Does that include Daniel McCoy,
3 who is the county executive of Albany?

4 A. Yes, I do recall speaking to
5 Daniel McCoy, yes, yup.

6 Q. Including about the vaccine
7 distribution issues during this time period?

8 A. It's whatever questions or
9 concerns he had, they were all related to
10 vaccines.

11 Q. Why don't we turn to Tab 7?

12 A. Yes.

13 Q. So there is actually two e-mails
14 or letters, however you describe them, from
15 yourself. Do you see there is --

16 A. Yes.

17 Q. -- March 3rd and then a
18 March 5th?

19 A. Yes.

20 Q. I'm going to ask you about the
21 March 3rd and then we will come back to the
22 March 5th.

23 Do you see this is an e-mail on
24 March 3, 11:43 p.m. from you and it looks
25 like a form e-mail sent to "Dear Provider,"

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2 do you see that?

3 A. Yes, I do.

4 Q. Do you recall sending this
5 e-mail?

6 A. Yes.

7 Q. Do you recall who the e-mail was
8 sent to?

9 A. Well, it would have been to any
10 provider that was holding on to vaccine
11 doses of at least 250 doses or more, and
12 that they held on to them for more than a
13 period of one week. So that could have been
14 a hospital, a pharmacy, an FQHC or any other
15 provider, a physician group.

16 Q. Are you aware -- -

17 A. It was based on a review by the
18 Boston Consulting Group --

19 Q. Okay.

20 A. -- that we were required to do
21 because of the -- I guess the Executive
22 Order that the Governor had administered.

23 Q. Did you understand that this
24 e-mail also went to, among other providers,
25 county officials?

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2 A. If it did, it went to a County
3 Health Department, okay, in my
4 understanding. It would have gone to the
5 health commissioner, right, of that county,
6 if they fell in that category as given to me
7 by the Boston Consulting Group, who put
8 together the list.

9 Q. Was anyone besides yourself and
10 the Boston Consulting Group consulted before
11 you sent this e-mail out?

12 A. Yes. [REDACTED] [REDACTED] from the
13 Governor's counsel's office, because, again,
14 it's making sure that we're following the
15 Executive Order or any other legal documents
16 that the State had put out. So I'm not an
17 attorney, so I always include the Governor's
18 counsel staff and I'm not a paid member of
19 the administration.

20 Q. Anyone else that was consulted,
21 to your knowledge?

22 A. I don't recall. You know, [REDACTED]
23 [REDACTED] may have been involved in the
24 conversation, [REDACTED] [REDACTED] from the Health
25 Department may have also been involved in

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2 the conversation. I don't recall everyone
3 that may have participated beyond the Boston
4 Consulting Group and [REDACTED]

5 Q. How was the decision made to
6 send this communication to providers?

7 A. Well, again, you know, there was
8 a lot of call for vaccines. Everybody
9 wanted more. Remember, the supply was very
10 limited early on. It grew over time and we
11 didn't want people holding on to vaccine
12 doses. We wanted to see a hundred percent
13 weekly throughput. We tried to give people
14 a little leeway, but when we saw that over
15 multiple -- over a period of time people
16 were holding onto vaccines, we had contacted
17 all these providers, we sent them letters,
18 we asked them what was going on, we asked
19 them when they were going to get rid of
20 their -- any surplus that they held onto,
21 and for the most part people got rid of
22 their surpluses if they had one, they had
23 plausible explanations, like that.

24 But, you know, we're allocating
25 to thousands of providers, and some were bad

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2 actors, and where we saw people not
3 maximizing their throughput, you know, over
4 consecutive weeks or holding onto doses and
5 not getting rid of them or telling us that
6 they would get rid of those doses in a week
7 and they didn't actually do it, we just
8 stopped actually allocating to them. We
9 just stopped allocating and they didn't get
10 any more doses until they cleaned up their
11 act, you know, or not.

12 So, again, the goal here was use
13 up on a weekly basis a hundred percent of
14 our allocation. It was all about getting
15 the people who wanted vaccinated,
16 vaccinated.

17 Q. Did there come a time at any
18 point where one of the providers, that you
19 just stopped allocating vaccines to because
20 they couldn't get them all out, was a county
21 provider?

22 A. I don't recall that we -- I
23 don't recall that we ever stopped allocating
24 to a county local health department.

25 Q. And so after the decision was

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2 made to send a communication like this, who
3 actually drafted the e-mail, if you recall?

4 A. There's probably a few people
5 had their fingers on it. [REDACTED] [REDACTED] was
6 probably the scribe for the letter.

7 Q. How was the decision made that
8 the letter would come from you?

9 A. Because I was seen as being, you
10 know, a point person on the program, you
11 know, and -- so I offered to have my -- go
12 out under my name. You know, it's
13 controversial. A lot people don't like
14 putting out anything that is controversial
15 and I said we could put it under my name,
16 it's fine.

17 Q. What do you mean that it was
18 controversial?

19 A. Well, you know, it's a tough
20 letter. It says you're holding on to doses
21 and, as we've communicated to you many
22 times, here is what the Executive Order says
23 and failure to do so can subject you to
24 penalties. I mean, it's a direct letter,
25 it's an informative letter, but it's a tough

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2 letter, you know. So that's what I -- some
3 people are not going to be happy when they
4 receive an e-mail like that, but they
5 weren't following something that they agreed
6 to follow and it happened over multiple
7 weeks and they were told and warned multiple
8 times, so we kind of gave them as many
9 opportunities and chances as we could, so
10 they got an e-mail.

11 Q. In the second paragraph, there
12 is a reference, I think you were just
13 referring to, "Failure to do so will subject
14 you to civil penalties up to \$100,000 per
15 day" --

16 A. Yes.

17 Q. -- "pursuant to Executive Order
18 202.88 in Section 12 of the Public Health
19 Law." Do you see that?

20 A. Yes.

21 Q. What is your understanding of
22 who would impose such civil penalties?

23 A. The State.

24 Q. "And elimination of any future
25 vaccine allocation," what did you mean by

1 Schwartz - Confidential

2 that?

3 A. It means that if you're in
4 violation, that it could -- you could be
5 subject to not receiving any more future
6 allocations.

7 Q. Now -- go ahead.

8 A. Umm --

9 Q. Okay. I wanted to turn to the
10 next Tab, Tab 8, before we come back to your
11 March 5th.

12 Do you recall shortly after
13 sending your March 3rd e-mail receiving a
14 letter from county health officials and the
15 New York State Association of Counties?

16 A. I see it. I don't recall it,
17 but I see it.

18 Q. So you don't recall receiving
19 this communication? I'm not asking whether
20 you recall every word in the letter, but
21 whether you recall receiving a communication
22 like this on behalf of the county?

23 A. Obviously, I have -- you know,
24 it took -- but I didn't recall.

25 Q. Okay. You didn't recall until

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2 seeing it just now; is that correct?

3 MR. PETRILLO: Do you recall
4 even seeing it now?

5 A. Yes, I remember that -- that,
6 because you're going to go back to my
7 March 5th letter in a minute, right, in
8 which I sent an apology to certain
9 providers, so.

10 Q. I mean, you know, if you have
11 something to add now, add it and I'll ask my
12 questions.

13 MR. PETRILLO: Sitting here
14 today, do you remember the letter that
15 appears before -- behind Tab 8?

16 THE WITNESS: I remember getting
17 some calls. I don't know if I recall
18 exactly getting the letter from NYSAC.
19 Some counties said that the e-mail
20 that they received, that it was
21 inaccurate, it was wrong.

22 Q. Now, if you look at that, you
23 just said that the providers had been warned
24 multiple times about this issue of
25 throughput. If you look at the county exec

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2 letter addressed to you March 4, 2021,
3 signed by, looks like [REDACTED], [REDACTED]
4 [REDACTED] and [REDACTED], if you look
5 at the second paragraph, second sentence,
6 "At no point," do you see that?

7 A. Are you asking me to look at the
8 second paragraph on the first page?

9 Q. Yes, please.

10 A. Where in the second paragraph do
11 you want me to --

12 Q. The second sentence that begins,
13 "At no point prior."

14 A. Okay.

15 Q. So in this letter from the
16 county health officials of New York and the
17 New York State Association of Counties, they
18 say, "At no point prior to this letter were
19 any of these localities contacted about
20 these doses." Was that true or do you
21 believe that the localities had been
22 contacted about the doses in your March 3rd
23 e-mail?

24 A. The information that was
25 provided to me, as best as I remember it and

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2 understand it, is that everybody was
3 contacted.

4 Q. Then they go on to add, the
5 senders of this letter to you, "and, in
6 fact, the time period referenced coincides
7 with dates where there were significant
8 shipping issues out to the localities due to
9 weather issues in other parts of the
10 country." Do you see that, same sentence?

11 A. Yes, I see it.

12 Q. Do you have a recollection of
13 that? Was the time period referenced in
14 your March 3rd letter coinciding with dates
15 where there significant shippings issue due
16 to weather issues?

17 A. Well, as I alluded to earlier in
18 our conversations, I had mentioned when I
19 said I gave -- sometimes they would call and
20 say could I have an extra day or two days,
21 it was because of delays in shipments due to
22 the weather. So, you know, yes, we had two
23 major snowstorms in the State and we had
24 major winter issues, weather issues in the
25 country that delayed shipments all across

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2 the country. So it did happen.

3 Q. Did it coincide with this time
4 period, to your recollection?

5 A. I don't recall.

6 Q. So if you go to the fourth
7 paragraph, the one that begins with, "One
8 specific concern," my question is, when
9 you've had an opportunity to review, the
10 statement in the letter to you is, "One
11 specific concern regarding the vaccine
12 tracker data that we have heard from members
13 is that there is no way to correct their
14 data or review each day's submission to
15 ensure there are no data entry errors." Do
16 you see that?

17 A. Yes, I do.

18 Q. Was that true, was there no way
19 to correct data in the vaccine tracker data
20 system?

21 A. I don't recall if there was or
22 wasn't. The vaccine tracker system was
23 something we put together --

24 Q. Okay.

25 A. -- in order to be able to

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2 monitor throughput. So it was a tracker
3 that we created through Boston Consulting
4 Group. So each provider provided input. We
5 didn't -- they had to put the data into the
6 vaccine tracker, not us. So it's their
7 data. So, you know, I don't know whether or
8 not -- I don't recall whether or not there
9 was a way for them to see it at the time or
10 to correct errors. It would have been their
11 inputting errors, it wouldn't have been.
12 Ours. But at some point if we had any
13 concerns or issues, we would reach out to
14 the provider and go over it and resolve any
15 discrepancies that may have existed.

16 Q. Now, if we go back to your
17 March 5th, so Tab 7, the March 5th e-mail --

18 A. Yes.

19 Q. -- from you to providers, and
20 you referenced the March 3rd, and you say
21 that -- correct me if I'm wrong, but you say
22 that that March 3rd was sent to you in
23 error?

24 A. Yes.

25 Q. And then you say, "I deeply

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2 apologize for this communication and any
3 confusion or distress it may have caused,"
4 and then you go on to express gratitude and
5 thanks to the providers.

6 So what led you to send this
7 March 5th e-mail?

8 A. Because it was brought to my
9 attention from the Boston Consulting Group
10 that they made a mistake, they made an error
11 in the list that they provided to me and
12 that there were a number of providers that
13 should not have been on that list that
14 received the e-mail, and I believe that the
15 only appropriate thing to do is that when
16 the program makes a mistake, you own up to
17 the mistake and you apologize for the
18 mistake, and that's what I did.

19 Q. Just to be clear, when the
20 Boston Consulting Group came to you and said
21 they made a mistake with the list, was it
22 that some of the providers had, in fact,
23 made their throughput requirements, but they
24 had made it onto the list that received this
25 e-mail, the error that was made?

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2 A. I don't recall the specific
3 rationale, other than when the list was put
4 together of providers that was not
5 vaccinating people as they agreed to do,
6 that in their analysis of who fell into that
7 group, they made a reporting error or there
8 was a mistake made in their calculation, and
9 they came to me and said we made X number of
10 mistakes, here is who should not have
11 received the e-mail. And I wasn't going
12 ignore it and say, okay, you know, they're
13 angry and upset, but they'll get over it. I
14 said, you know -- we have to -- the program
15 made a mistake, we need to own up to the
16 mistake and apologize for the mistake.
17 That's what I did, since the original e-mail
18 came from me.

19 Q. Understood. One follow-up
20 question.

21 This March 5th e-mail with the
22 apology and reference to the mistake, was
23 that sent to everyone who got the original
24 March 3rd e-mail or just the providers that
25 Boston Consulting Group told you later

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2 shouldn't have been on the original list?

3 A. To my recollection, the only
4 ones that got the apology letter are the
5 ones that got the March 3rd e-mail which
6 should not have gotten the March 3rd e-mail,
7 because they shouldn't have been on the list
8 in the first place.

9 Q. Okay. Were there any providers
10 who were properly on the list who were
11 ultimately subject to penalties, such as a
12 fine or elimination of any future vaccines,
13 due to noncompliance with the Executive
14 Order and Public Health Law you referenced
15 in your letter?

16 A. I don't recall whether or not
17 the State imposed any fines or penalties
18 with any providers of the State.

19 Q. Now, I want to turn to in or
20 around the first week of March 2021. So we
21 saw that e-mail with the Governor's
22 statement from February 28, 2021, about the
23 sexual harassment allegations that were
24 public at that time.

25 Do you recall -- and I believe

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2 the e-mails we saw were on a Sunday,
3 February 28th. Do you recall that beginning
4 the following week you began to make a
5 series of calls to county executives
6 regarding the allegations against the
7 Governor?

8 A. I don't -- I don't recall the
9 day or dates that I made a number of calls,
10 so.

11 Q. Any reason to dispute that they
12 began the week of March 1st, 2021?

13 A. I just don't recall the date.
14 I'm not disputing I made the calls. I just
15 don't recall the exact date of when I made
16 the call.

17 Q. And just trying put some
18 parameters on it --

19 A. Yes.

20 Q. -- do you recall, generally
21 recall, that it was early March that the
22 calls were made?

23 A. I recall it was sometime in
24 March, yes, I -- you know.

25 Q. And does the first week in

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2 March, does that ring a bell or not?

3 A. I don't -- again, I'm not trying
4 to be difficult, I just don't recall if it
5 was the first week or the second week in
6 March, you know, you know.

7 Q. Okay. All right. Now, and just
8 so we're on the same page, these were calls
9 to various county executives where one of
10 the topics was the sexual harassment
11 allegations against the Governor? Are we on
12 the same page there?

13 A. No.

14 Q. Why don't you tell me why we're
15 not on the same page there?

16 A. I wouldn't characterize my phone
17 calls the way you just characterized it.

18 Q. Why don't you characterize the
19 phone calls we're referring to?

20 MR. PETRILLO: Summarize,
21 summarize them.

22 A. The calls I made, my
23 recollection was when I called them, I said
24 I wasn't calling you about vaccines, I was
25 just asking your -- the public position that

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2 you've taken where you've called for an
3 independent investigation regarding the
4 allegations being made against the Governor
5 on sexual harassment, and that you were
6 going to wait for the findings of that
7 independent investigation, is that still
8 your position. That was the conversation.

9 Q. All right, so we will unpack
10 that a bit. Can you tell me what led up to
11 the decision for you to make those calls to
12 the county executives you wound up calling?

13 A. I was asked by the secretary to
14 the Governor, Melissa DeRosa, if I would
15 make those phone calls.

16 Q. Approximately when did she ask
17 you to make those phone calls?

18 A. Again, I don't recall the
19 specific date, but I -- I got a call around
20 10:30 at night, whatever the date was,
21 asking me if I would make calls to certain
22 county executives, and I began making those
23 calls. Some people I reached that evening
24 and some people I left voice messages and
25 spoke to the next day.

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2 Q. Do you remember -- you mentioned
3 the call from Ms. DeRosa was at 10:30 at
4 night. Do you recall what day of the week
5 that was?

6 A. No. I would have to go back and
7 look. I don't recall the exact day. I just
8 recall it was around 10:30 at night. It was
9 late.

10 Q. Could you describe what else you
11 recall about the conversation with
12 Ms. DeRosa when she asked you to reach out
13 to county executives?

14 A. I was on the phone with other
15 people. She had asked other people on the
16 call to call people in the congressional
17 delegation, people in the State legislature,
18 and she asked me if I would call certain
19 county executives and just see if -- where
20 they stood, if their position had changed,
21 if their public position changed.

22 Q. Who else was on the call besides
23 yourself and Mr. DeRosa?

24 A. I believe [REDACTED] [REDACTED] from the
25 Washington, D.C. office was on the call, I

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2 think [REDACTED] [REDACTED] from the Governor's
3 office was on the call. I don't recall who
4 else may or may not have been on the call.

5 Q. What else do you recall from
6 that conference call?

7 A. It was a short call. It was,
8 you know, could you make the calls. I
9 said -- I may have said -- I don't recall, I
10 may have said you need me to do it tonight,
11 and she may have said yes, and then I said
12 then let me get off the phone, because it's
13 late. And so it was a brief call, other
14 than asking to make those calls to see where
15 people were.

16 Q. You mentioned Ms. DeRosa called
17 you. Do you recall whether she called you
18 on your cell phone?

19 A. I spoke to her on my cell phone,
20 yes.

21 Q. And when Ms. DeRosa -- well, let
22 me ask. How did the call get set up; did
23 Ms. DeRosa call you, did you call her, was
24 there a conference line, do you recall?

25 A. I don't recall. It may have

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2 been call into a number, you know, they may
3 have hooked me into a call. I don't recall,
4 but I spoke to her on my cell phone.

5 Q. And was there discussion about
6 why you were going to be the one to reach
7 out to county executives with this request?

8 A. No, I don't recall any
9 discussion about that, other than the fact
10 that she asked me.

11 Q. And was Ms. DeRosa -- let me
12 back up. You said the two people that you
13 reported your activities to, I believe you
14 said, principally were the Governor and
15 Ms. DeRosa with respect to your COVID
16 responsibilities; do you recall that?

17 A. I would keep them informed,
18 right, of what I was doing, working on,
19 yeah. Yes.

20 Q. As part of keeping them informed
21 on what you were working on, the Governor
22 and Ms. DeRosa that is, did you have
23 conversations with Ms. DeRosa prior to this
24 phone call we're discussing where you told
25 her about your interactions with county

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2 executives related to COVID?

3 A. I'm sorry, I just want to
4 clarify. You're asking me did I speak to
5 her prior to that 10:30 p.m. phone call?

6 Q. Correct.

7 A. I hardly had any interaction
8 with Melissa on -- when I was working on --
9 you know, and again, it was if I thought she
10 needed to be aware of something, I would
11 bring it to her attention because she's
12 secretary to the Governor. We had very
13 little interaction and communications while
14 I was working on vaccines.

15 Q. Did there come a time at any
16 point when you brought to her attention,
17 either explicitly or as part of your
18 conversation with her, that you were working
19 with county executives on vaccine-related
20 issues?

21 A. Not from me, per se. I mean,
22 she was aware that counties were -- health
23 departments were one of many providers, so
24 she was aware that county health departments
25 were involved in vaccines right along with

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2 pharmacies and hospitals and FQHCs. I mean,
3 she was aware of that, you know, on a macro
4 basis.

5 Q. What I'm trying to get at, to
6 your knowledge, was she aware that you were
7 having phone calls, texts, e-mails with
8 county executives around this time frame
9 before she asked you to be the one to reach
10 out to the county executives on this phone
11 call we're discussing?

12 A. I don't recall that she was
13 aware about specific text messages or phone
14 calls or e-mails between me and county
15 executives.

16 Q. Okay. Do you recall whether she
17 was aware, to your knowledge, that generally
18 you were in communication with county
19 executives around this time surrounding
20 vaccine-related issues?

21 A. I would say I'm sure she was
22 aware when we did this big webinar that
23 included county governments, right. I'm
24 sure she was aware I was talking to counties
25 when I was participating in a press

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2 conference with the Governor. She may have
3 even been participating, I don't recall.
4 But we had all the county executives on, and
5 I'm sure that if I was in a strategy meeting
6 with the Governor and her and others,
7 talking about answering questions about a
8 program in general and communicating, like,
9 something like the counties want to be able
10 to vaccinate 65 plus, they want permission
11 to do it, she would have been aware of
12 something like that. But on a day-to-day
13 basis what they were asking, what was going
14 on, no.

15 Q. The weekly phone calls, Monday
16 3:00 p.m. calls, did Melissa DeRosa ever
17 participate in any of those that you recall?

18 A. Not that I recall, no.

19 Q. Did the Governor ever
20 participate in those Monday 3:00 p.m. calls?

21 A. Not that I recall, no.

22 Q. All right. Did Ms. DeRosa on
23 this 10:30 p.m. call, I'll refer to it as,
24 tell you or indicate to you that she had
25 been in communication with the Governor

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2 about you reaching out to county executives?

3 A. I don't recall her ever
4 mentioning the Governor's name.

5 Q. Do you know whether the Governor
6 was aware that you would be placing these
7 calls to the county executives about their
8 position on the investigation before you
9 placed the phone calls?

10 A. I'm sorry, could you repeat the
11 question again?

12 Q. Sure.

13 What I'm trying to distinguish
14 for the moment is: You're aware that
15 eventually there were press reports about
16 the calls we're discussing between you and
17 the county executives, correct?

18 A. Yes.

19 Q. So what I'm trying to figure out
20 is before, starting with before you placed
21 the calls to the county executives and
22 before they were public, do you know whether
23 the Governor was aware that you would be
24 placing these calls to the county executives
25 about their position on the investigation

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2 and allegations?

3 A. I don't recall, you know, again,
4 whether the Governor was aware or not and I
5 don't recall his name ever being brought up
6 or mentioned. She asked me if I could make
7 the calls and I got off the phone and I made
8 the calls.

9 Q. And then do you know whether
10 after you made the calls, the Governor was
11 made aware that you had called the county
12 executive?

13 A. No. I called Melissa back after
14 I made all the calls and had spoken to the
15 county executives. I just told them what
16 they all said and that was the end of the
17 conversation.

18 Q. Did you have a similar
19 conversation with the Governor at any point?

20 A. I don't recall ever speaking to
21 Governor about my phone calls to the county
22 executives.

23 Q. You mentioned Ms. DeRosa, and if
24 you remind me, it was [REDACTED] [REDACTED], is
25 that his name?

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2 A. No. I recall, I believe, that
3 ██████████ ██████████ was on there, I recall or
4 believe that ██████████, ██████████ ██████████ was
5 on the call. I don't recall who else may
6 have been on the call.

7 Q. Besides Ms. DeRosa, ██████████ ██████████
8 and -- is it ██████████ ██████████?

9 A. ██████████, yes.

10 Q. Besides the three of them, any
11 other conversations with members of the
12 Governor's staff about your calls to the
13 county executives that we're discussing?

14 A. I don't recall talking to anyone
15 about my calls other than Melissa.

16 Q. All right. So why don't we go
17 to the calls themselves. How did you choose
18 who to call first?

19 A. I was asked to call the
20 Democratic county elected executives.

21 Q. Did you choose any particular
22 order?

23 A. I don't recall choosing an
24 order. I just went through the list.

25 Q. How did you decide what to say

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2 on the calls?

3 A. I don't recall, you know,
4 thinking about how -- what -- how I was
5 going to say things. I just -- I made sure,
6 and my recollection is when I got on the
7 phone, I said I'm not calling you about
8 vaccines, I'm calling to find out -- I'm
9 calling because you've taken a public
10 position calling for an independent
11 investigation by the Attorney General's
12 office and you're going to wait for the
13 outcome of that investigation; is that still
14 your position. And they answered the
15 question and I said it's late, thank you
16 very much, and that was the end of the
17 conversation.

18 Q. And you said your recollection
19 was that when you got on the phone you said
20 I'm not calling you about vaccines?

21 A. Right.

22 Q. Was that something that you came
23 up with on your own to say or was that
24 something you had discussed previously with
25 Ms. DeRosa?

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2 A. I don't recall discussing what I
3 was going to say or how I was going to say
4 it with Melissa or anyone else. That was my
5 decision on how I was going -- on what I
6 said.

7 Q. What was -- if you could go back
8 to the conversation with Ms. DeRosa, what
9 was the particular -- you may have covered
10 this and I apologize -- what was the
11 particular request that she wanted you to
12 convey or conversation she wanted you to
13 have with county executives?

14 A. You know, my recollection was
15 she just wanted to know what their positions
16 were. I don't recall the timing of when,
17 you know, some elected officials may have
18 called on the Governor to resign. I don't
19 recall the timing of that. She just wanted
20 to know what their positions were.

21 Q. Why did you decide that you
22 wanted to open the calls with this is not
23 about vaccines?

24 A. Because I wasn't calling about
25 vaccines and because, you know, generally

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2 all my conversations with them were about
3 vaccines and I want to make it clear
4 up front I wasn't calling about vaccines, I
5 wasn't calling them to discuss vaccines, I
6 was calling them to discuss their public
7 position that they had taken previously to
8 my phone call.

9 Q. To your recollection, did you
10 make the statement that the call was not
11 about vaccines on some or all of the calls
12 to the county executives?

13 A. My recollection is I framed it
14 that way on all my calls.

15 Q. Now, let me ask you, on any of
16 the calls did the topic of vaccines come up
17 during the course of the calls?

18 A. I don't recall it coming up. If
19 it did come up, it didn't come up from me.
20 It may have -- I can't -- but I don't recall
21 it ever coming up. The calls were very
22 brief. That's my recollection.

23 Q. Was there any discussion with
24 Ms. DeRosa or anyone else whether it would
25 be appropriate for you to be the one to make

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2 these calls to the county executives, given
3 your role with respect to vaccine
4 distribution?

5 A. I don't recall there being any
6 discussion about whether it was appropriate
7 or inappropriate.

8 Q. Why don't we go through the
9 county executives and you can tell me what
10 you can recall about the conversations we're
11 referring to.

12 So Mark Poloncarz, or Poloncarz,
13 what do you recall about your phone call
14 with him on this topic?

15 A. Again, what I recall is what I
16 already have previously mentioned, again,
17 whether I spoke him that night or he called
18 me back the following day, I don't remember
19 who I reached that evening or spoke to the
20 following day. I said, you know, again, I'm
21 not calling you about vaccines, I was just
22 looking to see, you took a public position
23 calling for an independent investigation
24 before you make any decisions regarding the
25 sexual harassment allegation, is that still

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2 your position, yes, thank you very much,
3 sorry to bother you, have a good day.

4 Q. How about your conversation with
5 Steve Bellone?

6 A. Same. My recollection is I had
7 the same conversation with each of the
8 county executives I called.

9 Q. I will just go through them.
10 You had the same exact conversation with
11 Jason Garnar?

12 A. Yes, Broome County executive;
13 yes, that's my recollection.

14 Q. And the same exact conversation
15 with Laura Curran?

16 A. That is my recollection, yes.

17 Q. The same exact conversation with
18 County Executive Adam Bello?

19 A. That is my recollection, yes.
20 You said Bello, correct?

21 Q. Yes.

22 A. Okay.

23 Q. And the same exact conversation
24 with County Executive Pat Ryan?

25 A. That is my recollection,

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2 correct.

3 Q. All right. And it's your
4 testimony you had the same exact
5 conversation with County Executive Latimer?

6 A. My recollection is I had
7 basically the same conversations with all
8 the county executives I called.

9 Q. And did all of them, to your
10 recollection, say that they were maintaining
11 their position with respect to the
12 allegations and the AG's investigation?

13 A. I don't want to put words in
14 anybody's mouth. My recollection is that
15 their public position had not changed.

16 Q. That's your recollection for
17 each of them?

18 A. That their public position had
19 not changed.

20 Q. Now, do you recall for any of
21 the county executives, and just so we are
22 clear, it was seven Democratic county
23 executives that you called on this topic?

24 A. I don't recall the exact number,
25 but I believe so, yes.

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2 Q. Do you recall for any of them
3 having more than one call with them to check
4 in on their public position considering --
5 considering the allegations against the
6 Governor and the investigation?

7 A. My recollection is I spoke to
8 all of them twice.

9 Q. Do you recall conveying to any
10 of the county executives that you hoped they
11 would continue to hold their public
12 positions in terms of the investigation?

13 A. Could you be more specific in
14 terms of --

15 Q. Sure. Sure, I'll be more
16 specific.

17 The way you described the
18 conversations, I believe you were asking
19 them if they were going to maintain their
20 public position. Do you recall that
21 testimony?

22 A. Yes.

23 Q. So my question is in any of the
24 phone calls, do you recall not only asking
25 the county executive whether they would

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2 maintain their position, but expressing that
3 you hoped that they would continue to hold
4 their position with respect to the
5 allegations against the Governor and the
6 investigation?

7 A. Are you asking me for both of
8 the phone calls?

9 Q. Yes, at any time.

10 A. I don't recall ever asking them
11 that.

12 Q. Just to be clear, there are two
13 calls each, to your recollection, for each
14 county executive. When you were describing
15 your recollection for each of the phone
16 calls earlier, was that for the first phone
17 call to each county executive, the second
18 phone call to each county executive or both?

19 A. My description of that -- of the
20 phone call was the first phone call.

21 Q. Okay.

22 A. My recollection of the second
23 phone call was I apologized for calling them
24 again and just asking them if their public
25 position calling for the independent

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2 investigation was still the same or had
3 changed since my previous phone call.

4 Q. How far apart were the two phone
5 calls?

6 A. To the best of my recollection,
7 I think it was close to two weeks, maybe
8 just short of two weeks. Somewhere within
9 the two-week time frame.

10 Q. In between the two phone calls,
11 had you had a conversation again with
12 Melissa DeRosa?

13 A. I spoke to Melissa after I
14 reached all the county executives on the
15 first phone calls and I spoke to Melissa
16 DeRosa again right after I spoke to all the
17 county executives on the second phone call.

18 Q. So why don't you describe the
19 conversation you had with Ms. DeRosa after
20 the first phone call to the county
21 executives?

22 A. My recollection -- to the best
23 of my recollection, was I just told her I
24 had spoken to everybody and the -- the
25 public position that they took, it was still

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2 their position and nothing has changed and
3 that was the end of the conversation.

4 Q. And did she ask you to place
5 follow-up calls to the county executives,
6 Ms. DeRosa, during that phone call or in a
7 subsequent conversation?

8 A. She did not. She just said
9 thank you on that phone call. She asked me
10 a week and a half, two weeks later again if
11 I would call them again and just check in
12 with them and just see again whether or not
13 their position was the same or it changed.

14 Q. Was that the reason why you
15 placed the second round of phone calls to
16 the county executive?

17 A. Yes, it was.

18 Q. What do you recall about that
19 phone call with Ms. DeRosa where she asked
20 you to place the second round of calls?

21 A. My recollection it was a very
22 brief call. She said, Larry, would you mind
23 calling them again and checking in with them
24 and see if their public position was the
25 same or different.

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2 Q. Was this still March 2021?

3 A. Yes.

4 Q. And what was -- what do you
5 recall about the response from the county
6 executives during the second round of calls?

7 A. Again, the calls were short and
8 brief and they were friendly. It was no --
9 and they answered it and that was the end of
10 it and I said thank you very much, and, you
11 know, that was the end of the call.

12 Q. You said in the first round of
13 calls, your recollection is that all -- you
14 know, each of the county executives said
15 that they were going to maintain their then
16 current public position; do you recall that?

17 A. My recollection is every one of
18 them had a public position saying they
19 wanted to see an independent investigation
20 done and they were going to withhold
21 judgment until the findings of that
22 investigation were concluded, you know, came
23 out, and that's -- and I was asking them
24 whether or not that public position was
25 still their position.

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2 Q. Did any -- on the second round
3 of phone calls, did any of the county
4 executives indicate that they were
5 considering changing their position?

6 A. To the best of my recollection,
7 everyone said their position was the same.
8 No one indicated to me they were considering
9 changing their position.

10 Q. Again, just to be clear, during
11 the second phone call to the county
12 executives, do you recall at any time
13 requesting that the county executives not
14 change their position?

15 A. I don't recall ever saying that
16 to any county executive.

17 Q. I think you said after these
18 phone calls you then had another call with
19 Melissa DeRosa, the second round of calls;
20 is that right?

21 A. I just called her back after I
22 spoke to all the county executives and said
23 their public positions -- they're still
24 holding to their public position.

25 Q. Now, you said you didn't have

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2 any discussions with anyone, including
3 Ms. DeRosa, about whether it was appropriate
4 given your position on vaccine, to be the
5 one to call the county executives. Did you
6 consider that issue at all before placing
7 either the first phone calls or the second
8 set of phone calls?

9 A. As I mentioned earlier to you, I
10 got a call late at night asking me to do
11 this. I'd been working seven days, long
12 hours, I was tired, I got asked to do it. I
13 didn't think it through or think about it.
14 I just said I would do it, and that's what
15 happened.

16 Q. Looking back on it now,
17 understanding that at the time you got a
18 call late at night and started to do it, but
19 looking back on it now, do you understand
20 why someone who received such a call might
21 feel intimidated, given your position with
22 respect to vaccines and distributions?

23 A. I would say my recollection is
24 on all the calls I made, both the first call
25 and the second call, no one said to me that

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2 they felt intimidated by my -- or
3 uncomfortable with my making the call or
4 having the conversation with them.

5 Q. But understood you don't recall
6 anyone saying that to you, but my question
7 is looking back now, do you understand why
8 someone who received that call would feel
9 that way?

10 A. Look, I understand the optics,
11 and maybe if I wasn't so tired and I had a
12 chance to think about it, I would have said
13 maybe it would have been better for someone
14 else to make the calls, but my recollection
15 is that no one felt uncomfortable or
16 intimidated over the fact that I made the
17 calls and I asked the question the way I
18 asked it.

19 Q. Just to be clear, your
20 recollection is no one told you they felt
21 uncomfortable or intimidated, correct?

22 A. Correct.

23 Q. Now, you said that you thought
24 one of the reasons you made the calls is
25 that it was late at night and you were

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2 tired; you're referring to the first round
3 of calls, correct?

4 A. Yes.

5 Q. When -- do you recall what time
6 of day Ms. DeRosa called you before you made
7 the second round of calls?

8 A. I do not recall the time of day
9 when she asked me to make the second
10 calls -- second round of calls.

11 Q. Okay. But you testified it was
12 about a week or two later that --

13 A. I think it was more than a week.
14 Maybe less than two weeks, but more than a
15 week.

16 Q. Okay.

17 A. I don't remember the -- exactly.
18 I said within the two weeks, but I think it
19 was -- you know, I may have made the first
20 call around February 28th, I don't recall
21 exactly the date, and the second call was
22 around March 12th, I don't recall exactly
23 the date. So it was within a -- that's why
24 I said within like two weeks, probably
25 closer to two weeks.

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2 Q. Okay. But at this point, for
3 the second round you had about two weeks
4 after Ms. DeRosa had made the request, and
5 you had made the first round of calls, so
6 having had the time to think during that
7 period, why then did you still go ahead and
8 make the second round of calls?

9 A. I guess because I had already
10 made the first call, I just said, okay, you
11 know, I'll just do it again. And the
12 call -- my recollection is, I apologized for
13 calling and bothering you again and asking
14 him -- the call was brief and nobody sounded
15 or appeared uncomfortable to me while on the
16 quick call I had with each of the county
17 executives.

18 Q. Just to clarify, on those second
19 round of calls, did you also say during the
20 calls this is not about vaccines?

21 A. My recollection is I apologize
22 for calling you a second time, I'm just
23 calling again and just checking if your
24 public position is still the same or if it
25 has changed since the last time I spoke to

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2 you.

3 Q. But you don't recall making that
4 same statement you described earlier about
5 this is not about vaccines?

6 A. I don't recall bringing it up
7 and I also don't recall ever having a
8 conversation or I bringing up vaccines at
9 all, so.

10 Q. You -- sorry, go ahead.

11 A. And everybody answered me on the
12 second call the same way they answered me on
13 the first call.

14 Q. So you said you don't recall you
15 bringing up the topic of vaccines during any
16 of these calls. Do you recall whether any
17 of the county executives brought up vaccines
18 during these two rounds of calls?

19 A. I don't recall anyone bringing
20 up vaccines on the calls. The calls were
21 very short, brief, quick.

22 Q. Do you recall during the same
23 time frame there was a recall or a pause
24 with respect to Johnson & Johnson vaccines?

25 A. What I recall is there was a

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2 problem with the Baltimore factory where
3 Johnson & Johnson was being produced and it
4 was a result of a quality issue. The
5 vaccines, 15 million doses were
6 contaminated, and there was a national pause
7 of allocating Johnson & Johnson, or the
8 allocations from what they were originally
9 projected to be were at a miniscule amount,
10 because of the fact that 15 million doses
11 were contaminated, and they also had to come
12 up with new protocols and procedures to
13 avoid having the recurrence of whatever
14 caused the problem in the first place.

15 Q. And when that issue happened at
16 the Baltimore factory, do you recall that
17 having an impact on vaccine supply in the
18 State of New York?

19 A. Not really. First of all, we
20 were getting weekly increases in Pfizer and
21 Moderna from the federal government and we
22 were just -- we were at the beginning of
23 getting Johnson & Johnson. We had gotten a
24 one-week allocation. Our first allocation
25 was for a two-week period, right, and then

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2 within that two-week period that's when the
3 Baltimore problem occurred. And it was a
4 lot -- there was a certain amount of
5 skepticism and questions over the -- over
6 the effectiveness of Johnson & Johnson
7 versus Pfizer, Moderna. We weren't sure how
8 the public was going to react to a one-shot
9 dose versus a two-shot regimen. So, you
10 know, it wasn't like Johnson & Johnson
11 allocation was going on for four, five, six
12 weeks and then all of a sudden it got shut
13 down. We got a one, two-week supply and
14 then the problem happened, and then I think
15 we would get like 10,000 doses a week for
16 the next two, three weeks, which is
17 literally nothing, so, but in the meantime
18 we were getting increased allocations in
19 Pfizer and Moderna.

20 Q. So my question is: Do you
21 recall during either the first round of
22 calls with the county executives or the
23 second round of calls with the county
24 executives discussing with some of them or
25 any of them, I should say, the issue around

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2 Johnson & Johnson, the vaccines and how that
3 might affect vaccine distributions to the
4 county?

5 A. I don't recall having any
6 discussions about vaccines with any of the
7 county executives, so I don't recall that.

8 Q. Let me get back to the second
9 round. You said that the first round of
10 calls you didn't think about it, about the
11 appropriateness because it was late at
12 night, you were tired, so you just placed
13 calls and then a week or two later, you
14 placed a second round of calls and you said
15 because you had already done the first
16 round. In that intervening time, did you
17 have any discussion at that point with
18 anyone about whether it was appropriate for
19 you to be the one to be reaching out to
20 county executives given your role on
21 vaccines?

22 A. I don't recall having a
23 conversation about my calls with anyone
24 during.

25 Q. Do you recall considering during

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2 that period whether that in-between period,
3 round one and round two, whether it was
4 appropriate for you to have made those calls
5 to the county executives?

6 A. To my -- to the best of my
7 recollection, I really didn't think about
8 the calls. I was so busy with getting
9 vaccines out and getting people vaccinated,
10 that my -- I had a singular focus and that
11 was getting people of the State of New York
12 vaccinated and trying to make sure that we
13 had -- we were addressing the homebound
14 population and making sure that they got
15 vaccinated, the disabled community, people
16 living in psych centers and in residential
17 facilities, getting -- making sure that
18 there was equity access in our minority
19 communities. This was a complex challenge
20 and my focus was on how to address each one
21 of the challenges so that everyone had equal
22 access and opportunity to get vaccinated and
23 not get COVID.

24 Q. You're clearly working very hard
25 on these very important issues that you just

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2 went through. Why do you think Melissa
3 DeRosa asked you to take time out of your
4 day to call the county executives about
5 their position on the investigations and
6 allegations?

7 A. Are you asking me about the
8 second call?

9 Q. I'm asking you about the --
10 let's start with the first call. Everyone
11 knows you're working on these hugely
12 important issues and you're working 12- to
13 16-hour days as you said. Why to your mind
14 were you asked to place these calls that you
15 said were unrelated to the vaccines to the
16 county executives?

17 A. I don't recall or I'm not aware
18 of what her intention was. I've been in
19 politics, in government for over 30 years.
20 I know a good number of people who -- of
21 elected officials here in the State of New
22 York. You literally could have asked me to
23 call anybody. Those were the calls she
24 asked me to make and those were the calls I
25 made.

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2 Q. There were at least some of the
3 county executives that you had no prior
4 relationship with other than in the context
5 of your COVID responsibilities, correct?

6 A. I had -- some I had a long-term
7 relationship with or a longer term and some,
8 obviously, I had less.

9 Q. And some of the county officials
10 that you had less of a relationship with, it
11 was limited to your role with respect to
12 COVID responsibilities; is that fair?

13 A. To the best of my recollection,
14 some might have been only involved since I
15 was involved with COVID back in March of
16 2020, yes.

17 MR. MUKHI: Why don't we take --
18 do you want to take a ten-minute
19 break? Go off the record.

20 THE VIDEOGRAPHER: This will end
21 media unit four. Going off the record
22 at 3:57, June 17, 2021.

23 (Recess.)

24 THE VIDEOGRAPHER: We are back
25 on the record. The time is 4:12, June

1 Schwartz - Confidential

2 17, 2021. This will begin media unit
3 five.

4 Q. Mr. Schwartz, just a few more
5 questions about the phone calls to the
6 county executives we were discussing before
7 the break.

8 So you said that during the two
9 rounds of calls no county executive
10 expressed to you on the call that they felt
11 intimidated or uncomfortable during the
12 call. Do you recall that testimony?

13 A. Yes, I -- my recollection is I
14 tried to make these calls as comfortable,
15 you know, low-key, and I didn't get the
16 sense on any of my calls that anyone was
17 uncomfortable in talking to me.

18 Q. Just in your general experience,
19 do people who feel uncomfortable necessarily
20 say it to the person who is making them feel
21 uncomfortable?

22 A. My recollection is in the past,
23 I can't say for every single time, but
24 people haven't been shy about saying I don't
25 want to talk to you about something or I

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2 don't think it's appropriate for us to talk
3 about this, so I've had experiences where
4 people didn't want to talk to me about
5 something and expressed it, and, you know, I
6 let it go, so.

7 Q. I take it in your experience
8 there are other circumstances where someone
9 might feel uncomfortable or intimidated and
10 they don't say it out loud in the moment to
11 the person who is making them feel that way;
12 is that fair?

13 A. Look, in hindsight, if I could
14 do it over again, I would have avoided
15 making those calls because I think it
16 presented an optics problem considering what
17 I was working on, but I made every effort
18 humanly possible to make sure nobody was
19 uncomfortable when I did make those calls.

20 Q. So you referenced trying to be
21 low-key on the calls. Do you recall that
22 testimony?

23 A. I recall just saying I tried to
24 keep things low-key in terms of my tone and
25 the conversation. That's what I meant by

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2 "low-key." I was just trying to be very
3 easygoing and make -- and had created a
4 comfortable tone.

5 Q. And why were you -- why were you
6 making an effort to be low-key?

7 A. You know, because I didn't want
8 people to be uncomfortable based on what I
9 was asking them, right, so I just was -- I
10 would try to make it -- as a matter of fact,
11 I was just -- again, I was just asking them
12 about a position. It was more fact-finding
13 than it was anything else. I just tried to
14 ask them about a public position they took,
15 they had already taken. It was in the
16 public realm, and whether or not that public
17 position was still their position. That's
18 so, it was that simple.

19 Q. And so is it fair to say that
20 you thought there was a risk that people
21 would feel uncomfortable based on what you
22 were asking them and that's why you tried to
23 take a matter-of-fact approach, as you just
24 said?

25 A. No, I don't believe that. I was

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2 just trying to make sure people didn't feel
3 uncomfortable and doing it in as much of a
4 relaxed setting as I could. That's all.

5 Q. Now, you said if could do it
6 again -- I'm just trying to find it -- you
7 would have avoided making those calls
8 because it presented an optics problem.
9 What did you mean by an "optics problem"?

10 A. Again, it's the appearance. I
11 mean, because I was working, involved in
12 overseeing the vaccine program, that someone
13 could draw a conclusion that was inaccurate,
14 and I just think for optics reasons, it
15 would have been better and smarter if I had
16 not made those calls.

17 Q. Now, do you recall that at a
18 certain point the calls started to be
19 publicly reported on in The Washington Post?

20 A. Yes, I've seen -- there were
21 press stories about the phone calls that I
22 had made, yes.

23 Q. And did you have any
24 conversations with Ms. DeRosa about your
25 calls to the county executives after the

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2 press stories came out?

3 A. My recollection is I spoke to
4 the press office when I started getting
5 press inquiries about the calls. I asked
6 them how they were going to handle it or if
7 they were going to handle it. At some point
8 when I didn't get a response, I told them
9 I'll handle it -- I was going to handle it
10 myself.

11 Q. And so any calls that you -- you
12 talked about a call to the press office.
13 Any calls with Ms. DeRosa after the press
14 reports came out?

15 A. I don't recall having any calls,
16 any conversations with Melissa DeRosa after
17 I started getting press inquiries.

18 Q. And how about any conversations
19 with anyone else at the Executive Chamber
20 after you started getting press inquiries?

21 A. Other than contacting the press
22 office, I don't recall discussing it with
23 anyone else in the Chamber.

24 Q. Who was it in the press office
25 that you reached out to?

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2 A. I believe I reached out to Peter
3 Ajemian at the time, who was the Governor's
4 communications director. Rich Azzopardi may
5 have also been; I don't recall, I'm not
6 positive, if he was senior advisor to the
7 Governor, just to contact someone.

8 Q. I'm sorry, you reached out to
9 Rich?

10 A. I may have done it by e-mail or
11 phone. I don't recall how I did this and if
12 it was both of them, but I think I
13 definitely reached out to Peter, that's my
14 recollection.

15 Q. And Peter informed you that the
16 Governor's press office would not be
17 responding to the inquiries?

18 A. No, I didn't say that. My
19 recollection is I wasn't -- I didn't get a
20 response, period.

21 Q. Okay.

22 A. And the press was going to write
23 a story and I just said I'm going to take --
24 I'm going to handle it myself.

25 Q. And what did you do to handle it

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2 yourself?

3 A. I wrote and put out a public
4 statement that I gave to the press who --
5 who inquired, who contacted me.

6 Q. Anything else?

7 A. No. I mean, I spoke to the
8 reporters and I said here is my
9 on-the-record comment, I'll send it to you.

10 Q. Did you run that statement by
11 anyone at the Executive Chamber that you
12 sent to reporters?

13 A. To my recollection, I didn't
14 speak to anyone regarding my public
15 statement to anyone in the Chamber.

16 Q. And why didn't you reach out to
17 Ms. DeRosa, given she's the one who asked
18 you to make these calls?

19 A. Because, you know, the protocol
20 is when you get contacted by a reporter to
21 notify the press office. That's the proper
22 protocol.

23 Q. Okay, you said you didn't speak
24 to anyone about your public statement. Did
25 you e-mail or text the statement to anyone

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2 in the Chamber before -- before you
3 circulated your statement?

4 A. I don't recall either speaking
5 to anyone about it or sharing it with anyone
6 in the Chamber.

7 Q. How about since that initial set
8 of press reports, have you communicated with
9 anyone at the Executive Chamber concerning
10 this subject, your calls to the county
11 executives?

12 MR. PETRILLO: Do you understand
13 that?

14 THE WITNESS: No.

15 Q. Do you need me to clarify?

16 A. Yes.

17 Q. When there were these initial
18 press reports about your call to the county
19 executive, executives, I understand you
20 reached out to the press office, they didn't
21 give you a response, and you didn't speak to
22 anyone else at the Executive Chamber about
23 the press inquiries.

24 My question is: Since that
25 time, have you spoken to anyone at the

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2 Executive Chamber about your calls to the
3 county executives?

4 A. I don't recall if I've had any
5 conversation since all -- with anyone in the
6 Chamber since all the press stories came
7 out.

8 Q. Any texts or e-mails that you
9 recall?

10 A. You know, I don't recall. I
11 think early on people may have thought I was
12 annoyed because there was silence coming out
13 of the Executive Chamber and I wasn't
14 getting a response if they were going to
15 handle it or not, but short of that, I
16 don't -- and I don't recall, but other than
17 that, I just dealt with it on my own.

18 Q. All right, one follow-up to your
19 conversations, your two conversations with
20 Melissa DeRosa where she requested that you
21 make the respective round of calls for the
22 first round and for the second. Did you
23 understand Ms. DeRosa's request to reach out
24 to the county executives to be coming from
25 the Governor?

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2 A. I don't recall her ever
3 mentioning the Governor or the Governor's
4 name ever coming up.

5 Q. But did you have an
6 understanding that she was making this
7 request on behalf of the Governor?

8 A. She spoke to me and asked me if
9 I would make the calls, that is my
10 recollection, and I made the phone calls.

11 Q. In your experience, is this
12 something that Ms. DeRosa would ask you to
13 do without consulting the Governor?

14 A. You know, she's the secretary to
15 the Governor, so one can make the
16 assumption -- or could make an assumption
17 that she may have had a conversation with
18 the Governor, that she spoke to me, and that
19 I had spoken to his county executives. But
20 my recollection is it was -- she -- she
21 never raised the Governor's name, she never
22 told me that the Governor asked her to ask
23 me, she never told me that she spoke to the
24 Governor after I made the calls. So, you
25 know, I don't know that for a fact. You can

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2 make an assumption that she may have had a
3 conversation with him considering she's
4 secretary to Governor, but...

5 Q. When was the last time you
6 communicated with Ms. DeRosa?

7 A. She sent me a text last night
8 telling me that she was having dinner with
9 some labor leaders or at a dinner with some
10 labor leaders and one of the labor leaders
11 was singing my praises for the work I did on
12 vaccines and that was it. And she wished me
13 a happy birthday on my birthday on

14 ██████████ And when I resigned, I sent my
15 resignation to her, because she's secretary
16 to the Governor, and she said, the State of
17 New York is indebted to you, thank you.

18 Q. Did Ms. DeRosa know you were
19 testifying today, to your knowledge?

20 A. To my recollection, I've not
21 discussed my testifying today with anyone in
22 the Chamber, other than I mentioned earlier
23 that I -- what I told you.

24 Q. Whether or not you discussed it
25 with her, do you know one way or the other

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2 if she was aware you were testifying today?

3 A. I don't recall ever having a
4 conversation with her. I don't know what
5 she knows, but not because I had a
6 conversation with her.

7 Q. When was the last time you
8 communicated with the Governor?

9 A. About a week ago.

10 Q. What was -- just generally, what
11 was the subject matter of that
12 communication?

13 A. I told him there was a major
14 blood shortage in the State of New York, he
15 might want to bring it to the public's
16 attention to give blood because, you know,
17 surgery or operations could be canceled and
18 postponed because of the shortage of blood
19 in the State of New York and he may want to
20 think about doing that. That was my last
21 communication with him.

22 Q. Did he -- to your knowledge,
23 again, just based on what you know, was he
24 aware that you were testifying this week?

25 A. Again, I've -- to my

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2 recollection, I've never discussed this with
3 him and to the best of my knowledge nobody
4 knows that I'm here today testifying, except
5 my wife and my attorney and the fact that
6 I -- I never gave back the specific date, I
7 just said next week or whatever I -- you
8 know, I never gave a date and time, just --

9 Q. Okay. How did you -- was it a
10 phone call with Governor or e-mail or text?

11 A. On the blood shortage thing?

12 Q. Yes.

13 A. It was a text message.

14 Q. And was it from his personal
15 cell phone or State cell phone or do you not
16 know?

17 MR. PETRILLO: You sent him the
18 text.

19 A. I sent him the text message.

20 Q. I see. Did you get a response?

21 A. He said, Good idea, thanks.

22 Q. What number did you send it to?

23 A. You know, whatever number works
24 for text messages. I don't know if it's his
25 cell phone.

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2 Q. Do you know, is it a [REDACTED] number
3 or some other area code?

4 A. It's either [REDACTED] or [REDACTED], I'm not
5 positive. I mean, I can provide it. I
6 don't know it off the top of my head.

7 Q. All right, so just a few more
8 questions.

9 I want to turn to policies and
10 procedures while you were at the Executive
11 Chamber focusing 2009 through 2015, your
12 first stint.

13 Did you receive training on
14 sexual harassment when you were employed by
15 the Executive Chamber?

16 A. It was a long time ago. I
17 don't -- I don't recall. I'm sure if that
18 was part of the requirement or procedure,
19 like ethics training, then I received it and
20 went through it.

21 Q. Do you recall generally whether
22 it was online or in-person training for
23 sexual harassment?

24 A. I don't remember which one it
25 was, you know.

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2 Q. Do you recall whether everyone
3 in the Executive Chamber was required to
4 receive that training on sexual harassment?

5 A. I mean -- if everyone was
6 required, then it was expected that everyone
7 take it and it was mandatory, so.

8 Q. How about since you returned in
9 2020, between March 2020 and April 2021, did
10 you receive any training on sexual
11 harassment at the Executive Chamber?

12 A. I don't recall if I did. I
13 don't...

14 Q. You don't recall one way or the
15 other?

16 A. No, I don't recall.

17 Q. Going back to the 2009-2015 time
18 frame, are you aware of any record retention
19 or deletion policy that was in effect for
20 the Executive Chamber during that time?

21 A. There was a record retention
22 policy. I don't remember the specificity of
23 the policy, but we did have a policy in
24 place. I think that policy was actually
25 created even before I became -- if you're

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2 asking me under Governor Cuomo, I believe
3 that policy was probably put together before
4 I became secretary to the Governor again.

5 Q. When you returned in 2020, were
6 you informed of what the policy was with
7 respect to record retention at that point?

8 A. I don't recall if I was or
9 wasn't. I don't remember.

10 Q. So just a few wrap-up questions
11 here.

12 Is there anything you would like
13 to add to any of your answers or any
14 clarifications you would like to make?

15 A. No, not at this time.

16 Q. Would you like to make any
17 further statement for the record?

18 A. Not at this time. No thank you.

19 Q. Anything else that you can think
20 of that I didn't specifically ask about that
21 you believe would be relevant to our
22 investigation?

23 A. Not that I can think of.

24 Q. (**RQ) So that's the questions we
25 have for today. Thank you for taking the

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2 time.

3 I just want to remind you that
4 there are continuing obligations under the
5 subpoena. If we need you to come back to
6 answer additional questions, we will let
7 Mr. Petrillo know. And with respect to the
8 document subpoena, if you identify any
9 additional documents that are responsive,
10 you should let Mr. Petrillo know, and he can
11 provide them to us. And then just finally,
12 I wanted to remind you of the
13 confidentiality request and obligations
14 under Section 63(8) under which we're
15 conducting this investigation.

16 So we appreciate your time and
17 thank you again.

18 A. Thank you.

19 MR. PETRILLO: Thank you.

20 THE VIDEOGRAPHER: Any
21 statements before we go off the
22 record?

23 MR. PETRILLO: Not from us.

24 MR. MUKHI: Not from us.

25 THE VIDEOGRAPHER: This will end

1 Schwartz - Confidential
2 media unit five in the deposition of
3 Larry Schwartz and conclude the
4 recording of this deposition. We're
5 going off the record at 4:36 p.m.
6 June 17, 2021.

7 MS. CHUN: We took the
8 real-time, and I will take a rough.
9 Our standing order is four days.

10 (Time noted: 4:36 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, THERESA TRAMONDO, a Notary Public within and for the State of New York, do hereby certify:

That WITNESS 6-17-21, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the 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 22nd day of June, 2021.



THERESA TRAMONDO